

875—1.40(17A) Exemptions from public rule-making procedures.

1.40(1) *Omission of notice and comment.* To the extent the division for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the division may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The division will incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

1.40(2) *Categories exempt.* The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

a. Rules implementing legislation which will become effective before the normal procedures could be followed.

b. National consensus standards and federal occupational safety and health regulations are adopted by reference. These documents are published and available to the public in advance of publication of a Notice of Intended Action by the division. The commissioner is required to adopt federal occupational safety and health regulations pursuant to Iowa Code subsection 88.5(1). At times, these rules, when adopted, are effective upon publication in the Iowa Administrative Bulletin.

1.40(3) *Public proceedings on rules adopted without public proceedings.* The division may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 1.40(1). Upon written petition by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the division will commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 1.40(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subrule, the division may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 1.40(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.