

3750-10-08

Issuance of orders to facilities.**(A) Request for order from a local emergency planning committee.**

(1) Any local emergency planning committee requesting the issuance of an order under division (A) of section 3750.05 of the Revised Code shall submit an application in writing to the emergency response commission. The local emergency planning committee shall include the following in the application:

(a) A certified copy of the resolution which is the subject of the application for the order.

(b) A signed statement from the local emergency planning committee stating the basis for requesting the order.

(c) Documents, sworn statements or other materials which support and address the criteria set forth in paragraph (B) of this rule.

(2) Any application for an order that fails to provide sufficient information for the emergency response commission to make the findings required by paragraph (B) of this rule shall be considered incomplete. A local emergency planning committee that submits an incomplete application shall be notified in writing of the nature of the deficiencies. No action shall be taken on an incomplete application, until the deficiencies have been addressed.

(B) Criteria for issuance of an order to a facility.

Before issuing an order, the commission shall find that due to the size of the facility, the nature of the operations performed at the facility, or the proximity of the facility to a residential area or an area where significant numbers of people work or congregate, participation in the emergency planning process under sections 3750.04 and 3750.05 of the Revised Code is necessary or appropriate to protect the public health or safety or the environment.

(C) Decision by emergency response commission.

(1) The emergency response commission shall vote to designate the emergency response commission's intent to issue an order, within one hundred twenty days of receiving the request, unless information is presented to the commission at the meeting which in the judgment of the commission requires additional review and evaluation. If the commission determines that the information presented at the meeting needs further evaluation, then the commission may approve a motion to delay a vote on intent to issue the order until the next regularly scheduled meeting.

(2) Following a vote which establishes that the commission intends to issue an order, the commission shall do the following:

- (a) Mail written notice to the owner or operator of the facility by certified mail, return receipt requested of the commission's intention to approve the request and to issue the order.
 - (b) Notify the public, by the publication of notice in a newspaper of general circulation in the county where the facility is located, of the commission's intention to approve the request and to issue the order and that the public may submit written comments to the commission regarding approval of the request.
- (3) At least forty-five days following the notification of the public and written notification of the owner or operator of the facility, the emergency response commission shall vote to issue an order, unless information is presented to the commission at the meeting which in the judgment of the commission requires additional review and evaluation. If the commission determines that the information presented at the meeting needs further evaluation, then the commission may approve a motion to delay a vote on the application for an order until the next regularly scheduled meeting.
- (4) The commission shall issue an order when sixty per cent or more of the voting members of the commission vote to approve the order application.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3750.02(B)(1)(b)
Rule Amplifies: 3750.07, 3750.08