

561—7.7(17A,455A) Presiding officer. Except as otherwise provided in this rule, an administrative law judge employed by the department of inspections and appeals shall preside at contested case hearings.

7.7(1) On motion of a party or on its own motion, the agency may order that the hearing be conducted before the agency or one or more members thereof. Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 10 days after service of a notice of hearing which identifies or describes the presiding officer as the agency head or members of the agency. The agency may deny the request only upon a finding that one or more of the following reasons apply:

a. Neither the agency nor any officer of the agency under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding (i.e., there is no conflict of interest because the agency would not act as both party and adjudicator in the contested case proceeding).

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

7.7(2) The agency shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed.

7.7(3) In a hazardous waste facility site licensing proceeding pursuant to Iowa Code section 455B.446, the hearing shall be before the environmental protection commission, with at least a quorum present, and with an administrative law judge present to assist the commission in ensuring that the requirements of Iowa Code chapter 17A are met.