



## Early Stakeholder Outreach — Construction and Demolition Debris Rules, House Bill 397

*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.*

### What does House Bill 397 cover?

[House Bill 397](#) was enacted by the 126<sup>th</sup> Ohio General Assembly. This legislation amended Ohio Revised Code (ORC) Chapter 3714 and requires the Director of Ohio EPA to promulgate permitting rules for new construction and demolition debris (C&DD) facilities. The rules would need to ensure that these facilities will not create a nuisance, fire hazard, health hazard, or cause or contribute to air or water pollution.

### What is a new C&DD facility?

ORC Section 3714.01 defines a "New construction and demolition debris facility" or "new facility" to include an existing facility that is proposing to expand the facility beyond the limits of construction and demolition debris placement approved by a board of health or the director of environmental protection, as applicable. C&DD facilities that are not yet licensed or operating would also be considered a "new facility."

### What might the new rules require?

House Bill 397 enacted and amended several provisions in ORC Chapter 3714. DMWM expects to promulgate rules to address at a minimum the following statutory requirements:

- Standards and procedures for the issuance of permits to install under section 3714.051 of the Revised Code.
- Design and construction standards.
- Operational standards.
- Contingency plan requirements for fire, hydrogen sulfide, or other gases.
- Standards and procedures governing the modification of operational licenses.

### Who will be regulated by these rules?

Owners and operators of C&DD landfills that are not yet operating or landfills that are proposing to expand are subject to the amendments to ORC Chapter 3714. Since Ohio EPA has not previously had rules specific to C&DD permits, DMWM encourages persons engaged or interested in C&DD facilities to participate in the upcoming rule development process. Owners and operators of existing C&DD facilities that do not wish to expand the facility beyond the limits of waste placement will not be subject to these rules.

### Why are these rules being sent out for Early Stakeholder Outreach?

As part of the rule-making process, Ohio EPA would like to consult with organizations that represent political subdivisions, environmental interests, business interests, and others affected by the potential development of C&DD permitting rules. Ohio EPA is offering this opportunity to provide input on what should be considered in the development of rules under House Bill 397.

### How can I provide input?

The Agency is seeking stakeholder input on this new program. 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 4, 2019. Please submit input to:

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### What if I have questions?

Please contact Aaron Shear at (614) 728-5350 or [aaron.shear@epa.ohio.gov](mailto:aaron.shear@epa.ohio.gov).

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The first step in the rule-making process is for Ohio EPA to identify that a rule needs to be amended, rescinded, or created. In response to Executive Order 2011-01K, Ohio EPA has added an additional step to ensure stakeholders are brought into the rule 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.

## Local Health Departments will have a key role in implementing these rules.

Under Ohio law and in accordance with the rules to be developed, the board of health of each health district maintaining a program on the approved list under ORC Section 3714.09 will have responsibility for the review of permit applications and issuance of permits to install for C&DD facilities, the inspection and licensing of C&DD facilities, and enforcement of Ohio laws and rules adopted under ORC Chapter 3714. DMWM encourages local health departments to participate in the upcoming rule development process.

## What input is the Agency seeking?

While DMWM welcomes all stakeholder input on this rule development effort, stakeholder suggestions, information, and questions on the following topics will be most useful:

- Any information or data DMWM should be aware of when developing program concepts or rule language.
- Suggestions and approaches DMWM should consider in developing rules associated with any of the following:
  - (1) Standards and procedures for the issuance of permits to install.
  - (2) Requirements for the location, design, construction, operation, and closure of C&DD facilities.

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.
- If you feel that this rule has an adverse impact to business, as defined in section 107.52 of the Ohio Revised Code, please provide a summary of the estimated cost of compliance with the rules. Specifically, please identify the scope of the impacted business community; identify the nature of the adverse impact (for example, license fees, fines, employer time for compliance); and quantify, to the best of your ability, the expected adverse impact from the regulation. The adverse impact can be quantified in terms of dollars, hours to comply, or other factors.

## What is the rulemaking schedule?

DMWM plans to promulgate C&DD facility permitting rules in concert with rules for C&DD processing facilities. Legislation for C&DD processing facilities resulted from the passage of Senate Bill 2 by the 132<sup>nd</sup> Ohio General Assembly.

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 include formally filing the rules with the Joint Committee on Agency Rule Review (JCARR). At that time, JCARR will include the proposed rules 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](http://epa.ohio.gov/dmwm/dmwmnonhazrules.aspx)). To sign up, go to [ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage](http://ohioepa.custhelp.com/ci/documents/detail/2/subscriptionpage).

## Contact

For more information, contact Michelle Mountjoy at [michelle.mountjoy@epa.ohio.gov](mailto:michelle.mountjoy@epa.ohio.gov) or Aaron Shear at [aaron.shear@epa.ohio.gov](mailto:aaron.shear@epa.ohio.gov).