

17A.2 Definitions.

As used in this chapter:

1. “Agency” means each board, commission, department, officer or other administrative office or unit of the state. “Agency” does not mean the general assembly, the judicial branch or any of its components, the office of consumer advocate, the governor, or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency constitute a quorum authorized to act in the name of the agency.

2. “Agency action” includes the whole or a part of an agency rule or other statement of law or policy, order, decision, license, proceeding, investigation, sanction, relief, or the equivalent or a denial thereof, or a failure to act, or any other exercise of agency discretion or failure to do so, or the performance of any agency duty or the failure to do so.

3. “Agency member” means an individual who is the statutory or constitutional head of an agency, or an individual who is one of several individuals who constitute the statutory or constitutional head of an agency.

4. “ARC number” means the identification number assigned by the governor’s administrative rules coordinator to each rulemaking document.

5. “Contested case” means a proceeding including but not restricted to ratemaking, price fixing, and licensing in which the legal rights, duties or privileges of a party are required by Constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing.

6. “License” includes the whole or a part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by statute.

7. “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

8. “Party” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

9. “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

10. “Provision of law” means the whole or part of the Constitution of the United States of America or the Constitution of the State of Iowa, or of any federal or state statute, court rule, executive order of the governor, or agency rule.

11. “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency. Notwithstanding any other statute, the term includes an executive order or directive of the governor which creates an agency or establishes a program or which transfers a program between agencies established by statute or rule. The term includes the amendment or repeal of an existing rule, but does not include:

a. A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

b. A declaratory order issued pursuant to section 17A.9, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts.

c. An intergovernmental, interagency, or intra-agency memorandum, directive, manual, or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

d. A determination, decision, or order in a contested case.

e. An opinion of the attorney general.

f. Those portions of staff manuals, instructions, or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would:

(1) enable law violators to avoid detection; or

(2) facilitate disregard of requirements imposed by law; or

(3) give a clearly improper advantage to persons who are in an adverse position to the state.

g. A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, application fee, or other fees.

h. A statement concerning only the physical servicing, maintenance, or care of publicly owned or operated facilities or property.

i. A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals.

j. A decision by an agency not to exercise a discretionary power.

k. A statement concerning only inmates of a penal institution, students enrolled in an educational institution, or patients admitted to a hospital, when issued by such an agency.

l. An advisory opinion of the Iowa ethics and campaign disclosure board.

12. "Rulemaking" means the process for adopting, amending, or repealing a rule.

[C54, 58, 62, 66, 71, 73, §17A.1; C75, 77, 79, 81, §17A.2]

83 Acts, ch 127, §2; 83 Acts, ch 186, §10005, 10201; 86 Acts, ch 1245, §2036; 90 Acts, ch 1266, §31; 98 Acts, ch 1047, §11; 98 Acts, ch 1202, §4 – 6, 46; 2010 Acts, ch 1054, §1, 6