



Early Stakeholder Outreach — Construction and Demolition Debris (C&DD) Rules Package

Ohio EPA prepares early stakeholder outreach fact sheets to ensure stakeholders are brought into the review process as early as possible and to obtain additional input and discussion before development of interested party draft rules.

Ohio Administrative Code (OAC) 3745-400 is the programmatic chapter for construction and demolition debris (C&DD) facilities in Ohio regulated pursuant to Chapter 3714 of the Revised Code.

Why is the Agency seeking Early Stakeholder Outreach?

OAC Chapter 3745-400 is scheduled for its five year review under Ohio Revised Code (ORC) section 119.032. The first step in the ORC section 119.032 five year review process is for Ohio EPA to identify whether a rule needs to be amended, rescinded, or created. Ohio EPA will ultimately file the rules with the Joint Committee on Agency Rule Review (JCARR), the secretary of state, and the Legislative Service Commission (LSC).

In response to Executive Order 2011-01K, Ohio EPA has included an additional step to ensure stakeholders are brought into the review process as early as possible. This additional interested party notification and request for information will allow for early feedback before the rule language has been developed by the Agency.

What is being suggested?

Based upon a preliminary review and discussions with representatives of the C&DD industry, Ohio EPA is suggesting filing five of the ten overdue rules as a “no change” without any amendments. A “no change” package would include the following rules:

- 3745-400-03: [Facility exclusions](#)
- 3745-400-04: [Authorized, limited, and prohibited construction and demolition debris disposal methods](#)
- 3745-400-05: [Clean, hard fill](#)
- 3745-400-06: [Prohibited locations for construction and demolition debris facilities](#)
- 3745-400-09: [Site characterization](#)

Ohio EPA is suggesting amendments be made to the remaining five overdue rules. The Agency is also including in the package one rule that is not overdue, 3745-400-21, but will be amended to coincide with the proposed changes to 3745-400-10. Ohio EPA is suggesting the following conceptual changes:

- 3745-400-01: [Definitions](#)

How can I provide input?

The Agency is seeking stakeholder input on the proposed concepts included in this document. When preparing your comments, be sure to:

- explain your views as clearly as possible;
- describe any assumptions used;
- provide any technical information and/or data used to support your views;
- explain how you arrived at your estimate for potential burdens, benefits or costs;
- provide specific examples to illustrate your views; and
- offer alternatives.

Written comments will be accepted through close of business February 14, 2014. Please submit input to:

Michelle Braun
P.O. Box 1049
Columbus, OH 43216-1049
michelle.braun@epa.ohio.gov

What if I have questions?

Please contact Dan Harris at (614) 728-5377 or daniel.harris@epa.ohio.gov.

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- Delete the definitions of current assets, current liabilities, independently audited, liabilities, net working capital, net worth, parent corporation, and tangible net worth. These terms are not used in OAC Chapter 3745-400 since the 2012 revisions to the financial assurance rules and removal of the corporate guarantee as a financial assurance mechanism.
- Delete “regional aquifer system” and “regulatory flood plain” from the rule as these terms are not used in OAC Chapters 3745-400 and 3745-37.
- Add the statutory language “Construction and demolition debris does include particles and dust created during demolition activities.” to the definition of “Construction and demolition debris.” This change is to make the rule consistent with the statutory definition.
- Remove the existing comment in the definition of “Construction and demolition debris facility” and add a comment to the definition of “Existing facility” to clarify that the use of the term “existing facility” in OAC Chapter 3745-400 is specific and distinct from the statutory use of existing facility in the context of the definition of “new construction and demolition debris facility”.
- Add the statutory definition of “pulverized debris.”
- Re-number the paragraphs for better organization and readability.
- 3745-400-07: [Facility design requirements and construction specifications](#)
 - Correction of two incorrect citations in 3745-400-07(F)(5)(d). The first correction is (A)(1)(c) of rule 3745-400-09 should be (A)(1)(b). The second correction is (A)(1)(b) of rule 3745-400-09 should be (A)(1)(a).
- 3745-400-10: [Ground water monitoring](#)
 - Remove the appendix to the rule (Ground water monitoring parameters) and make reference to rule 3745-400-21. The ground water monitoring parameters will now be listed in rule 3745-400-21 along with the leachate monitoring parameters.
- 3745-400-11: [Operation of facilities](#)
 - Based upon the 2012 revisions and new rules regarding closure, post-closure care, financial assurance, and leachate sampling, updating and removal of duplicative language and references should be considered.
 - The addition of statutory references to ORC sections 3714.081 and 3714.083 regarding pulverized debris and ORC section 3714.021 regarding the management of solid waste at the working face should be considered.
- 3745-400-15: [Modifications and exemptions](#)
 - Amend the criteria of a modification of an existing C&DD facility to provide clarity to owners and operators regarding facility changes that can be made as a modification under OAC Chapter 3745-400. Pending future adoption of rules establishing a permit program for “new C&DD facilities”, the amendment of this rule would provide clarity that such modifications do not trigger the establishment of a “new facility” under Section 3714.01 of the Revised Code or are subject to the siting criteria under ORC section 3714.03.
- 3745-400-21: [Construction and demolition debris facility - leachate parameter list](#)
 - Amend the rule title and parameter list to make the constituents in the rule applicable to both leachate and ground water monitoring.

Who is regulated by this rule?

Construction and demolition debris landfills that are in operation are regulated by this rule.

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What input is the Agency seeking?

The Agency is seeking stakeholder input on the suggested concepts included in this document. General comments and specific factual information must be submitted by the February 14, 2014 deadline. The following questions may help guide you as you develop your comments.

- Is the general regulatory framework proposed the most appropriate? Should the Agency consider any alternative framework?
- What options are available for improving an identified concept?
- Are there considerations the Agency should take into account when developing a specific concept?
- Is there any information or data the Agency should be aware of when developing program concepts or rule language?

Ohio EPA would especially like to hear information regarding the following from stakeholders who may be impacted by the new program.

- Would this regulatory program have a positive impact on your business? Please explain how.
- Would this regulatory program have an adverse impact on your business? If so, please identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance).

What's the next step?

After the February 14, 2014 comment deadline and consideration of stakeholder input, Ohio EPA will prepare changes to C&DD rules. The Agency's next step is then to release a draft version of the rules for interested party review and comment.

A complete summary of [Ohio EPA's rule-making process](http://epa.ohio.gov/Rules.aspx) is available at <http://epa.ohio.gov/Rules.aspx>. Future steps will also include formally filing to amend the rules with the Joint Committee on Agency Rule Review (JCARR). At that time, JCARR will include the proposed rule on their meeting agenda and take public testimony. Visit JCARR's website for meeting dates and agenda items at <https://www.jcarr.state.oh.us/>.

How can I track the program and rule-development progress?

Stakeholders are encouraged to sign up for the Agency's electronic mailing list which provides automatic updates about various topics. Registered users will receive progress updates and be notified when new information is posted on the program website (epa.ohio.gov/dmwm/dmwmnonhazrules.aspx). To sign up, go to ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage.