

7000.1300 NOT PUBLIC INFORMATION.

Subpart 1. **Procedures to affirmatively request the agency maintain data as not public.** In order to maintain data for the confidential use of the agency, pursuant to Minnesota Statutes, section 116.075, or as nonpublic data not on individuals or private data as it relates to individuals, pursuant to Minnesota Statutes, section 13.37, a person must affirmatively request such recognition by providing to the commissioner a written request setting forth the statutory grounds and the reasons that justify the classification of the records or other information as not public. The commissioner must approve or deny in writing any request to keep records or information as not public. Whenever the commissioner denies a request, the commissioner shall notify the person submitting the request of the denial at least three working days prior to making the records or information available to the public, and provide an opportunity for the person to seek clarification of the classification of the data as provided in Minnesota Statutes, chapter 13. The person submitting the request may withdraw the records or information if such an option is available. The procedures in this subpart apply to any requests to recognize data as not public under statutory grounds not specifically identified in this subpart.

Subp. 2. **Filing.** All not public data must be appropriately identified and segregated at the offices of the agency.

Subp. 3. **Agency use.** Not public data may be used by the agency or commissioner in accordance with the Minnesota Government Data Practices Act as prescribed in Minnesota Statutes, section 13.05. Not public data may be used by the agency and agency staff in compiling or publishing analyses or summaries relating to the general condition of the state's water, air, and land resources so long as these analyses or summaries do not identify any person requesting not public data classification.

Subp. 4. **Release authorization.** Not public data may be released when the agency is specifically authorized to do so by statute.

Subp. 5. [Repealed, 28 SR 1249]

Subp. 6. **Federal law.** Regardless of whether records or information are classified as not public data, the agency may disclose any information which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure. Whenever the agency is required to release not public data pursuant to federal law, the commissioner shall notify the requester of this requirement at least three working days prior to making the records or information available to the public. The requester may withdraw this information if such an option is available.

Subp. 7. **Use in contested case hearings.** Any otherwise admissible evidence containing information classified as not public offered by the commissioner, agency, or a party to the contested case hearing shall be made a part of the hearing record of the case,

and the administrative law judge may conduct a closed hearing to discuss the information, issue necessary protective orders, and seal all or part of the hearing record pursuant to Minnesota Statutes, section 14.60.

Subp. 8. **Use in open meetings.** Pursuant to Minnesota Statutes, section 13D.05, a board meeting may not be closed to discuss data that is classified as not public data, except as expressly authorized by Minnesota Statutes, section 13D.05, subdivisions 2 and 3.

Statutory Authority: *MS s 116.07*

History: *8 SR 243; L 1984 c 640 s 32; L 1987 c 186 s 15; 17 SR 1279; 20 SR 2629; 28 SR 1249*

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