



Interested Party Period: C&DD Processing Facility Rules, OAC Chapters 3745-400, 500, and 501

Background

Senate Bill 2 was passed by the 132nd Ohio General Assembly on June 30, 2017, requiring the director of environmental protection to adopt new rules governing construction and demolition debris (C&DD) processing facilities. Under Senate Bill 2, a C&DD processing facility is a location used to process, transfer, or recycle C&DD. In the past, prior to the passage of Senate Bill 2, C&DD processing facilities were generally unregulated in Ohio. As a result, some C&DD processing facilities collected materials and later abandoned them, leaving local communities and the State to clean up the site.

What do these rules cover and what changes are being considered?

Ohio EPA has a statutory obligation to regulate C&DD processing facilities in accordance with Ohio Revised Code (ORC) Chapter 3714. These rules contain requirements for C&DD processing facilities including issuance of permits to install (PTI) and annual licenses, as well as requirements for the location, design, construction, operation, and closure of C&DD processing facilities. These rules will ensure that these facilities will not create a nuisance, fire hazard, health hazard, or cause or contribute to air or water pollution.

This package contains new regulations for C&DD processing facilities consisting of permit to install requirements, design and construction requirements, operation requirements, financial assurance, and final closure requirements. DMWM has also amended select multi-program and licensing rules in Ohio Administrative Code (OAC) Chapters 3745-500 and 3745-501 to make them applicable to C&DD processing facilities.

DMWM is including the following rules in this review package:

Rule Number	Title
3745-400-01	Definitions.
3745-400-02	General obligations.
3745-400-03	Facility and processing facility exclusions.
3745-400-13	Financial assurance for construction and demolition debris facility and construction and demolition debris processing facility final closure.
3745-400-14	Wording of the financial assurance instruments.
3745-400-26	Operator certification.
3745-400-50	Processing facility permit to install.
3745-400-52	Processing facility design requirements.
3745-400-54	Criteria and procedures for processing facility permits to install.
3745-400-56	Financial assurance for final closure of processing facilities.
3745-400-58	Processing facility operations.
3745-400-60	Final closure of a processing facility.
3745-500-01	General administration – applicability.
3745-500-02	General administration – definitions.
3745-500-120	Procedures for issuing, denying, modifying, transferring, and revoking licenses and permits to install.
3745-500-150	Alteration to a permit to install.
3745-500-220	Exemptions from the requirements of Chapter 3714. and 3734. of the Revised Code.
3745-500-360	Administrative change to a permit to install.
3745-501-02	Licensing – definitions.
3745-501-05	Licensing requirements.
3745-501-10	License applications and application procedures.
3745-501-15	Criteria for issuing or denying facility licenses.

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3745-501-20	Procedures for the licensing authority for reviewing and considering license applications.
3745-501-25	Remittance of fees after license issuance.
3745-501-35	Transfer of licenses.

What additional information is the Agency seeking?

The Agency is seeking comments from interested stakeholders (public, local officials, industry sectors, other state agencies, consultants, and environmental organizations) who may be impacted by these rule revisions. General comments and specific information are welcome.

In addition to the draft rule amendments, Ohio EPA is also seeking comments and feedback on the draft Common Sense Initiative Business Impact Analysis (BIA) form, which is being released with these draft rules during interested party review.

How are the amendments formatted in the draft rules?

Some rules are new rules with all text underlined. Some rules have been drafted as amended rules; the text that is considered for deletion is identified in strikeout font; new text is underlined.

What is the rulemaking schedule?

Currently, the Agency is soliciting input on these draft rule revisions. Ohio EPA is required by section 121.39(D) of the ORC to contact potentially affected parties prior to adopting rule changes. At the close of the interested party comment period, the Agency will review the comments and make necessary changes to the rules. The Agency will then file proposed rules with the Joint Committee on Agency Rule Review, the Legislative Service Commission, and the Secretary of State.

How can I comment on the draft rules?

Please submit your comments in one of the following ways:

- By email: michelle.mountjoy@epa.ohio.gov
- By postal mail:

Michelle Mountjoy - Rules Coordinator
Ohio EPA, Division of Materials and Waste Management
P.O. Box 1049
Columbus, OH 43216-1049

Comments on the draft rules must be received no later than 5:00 p.m. on July 27, 2020.

How can I get more information?

Copies of this fact sheet, BIA form and the draft rules are on the Division of Materials and Waste Management website at: <https://epa.ohio.gov/dmwm/dmwmnonhazrules#126793967-interested-party>

For more information about these draft rules, please contact:

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What other regulatory obligations do C&DD processing facilities have?

C&DD processing facilities are also subject to existing regulation by both the Division of Air Pollution Control under ORC Chapter 3704. and the Division of Surface Water under ORC Chapter 6111. Air permits may be needed for fugitive dust from roadways, material handling, and unloading/loading activities. Stormwater and surface water permits may be needed for management of liquids on-site. For more information on additional regulatory obligations, please contact your local Ohio EPA District Office (www.epa.ohio.gov/Districts) or a representative from the Office of Compliance Assistance and Pollution Prevention (www.epa.ohio.gov/ocapp/).