Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 5
"Public Records and Fair Information Practices"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 10A.104(5), 17A.24(3), 22.3, and 22.11

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 10A, 22, and 272C

Public Hearing

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

November 18, 2025	6200 Park Avenue
2:30 to 3 p.m.	Des Moines, Iowa

Virtual participation information will be available on the Department of Inspections, Appeals, and Licensing website prior to the hearing.

Public Comment

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

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Purpose and Summary

This proposed rulemaking repromulgates Chapter 5 and implements Iowa Code chapters 10A, 22, and 272C in accordance with the goals and directives of Executive Order 10.

This proposed chapter provides procedures for requesting access to public records, including location of records and potential fees to access the records. This proposed chapter also provides direction on what records can be released without providing consent to the subject of the record, instances where a subject can provide consent to release a confidential record, and the availability of public records.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The Department may incur costs associated with implementing or enforcing this chapter; however, such costs arise from the Department's statutorily required duty to provide inspection of open records pursuant to Iowa Code chapter 22. Parties requesting records pursuant to Iowa Code chapter 22 and this chapter may incur costs the Department may charge for expenses incurred in supervising the examination and copying of requested records or preparing the production of requested records as allowed by Iowa Code chapter 22.

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

The Department and parties requesting records pursuant to Iowa Code chapter 22 and this chapter will benefit from standard procedures and clear guidance for uniform implementation of the Department's public records responsibilities.

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:**

Parties requesting records may incur quantitative costs since the Department may charge for expenses incurred in supervising the examination and copying of requested records or preparing the production of requested records as allowed by Iowa Code chapter 22. Such costs will vary greatly based on the size and complexity of the request, and many requesters will not incur such costs as this chapter provides that no such fees will be charged until supervision or other time necessary is in excess of three hours. Additionally, while the Department incurs quantitative costs to implement and enforce this chapter, such costs are incurred pursuant to the Department's statutorily required duty to provide inspection of open records pursuant to Iowa Code chapter 22.

- **Qualitative description of impact:**

The Department incurs indirect, qualitative costs by the nature of having to comply with the requirements of this chapter. However, such costs of compliance are incidental to the Department's statutorily required duty to provide inspection of open records pursuant to Iowa Code chapter 22.

3. **Costs to the State:**

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

There are no specific costs to the Department to implement or enforce this chapter outside of any costs associated with the Department's statutorily required duty to provide inspection of open records pursuant to Iowa Code chapter 22.

- **Anticipated effect on State revenues:**

Generally, this proposed rulemaking has no anticipated effect on State revenues. Some fees from parties requesting records may be collected pursuant to Iowa Code chapter 22 and this chapter, but such fees only occur to cover Department expenses in responding to the request.

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

Both the Department and parties requesting records will benefit from standard procedures and clear guidance for uniform implementation of the Department's public records responsibilities. Meanwhile, all costs incurred related to this chapter are allowed or required by statute. Additionally, Iowa Code section 22.11(1) requires adoption of various rules related to open records, so inaction is not an option.

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

Much of this proposed rulemaking is required by or facilitates the Department's compliance with Iowa Code chapter 22. This proposed rulemaking does increase the threshold before which the Department begins charging requesters for Department expenses from one hour in the existing rules to three hours in this proposed rulemaking.

6. **Alternative methods considered by the agency:**

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

As noted above, an alternative that was seriously considered and is being adopted in this proposed rulemaking is increasing the threshold before which the Department begins charging requesters for Department expenses. In practice, the Department often did not begin charging expenses until supervising the examination of requested records or preparing the production of requested records exceeded three hours, even under the existing threshold of one hour. So, this proposed rule change better reflects Department practice while also promoting and expanding requesters' access to open records before costs are incurred.

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

See the responses in Sections 5 and 6.

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 applies equally to all businesses and members of the public and is not believed to have any adverse impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 5 and adopt the following **new** chapter in lieu thereof:

CHAPTER 5
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of inspections, appeals, and licensing hereby adopts, with the following exceptions, amendments, and additions, the Uniform Rules of Agency Procedure relating to public records and fair information practices, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf. These rules are applicable to any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A unless a division, board, or commission has separate rulemaking authority and has adopted rules governing public records and fair information practices.

481—5.1(10A,17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "department of inspections, appeals, and licensing (the 'department') or any division, board, or commission under the administrative authority of the department pursuant to Iowa Code chapter 10A, as applicable".

"Custodian" means an agency that owns and exercises control over public records. The originating agency, if any, is the custodian of records that are used to perform work or a service for the originating agency.

"Law enforcement official" means an officer or employee of any agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe that is empowered by law to:

1. Investigate or conduct an official inquiry into a potential violation of law; or
2. Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

"Originating agency" means any government agency that has requested the department to perform work or a service on its behalf. An originating agency retains custody of all records provided by the originating agency to the department pursuant to Iowa Code section 10A.105.

481—5.3(17A,22) Requests for access to records.

5.3(1) *Location of record.* A request for access to a record should be directed to the department through its website at dial.iowa.gov or through iowaopenrecords.nextrequest.com.

5.3(2) *Office hours.* Open records will be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday except legal holidays.

5.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by facsimile, email, or other electronic means, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

5.3(7) *Fees.*

c. *Supervisory fee.* An hourly fee may be charged for agency expenses in supervising the examination and copying of requested records or preparing the production of requested records when the supervision or other time necessary is in excess of three hours or otherwise as permitted by Iowa Code chapter 22. The agency will prominently post or otherwise advise the requester of the hourly fees to be charged for supervision of records during examination and copying or preparation of records for production. That hourly fee shall not be in excess of the hourly wage of an agency employee who ordinarily would be appropriate and suitable to perform that function.

481—5.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Strike the words "or to (designate office)".

481—5.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney. This rule does not allow the subject of a record that is confidential under Iowa Code section 272C.6(4) to consent to its release.

481—5.9(17A,22) Disclosures without the consent of the subject.

5.9(1) Open records are routinely disclosed without the consent of the subject.

5.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. The following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 481—5.10(17A,22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil, administrative, or criminal law enforcement activity if the activity is authorized by law and if an authorized representative of such government

agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

h. To other licensing authorities as described in Iowa Code section 272C.6(4).

i. To the office of ombudsman pursuant to Iowa Code section 2C.9.

j. To the child support recovery unit or centralized collection unit of the department of revenue for the purpose of identifying licensees or applicants subject to enforcement pursuant to Iowa Code chapters 252J and 272D, respectively.

481—5.10(17A,22) Routine use. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. It includes disclosures mandated by statute other than the public records law, Iowa Code chapter 22. To the extent allowed by law, the following uses are considered routine uses of all agency records:

5.10(1) Disclosure to those officers, employees, and agents of the department or the originating agency as necessary to administer the program for which the information is collected and as necessary to administer a program within the other entity. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

5.10(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

5.10(3) Transfers of information within the agency, to other state agencies, to local and federal units of government, or to national associations as appropriate to administer the program for which the information is collected.

5.10(4) Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

5.10(5) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

5.10(6) Information transferred to any originating agency when the department has completed the authorized work.

481—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 481—5.7(17A,22).

5.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official that seeks the official's intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

5.11(3) *Obtaining information from a third party.* The department occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information that involve the release of confidential identifying information will be made in accordance with the department's pertinent statutory authority. Where necessary, the department will obtain from the subject individual

an authorization for the release of specially protected information on a form that meets any legal mandates, including alcohol and drug abuse patient information.

481—5.12(17A,22) Release to subject.

5.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 481—5.6(17A,22). The department need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. The work product of an attorney, a hearing officer's personal notations to be used by the hearing officer and not intended for public dissemination, or otherwise privileged records.

c. Investigative reports, except as required by Iowa Code section 22.7(5) or other provision of law.

d. Information in licensee complaint and investigation files maintained for licensee discipline required to be withheld from the subject prior to filing formal charges and the notice of hearing in a licensee disciplinary proceeding, except any files that can be provided in accordance with Iowa Code section 10A.506(9).

e. Others authorized by state or federal law.

5.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the department may take reasonable steps to protect confidential information relating to another subject.

481—5.13(17A,22) Availability of records.

5.13(1) *Open records.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

5.13(2) *Confidential records.* Iowa Code chapters governing the operations of the agency establish the confidential nature of many agency records. The following is a nonexhaustive list of records that may be withheld from public inspection:

a. Sealed bids received prior to the time set for public opening of bids protected by Iowa Code section 72.3.

b. Tax records made available to the agency protected by Iowa Code section 422.20 or 422.72 or 26 U.S.C. Section 7213(a)(2).

c. Exempt records under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body under Iowa Code section 21.5(5).

e. Identifying details in final orders, decisions and opinions to the extent necessary to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"b."*

f. Pursuant to Iowa Code sections 17A.2 and 17A.3, portions of department staff manuals, instructions or other statements issued that set forth criteria or guidelines to be used by department 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 agency pursuant to Iowa Code sections 17A.2 and 17A.3.

g. Records that constitute attorney work product or attorney-client communications or that are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 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. Records or portions of records protected pursuant to Iowa Code section 515A.13.

i. Records or portions of records containing social security numbers protected by 42 U.S.C. Section 405(c)(2)(C)(viii).

j. Records of hearings that are closed to the public pursuant to Iowa Code section 272C.6(1) are confidential under Iowa Code section 21.5(4). However, upon transmittal to the district court in accordance with Iowa Code section 17A.19(6) for judicial review, the record is not confidential unless so ordered by the district court. Unlicensed hearing files are open to the public.

k. Minutes and tapes of closed meetings pursuant to Iowa Code section 21.5(4).

l. Information or records made confidential by law.

481—5.14(17A,22) Authority to release confidential records. The department may have discretion to disclose some confidential records that are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute that authorizes limited or discretionary disclosure as provided in rule 481—5.4(17A,22). If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

481—5.15(17A,22) Personally identifiable information, storage, and data processing systems. The department maintains systems of records that contain personally identifiable information. Records are collected in accordance with the agency's duties set forth in Iowa Code chapters 10A and 272C and other state and federal law governing programs administered by the agency. Specific personally identifiable information collected and the agency's authority to collect said information is contained in pertinent Iowa Code sections and Iowa Administrative Code rules governing such programs. The department stores information in paper and on a cloud-based system and other electronic data management and storage systems. All data processing systems that have common data elements can potentially match, collate, and compare personally identifiable information as appropriate and legally authorized.

481—5.16(17A,22) Applicability. This chapter does not:

5.16(1) Obligate the agency to index or retrieve records that contain information about persons by that person's name or other personal identifier.

5.16(2) Make available to the general public records that would otherwise not be available under the public records law, Iowa Code chapter 22.

5.16(3) Govern the maintenance of, disclosure of, notification of or access to records in the possession of the agency that are governed by the rules of another agency.

5.16(4) Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs unless otherwise provided by law or agreement.

5.16(5) Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject, person or party to such litigation or proceedings is governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency.

5.16(6) Obligate the agency to create, compare or procure a record solely for the purpose of making it available.

These rules are intended to implement Iowa Code chapters 10A, 22, and 272C.