

Red Tape Review Rule Report (Due: September 1, 2024)

Department Name:	Iowa DOT	Date:	4/29/24	Total Rule Count:	14
IAC #:	761	Chapter/ SubChapter/ Rule(s):	13	Iowa Code Section Authorizing Rule:	17A
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

This chapter is intended to explain the minimum procedural requirements for Department involvement in contested cases and informal settlements in accordance with Iowa Code chapter 17A. The intended benefit is to provide clarity and transparency on the process that aggrieved parties (including both individuals and entities) may use to dispute a decision of the Department. The intended benefit is also to provide consistency across the Department’s many bureaus who are a party or a facilitator of such disputes.

Is the benefit being achieved? Please provide evidence.

Yes, the benefit is being achieved. In 2021 alone, the Department’s Motor Vehicle Division (the biggest user of this chapter) is party to over 3,000 contested case proceedings. Such proceedings rely on the existence of the processes and options for recourse that are outlined in this rule chapter.

Additionally, the evidence of consistency being achieved is found in that five other Department rule chapters refer to Chapter 13 for further information about the conduct of contested cases. Without Chapter 13, those rule chapters would need to individually outline the process for contested cases, resulting in inconsistency and redundancy.

What are the costs incurred by the public to comply with the rule?

There are no costs incurred by the public to comply with this rule beyond the costs incurred by the underlying statute, which requires agencies to conduct contested case hearings upon requests.

What are the costs to the agency or any other agency to implement/enforce the rule?

The costs to the Department are the costs for providing written notices and decisions, and the staff time needed to respond to a contested case request or informal settlement, prepare for a contested case or informal settlement, participation in a contested case, respond to an appeal to a contested case, and prepare a written decision to the appeal.

The costs to the Attorney General’s Office are the staff time to prepare for a contested case and an appeal to a contested case, participation in a contested case and possible appeal, and possible judicial review.

The costs to the Department of Inspections, Appeals and Licensing are the staff time involved in the contested case and the preparation of a written decision.

However, these costs stem from the underlying statute which affords aggrieved parties the right to appeal an agency action. There are no costs to implement and enforce this rule beyond the costs required to comply with the underlying statute.

Do the costs justify the benefits achieved? Please explain.

Yes, the benefits of the process established in Chapter 13 justify the minimal costs. It is important for those affected by this chapter to understand the process and options to appeal an agency decision.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Department believes Chapter 13 is necessary.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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Language referencing 761—Chapter 2 is stricken because the Department is proposing to permanently rescind this chapter.

Language within current 13.3(1) “...to determine the legal rights, duties or privileges of a person as required by the constitution or a statute” is stricken. It is duplicative. This language is already included within the definition of “contested case” within Iowa Code section 17A.2(5).

Removed the word “evidentiary” because it is unnecessary. Contested case is defined within Iowa Code section 17A.2(5).

Removed current subrule 13.13(1): “If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no continuance is granted, either enter a default decision or proceed with the hearing and render a decision in the absence of the party.” This is duplicative of language within Iowa Code section 17A.12(3).

RULES PROPOSED FOR REPEAL (list rule number[s]):

We combined needed rules concerning contested cases currently within 13.3, 13.6, 13.7 and 13.11 into new proposed rule 13.5 (Contested case).

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

13.1 Definitions.
13.2 Applicability.

- 13.3 Submission of request for informal settlement or hearing.
- 13.4 Informal settlement.
- 13.5 Contested case.
- 13.6 Motion for review.
- 13.7 Rehearings.
- 13.8 Maintenance of records.
- 13.9 Communications.
- 13.10 Default.
- 13.11 Additional procedures when the department is not a party.

****For rules being re-promulgated with changes, you may attach a document with suggested changes.***

METRICS

Total number of rules repealed:	3
Proposed word count reduction after repeal and/or re-promulgation	26
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	35

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

No, not currently.