

7.17 (17A,455A) Special procedure for emergency orders.

The procedures prescribed in this rule are available in those cases involving an emergency order issued by the department.

7.17(1) *Stay of order.* A person named in an emergency order may request a stay of the order by contacting the director by telephone or by delivery of a written request for stay to the department.

a. Upon receipt of a request for stay, the director shall schedule a hearing to take place within five days of receipt of the request or a longer time as agreed upon by the appellant. The person requesting the stay shall be notified of the time and place of the hearing.

b. The scope of the hearing on a request for stay shall be limited to, and the decision whether to grant a stay shall be based upon, the following factors:

(1) Will the requester suffer irreparable injury if a stay is not granted,

(2) Is the requester likely to prevail on the merits when the appeal of the order is heard,

(3) Where lies the public interest, and

(4) Is the rule or statute upon which the order is founded clearly invalid.

c. The decision to grant or deny a stay shall conform with 7.15(2) of these rules.

7.17(2) *Decision on merits.* When agreed to by the parties, the appeal of an emergency order may be decided based upon the evidence presented at the hearing for stay. Otherwise, a hearing on the merits shall proceed in accordance with 7.7(17A,455A) to 7.15(17A,455A) OF THOSE RULES.

These rules are intended to implement Iowa Code section 17A.3 and chapter 455A.

561-7.17

EPA Rulemakings

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Description: The EPA approved a new chapter "Rules of Practice in Contested Cases." This chapter governs procedures in contested cases generally including appeals of administrative orders, appeals of license or permit conditions, license or permit denials or suspensions. This chapter was approved in conjunction with Title V rules.

Difference Between the State and EPA-Approved Regulation

None.