

CHAPTER 3
SUBMISSION OF INFORMATION AND
COMPLAINTS—INVESTIGATIONS

561—3.1(17A,455A) Scope. This chapter provides general guidance concerning the submission of information, supplies special telephone numbers for reporting certain types of information, and sets forth specific procedures for the submission and investigation of complaints.

561—3.2(17A,455A) Submission of information.

3.2(1) *Submission of information generally.* Submissions should be made directly to the division of the department for whose use the materials are intended. Any person who submits materials should enclose a cover letter which states clearly and concisely the use for which they are intended. Although the department will attempt to return unsolicited information if requested, it cannot guarantee return.

3.2(2) *Exceptions.* When information is submitted pursuant to another provision of these rules, the material should be submitted in accordance with any applicable instructions contained in such statute or rule. Some examples of such reporting include report of hazardous conditions pursuant to 567—subrule 131.2(1), wastewater bypasses pursuant to 567—subrule 63.6(2), manure releases pursuant to 567—paragraph 65.2(9)“a,” and excess air emissions pursuant to 567—subrule 24.1(2). Examples of other submissions include requests for confidential treatment of information in rule 561—2.5(17A,22), petitions for rule making in rule 561—5.1(17A), and petitions for declaratory rulings in rule 561—6.1(17A) and complaints.

3.2(3) *Hunting, fishing, and trapping violations.* Suspected violations of hunting, fishing, and trapping laws may be reported at any time by dialing toll-free 1-800-532-2020. Callers remain anonymous.

3.2(4) *Emergency incident reports.* The 24-hour emergency telephone number for the reporting of hazardous conditions as provided in 567—subrule 131.2(1) (Iowa Code section 455B.386) or emergency releases required to be reported in accordance with the Emergency Planning and Community Right-to-know Act as provided in Iowa Code section 30.8 is (515)281-8694. During nonbusiness hours this number is answered by staff of the department of public safety, who will obtain the caller’s name, telephone number, and information relating to the incident. This information will be forwarded to staff of the department who will contact the caller. Also, during nonbusiness hours this number may be used to report wastewater bypasses, manure releases, and excess air emissions.

561—3.3(17A,455A) Submission of complaints—investigations.

3.3(1) *General complaints.* Complaints other than those against department employees must be submitted, and will be investigated, as follows:

a. Submission requirements. Complaints concerning alleged violations of departmental statutes or rules should be submitted in writing to the appropriate field office, district office, or the central office (see rule 1.4(17A,455A)) and the nature of the complaint must be summarized in a concise manner. If the complaint is in the form of a petition, the signature, printed name and address of each petitioner should be included in addition to a concise summary of the complaint; and one representative also must be specified for the purpose of receiving any communication from the department on behalf of all petitioners.

b. Investigation procedure.

(1) **Mandatory investigations.** The department shall investigate the following types of complaints: alleged unauthorized depleting uses of water pursuant to Iowa Code section 455B.274; alleged violations of air or water pollution statutes, rules or permits when requested by any state agency, political subdivision, local board of health, or 25 residents of the state pursuant to Iowa Code subsections 455B.134(8) and 455B.174(1). The appropriate office shall conduct an investigation and notify the complainant of the results of the investigation.

(2) **Discretionary investigations.** Complaints not described in 3.3(1)“b”(1) may be investigated by the department if it appears that an investigation is needed to ensure compliance with applicable departmental statutes or rules. In the case of written complaints, the appropriate office shall notify the

complainant of the results of the investigation or of its decision not to conduct an investigation, unless the complaint is anonymous.

c. Confidentiality. In some cases, names of complainants may be kept confidential by the department pursuant to Iowa Code subsection 22.7(18) (see rule 561—2.5(17A,22)).

d. Anonymous complaints. Complaints may be submitted from anonymous sources and will be handled as discretionary investigations. In these cases, the department will not be able to notify the complainants of the results of the investigations.

3.3(2) Complaints concerning departmental employees.

a. Submission requirements. A party having a complaint regarding the performance of an agency employee is encouraged to discuss the matter with the employee's supervisor. The party also may request the director to investigate the matter by submitting a complaint in writing to the Director, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319. The complaint must be made within three months of the incident except for good cause. The complaint must contain the name of the employee; a description of the incident; the names and addresses of possible witnesses; and the signature, address, and telephone number of the party submitting the complaint.

b. Investigation procedure. For the purpose of this paragraph, "director" means the director or the director's designee. Upon receipt of the written complaint, the director shall acknowledge the complaint in writing. If the complaint raises issues which could result in disciplinary action, the director will investigate the complaint. The investigation may include an informal, confidential hearing by the director for the purpose of ascertaining more clearly all relevant aspects of the complaint. No subpoenas or sworn testimony will be taken. The employee, the complainant, and other parties and department staff as invited by the director, may participate in the hearing. Counsel for the employee and the complainant may participate in the hearing. Informal cross-examination of all parties will be allowed. The hearing shall be tape-recorded.

At the conclusion of the investigation, the director will prepare a written response to the complainant; except that the response shall not violate the employee's rights to confidentiality under Iowa Code section 22.7, applicable collective bargaining agreements, or any other applicable statutes or administrative rules.

The written response of the director shall be the final agency action regarding any written complaints received under this subrule. Nothing in this procedure shall be construed to prevent a withdrawal of the complaint based on an informal settlement between the department and the complainant.

These rules are intended to implement Iowa Code chapters 17A and 455A.

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