

ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulatory Analysis

Notice of Intended Action to be published: 567—Chapters 2, 2505, and 2506
“Fair Information Practices; Contested Cases”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 17A and 22.11 and 2026 Iowa Acts, Senate File 2463

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 17A

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 12, 2026
1 to 2 p.m.

Backbone Conference Room
6200 Park Avenue, Suite 200
Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Natural Resources (Department) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Kelli Book, Attorney
Iowa Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515.210.3408
Email: kelli.book@dnr.iowa.gov

Purpose and Summary

This proposed rulemaking modifies the Uniform Rules on Agency Procedure related to fair information practices (7—Chapter 2505) to ensure that business confidential records are properly processed and stored by the Department. This rulemaking is also being done in accordance with 2026 Iowa Acts, Senate File 2463, in which portions of Chapter 2 relating to personally identifiable information were not rescinded. In an effort to consolidate all Department rules regarding fair information practices, the content related to personally identifiable information is being moved to Chapter 2505. This will allow for Chapter 2 to be rescinded.

This proposed rulemaking also modifies the Uniform Rules on Agency Procedure related to contested cases (7—Chapter 2506) to ensure that the deadline for an administrative appeal is a definite date.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• Classes of persons that will bear the costs of the proposed rulemaking:

There are no costs to the general public; this proposed rulemaking is mostly procedural and descriptive in nature. Those requesting a public record may incur a cost associated with fees prescribed by law and rule.

- **Classes of persons that will benefit from the proposed rulemaking:**

This proposed rulemaking provides procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department. This rulemaking also provides clear and concise timing of administrative appeals for contested cases.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- **Quantitative description of impact:**

There are no costs associated with this proposed rulemaking.

- **Qualitative description of impact:**

This proposed rulemaking provides the procedural structure of public and confidential records for the general public and regulated entities. Those parties will benefit from clear and concise rules as to how records will be maintained by the Department. This rulemaking also provides clear and concise timing of administrative appeals for contested cases.

3. Costs to the State:

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs associated with this proposed rulemaking.

- **Anticipated effect on State revenues:**

There will be no impact on State revenues associated with this proposed rulemaking.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Not applicable.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

Not applicable.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

None were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

This proposed rulemaking is consistent with the Uniform Rules on Agency Procedure for contested cases and fair information practices and provisions of Iowa Code chapter 22.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking has no impact on small business. This rulemaking will benefit small businesses by providing clear and concise rules as to how records will be maintained by the Department and provide guidance for the appeal of contested cases.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **567—Chapter 2**.

ITEM 2. Adopt the following **new** 567—Chapter 2505:

CHAPTER 2505

FAIR INFORMATION PRACTICES

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

567—2505.5(17A,22) Confidential records. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order. Unless deemed as a confidential record or considered as a confidential record by Iowa Code section 22.7, all records are considered public and routinely disclosed without the consent of the subject.

2505.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2505.5(2) Request. A written request that a record be treated as a confidential record and be withheld from public inspection should be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record. The request should include two copies of the record in question: one copy of the record with all information provided and a second copy of the record with the information being requested confidential deleted from the record.

2505.5(3) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed or when the custodian receives a request for access to the record by a member of the public.

2505.5(4) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2505.5(5) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian will notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good-faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian will notify the requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been

received; if a court directs the custodian to treat it as a confidential record, to the extent permitted by another applicable provision of law; or with the consent of the person requesting access.

2505.5(6) *Processing of confidentiality claims.* In order to request a record be held confidential with the department, the party will comply with the following provisions:

a. Applicability/availability. Businesses that provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the department, all information will be available to the public. If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot ensure that such efforts will be effective in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Confidentiality request process. An entity that submits information to the department may assert a confidentiality claim in accordance with the following process:

(1) Attach a cover sheet indicating the entity is seeking the information to be held confidential. The submission will include a letter of substantiation with the information required by paragraph 2505.5(6) "c."

(2) File two copies of the information: one copy with all information present and a second copy with the information for which the party wishes to claim confidential treatment deleted from the document.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information in a letter attached to the proposed confidential document:

(1) A statement of all measures the business has taken to protect the confidentiality of the information and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed for completeness and applicability of subrule 2505.5(8). If the claim does not include the substantiation required by paragraph 2505.5(6) "c," or if the claim relates to information within subrule 2505.5(8), the business making the claim will be notified by certified mail. If the substantiation or comment regarding the inapplicability of subrule 2505.5(8) is not received by the department within ten days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice.

e. Substantive criteria for use in confidentiality determinations. Prior determinations by the courts, the department, or other agencies on the information or similar information will be given due consideration and effect. Determinations will hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

f. Determination. The department will transmit its determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure will be sent a similar notice in the same manner within ten days of the request. If any substantial comments are received, the final decision will be made by the director or designee. If no substantial comments are received, the preliminary determination becomes the final decision.

g. All procedures within this rule will not be considered contested case proceedings as provided in Iowa Code chapter 17A.

2505.5(7) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;
b. Tax records made available to the department;
c. Records that are exempt from disclosure under Iowa Code section 22.7;
d. Minutes of closed meetings of a government body;
e. Identifying details in final orders, decisions, and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets;

f. Those portions of the department's staff manuals, instructions, or other statements issued that set forth criteria or guidelines to be used by staff in auditing; in making inspections; in settling commercial disputes or negotiating commercial arrangements; or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases when disclosure of these statements would:

(1) Enable law violators to avoid detection;
(2) Facilitate disregard of requirements imposed by law; or
(3) Give a clearly improper advantage to persons who are in an adverse position to the department;

g. Records that constitute attorney work product, constitute attorney-client communications, or are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa R.C.P. 1.503(3); Fed. R. Civ. P. 26(b)(3); and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

2505.5(8) *Not confidential.* Notwithstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data. For purposes of this subrule, "emission data" means the following, with reference to any source of emission of any substance into the air:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission that has been emitted by the source (or of any pollutant resulting from any emission by the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions that, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

b. Analytical results of monitoring or public water supply systems;

c. Name and address of any permit applicant; and
d. NPDES permits, applications (including any information required by NPDES application forms), and effluent data. For purposes of this subrule, “effluent data” means the following, with reference to any source of discharge of any pollutant:

(1) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant that has been emitted by the source (or of any pollutant resulting from any discharge from the source) or any combination of the foregoing;

(2) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants that, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(3) A general description of the location and nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

567—2505.9(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information that is collected, maintained, and retrieved by the department of natural resources by personal identifier in record systems. For the purposes of this rule, “record system” means any group of records under the control of the agency from which a record may be retrieved by a personal identifier, such as the name of an individual, number, symbol, or other unique retriever assigned to an individual. Records maintained by the department of natural resources, the environmental protection commission, and the natural resource commission are in accordance with guidelines as set forth by the state records commission’s file system. An updated index is maintained by the department and is available for public inspection. Records are collected pursuant to authorities contained in Iowa Code title XI. Records are stored on paper; microfilm; microfiche; and, in some cases, automated data processing systems, such as electronic management systems and department web applications. Department of natural resources and natural resource commission records may include but are not limited to the following:

2505.9(1) Department of natural resources.

a. Administration, organization, and management.

- (1) Organization and management.
- (2) Planning and programming.
- (3) Administrative reports.
- (4) Insurance and bonding.
- (5) Departmental emergency planning.
- (6) Correspondence and reference materials.
- (7) Information and public relations.

b. Budgets, accounting and financial analysis.

- (1) Budget information.
- (2) Accounting.
- (3) Cost accounting.

c. Office services and facilities management.

- (1) Communications.
- (2) Printing and reproduction.
- (3) Records management.
- (4) Motor pool operations.
- (5) Facilities management.
- (6) Engineering and construction.

d. Equipment, supplies, and services.

- (1) Procurement.

- (2) Property accountability.
- e. Legislative and legal.*
 - (1) Department legislative liaison.
 - (2) Bills, joint resolutions, amendments, messages, and reports.
 - (3) Federal government.
 - (4) Administrative procedures.
 - (5) Attorney general opinions and research materials.
 - (6) Claims against the state.
 - (7) Lawsuits filed by the state.
 - (8) 28E agreements.
- f. Personnel and payroll.*
 - (1) Employee personnel/payroll files.
 - (2) Merit rules.
 - (3) Payroll administration.
 - (4) Position classification.
 - (5) Preemployment.
 - (6) Certification and selection.
 - (7) Scheduling, assignments, and working hours.
 - (8) Grievances.
 - (9) Training and education.
 - (10) Employee benefits and welfare.
 - (11) Employment relations.
 - (12) Equal employment opportunity.
 - (13) Management improvement programs.
 - (14) Delegation of authority and signature authorization.
- g. Conservation and environment.*
 - (1) Geology.
 - 1. Surface and groundwater monitoring.
 - 2. Natural resources geographic information system (GIS) library.
 - 3. Oil/gas exploration and drilling.
 - (2) Water conservation.
 - (3) Land conservation.
 - (4) Soil conservation.
 - (5) Forestry management.
 - (6) Fish and game conservation.
 - (7) Recreation.
 - (8) Environmental technology.
 - (9) Air quality monitoring.
 - (10) Water quality monitoring.
 - (11) Land quality monitoring.
 - (12) Hazardous material planning.
 - 1. Hazardous waste management.
 - 2. Underground storage tanks.
 - 3. Leaking underground storage tanks.
 - (13) Radioactive materials.
 - (14) Environmental—interdisciplinary.
- 2505.9(2)** Natural resource commission.
 - a.* Tort claims investigations.
 - b.* Numerous licensing files.
 - c.* Lifetime licenses.
 - d.* Boat registrations.

- e. Docks, mooring, buoys or raft registrations.
- f. Snowmobile registrations.
- g. Miscellaneous mailing list (e.g., magazine).
- h. Payroll and personnel information system.
- i. Fur buyer reports.
- j. Fish and game violations.
- k. Safety certified students (hunter safety, snowmobile safety, and boating safety).
- l. Special events applications and permits.
- m. Snowmobile accident reports.
- n. Boating accident reports.
- o. Drowning reports.
- p. Timber buyer reports and bonds.
- q. Work programs with Iowa State University.
- r. Timber management and forestry.
- s. State park ranger violation reports.
- t. Incident reports.
- u. Donations.
- v. Real estate acquisition.
- w. Encroachments.
- x. Campground host program.
- y. Law enforcement intelligence network (LEIN) and turn in poachers (TIP).
- z. Park leases and concessions.

567—2505.10(17A,22) Other groups of records. This rule describes groups of records maintained by the department of natural resources other than record systems as defined in rule 567—2505.9(17A,22). These records are routinely available to the public. However, the department's files of these records may contain confidential information. In addition, some records may contain information about individuals. Records are stored on paper; microfilm; microfiche; and, in some cases, automated data processing systems, such as electronic management systems and department web applications.

2505.10(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

2505.10(2) Commission records. Agendas, minutes, and materials presented to the environmental protection commission and the natural resource commission are available from the office of the director, except these records concerning closed sessions that are confidential under Iowa Code section 21.5(5). Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3.

2505.10(3) Publications. News releases, annual reports, Iowa Outdoors magazine, project reports, agency newsletters, etc., are available from the department offices for public information. Brochures describing various department programs are available at local offices of the department. Department news releases, project reports, Iowa Outdoors magazine, and newsletters may contain information about individuals, including department staff or members of the commission or committees.

2505.10(4) Statistical reports. Periodic reports for various department programs are available from the department offices for public information.

2505.10(5) Grants or loans. Records on persons and institutions receiving grants or loans are available through the institutions, also for public information. The records may contain information about employees of a grantee.

2505.10(6) *Published materials.* The department of natural resources uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2505.10(7) *Policy manuals.* The department of natural resources employees' manual, containing the policies and procedures for programs administered by the department, is available in every office of the department. Policy manuals do not contain information about individuals.

2505.10(8) *All other records that are not exempted from disclosure by law.* The department maintains a variety of records that do not generally contain information pertaining to named individuals.

ITEM 3. Adopt the following **new** 567—Chapter 2506:

CHAPTER 2506
CONTESTED CASES

The Uniform Rules on Agency Procedure, 7—Chapters 2500 through 2506, are rules generally applicable to agencies pursuant to Iowa Code section 17A.24. Additions, exceptions, or amendments to the corresponding chapter are below.

567—2506.4(17A) Electronic requests for contested case proceeding.

2506.4(1) A person entitled to a contested case proceeding must electronically file written request for such a proceeding within the time specified by the governing rules or statutes or, if no rule or statute sets such a time, within 60 days.