

# INSPECTIONS AND APPEALS DEPARTMENT[481]

## Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 481—Chapter 3  
“Declaratory Orders”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A.9

State or federal law(s) implemented by the rulemaking: Iowa Code section 17A.9 and 2023 Iowa Acts, Senate File 514.

## Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 3, 2024  
10 a.m.

6200 Park Avenue  
Des Moines, Iowa

## Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Ashleigh Hackel  
Department of Inspections, Appeals, and Licensing  
6200 Park Avenue  
Des Moines, Iowa 50321  
Phone: 515.250.3746  
Email: [ashleigh.hackel@dia.iowa.gov](mailto:ashleigh.hackel@dia.iowa.gov)

## Purpose and Summary

This proposed rulemaking repromulgates 481—Chapter 3, “Declaratory Orders,” and implements Iowa Code section 17A.9 and 2023 Iowa Acts, Senate File 514, in accordance with the goals and directives of Executive Order 10 (January 10, 2023). Iowa Code section 17A.9 requires agencies to “adopt rules that provide for the form, contents, and filing of petitions for declaratory orders, the procedural rights of persons in relation to the petitions, and the disposition of the petitions. The rules must describe the classes of circumstances in which the agency will not issue a declaratory order and must be consistent with the public interest and with the general policy of this chapter to facilitate and encourage agency issuance of reliable advice.”

The rules provide standard procedures governing the filing of and the Department’s response to petitions for declaratory orders and are intended to be applicable to any division, board, or commission within the Department that has its own rulemaking authority and had not adopted its own rules governing declaratory orders.

## Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Individuals interested in petitioning the Department for a declaratory order and the Department will bear the costs. There is no direct cost to the general public.

- Classes of persons that will benefit from the proposed rulemaking:

Individuals interested in petitioning the Department for a declaratory order and the Department will benefit.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

There are minimal costs to an individual who petitions the Department for a declaratory order. Such costs include preparing a written communication to the Department concerning the request and providing any follow-up information

requested by the Department. From FY 2016 through FY 2023, the Department received and responded to ten requests for declaratory orders.

- Qualitative description of impact:

The public may utilize the procedures in this proposed rulemaking to bring forth questions on the applicability of a rule, statute or order within the primary jurisdiction of the agency. The public benefits from this rulemaking because it gives clear procedural guidance for submitting a request for declaratory order and consideration and disposition of the declaratory order by the Department.

With the government realignment, many boards, commissions, and programs joined what is now the Department of Inspections, Appeals, and Licensing. Many of the incoming boards, commissions, and programs already had a separate Iowa Administrative Code chapter adopted governing declaratory orders. Many of those chapters relied upon the Uniform Rules on Agency Procedure, as does the Department. The Department has thus proposed revisions to its declaratory orders chapter that would allow any division, board, or commission under the administrative authority of the Department to rely on this chapter rather than promulgating its own administrative chapter to implement Iowa Code section 17A.9. This rulemaking could reduce the overburdening text of the Administrative Code, increase efficiencies, and standardize Department processes.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no specific enforcement costs borne by the agency emanating from these proposed rules. Any costs associated with this chapter are attributable to the Department's statutory duty to respond to petitions for declaratory order pursuant to Iowa Code section 17A.9. Costs include staff time to review and respond to the petitions for declaratory order, to obtain additional information from petitioners, if necessary, and to answer inquiries related to the requests. These staff functions are within the ordinary role of staff and do not incur any additional expenses for the Department to implement.

- Anticipated effect on state revenues:

There is no anticipated impact of this proposed rulemaking on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

There are no specific financial costs to implement or enforce this proposed rulemaking outside of any costs associated with the Department's statutory duties pursuant to Iowa Code chapter 17A. The costs of this rulemaking are directly associated with the Department's general functions. This rulemaking does not add to the costs of the Department or public in excess of general functions.

The benefits include clear and consistent implementation of Iowa Code section 17A.9. The Department is using this opportunity to broaden the language of its chapter to implement 2023 Iowa Acts, Senate File 514, and Executive Order 10.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

In adopting by reference the Uniform Rules on Agency Procedure, the Department has already taken a minimally restrictive path in implementing its statutory duty under Iowa Code section 17A.9. Furthermore, the Department is updating this chapter in accordance with the government realignment implemented by 2023 Iowa Acts, Senate File 514, and has thus proposed rules that would allow any division, board, or commission under the administrative authority of the Department to rely on this chapter rather than promulgating its own administrative chapter to implement Iowa Code section 17A.9. This could reduce the overburdening text of the Administrative Code, increase efficiencies, and standardize Department processes.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

See response to section 5 above.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

See response to section 5 above.

## Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking applies equally to all businesses and the public and is not believed to have any impact on small business. If a business identifies a rule that is overly burdensome and the goals of which could be achieved in a manner that would reduce the impact on the business, it may utilize the Department's established waiver process.

#### Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 3 and adopt the following **new** chapter in lieu thereof:

### CHAPTER 3 DECLARATORY ORDERS

The department of inspections, appeals, and licensing adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure related to declaratory orders, which are published at [www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf](http://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf) on the Iowa general assembly's website. These rules are applicable to any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, unless a division, board, or commission has separate rulemaking authority and has adopted rules governing declaratory orders. In lieu of the words “(designate agency)” within any uniform rule, insert the name of the department or specific board or division within the department where the petition for declaratory order is directed, as applicable. In lieu of the words “(designate office)”, insert the current location of the department, board, or division within the department, as applicable.

**481—3.1(17A) Petition for declaratory order.** In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING  
[or the specific board or division within the department where the petition is directed]

**481—3.2(17A) Notice of petition.** In lieu of the words “ \_\_\_ days (15 or less)”, insert “15 days”.

#### **481—3.3(17A) Intervention.**

**3.3(1)** In lieu of the words “within \_\_\_ days”, insert “within 15 days”. Strike the words “(after time for notice under X.2(17A))”. In lieu of the number “X.8(17A)”, insert “3.8(17A)”.

In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

BEFORE THE DEPARTMENT OF INSPECTIONS, APPEALS, AND LICENSING  
[or the specific board or division within the department where the petition is directed]

**481—3.5(17A) Inquiries.** In lieu of the words “(designate official by full title and address)”, insert “to the department or applicable division, board, or commission as provided on the department's website”.

#### **481—3.6(17A) Service and filing of petitions and other papers.**

**3.6(2)** In lieu of the words “(specify office and address)”, insert the current address of the department, board, or division within the department, as applicable.

**3.6(3)** In lieu of the words “(uniform rule on contested cases X.12(17A))”, insert “rule 481—10.12(17A), except that the filing will be delivered to the department, board, or division at its current location”.

**481—3.8(17A) Action on petition.** Replace all uniform rule text with “Action on the petition will be taken in accordance with Iowa Code section 17A.9(5).”

These rules are intended to implement Iowa Code chapter 17A.