Division of Air Pollution Control
Response to Comments

Rule: OAC Rule 3750-90-01; “Applying for Access to Information”

Agency Contact for this Package

Division Contact: Cynthia DeWulf, Assistant Chief, Division of Air Pollution Control

Ohio EPA held a 30-day comment period ending on May 30, 2018 regarding a new proposed rule that outlines how public information requests shall be handled under ORC Chapter 3750, Emergency Planning. This document summarizes the comments and questions received during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General/Overall Concerns

Comment 1: The statutory language at Ohio Revised Code (ORC) 3750.02(B)(2)(c)(v) requires only “employees” of the commission or committee shall copy information in the files of the commission or committee, but draft Section 3750-90-01(B) would change “employees” to “authorized representatives” with no accompanying definition of “authorized representatives” nor any explanation as to why the statutory requirement of limiting that to activity to “employees” should be changed to “authorized representatives.” The Ohio EPA should either provide a valid explanation and justification for this change, or Section 3750-90-01(B) should be revised for consistency with ORC.

(Christian B. Zeigler, Executive Director, American Petroleum Institute)

Response 1: The SERC is comprised of representatives from state agencies and appointed members. The SERC has no employees, so an alternative to the term “employees” was needed. Ohio EPA would like to continue to use the term “authorized representative” and add clarifying language as suggested by the commenter such as “Until such time as the commission has its own staff and office, only public employed authorized
representatives of the commission or committee shall copy information in the files of the commission or committee."

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Comment 2: 3750-90-01(D); Both the statutory language at ORC 3750.02(B)(2)(c)(i) and the draft language at Section 3750-90-01(D) state that the information that is protected as trade secret information or confidential business information must be kept in files that are separate from those containing information that is not so protected. However, to further clarify that any such trade secret or confidential information is not only to be kept in separate files, but also must not be made available in response to any information requests under this new rule. Recommend adding language to draft rule “…shall not be made available to any person requesting information under this chapter.”

(Christian B. Zeigler, Executive Director, American Petroleum Institute)

Response 2: EPA concurs with comment and shall include into proposed rule.

Comment 3: 3750-90-01(G); In the third sentence of Section 3750-90-01(G), a few clarifying edits are recommended as “Requester can seek information in writing on company letterhead but shall include all information contained on the commission or committee approved application request form.”

(Christian B. Zeigler, Executive Director, American Petroleum Institute)

Response 3: EPA shall add clarifying edits as provided by commenter.

Comment 4: 3750-90-01(J); The first paragraph of Section 3750-90-01(J) seems to make it clear that fees may be charged for “copying, mailing, or conducting a computer search,” but the second paragraph appears to address on the fees for making copies, though that isn’t stated as clearly as it could be. To make it clearer that the second paragraph is only addressing the fees for copies, and does not affect the separate fees that can be charged for mailing and conducting computer searches, the first sentence of the second paragraph should be modified to “Those seeking copies of public records may be charged only the actual cost of making copies and not labor” and it may also be appropriate to add something to the paragraph about fees that are established for conduction computer searches.

(Christian B. Zeigler, Executive Director, American Petroleum Institute)
Response 4: EPA shall add the clarifying language as presented by the commenter to the second paragraph in the rule “those seeking copies of public records may be charged only the actual cost of making copies and not labor.” EPA does not charge for a computer search, so no language is being added to establish a computer search fee.

End of Response to Comments