

CHAPTER 10
ADMINISTRATIVE RULES

[Prior to 6/3/87, Transportation Department[820]—(01,B) Ch1]

761—10.1(17A) General.

10.1(1) Definitions. The definitions in Iowa Code section 17A.2 and the definition of “small business” in Iowa Code section 17A.4A are hereby adopted. In addition:

“*Commission*” means the Iowa transportation commission.

“*Department*” means the Iowa department of transportation.

“*Director*” means the director of transportation or the director’s designee.

10.1(2) Address. The address of the department’s rules administrator is: Rules Administrator, Operations and Finance Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

[ARC 2231C, IAB 11/11/15, effective 12/16/15; ARC 2889C, IAB 1/4/17, effective 2/8/17]

761—10.2(17A) Rule making.

10.2(1) Notice of Intended Action—approval and content. Written authorization to publish proposed rules under Notice of Intended Action in the Iowa Administrative Bulletin shall be made by the director. Each commissioner shall be sent a copy of the Notice of Intended Action before its publication in the Iowa Administrative Bulletin. The Notice of Intended Action shall contain:

a. A copy of the complete text of the proposed rules and a brief explanation of the purpose of the proposed rules.

b. The specific legal authority for the proposed rules.

c. The methods that persons and agencies may use to present their views on the proposed rules. In addition to providing for the submission of written comments, the Notice shall afford any interested person or agency the opportunity to make an oral presentation.

d. Any other information required by statute or rule.

10.2(2) Notice of Intended Action—submission of written comments and written requests to make an oral presentation.

a. With regard to proposed rules published under Notice of Intended Action, the department shall accept and consider, from any person or agency, written comments and written requests to make an oral presentation when prepared and submitted in conformance with the following:

(1) Comments and requests shall clearly state the name, address and telephone number of the person or agency authoring the comment or request and the number and title of the proposed rule as given in the Notice of Intended Action.

(2) If an oral presentation is requested, the general content of the presentation shall be indicated.

(3) Comments and requests shall be submitted to the office specified in the Notice of Intended Action. To be considered, they must be received by the office no later than the date specified in the Notice. The date shall be no less than 20 days after publication of the Notice.

b. The receipt and acceptance for consideration of written comments and written requests shall be promptly acknowledged by the department.

(1) Written comments received after the deadline may be accepted by the department although their consideration is not assured.

(2) Written requests to make an oral presentation received after the deadline shall not be accepted.

c. In addition to the formal procedures contained in this rule, the department may solicit viewpoints or advice concerning proposed rules through informal conferences or consultations as the department may deem desirable.

10.2(3) Adoption and filing of rules.

a. The director shall adopt proposed rules unless statutes specifically provide for commission adoption. The commission shall approve rules prior to their adoption by the director.

b. Upon adoption of proposed rules by the director or the commission, the director shall file them in accordance with Iowa Code section 17A.5.

10.2(4) Regulatory analysis. A request for issuance of a regulatory analysis shall be submitted to the department’s rules administrator at the address in subrule 10.1(2).

10.2(5) Concise statement. If requested in accordance with this subrule, the department shall issue a concise statement of the principal reasons for and against a rule that has been adopted, incorporating therein the reasons for overruling considerations urged against the rule.

a. The request shall:

- (1) Clearly state the name, address and telephone number of the person or agency authoring the request and the number and title of the rule which is the subject of the request.
- (2) Be submitted in writing to the department’s rules administrator.
- (3) Be delivered to the administrator or postmarked no later than the thirtieth calendar day following adoption of the subject rule.

b. A requested concise statement shall be issued either at the time of rule adoption or within 35 days after the department’s rules administrator receives the request.

10.2(6) Registration.

a. *Trade or occupational associations.* The state office of a trade or occupational association may register its name and address with the department to receive copies of Notices of Intended Action.

(1) The request must be in writing and indicate the subject matter and the number of copies of Notice of Intended Action it wishes to receive.

(2) The trade or occupational association shall reimburse the department for the actual costs incurred in providing copies to it.

b. *Small businesses.* A small business or an organization of small businesses may register its name and address with the department to receive notification of Notices of Intended Action and of rules adopted and filed without a Notice of Intended Action which may have an impact on small business.

(1) The request must be in writing and may indicate the subject matter of rules it is interested in. An organization requesting registration shall indicate how many small businesses it represents.

(2) At the discretion of the department, notification shall consist of either a copy of the rules or a summary of the subjects and issues involved.

c. *Submission and acknowledgment of requests.* Requests for registration under this subrule shall be submitted to the department’s rules administrator. The receipt of requests for registration shall be promptly acknowledged by the department. The acknowledgment shall either:

- (1) Inform the requester that it is registered, or
- (2) State that the request is incomplete and indicate the additional information required.

[ARC 2231C, IAB 11/11/15, effective 12/16/15]

761—10.3(17A) Petitions for rule making.

10.3(1) The department shall accept and consider, from any person or agency, petitions for rule making when submitted to the department’s rules administrator and prepared in conformance with the following:

a. Format:

IOWA DEPARTMENT OF TRANSPORTATION
800 Lincoln Way, Ames, Iowa 50010

PETITION BY (insert petitioner’s name)
FOR THE (insert one-adoption,
amendment or repeal)
OF (insert current rule number, if
applicable, and brief description
of subject matter)



DOCKET NO. _____

PETITION FOR RULE MAKING

(In separate numbered paragraphs, the petition shall include the following.)

1. The petitioner's name, address and telephone number.
2. The nature of the petitioner's interest in the matter.
3. The text or the essential terms and conditions of a proposed new rule, or the rule number and text of a rule proposed for amendment or a repeal. In addition, proposed amendments shall be illustrated to portray the changes in wording requested: Deletions are to be indicated by strike-throughs, and additions by underscoring.
4. The reasons for seeking the requested action, including any facts, views, data or arguments relevant to the request. Copies of statutes, rules or other supporting documents referenced in the petition shall be submitted as appendices to the petition or made available to the department upon request.
- *5. If desired, a request to meet informally with the department to discuss the petition.

(Signature of petitioner)

b. A petition for amendment or repeal of a rule shall pertain to a rule currently in effect at the time the petition is received by the department.

c. Petitions should be typewritten, although petitions legibly hand-printed in ink shall be accepted.

10.3(2) The date of receipt of a petition is the day it reaches the department's rules administrator. The administrator shall promptly notify the petitioner of the date of receipt and the assigned docket number.

10.3(3) If requested in the petition, the department shall schedule an informal meeting with the petitioner to discuss the petition.

10.3(4) The department shall notify the petitioner of the director's or commission's determination to grant or deny the petition. If the petition is denied, the notification shall include the reasons for denial.

[ARC 2231C, IAB 11/11/15, effective 12/16/15]

These rules are intended to implement Iowa Code sections 17A.1 to 17A.9, 17A.19, and 307.12 and section 307A.2 as amended by 2015 Iowa Acts, House File 635, section 20.

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¹ Effective date of amendments to 761—10.2(17A) and 10.3(17A) delayed until adjournment of the 1991 General Assembly by the Administrative Rules Review Committee at its meeting held August 15, 1990.