

ITEM 1. Adopt the following **new** 191—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.

**191—2506.5(3) *Timing of hearing.*** The hearing in a contested case shall be held within 90 days after the commencement of the contested case unless a continuance is granted by the presiding officer, or as otherwise permitted by law.

**191—2506.13(17A) *Discovery.***

**2506.13(1)** Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery are as set forth in the Iowa Rules of Civil Procedure. No new discovery under Iowa Rules of Civil Procedure 1.509, 1.510, and 1.512 may be served within 40 days of the scheduled hearing. All discovery must be completed no later than 15 days before the prehearing conference.

**2506.13(2)** Parties may not file motions relating to discovery unless they have first in good faith attempted to resolve the issue with the opposing party. A party filing a discovery motion must certify, under penalty of perjury, that it has made that good-faith

attempt. Lack of such a certificate constitutes sufficient grounds for denying the motion.

**2506.13(5) *Notice of discovery.*** Discovery is only permitted after a party has filed, pursuant to rule 2506.12, a notice of discovery no later than 15 days after the filing of an answer unless extended by the presiding officer for good cause shown or by agreement of the parties. The notice of discovery shall be a general notice that the party is serving discovery. The notice should include a statement regarding the type of discovery being conducted and the due date.

**2506.13(6) *Discovery responses.*** Parties must respond to discovery within 15 days of receipt unless the parties mutually agree there is good cause to lengthen the response period or by order of the presiding officer. Time periods for compliance with discovery may be lengthened or shortened by order of the presiding officer.

**191—2506.17(17A) Continuances.** Applications for continuances can be made to the presiding officer.

**2506.17(1)** A written application for a continuance will:

*a.* Be made at the earliest possible time and no less than 14 days before the hearing except in case of unanticipated emergencies or consent of all parties;

**191—2506.26(17A) Final decision.**

**2506.26(1)** When the commissioner presides over the reception of evidence at the hearing, the commissioner's decision is the final decision. When the commissioner does not preside over the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency when adopted by the commissioner or without further proceedings after the time provided in rule 7—

2506.27.

**191—2506.32(17A) Summary cease and desist orders.**

When a statute authorizes action to be taken without a prior hearing, the commissioner's order shall be sent to the last-known address of the party by returned receipt requested, unless the party is a licensee, in which case the order shall be sent by restricted certified mail. The order shall include a brief statement of findings of fact, conclusions of law, and policy reasons for the decision; direct the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as necessary, in the judgment of the commissioner, to comply with the statute; and state that the party will be afforded a contested case proceeding and a hearing if a request is filed with the commissioner within 30 days from the date that the order is issued, unless a different time is specified by statute. The commissioner shall issue a notice of hearing no later than 30 days from the date of receipt of a timely request for a contested case proceeding and hearing. If a statute requires a hearing to be held following issuance of a summary order, the date and time of that hearing shall be set forth in the order. Summary orders shall remain effective during the pendency of proceedings.

**191—2506.33(17A) Report by administrative law judge.**

Any administrative law judge serving as a presiding officer in a contested case shall report to the commissioner on a monthly basis all matters taken under advisement for longer than 60 days, together with an explanation of the reasons for the delay and an expected date of a proposed decision. A matter shall be reported when all hearings have been completed and the matter awaits the issuance of a proposed decision without further appearance of the parties or their

attorneys, even though briefs or transcripts have been ordered but have not yet been filed. The report shall be due on the tenth day of each calendar month for the period ending with the last day of the preceding calendar month. The report shall be signed by the administrative law judge. All reports received will be filed with the division as records available for public inspection.

**191—2509.34(17A) Settlement.**

**2509.34(1)** A party to a controversy that may culminate or has culminated in contested case proceedings may attempt settlement by complying with the procedures set forth in this subrule. No party shall be required to settle the controversy or contested case by submitting to settlement procedures.

**2509.(2)** Parties desiring settlement shall set forth in writing the various points of a proposed settlement, including findings of facts.

**2509.34(3)** When signed by the parties and approved by the commissioner, a settlement shall represent final disposition of the matter.

**2509. 34(4)** When there is more than one party adverse to the division, a separate settlement between one party and the division is permissible.

**2509. 34(5)** A proposed settlement that is not accepted or signed by the parties and the commissioner shall not be admitted as evidence in the record of a contested case proceeding. Evidence of conduct or statements made in settlement negotiations likewise are not admissible. This rule does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Emergency Rule-Making Document Filed by Agency