

19-1-306 Records of the department.

- (1) Except as provided in this section, records of the department shall be subject to Title 63G, Chapter 2, Government Records Access and Management Act.
- (2)
 - (a) The standards of the federal Freedom of Information Act, 5 U.S.C. Sec. 552, and not the standards of Subsections 63G-2-305(1) and (2), shall govern access to records of the department for which business confidentiality has been claimed under Section 63G-2-309, to the extent those records relate to a program:
 - (i) that is delegated, authorized, or for which primacy has been granted to the state;
 - (ii) for which the state is seeking delegation, authorization, or primacy; or
 - (iii) under the federal Comprehensive Environmental Response, Compensation, and Liability Act.
 - (b) The regulation of the United States Environmental Protection Agency interpreting the federal Freedom of Information Act, as it appeared at 40 C.F.R. Part 2 on January 1, 1992, shall also apply to the records described in Subsection (1).
- (3)
 - (a) The department may, upon request, make trade secret and confidential business records available to the United States Environmental Protection Agency insofar as they relate to a delegated program, to a program for which the state is seeking delegation, or to a program under the federal Comprehensive Environmental Response, Compensation and Liability Act.
 - (b) In the event a record is released to the United States Environmental Protection Agency under Subsection (3)(a), the department shall convey any claim of confidentiality to the United States Environmental Protection Agency and shall notify the person who submitted the information of its release.
- (4) Trade secret and confidential business records under Subsection (2) shall be managed as protected records under the Government Records Access and Management Act, and all provisions of that act shall apply except Subsections 63G-2-305(1) and (2).
- (5) Records obtained from the United States Environmental Protection Agency and requested by that agency to be kept confidential shall be managed as protected records under the Government Records Access and Management Act, and all provisions of that act shall apply except to the extent they conflict with this section.

Amended by Chapter 382, 2008 General Session