

**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.