

## Red Tape Review Rule Report (Due: September 1, 2023 )

<b>Department Name:</b>	Department of Insurance and Financial Services	<b>Date:</b>	8/31/2023	<b>Total Rule Count:</b>	34
<b>IAC #:</b>	191	<b>Chapter/ SubChapter/ Rule(s):</b>	3	<b>Iowa Code Section Authorizing Rule:</b>	CH. 17A
<b>Contact Name:</b>	Angela Burke Boston	<b>Email:</b>	angela.burke.boston@iid.iowa.gov	<b>Phone:</b>	(515) 654- 6543

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

Chapter 3 provides rules about contested cases. The Division proposed updating the Division's processes and removing duplicative language.

**Is the benefit being achieved? Please provide evidence.**

Yes. This rule making is being proposed pursuant to Executive Order 10.

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

There are no known costs.

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

There are no known costs.

**Do the costs justify the benefits achieved? Please explain.**

The proposed rules streamline and eliminate duplicative language.

**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 Division did not find any less restrictive alternatives.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language?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]

**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

191—3.2  
191—3.5  
191—3.12  
191—3.13  
191—3.16  
191—3.19  
191—3.20  
191—3.22  
191—3.23  
191—3.26  
191—3.33

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

None.

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

ITEM 1. Amend rule 191—3.2(17A) as follows:

**191—3.2(17A) Definitions.** In addition to the definitions in rule 191—1.1(502,505), and except where otherwise specifically defined by law or the context otherwise requires, the following definitions apply:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5), and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*File,*” “*filed,*” or “*filing,*” when used as a verb, means the actions set forth in subrules 3.12(3) and 3.12(4), except otherwise specifically defined by law. “*Filing,*” when used as a noun, means the documents filed.

“*Issuance*” means the date of mailing of a decision or order or the date of delivery if service is by other means, unless another date is specified in the order.

“*License*” means the whole or a part of any permit, certificate, approval, registration, charter or similar form of permission required by statute.

“*Licensee*” means a person or entity to whom the division has issued a license.

“*Party*” means the same as defined in Iowa Code section 17A.2.

“*Person*” means the same as defined in Iowa Code section 17A.2.

“*Presiding officer*” means the commissioner, the commissioner’s designee or an administrative law judge from the department of inspections, ~~and~~ appeals, and licensing.

“*Proposed decision*” means the administrative law judge’s or the commissioner’s designee’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the commissioner did not preside.

“*Provision of law*” means the same as defined in Iowa Code section 17A.2.

ITEM 2. Amend rule 191—3.5(17A,507B) as follows:

**191—3.5(17A,507B) Commencement of hearing; service; delivery; notice of hearing; answer.**

**3.5(1)** Service and delivery of the notice of hearing.

a. *Commencement of hearing.* Delivery of the notice of hearing referred to in this rule constitutes commencement of the contested case proceeding.

*b. Delivery of the notice of hearing.* Delivery shall be accomplished by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested, at least 15 days before the hearing date unless the parties agree to a shorter time period, or unless otherwise provided by statute. Proof of delivery by mail is the same as proof of mailing specified in subrule 3.12(5).

*c. Consent to service upon the commissioner.* ~~Certain persons regulated by the division have an obligation to keep their contact information, including their mailing address, current.~~ For such persons who have consented in writing to have the commissioner accept service of process on their behalf, delivery of the notice of hearing referred to in this rule is accomplished at the time the notice of hearing is signed by the commissioner, unless otherwise provided by law.

**3.5(2) Notice of hearing.** The notice of hearing shall be prepared in the form of an order and contain the following information in the notice of hearing or accompanying charging document:

- a.* A statement of the time, place, and nature of the hearing;
- b.* A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* A short and plain statement of the matters asserted. If the division or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon written application, a more definite and detailed statement shall be furnished;
- e.* Identification of all parties including the name, address and telephone number of the person who will act as advocate for the division and of parties' counsel where known;
- f.* Reference to the procedural rules governing conduct of the contested case proceeding;
- g.* Reference to the procedural rules governing ~~informal~~ settlement;
- h.* Identification of the presiding officer and address, if known. If not known, a general description of the type of person who will serve as presiding officer;
- i.* Notification of the time period in which a party may request, under rule 191—3.6(17A), that the presiding officer be an administrative law judge;

*j.* Notification that failure to file an answer within 20 days of service may result in default pursuant to rule 191—3.22(17A); and

*k.* Reference to the procedural rules governing discovery.

**3.5(3) Answer.** An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement of the matters asserted or charging document when appropriate.

*a.* An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing or accompanying charging document. The answer shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

*b.* An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

*c.* Any allegation in the notice of hearing or accompanying charging document not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

*d.* The answer shall be filed with the division pursuant to rule 191—3.12(17A).

**3.5(4) Amendments.** Any notice of hearing or other charging document may be amended before a responsive pleading has been filed. Amendments to a notice of hearing or charging document after a responsive pleading has been filed and amendments to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**3.5(5) Timing of hearing.** The hearing in a contested case proceeding shall be held within 90 days after the commencement of the contested case unless a continuance is granted by the presiding officer.

ITEM 3. Amend rule 191—3.12(17A) as follows:

**191—3.12(17A) Service and filing of pleadings and other papers.**

**3.12(1) Required service.** Every pleading, motion, document, or other paper that is filed in a contested case proceeding and every discovery request or response in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the division, no later than the time of filing, if filing is required. Except for an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**3.12(2) Methods of service.** Service upon a party represented by an attorney shall be made upon the attorney of record unless otherwise ordered. Service is made by delivering or mailing a copy to the attorney at the attorney's last-known mailing address. Service upon an unrepresented party shall be made by delivering or mailing a copy to the party's last-known mailing address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order. Service may also be made upon a party or attorney by email if the party or attorney consents in writing to be served in that manner in that case. The party or attorney may consent by providing an email address for service to the other party or by filing a document with the division by email as specified in subrule 3.12(4). The consent may be withdrawn by written notice served on all other parties or attorneys. Service by electronic means is complete upon transmission to the provided email address unless the party making service received an electronic rejection or delivery failure.

**3.12(3) Required filing.** After the notice of hearing, all pleadings, motions, and notices of discovery in a contested case proceeding shall be filed with the division's designated filing clerk. If a contested case is assigned to an administrative law judge with the department of inspections, ~~and appeals, and licensing,~~ filing shall be conducted in accordance with the rules of the department of inspections, ~~and appeals, and licensing,~~ unless ordered otherwise.

**3.12(4) Methods of filing.** Except where otherwise provided by law, a document is deemed filed at the time it is hand-delivered to the division at the address disclosed in rule 191—1.4(502,505) during normal business hours, delivered to an established courier service for immediate delivery to that office during normal

business hours, mailed by first-class mail or state interoffice mail to that office so long as there is proof of mailing, or emailed to the designated filing clerk at [enforcement.filings@iid.iowa.gov](mailto:enforcement.filings@iid.iowa.gov).

**3.12(5) *Proof of mailing and emailing.*** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Insurance Division at the address disclosed in 191—1.4(502,505) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail). I emailed copies of (describe document) addressed to the Insurance Division at the email address disclosed in 191—subrule 3.12(4) and to the names and email addresses of the parties listed below by transmitting the same from (sending email address).

(Date)

(Signature)

~~**3.12(6) *Proof of emailing.*** Proof of emailing includes a certification in substantially the following form:~~

~~I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of emailing), I emailed copies of (describe document) addressed to the Insurance Division at the email address disclosed in 191—subrule 3.12(4) and to the names and email addresses of the parties listed below by transmitting the same from (sending email address).~~

~~(Date)~~

~~(Signature)~~

ITEM 4. Amend rule 191—3.13(17A) as follows:

**191—3.13(17A) Discovery.**

**3.13(1) *Discovery permitted.*** Where statutory time limitations permit, discovery may be conducted as permitted by the Iowa Rules of Civil Procedure and these rules. Discovery shall be conducted in an expedited manner to prevent unnecessary delays to the hearing.

**3.13(2) *Scope of discovery.*** Parties may obtain discovery regarding any matter, not privileged or confidential, which is relevant to the claim or defense of the party in the pending action seeking discovery or

to the claim or defense of any other party. Discovery responses are subject to the confidentiality provisions of Iowa Code section 22.7, chapters under the jurisdiction of the commissioner and rule 191—3.12(17A), in accordance with applicable law, including, but not limited to, Iowa Code sections 17A.13(2) and 522B.11(6), unless otherwise permitted by the presiding officer for good cause shown.

**3.13(3) *Notice of discovery.*** Discovery is only permitted after a party has filed, pursuant to rule 191—3.12(17A), 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 ~~but the actual discovery requests do not need to be filed.~~

**3.13(4) *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.

**3.13(5) *Discovery completion.*** All discovery must be completed no later than 30 days before the prehearing conference.

**3.13(6) *Discovery motions.*** Any motion relating to discovery must allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party in a timely manner. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of any such motion unless the time is shortened as provided in subrule 3.13(4). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

ITEM 5. Amend rule 191—3.16(17A) as follows:

**191—3.16(17A) Prehearing conference.**



~~3.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than 14 days prior to the hearing date.~~ A prehearing conference shall be scheduled not less than seven business days prior to the hearing date.

The presiding officer shall give written notice of the prehearing conference to all parties.

**3.16(2)** Prehearing conferences may be conducted by telephone conference or videoconference or in person as stated in the notice of hearing, unless otherwise ordered by the presiding officer.

**3.16(3)** Each party shall exchange and receive prior to the prehearing conference:

*a.* A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for failure to include their names; and

*b.* A final list and copies of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for failure to include them.

**3.16(4)** Witness or exhibit lists may be amended subsequent to the prehearing conference within time limits established by the presiding officer at the prehearing conference. If no time limits are established at the prehearing conference, subsequent amendments to a witness or exhibit list may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms and time limits. Any such amendments must be served on all parties.

**3.16(5)** In addition to the requirements of subrule 3.16(3), the parties at a prehearing conference may:

*a.* Enter into stipulations of law or fact;

*b.* Enter into stipulations on the admissibility of exhibits;

*c.* Identify matters which the parties intend to request be officially noticed;

*d.* Enter into stipulations for waiver of any provision of law; and

*e.* Consider any additional matters which will expedite the hearing.

ITEM 6. Amend rule 191—3.19(17A,507B) as follows:

**191—3.19(17A,507B) Intervention.**

**3.19(1)** A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, including any statutory grounds, and the position and interest of the proposed intervenor. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**3.19(2)** Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. ~~Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.~~

**3.19(3)** The movant shall demonstrate that (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties; or (d) there exists a statutory right to intervene.

**3.19(4)** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

ITEM 7. Amend rule 191—3.20(17A) as follows:

**191—3.20(17A) Hearing procedures.**

**3.20(1)** The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure orderly conduct of the proceedings.

**3.20(2)** The presiding officer shall conduct the hearing in the following manner:

*a.* The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

*b.* Parties shall be given an opportunity to present opening statements;

*c.* Parties shall present their cases in the sequence determined by the presiding officer;

*d.* Each witness shall be sworn or affirmed by the presiding officer, the court reporter, or a person otherwise authorized by law, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

*e.* When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

**3.20(3)** The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel a person whose conduct is disorderly.

**3.20(4)** Parties have the right to participate ~~or~~ and to be represented by an attorney in all hearings or prehearing conferences related to their case. ~~Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent.~~ Any party may be represented by an attorney or another person authorized by law, subject to Iowa Court Rule ~~413~~31.14.

**3.20(5)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**3.20(6)** All objections shall be timely made and stated on the record.

**3.20(7)** Witnesses may be sequestered during the hearing. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to presentation of the cause.

ITEM 8. Amend rule 191—3.22(17A) as follows:

**191—3.22(17A) Default.**

**3.22(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice as provided in subrule 3.5(1), the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**3.22(2)** Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and failed to file a required pleading or has failed to appear after proper service.

**3.22(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate constitute final division action unless one of the following occurs: (1) the presiding officer otherwise orders, (2) a motion to vacate the default decision is filed within 15 days after the date of notification or mailing of the decision in accordance with rule 191—3.12(17A), or (3) an appeal to the commissioner of a proposed default decision is filed in accordance with rule 191—3.27(17A). A motion to vacate must be filed and served on all parties and state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**3.22(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.

**3.22(5)** A motion to vacate shall be granted only when it is timely filed, is properly substantiated, and demonstrates good cause for the party's failure to appear or participate. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**3.22(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

**3.22(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 3.25(17A).

**3.22(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall schedule another hearing on the merits and the contested case shall proceed accordingly.

**3.22(9)** A default decision may award any relief ~~consistent with the request for relief made in the petition, notice of hearing, or charging document and embraced in its issues~~ authorized by statute or rule.

**3.22(10)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 3.29(17A).

ITEM 9. Amend rule 191—3.23(17A) as follows:

**191—3.23(17A) Ex parte communication.**

**3.23(1)** Unless required for the disposition of ex parte matters specifically, through communication either written, oral, or other forms, authorized by statute, following issuance of the notice of hearing, there

shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the division or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 3.9(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**3.23(2)** Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

~~**3.23(3)** Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.~~

**3.23(43)** To avoid prohibited ex parte communications notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 3.12(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification.

**3.23(54)** Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

**3.23(65)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 3.16(17A).

**3.23(76)** A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record, either under seal by protective order or in the public file, at the discretion of the presiding officer. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**3.23(87)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. ~~Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.~~

**3.23(98)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the division. Violation of ex parte communication prohibitions by division personnel shall be reported to the first deputy commissioner or designee for possible sanctions including censure, suspension, dismissal or other disciplinary action.

ITEM 10. Amend rule 191—3.26(17A) as follows:

**191—3.26(17A) Final decision.**

**3.26(1)** When the commissioner presides over the reception of evidence at the hearing, the commissioner's decision is a final decision.

**3.26(2)** 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 division when adopted by the commissioner or without further proceedings after the time provided in rule 191—3.27(17A) unless there is a timely appeal to the commissioner or motion by the division to review the proposed decision.

**3.26(3)** The presiding officer's decision shall specify in bold print either that the decision is final or that the decision shall become final without further proceedings after the time provided in rule 191—3.27(17A) ~~unless there is an appeal to, or review on motion of, the commissioner within the time provided in rule 191—3.27(17A).~~

**3.26(4)** 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 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 Iowa insurance division as records available for public inspection.

**3.26(5)** Parties shall be promptly notified of each proposed or final decision or order by delivery to them of a copy of such decision or order in the manner provided by Iowa Code section 17A.12(1) unless the party has consented to an alternative form of delivery.

ITEM 11. Amend rule 191—3.33(17A,502,505) as follows:



**191—3.33(17A,502,505) Informal Settlement.**

**3.33(1)** A party to a controversy that may culminate or has culminated in contested case proceedings may attempt informal 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 informal settlement procedures.

**3.33(2)** Parties desiring informal settlement shall set forth in writing the various points of a proposed settlement, including findings of facts.

**3.33(3)** When signed by the parties and approved by the commissioner, a settlement shall represent final disposition of the matter.

**3.33(4)** When there is more than one party adverse to the division, a separate settlement between one party and the division is permissible.

**3.33(5)** A proposed settlement which 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.

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

**METRICS**

<b>Total number of rules repealed:</b>	<b>0</b>
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	<b>146</b>
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	<b>5</b>

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

**None.**

