

CHAPTER 2  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

**751—2.1(17A,22) Purpose and scope.**

**2.1(1)** This chapter implements Iowa Code section 22.11 by establishing commission policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound commission determinations with respect to the handling of records and the implementation of the fair information practices Act. This commission is committed to the policies set forth in Iowa Code chapter 22; commission staff shall cooperate with members of the public in implementing the provisions of that chapter.

**2.1(2)** This chapter does not:

- a. Require the commission to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
- b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
- c. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the commission which are governed by the rules of another commission.
- d. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
- e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

**751—2.2(17A,22) Definitions.** As used in this chapter:

*"Commission"* means the Iowa telecommunications and technology commission.

*"Confidential record"* means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the commission is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

*"Custodian"* means the commission or a person lawfully delegated authority by its executive director to act for the commission in implementing Iowa Code chapter 22.

*"Open record"* means a record other than a confidential record.

*"Personally identifiable information"* means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

*"Record"* in these rules means the whole or a part of a "public record" as defined in Iowa Code section 22.1.

*"Record system"* means any group of records under the control of the commission 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.

*"Subject"* means that person identified in a record.

**751—2.3(17A,22) Requests for access to records.**

**2.3(1)** *Location of record.* A request for access to a record should be directed to the executive director or the particular commission office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the executive director at the ICN main office location as listed

in 751—subrule 1.6(1). If a request for access to a record is misdirected, commission personnel will promptly forward the request to the appropriate person within the commission.

**2.3(2) Office hours.** Open records shall be made available during all customary office hours which are 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

**2.3(3) Request for access.** Requests for access to open records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. 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.

**2.3(4) Response to requests.** Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access unfeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code section 22.8(4) or 22.10(4) or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 751—2.4(17A,22) and other applicable provisions of law.

**2.3(5) Security of record.** No person may, without permission from the custodian, search or remove any record from commission files. Examination and copying of commission records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

**2.3(6) Copying.** A reasonable number of copies of an open record may be made in the commission's office. If photocopy equipment is not available in the commission office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

**2.3(7) Fees.**

*a. When charged.* To the extent permitted by applicable provisions of law, the payment of fees may be waived in the case of small requests when the imposition of fees is inequitable or when a waiver is in the public interest. Charges for examination or copies requested in writing by a person in a capacity as representative of another governmental entity or where copies are provided under provisions of a written commission contract may be waived.

*b. Copying and postage costs.* Anyone making a request for reproduction of the commission's records will prepay for services at the following rates, in addition to actual mailing costs:

(1) Photocopies (direct copies on 8½" x 11" or 8½" x 14" paper)—50 cents per page. For direct photocopies on 11" x 17" paper—65 cents per page. The fee for photocopies exceeding 11" x 17" will be reviewed and reasonable fees will be provided to the requester upon determination of the commission's ability to photocopy.

(2) Paper copy from microfilm records—50 cents per page.

(3) Microfiche copy from microfilm records—\$1 per fiche.

(4) The actual reproduction cost will be charged for any blueprint, picture, oral tape or any other work product not subject to photocopying.

(5) Computer-stored information. Tape files—\$100 per file, copied only to 9-track tape with standard IBM labels. Three UP gummed mailing labels and 4 UP Cheshire labels, 30 cents per 1000 records read, and \$10 per 1000 labels written. There will be a \$15 charge for information copied on computer diskette. A minimum charge of \$15 or actual cost will be assessed, whichever is greater. Electronic copies (8½" x 11", 8½" x 14", or 11" x 17") will be provided at no cost. Requests for electronic copies exceeding 11" x 17" will be reviewed and reasonable fees will be provided to the requester upon determination of the commission's ability to transmit and duplicate. Programming time over ten minutes will be charged at the rate of \$25 per hour or any portion of an hour.

*c. Supervisory fee.* An hourly fee may be charged for actual commission expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in commission offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a commission clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

*d. Search fees.* If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requester will be advised of this fact. Reasonable search fees (\$15 per hour or any portion of one hour) may be charged where appropriate for either paper or electronic copy requests. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requester.

*e. Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

**751—2.4(17A,22) Access to confidential records.** Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 751—2.3(17A,22).

**2.4(1) Proof of identity.** A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

**2.4(2) Requests.** The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

**2.4(3) Notice to subject of record and opportunity to obtain injunction.** After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

**2.4(4) Request denied.** When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

*a.* The name and title or position of the custodian responsible for the denial; and

*b.* A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

**2.4(5) Request granted.** When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

**751—2.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination.** 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, to refuse to disclose that record to members of the public.

**2.5(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.

**2.5(2) *Request.*** A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the commission by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

**2.5(3) *Failure to request.*** Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the commission does not request that it be withheld from public inspection under Iowa Code section 22.7(3) or 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

**2.5(4) *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.

**2.5(5) *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.

**2.5(6) *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 shall 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 shall 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, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

**2.5(7) *Processing of business confidentiality claims.***

*a. Applicability/availability.* Businesses which provide information to the commission in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the commission, 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 commission, the information provided to the commission will be available to the public pursuant to subrule 2.3(3). If a claim is received after the information itself is received, the commission will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the commission cannot ensure that such efforts will be effective, in light of the possibility of prior disclosure or dissemination of the information beyond the commission's reasonable control.

*b. Form.* A business which submits information to the commission may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate claim shall be submitted as specified above. If a request not to disclose information is filed with the commission, the party shall file together with the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.5(7)"c."

A business which has reason to believe that the commission has received information which the business asserts to be confidential may request that such information, described with reasonable specificity, be maintained as confidential, in the same manner as specified above.

*c. Contents of claim.* All claims for confidentiality must be substantiated with the following information:

- (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 commission.* All claims will be reviewed within ten days of receipt for completeness. If the claim does not include the substantiation required by 2.5(7)"c," the business making the claim will be so notified by certified mail. If the substantiation or comment regarding the inapplicability of 2.5(7)"c" is not received by the commission within ten days of the date on the return receipt, the commission will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the commission until further notice. A timely response from the notice under this paragraph will be ruled on by the commission within ten days, based on the compliance with 2.5(7)"c."

*e. Initiation of official determination.* All claims not rejected under 2.5(7)"d" shall receive an official determination when a request for disclosure covering such information is received by the commission or when the commission deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.

*f. Substantive criteria for use in confidentiality determinations.* Determinations shall 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.

Prior determinations by the courts, the commission or other agencies on the information or similar information shall be given due consideration and effect.

*g. Preliminary determination—opportunity for comment.* The commission shall transmit its preliminary 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 shall be sent a similar notice in the same manner within ten days of the request.

*h. Final determination.* A final decision shall be issued within ten days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the executive director or the commission's designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

*i. Contested case status.* All procedures within this rule shall not be considered contested case proceedings as provided in Iowa Code chapter 17A.

**751—2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records.** Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any commission proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the attorney general. The request to review a written statement must be dated and signed by requester and shall include the current address and telephone number of the requester or the requester's representative.

**751—2.7(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 on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the commission to disclose records about that person to the person's attorney.

**751—2.8(17A,22) Notice to suppliers of information.** When a commission form requests a person to supply information about that person, the commission shall notify the person of the use that will be made of the information, which persons outside the commission might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

**751—2.9(17A,22) Disclosures without the consent of the subject.**

**2.9(1)** Open records are routinely disclosed without the consent of the subject.

**2.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

*a.* For a routine use as defined in rule 751—2.10(17A,22) or in any notice for a particular record system.

*b.* To a recipient who has provided the commission 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 commission or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government commission or instrumentality has submitted a written request to the commission 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.

*f.* Disclosures in the course of employee disciplinary proceedings.

*g.* In response to a court order or subpoena.

**751—2.10(17A,22) Routine use.**

**2.10(1)** Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**2.10(2)** To the extent allowed by law, the following uses are considered routine uses of all commission records:

*a.* Disclosure to those officers, employees and agents of the commission who have a need for the record in the performance of their duties. 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.

*b.* 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.

*c.* Disclosure to the commission or officer which this office is advising or representing in the matter in question or to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the commission.

*d.* Transfer of information within the commission, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

*e.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the commission is operating a program lawfully.

*f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

**751—2.11(17A,22) Consensual disclosure of confidential records.**

**2.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to commission disclosure of confidential records as provided in rule 751—2.7(17A,22).

**2.11(2)** *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the commission 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.

**751—2.12(17A,22) Release to subject.**

**2.12(1)** The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 751—2.6(17A,22). However, the commission need not release the following records to the subject:

*a.* The identity of a person providing information to the commission 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.* Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

*c.* Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. See Iowa Code section 22.7(5).

*d.* As otherwise authorized by law.

**2.12(2)** Where a record has multiple subjects with interest in the confidentiality of the record, the commission may take reasonable steps to protect confidential information relating to another subject.

**751—2.13(17A,22) Availability of records.**

**2.13(1)** *General.* Commission records are open for public inspection and copying unless otherwise provided by rule or law.

**2.13(2)** *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.* Bids that are opened and only the vendor's name is announced. The proposals will remain confidential until the proposals have been evaluated and the notice of intent to award a contract is made. See Iowa Code section 72.3;

*c.* Tax records made available to the commission;

*d.* Records which are exempt from disclosure under Iowa Code section 22.7;

*e.* Minutes of closed meetings of a government body;

*f.* Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“d”;

*g.* Those portions of commission staff manuals, instructions or other statements issued which 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 commission.

*h.* Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), 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.

*i.* Trade secrets which are recognized and protected as such by law including but not limited to network plans from authorized users.

*j.* Reports to the commission and the agency which, if released, would give advantage to competitors and serve no public purpose including network redesign and engineering or other research and development working papers for improvement or enhancement of the network.

*k.* Any data processing software developed by the agency.

*l.* Records concerning security procedures or emergency preparedness developed and maintained by the commission or other federal or state agency for the protection of governmental employees, visitors to the agency, persons in the care, custody, or under the control of the agency, or property under the jurisdiction of the agency, if disclosure could reasonably be expected to jeopardize such employees, visitors, or property. Pursuant to Iowa Code section 22.7(50), specific records or classes of records to which

this protection also applies may include specific information related to the physical network, contract- and vendor-related records and information associated with security and emergency preparedness, and similar or related records and information.

*m.* Any other records made confidential by law.

**2.13(3) Authority to release confidential records.** The commission may have discretion to disclose some confidential records which 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 which authorizes limited or discretionary disclosure as provided in rule 751—2.4(17A,22). If the commission initially determines that it will release such records, the commission may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

[ARC 2497C, IAB 4/13/16, effective 3/25/16]

**751—2.14(17A,22) Personally identifiable information.** This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the commission by personal identifier in record systems as defined in rule 751—2.2(17A,22). For each record system, this rule describes the legal authority for the collection of that information and the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the commission are:

- 2.14(1) Payroll and personnel information system.\*
- 2.14(2) Vendor files.
- 2.14(3) Certificates of insurance for contractors performing work for the commission.
- 2.14(4) Referrals to the attorney general.
- 2.14(5) Contract and lease files.
- 2.14(6) Accounts receivable and accounts payable system.\*
- 2.14(7) Various grant planning files, confidential trade secrets, litigation files.

All of the above-listed records are collected pursuant to the authority of Iowa Code Supplement chapter 8D. All are stored in paper form with those items noted by an asterisk (\*) also stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. None of the information stored can be matched, collated or compared.

**751—2.15(17A,22) Other groups of records.** This rule describes groups of records maintained by the commission other than record systems as defined in rule 751—2.2(17A,22). These records are routinely available to the public. However, the commission's files of these records may contain confidential information designated as confidential by the originator of the records in conformance with Iowa Code chapter 22. In addition, some records may contain information about individuals. All storage is in paper form with those items noted by an asterisk (\*) also stored in electronic form. None of the information can be matched, collated or compared.

**2.15(1) Rule making.** Rule-making 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. This information is not stored in an automated data processing system.

**2.15(2) Commission records.** Agendas, minutes and materials presented to the commission are available from the office of the executive director, except these records concerning closed sessions which are confidential under Iowa Code section 21.5 or which are otherwise confidential by law.

**2.15(3) Meeting participants.** Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automated data processing system.

**2.15(4) Publications.** News releases, annual reports, project reports, and commission newsletters, for example, are available from the commission offices for public information. Commission news releases, project reports, and newsletters may contain information about individuals, including commission staff or members of the commission, the councils or committees.

**2.15(5) Statistical reports.** Periodic reports for various commission programs are available from the commission offices for public information.

**2.15(6)** *Published materials.* The commission 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.

**2.15(7)** *Policy manuals.* The commission's policy manual, containing the policies and procedures for programs administered by the commission, is available in the office of the commission. Policy manuals do not contain information about individuals.

**2.15(8)** *Asset files.* Asset management database and inventory database contain a listing of the assets owned by the network.\*

**2.15(9)** *Mailing lists/contact lists.* Names, mailing addresses, and telephone numbers of state employees, commission members, officials in government of other states, and members of the general public\*, for example, may be used for distribution of informational material, such as newsletters, policy directives or educational bulletins. They are also used to provide contacts for coordination of services or as reference information sources.

**2.15(10)** *Authorized user lists.* The network maintains a list of persons authorized to use the network.

**2.15(11)** *Bid/purchasing process.* For example, specifications, proposals, bid documents, awards, contracts, agreements, leases, performance bonds, requisitions, purchase orders, supply orders, and correspondence.

**2.15(12)** *Project files.* For example, plans, specifications, contracts, studies, drawings, photos, blueprints, requests for services, lease/rental files, and 28E agreements.

**2.15(13)** *Data processing files.* For example, operations logs, data base user requests, job number maintenance/update, data entry format book, integrated data dictionary, computer output forms designations, system software, hardware/software documentation and configurations, problem determinations and resolutions records, and incident reports.

**2.15(14)** *Administrative records.*

- a. Reports: For example, weekly, monthly, annual, biennial, statistical, analysis, and activity.
- b. Correspondence: For example, public, interdepartmental, and internal.
- c. Policies and procedures.
- d. Organizational charts, and table of authorized positions.
- e. Memberships: Professional/technical organizations.
- f. Planning: Disaster recovery plans, emergency operation plans.
- g. Budget and financial records.
- h. Accounting records such as accounts receivable, accounts payable, receipts, invoices, claims, vouchers, and departmental billings.
- i. Legislative files such as pending bills, enrolled bills, legislative proposals, and copies of amendments.

**2.15(15)** *Other records.* All other records that are not exempted from disclosure by law are open.

These rules are intended to implement Iowa Code section 22.11, Iowa Code Supplement section 8D.3(3) "b," and 1996 Iowa Acts, House File 2407.

[Filed 9/17/96, Notice 7/31/96—published 10/9/96, effective 11/13/96]

[Filed 12/1/04, Notice 10/13/04—published 12/22/04, effective 1/26/05]

[Filed 9/21/07, Notice 6/20/07—published 10/10/07, effective 11/14/07]

[Filed Emergency After Notice ARC 2497C (Notice ARC 2381C, IAB 2/3/16), IAB 4/13/16, effective 3/25/16]