

PUBLIC RECORDS RETENTION AND INSPECTION

SOURCE: OHIO REVISED CODE 149.43, 149.34, 149.333, 149.351, & OHIO EPA ADMINISTRATION.

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I. What is a Public Record?

1. Under the Ohio Revised Code (ORC), a public record is a record kept by a public office. In other words, any item, regardless of physical form, that:
 - is stored on a fixed medium (such as paper, computer, e-mail, film, etc.);
 - is created, received or comes under the jurisdiction of a public office;
 - documents the organization, functions, policies, decisions, procedures, operations or other activities of the office;
 - is kept by a public office; and
 - is not subject to an exception under Federal or Ohio Law.

II. Organization and Maintenance of Public Records

2. ORC 149.43(B)(2) requires that an agency's public records must be organized and maintained in a manner so that they can be prepared and made available for inspection or copying. This means that employees in possession of public records (in any and all formats) shall maintain them in an organized manner by utilizing file folders, labeling and other available tools. Employees are also responsible for preserving public records under their control in accordance with approved records retention schedules. Pursuant to ORC 149.43(B)(2), a copy of Ohio EPA's current record retention schedules shall be placed at the front desk of Ohio EPA's Central Office, and at the front desk of each District Office and shall be made readily available to the public.
3. The Records Coordinator of each District Office, as assigned by the Ohio EPA Director, is responsible for receiving public records requests and coordinating with the Records Manager and the Office of Legal Services before facilitating procurement of records from the various District Office staff and subsequently responding to the public records request.

III. Public Record Requests Procedures

Making the Request

4. Requests for public records do not need to be in writing, nor does a requester need to identify themselves in making a request. Requesters are not required to inspect or receive the records themselves; they may designate someone to inspect or receive copies of the requested records. The requester does not need to name any reason for the request, nor use any particular wording to make the request.
5. Ohio EPA may ask for the identity of the requester, for the intended use of the records, or for the request in writing if Ohio EPA believes that any of these would help identify, locate, or deliver the requested records. Ohio EPA must first let the requesters know that they can decline this option if they wish. (ORC 149.43(B)(5))
6. Ohio EPA may not limit the number of public records available to a single person, limit the number of records available during a fixed period of time, nor establish a fixed period of time before responding to a request for inspection or copying of public records, unless that period is less than eight hours. (ORC 149.43(E)(1))
7. Public record requests must be specific enough so that the Agency can identify which items are being requested. In other words, a public records request cannot be overly broad or ambiguous.

Evaluating and Processing the Request

8. All public records requests must be forwarded to, and processed through, a Records Coordinator. Accordingly, when an agency employee receives a public records request, s/he shall promptly notify and forward the request to their respective Records Coordinator in order for the request to be appropriately disseminated and fulfilled.
9. The Records Coordinator shall then forward the public records request to the Office of Legal Services, which will then determine if the request was properly made (e.g. not overly broad or ambiguous). All Records Coordinators shall log their public records requests received in the tracking system.
10. If a requester makes an ambiguous or overly broad request (or if Ohio EPA cannot reasonably identify what public records are being requested), Ohio EPA will deny the request. The Office of Legal Services shall also provide the requester with an explanation that includes the legal authority, setting forth why the request was denied. If the initial public records request was in writing, the

explanation shall also be in writing. Ohio EPA shall provide the requester with an opportunity to revise the request and inform the requester of the manner in which Ohio EPA maintains and accesses its records. (ORC 149.43(B)(2))

11. If the Office of Legal Services determines that the request was properly made, it will notify the Records Coordinator, who shall then process the request in accordance with the Agency's approved internal procedures.
12. All Ohio EPA employees are responsible for promptly collecting their files and providing any responsive documents to the Records Coordinator.
13. With respect to e-mail messages, agency employees need only provide the emails *they send* and the emails *they have received from outside Ohio EPA*. If there is a thread of e-mails (through, for example, a series of replies), Ohio EPA employees need only provide the last message (provided that the last e-mail message contains all replies).
14. The Records Coordinator shall then forward any and all responsive documents to the Office of Legal Services, who shall review to ensure that the public records are not subject to any exemption (please see Section IV, below, for more information on exempt records).
15. The Office of Legal Services will remove any exempt documents from the file and return the files to the Records Coordinator.
16. If portions of a record are public and portions are exempt, Ohio EPA will redact or remove the exempt portions. If any public record contains information that has been redacted, Ohio EPA shall make the redaction plainly visible and notify the requester.
17. After the Records Coordinator receives the returned file from the Office of Legal Services, the public may then inspect the public records during normal business hours (Monday-Friday, 8 am-5 pm). Alternatively, the requester may receive copies of the documents, as set forth in Section V.

IV. Exempt Records

18. All records of Ohio EPA are public unless specifically exempt from disclosure under the ORC. Some examples of records that are exempt from disclosure include, but are not limited to:
 - trial preparation records;
 - confidential law enforcement investigatory records;
 - records whose release is prohibited by state or federal law (attorney-client communications and trade secrets, for example);

- infrastructure and security records;
- records, reports, and information obtained by Ohio EPA under the Small Business Stationary Source Technical and Environmental Compliance Assistance Program; and
- communications and information from small businesses seeking assistance under the Small Business Program and information on problems and grievances assistance given to a small business by the Small Business Program's ombudsman.

V. Copies of Documents

19. Copies can be made on paper, on the same medium on which the record is kept or through any other medium specified by the requester that can be reasonably duplicated as part of Ohio EPA's normal business operations.
20. Copies made on Ohio EPA equipment will be invoiced directly to the organization or individual requesting or making the copies.
21. Upon request, Ohio EPA shall transmit copies of public records by United States mail or by any other means of delivery or transmission within a reasonable period of time after receiving the request. Ohio EPA may require the person making the request to pay costs in advance.

VI. Costs

22. The charge for copies is five cents per page. Postage is added if the copies are mailed. As a courtesy, Ohio EPA may choose to waive the charges if fewer than two hundred fifty copies are made or if the total charge does not exceed twelve dollars and fifty cents. Ohio EPA reserves the right to deny this courtesy. *(Note: Double-sided copies count as two copies. Companies with unpaid copier bills may not use Ohio EPA copiers again until the bill is paid.)*
23. There is no charge to copy proposed rules. The charge for copying final rules is five cents per page.
24. If a charge has been predetermined for a document or report, it will take precedence over the five-cents-per-page charge.
25. There is no charge for providing electronic copies of documents through e-mail. Ohio EPA may charge twenty-five cents for each CD.
26. Checks for copying should be made to the Treasurer of the State of Ohio and mailed to the Ohio EPA Office of Fiscal Administration.