

701—7.16(17A) Commencement of contested case proceedings. A demand or request by the taxpayer for the commencement of contested case proceedings must be in writing and filed with the clerk by email to the address provided in paragraph 7.3(1) “b,” by mail via the United States Postal Service or common carrier by ordinary, certified, or registered mail in care of the clerk to the address listed in paragraph 7.3(1) “c,” or by personal service to the department’s customer service desk as described in paragraph 7.3(1) “d.” The demand must be made no sooner than six months or more after the filing of the protest. If the demand or request does not indicate a postmark date, then the date of receipt or the date personal service is made is considered the date of filing. See Iowa Code section 622.105 for the evidence necessary to establish proof of mailing.

7.16(1) When requesting a contested case hearing with the department of inspections and appeals, the department shall complete a transmittal form consistent with rule 481—10.4(10A).

7.16(2) At the request of a party or the presiding officer made prior to the issuance of the hearing notice, the presiding officer shall hold a telephone conference with the parties for the purpose of selecting a mutually agreeable hearing date, which date shall be the hearing date contained in the hearing notice. The notice shall be issued within one week after the mutually agreeable hearing date is selected.

7.16(3) Contested case proceedings will be commenced by the presiding officer by delivery of notice by ordinary mail directed to the parties after a demand or request is made (a) by the taxpayer and the filing of the answer, if one is required, which demand or request may include a date to be set for the hearing, or (b) upon filing of the answer, if a request or demand for contested case proceedings has not been made by the taxpayer. The notice will be given by the presiding officer.

7.16(4) Any party may apply to the presiding officer for a continuance or a specific date for the hearing. The presiding officer may grant or deny such requests. The notice shall include:

- a.* A statement of the time (which shall allow for a reasonable time to conduct discovery), place and nature of the hearing;
- b.* A statement of the legal authority and jurisdiction under which the hearing is held;
- c.* A reference to the particular sections of the statutes and rules involved; and
- d.* A short and plain statement of the matters asserted, including the issues.

7.16(5) After the delivery of the notice commencing the contested case proceedings, the parties may file further pleadings or amendments to pleadings in accordance with this chapter. However, any pleading or amendment thereto which is filed within 14 days prior to the date scheduled for the hearing or filed on the date of the hearing shall constitute good cause for the party adversely affected by the pleading or amendment to seek and obtain a continuance.

This rule is intended to implement Iowa Code section 17A.12.
[ARC 0251C, IAB 8/8/12, effective 9/12/12; ARC 5940C, IAB 10/6/21, effective 11/10/21]