

R151. Commerce, Administration.

R151-2. Government Records Access and Management Act Rule.

R151-2-1. Purpose and Authority.

This rule is made pursuant to Section 63-2-204, which allows agencies to specify where and to whom requests for access to records shall be directed; Subsection 63-2-904 (2), which allows an agency to specify at which levels certain requirements shall be undertaken; and Section 63-2-603, concerning requests to amend a record.

R151-2-2. Duties of Divisions within the Department.

Each division director shall comply with Section 63-2-903 and shall appoint a records officer to perform, or to assist in performing, the following functions:

- (1) the duties set forth in Section 63-2-903; and
- (2) responding to requests for access to division records.

R151-2-3. Requests for Access.

(1) Waiver of Written Requests: Notwithstanding Subsection 63-2-204 (1) requiring written requests for records, a division may at its discretion waive the requirement for a written request if the records requested are public, the records are readily accessible, and the request is filled promptly by allowing access or copying at the time the request is made.

(2) To whom directed: All requests for access to records shall be directed to the records officer of the particular division which the requester believes generated or possesses the records.

(3) Fees: A fee shall be charged for copies of records provided. That fee shall be established pursuant to Title 63, Chapter 38 and Subsection 63-2-203 (1). Fees must be paid at the time of the request or before the records are provided to the requester.

R151-2-4. Forms.

(1) The forms described as follows, or a written document containing substantially similar information to that requested in the forms, shall be completed by requesters in connection with records requests, unless a division waives written requests.

(a) Form 2-204(1), "Request for Records", shall be used by all persons requesting records from the department or its divisions. It is intended to assist persons who request records to comply with the requirements of Subsection 63-2-204 (1) regarding the contents of a request. The form requires the requester's name, address, telephone, organization, if any, a description of the records requested, and information regarding the requester's status, for records which are not public.

(b) Form 2-206(2), "Certification by Requesting Governmental Entity", shall be used by another governmental entity requesting controlled or private records from a division or the department, pursuant to Subsection 63-2-206 (2). This form requires both the information to be provided in Form 2-204(1) and certain representations required from the governmental entity, if the information sought is not public.

(c) Form 2-206(5), "Disclosure and Agreement", shall be used when another governmental entity requests controlled, private or protected records, pursuant to Subsection 63-2-206 (5). This form discloses to the governmental entity certain information regarding restrictions on access and obtains the written agreement of the governmental entity to abide with those restrictions.

(2) The department or its divisions may use forms to respond to requests for records.

R151-2-5. Designation of Authorized Officers.

(1) The determinations or weighing of interests permitted or required under the following sections by a "governmental entity" or the "head of a governmental entity" shall be made by the division director which has custody or control of the records, or his designee:

(a) Subsection 63-2-201 (5) (b), which governs disclosure of certain private or protected records;

(b) Section 63-2-308, which governs business confidentiality claims;

(c) Subsection 63-2-202 (8), which governs disclosure for research purposes;

(d) Subsection 63-2-201 (10) (a), which governs intellectual property rights.

(2) The "chief administrative officer of the governmental entity" for purposes of appeals under Sections 63-2-401 and 63-2-603 shall be the Executive Director of the Department of Commerce or the Executive Director's designee.

R151-2-6. Designation of Requests to Amend Record.

Requests to amend a record under Section 63-2-603 are hereby designated as informal proceedings.

KEY: government documents, freedom of information, public records

Last Change July 2, 2002

Notice of Continuation April 15, 2002

63-2-204

63-2-201(5) (b)

63-2-201(10) (a)

63-2-202(8)

63-2-308

63-2-401

63-2-603