

TRANSPORTATION DEPARTMENT [761]

Adopted and Filed Emergency

Rulemaking related to modifications of the uniform rules on Agency Procedure

The Transportation Department hereby adopts new Chapter 2506, "Contested Cases," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code chapter 17A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 17A.

Purpose and Summary

This amendment modifies the Uniform Rules on Agency Procedure related to contested cases (761—Chapter 2506) which will be effective as of July 1, 2026. These changes are to ensure the Department's compliance with Iowa Code and continued contested case operation within the uniform rules as enacted by the legislature in Iowa Acts 2026, Senate File 2463.

Reason for Adoption of Rulemaking Without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because statute so provides. 2026 Iowa Acts, Senate File 2463, section 5, authorizes emergency rulemaking to provide for additions, exceptions, or amendments to the Uniform Rules on Agency Procedure.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)"b"(1)(a), the Department also finds that the normal effective date of this rulemaking, 35 days after publication, should be waived and the rulemaking made effective June 30, 2026, because 2026 Iowa Acts, Senate File 2463, section 5, authorizes emergency rulemaking for the purpose stated above.

The new Uniform Rule in 761-2506.3(3) is added to maintain an appeal right within the timeframe outlined in other DOT rules. New uniform rule 761-2506.4 is added to maintain compliance with Iowa Code chapter 17A. Amendments to uniform rule 761-2506.5(1), 761-2506.12, and 761-2506.32 are made to maintain compliance with various Iowa Code sections including Iowa Code 321.211, Iowa Code 321.556 and Iowa Code 321.16. Removal of uniform rule 761-2506.5(3)(i), 761-2506.6, 761-2506.13, and 761-2506.27 is intended to manage caseload due to the volume of contested cases and to allow a parallel procedure with Iowa Code 321J. Amendments to 761-2506.20 and 761-2506.22 are made to maintain compliance with Iowa Code 321.10 and to continue to allow for a certified record to be submitted in lieu of representation due to the caseload.

Adoption of Rulemaking

This rulemaking was adopted by the Department on xxxxxxxx.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rulemaking has been initiated through the

normal rulemaking process and is published herein under Notice of Intended Action as **ARC xxxxxxx** to allow for public comment.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 761—2504.

Review by Administrative Rules Review Committee

The ARRC, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its **regular monthly meeting** or at a special meeting. The ARRC's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rulemaking became effective on June 30.

The following rulemaking action is adopted:

Item 1. Amend the following 761—Chapter 2506:

CHAPTER 2506

CONTESTED CASES

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

761—2506.3(17A) Time obligations.

2506.3(3) In lieu of requirements set forth in this chapter, these requirements shall be construed to supersede or constrain the required timeframes in which a person must file an appeal request found in 761-400.44, 401.9, 411.6, 425.17(5), 431.4(3), 451.4(3), 505.6, 524.14, 540.8, 601.4(8)(h).

761—2506.4(17A) Submission of request for informal settlement or hearing.

2506.4(1) A person who is aggrieved by an action of the department and who is entitled to a contested case hearing may:

- a. Unless prohibited by statute, request an informal settlement.
- b. Initiate a contested case by submitting a request for a contested case hearing.
- c. Use both procedures.

2506.4(2) A request for an informal settlement or a contested case hearing shall be submitted in writing to the director of the bureau or division of the department that

administers the matter at issue.

2506.4(3) The request shall include complete names, mailing addresses to be used for communications with the department, and telephone numbers for all persons involved and any attorneys representing them.

2506.4(4) A statute or rule may provide for submission of requests within a specified time period. A request shall be considered timely submitted if it is postmarked or delivered to the appropriate bureau or division of the department within the time period specified. Timely submission of a request shall be jurisdictional.

2506.4(5) An informal settlement may be handled by telephone.

2506.4(6) If an informal settlement cannot be reached within a reasonable period of time, the department will notify the person in writing that there has been a failure to reach an informal settlement, that the department's action or decision is sustained, and that the person may request a contested case hearing

2506.4(7) The department may initiate a contested case proceeding. Prior to initiating the contested case proceeding, the department, unless disallowed by statute, may attempt to settle the matter informally.

761—2506.5(17A) Notice of hearing.

2506.5(1) *Delivery.* The agency will deliver notice of a hearing in accordance with rule 761—2506.12(17A).

Paragraphs “a” through “d” are not adopted.

2506.5(2) *Contents.* The notice of hearing must state:

- g.* The procedural rules governing informal settlement, if applicable;
- i.* This paragraph is not adopted.

761—2506.6(17A) Presiding officer.

This rule is not adopted.

761—2506.12(17A) Electronic service and filing of pleadings and other papers.

2506.12(1) Each party to a contested case is to keep the department informed of the party's current address and telephone number; the name, address and telephone number of the party's attorney, if any; and the mailing address to be used for communications from the department.

2506.12(2) Mailed notices, communications and decisions regarding the contested case are to be sent by first class or certified mail to the latest address that each party has provided to the department.

2506.12(3) Notwithstanding subrule 2506.12(2) the department of inspections, appeals, and licensing may communicate with the party or the party's attorney by email and may file and serve documents through the division of administrative hearings' administrative electronic management system.

Subrules following 2506.12(3) are not adopted.

761—2506.13(17A) Discovery.

This rule is not adopted.

761—2506.20(17A) Hearing procedures.

2506.20(8) The department may be represented by legal assistants, paralegals, or designated attorney general staff at contested case hearings. Any such person is under the supervision of the attorney general transportation section chief.

2506.20(9) The department may designate staff not under the supervision of the attorney general's office to appear at contested case hearings as witnesses. Staff so designated may appear to testify about matters including but not limited to clarifying the record, providing additional information, providing justification for the department's action, or answering questions of the appellants and presiding officer.

2506.20(10) The department may submit certified copies of records admitted pursuant to Iowa Code section 321.10 in lieu of either legal representation or participation by a department employee.

761—2506.22(17A) Default.

2506.22(1) A party may move for default against another party that has requested the contested case proceeding and that has failed to appear after proper service is served.

2506.22(2) Notwithstanding any rule to the contrary, no default may be entered against the department for failure to appear; rather, the presiding officer may either continue the matter or proceed with the hearing and render a decision in the absence of the department.

2506.22(3) A default decision or a decision rendered on the merits after a party has failed to appear or participate in a contested case proceeding becomes final agency action unless, within 20 days after the date of the decision, either a motion to vacate is filed and served on the presiding officer and the other parties or an appeal of a decision on the merits is timely submitted in accordance with rule 761—2506.27(17A). A motion to vacate is to state all facts relied upon by the moving party that establish that good cause existed for that party's failure to appear or participate.

2506.22(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

2506.22(5) Timely filed motions to vacate are to be granted only for good cause shown. The burden of proof is on the moving party. Adverse parties have ten days to respond to a motion to vacate.

2506.22(6) "Good cause," for the purpose of this rule, means surprise, excusable neglect or unavoidable casualty.

2506.22(7) A decision denying a motion to vacate is subject to further appeal in accordance with rule 761—2506.27(17A).

2506.22(8) A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party in accordance with subrule 2506.27.

2506.22(9) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer is to issue another notice of hearing and the contested case will proceed accordingly.

Subrules following 2506.22(9) are not adopted.

761—2506.26(17A) Final decision.

This rule is not adopted.

761—2506.27(17A) Appeals and review.

2506.27(1) A decision by a presiding officer shall become the final decision of the department and is binding on the department and the party whose legal rights, duties and privileges are being determined unless either appeals the decision as provided in this subrule.

2506.27(2) No additional evidence is to be presented on appeal that is decided on the basis of the record made before the presiding officer in the contested case hearing.

2506.27(3) The appeal is to include a statement of the specific issues presented for review and the precise ruling or relief requested.

2506.27(4) An appeal of a presiding officer's decision is to be submitted in writing to the director of the bureau or division that administers the matter being contested. The appeal is deemed timely submitted if it is postmarked or delivered to the director of the appropriate bureau or division of the department within 20 days after the date of the presiding officer's decision unless otherwise provided in rule or statute.

2506.27(5) The director of the administering bureau or division will forward the appeal to the director.

2506.27(6) Failure to timely appeal a presiding officer's decision is considered a failure to exhaust administrative remedies.

2506.27(7) The director may make a decision affirming, modifying or reversing the presiding officer's decision, or may remand the case to the presiding officer.

2506.27(8) The decision of the director is the final decision of the department and constitutes final agency action for purposes of judicial review. No further steps are necessary to exhaust administrative remedies.

761—2506.32(17A) Additional procedures when the department is not a party.

2506.32(1) *Jurisdiction.* When the department is obligated by statute to administer a controversy to which it is not a party, the following additional procedures apply:

2506.32(2) *Request.*

a. A person who has an interest in a controversy and who is entitled to a contested case hearing may submit a written request to the department to resolve the controversy.

b. An acceptable request will contain a statement of facts alleged and the relief sought by the requestor, the name and address of the persons involved and any attorneys representing them, the requestor's telephone number, and the mailing address to be used for all communications to the requestor from the department.

2506.32(3) *Informal settlement.*

a. The department will contact the persons involved, either by telephone or letter, and will offer to assist the parties to reach an informal settlement of the controversy.

b. A controversy may be settled informally by the persons involved.

c. When a controversy is settled informally, the persons involved will each notify the department by telephone and confirming letter that the controversy has been resolved.

2506.32(4) *Contested case.* When the department is notified by a person involved in the controversy that there has been a failure to reach an informal settlement, or when the department determines that no progress toward a settlement is being made, the department will send a written notice to the persons involved specifying that if the department is not notified of a settlement within 20 days after the notice is mailed, the department will

initiate a contested case proceeding.

761—2506.33 to 2506.100 Reserved.

Emergency Rule-Making Document Filed by Agency