

7.8 (17A,455A) Pleadings.

Pleadings are the parties' written statements of their respective claims or defenses. They do not include motions. The only allowable pleadings shall be the petition and the answer.

7.8(1) Petition.

a. Who must file. In all cases where an action of the department is appealed, the party aggrieved by the action shall file the petition. In those cases where the department seeks to suspend or revoke a license or permit, the department shall file the petition.

b. Time for filing. Any petition required to be filed by the party other than the department shall be filed within 20 days of delivery of the notice of hearing, unless the presiding officer allows additional time.

c. Content. The petition shall state in separate numbered paragraphs the following: the basis for the agency's jurisdiction over the matter, a detailed discussion of the relief demanded, and the facts, including supporting documentation relied upon for relief, the particular provisions of the statutes and rules involved, on whose behalf it is filed, and the name, address and telephone number of the petitioner and the petitioner's attorney, if any.

7.8(2) Answer.

a. Who must file. In all cases where an action of the department is appealed, the department shall file the answer. In those cases where the department seeks to suspend or revoke a license or permit, the holder of the license or permit shall file the answer.

b. Time for filing. The answer shall be filed within 20 days of receipt of the petition.

c. Content of answer. The answer shall show on whose behalf it is filed, and specifically admit or deny each allegation or paragraph of the petition. It shall state any facts deemed to show a defense. It may raise points of law appearing on the face of the petition, and may contain as many defenses, legal or equitable, as the pleader may claim, which defenses may be inconsistent. It shall state the name, address and telephone number of the person filing the answer and the attorney, if any.

d. Matters admitted and defenses waived. Any allegation in the petition not denied in the answer shall be deemed admitted. Any defense not raised in the answer which could have been raised at that time on the basis of facts then known shall be deemed waived, except for subject matter jurisdiction.

e. Failure to answer. If the party required to file an answer by this subrule fails to file an answer within 20 days of receipt of the notice of hearing or petition, a default may, upon motion, be entered by the presiding officer.

7.8(3) Amendment. Any pleading may be amended before a pleading has been filed responding to it. The presiding officer, in furtherance of justice, may allow later amendments, including those to conform to the proof and which do not substantially change the claim or defense. The presiding officer may impose terms or grant a continuance without terms, as a condition of the allowance.

7.8(4) Filing and service of pleadings. The original of all pleadings shall be filed with the presiding officer and a copy of all pleadings shall be contemporaneously served upon the other parties. Filing and service of pleadings shall be by first-class mail or personal service. No return of service shall be required.

7.8(5) Docketing. Upon receipt of a pleading, the presiding officer shall docket the pleading in a docket kept for that purpose and shall assign a number to the case which shall be placed on all subsequent pleadings filed in the case.

7.8(6) Form. All pleadings shall:

a. Contain a caption in the following form:

BEFORE THE IOWA DEPARTMENT OF NATURAL RESOURCES
DES MOINES, IOWA

IN THE MATTER OF) PETITION (OR ANSWER)
)
(State name and address)
of party other than the) NO. _____
department))

b. Be legibly printed or typewritten on white paper. The impression shall be on one side of the paper only and the lines shall be double-spaced, except quotations of two or more lines, which shall be single-spaced and indented. Standard letter-size paper (8½" x 11") shall be used.

c. Be signed by the person filing the pleading.

EPA Rulemakings

CFR: 40 C.F.R. 70, Appendix A, Iowa (a)
FRM: 60 FR 45671 (9/1/95)
PRM: 60 FR 20465 (4/26/95)
State Submission: 11/10/93
State Proposal: N/A
State Final: IAC 9/7/88 (Effective 10/12/88)
APDB File: IA-36
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.