



State of Ohio Environmental Protection Agency

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DSIWM GUIDANCE

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SUBJECT: Processing a Request to Transfer a Solid Waste, Construction & Demolition Debris or Infectious Waste Facility's License

GUIDANCE #: 0613

REFERENCE: Ohio Administrative Code (OAC) Rule: 3745-37-06

CROSS REFERENCE: OAC Rule 3745-37-02
OAC Rule 3745-37-05
OAC Rule 3745-37-07
Ohio Revised Code (ORC) 3734.05
ORC 3714.06

DATE: March 19, 1998

TOTAL # OF PAGES: 13

I. PURPOSE:

The purpose of this document is to assist approved health departments and DSIWM when processing a request to transfer a solid waste, construction & demolition debris or infectious waste facility license.

II. APPLICABILITY:

This document is applicable to approved health departments and DSIWM central and district office personnel who administer Ohio's Construction & Demolition Debris and/or Solid and Infectious Waste Management Program.

George V. Voinovich, Governor
Nancy P. Hollister, Lt. Governor
Donald Ft. Schregardus, Director

III. PROCEDURE:

A. When a request to transfer a license is attempted, specific time frames emerge:

There are timing issues when considering a request to transfer a facility's license. Given that the current license holder (transferor) notifies the board of health/health department and the Director at least 120 days prior to the proposed date of transfer, and that applications are due by September 30 for the following year's license, there are three time frame scenarios to consider: January 1 - May 30, June 1 - August 30 and September 1 - December 31.

1. **January 1 - May 30** During this period of time, there are no complicated timing issues with regard to transfer requests; however, if a transfer request is made in May, the parties involved should be aware that they may not receive an approval or denial until September, and should also be aware that renewal applications for the following year's license are due September 30.
2. **June 1 - August 30** Assuming that the entire 120 days are used to review the transfer request, the approval/denial will not be known until after the September 30 application deadline for the following year's license. Several options emerge:

Option #1: Transferor and transferee concurrently apply for next year's license, notifying the licensing authority in writing that either the transferor or transferee intends to withdraw the one application that is not acted upon.

Option #2: The transferee applies for the following year's license knowing that if the application is denied, mandatory closure of the facility would occur (see OAC Rule 3745-27-1 I(C)).

Option #3: The transferor applies for the following year's license. Assuming the annual application is approved, request a license transfer in the early of part of the following calendar year.

*** **NOTE:** Each application for an annual license shall be accompanied by a nonrefundable application fee of \$100. See ORC 3 734.05 (A)(2)(c)

3. **September 1 - December 31** Assuming the entire 120 days are used to review the request, the license will have expired (the next calendar year will have commenced). Given this situation, most transferors do not request a transfer during this period of time and may follow one of the *Options* stated above.

*** ***NOTE: The transferring of a license may trigger background investigation requirements specified in ORC 3 734.42 (D)(I). Contact AGO-EBIU or DSIWM-CMEU for assistance regarding disclosure statement requirements.***

B. Where the Request is to be Sent:

1. If the health department is approved:
 - A. The transferor submits its request to transfer a solid waste, construction & demolition debris or infectious waste license to:

the health department and the Director.
See flow chart in Attachment A
 - B. The Director then forwards this request to the appropriate district office for review and recommendation.
2. If the health department is unapproved:
 - A. The transferor submits its request only to the Director.
See flow chart in Attachment B.
 - B. The Director then forwards this request to the appropriate district office for review and recommendation.

C. Review of Request:

1. The approved health department, in addition to its own internal procedure, and the district office should conduct ***a joint review*** to evaluate and determine the qualifications of the transferee.
2. If the health department is unapproved, the district office will conduct the review for the transfer request.

D. Criteria for Issuance of Transfer:

Criteria to use when evaluating a transferee include ***but should not be limited to*** the following:

1. Is the transferee the owner and/or the operator of the facility?

OAC Rule 3745-37-02 (A)(1) requires that a licensee be the owner and/or the operator of a solid or infectious waste facility.

2. Have both the approved health department and the Director been notified in writing of the request for transfer? See OAC Rule 3745-37-06(A)
3. Has the request been submitted 120 days prior to the proposed date of transfer? See OAC Rule 3745-37-06(A)
4. Has the transferor made prominent notice of its request in the paper of general circulation in the county in which the facility is located at 4 week intervals? See OAC Rule 3745-37-06(A) DSIWM recommends that a transferor place its notice in the appropriate newspaper at the following dates before the proposed date of transfer: 90, 60 & 30 days.
5. Can the transferee operate in substantial compliance?

The transfer shall be disapproved if either the health department or the Director concludes, based on the transferee's previous operations, that the transferee will not operate the facility in substantial compliance with the solid and infectious waste regulations. See OAC Rule 3745-37-06(B)

Additional items to ask a transferee may include:

- What is the transferee's table of organization? Describe in detail, including the transferee's qualifications.
- What other solid or infectious waste facilities has the transferee owned/operated?
- What is the environmental compliance history at those sites?
- Has the transferee satisfied OAC Rule 3745-37-03 criteria for issuing solid waste, infectious waste or construction and demolition debris facility licenses?

*** **NOTE:** The **approved health department or the district office** should contact central office personnel (CMEU) to verify additional information: i.e. **transferee's** previous compliance and/or any enforcement occurring in other districts, background report information, etc.

E. Effective Date for a Successful License Transfer:

A transfer of a license does not become effective until the transferor receives two approval letters: one from the approved health department and one from the Director.

IV. APPROVAL/DENIAL PROCEDURES:**A. Approval Procedure:**

If both the approved health department and the district office reach a positive determination:

1. the health department composes an approval letter per its own internal procedure; concurrently,
2. the district office sends the review form (Attachment F) and the positive recommendation to DSIWM- Systems Management Unit (DSIWM-SMU). DSIWM-SMU prepares the Director's cover memo and facility cover memo for the Director's signature. The Director then forwards the signed letter to DSIWM-SMU for journalization, public notice and distribution.

In an effort to maintain consistency among all parties, the letter from the health department and from Ohio EPA should contain similar information and be carbon-copied to all entities involved. (See example letters in Attachments C-E)

*** **NOTE:** *If one chooses to use the language provided in Attachments C-E, adjust the language to suit the nature of the request.*

3. The health department shall notify the transferor and transferee of its positive determination. Furthermore, the health department should notify the Ohio EPA by contacting:

Ohio EPA
Division of Solid and Infectious Waste Management
Systems Management Unit
P.O. Box 1049
Columbus, Ohio 43216-1049.

4. When a license transfer occurs, the approved health department or the Ohio EPA does *not* issue a "new" license certificate. A copy of the health department's and/or the Director's approval letter(s) should be attached to the current license.

B. Denial Procedure:

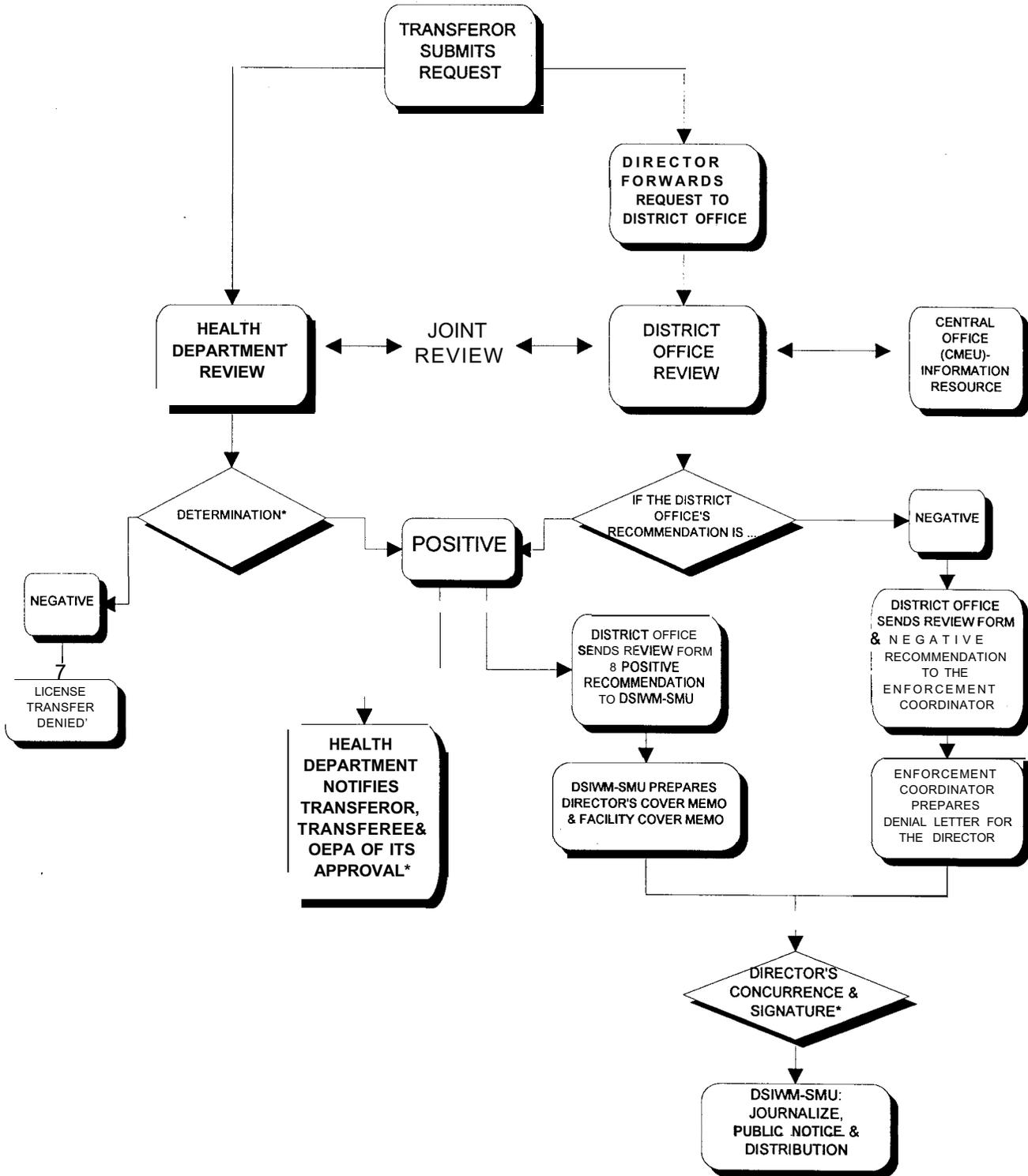
1. If the health department is approved, either the health department or the Director can deny a request for a license transfer.
 - a. When the health department determines that a request for transfer be denied, the health department should follow its own internal procedure by notifying the transferee, transferor and Ohio EPA.
 - b. When the district office recommends a license transfer be denied, the district office sends the review form (Attachment F) and the negative recommendation to the DSIWM-CO Enforcement Coordinator. The Enforcement Coordinator will then prepare the denial letter for the Director's signature. After the Director signs, the denial letter is forwarded to the DSIWM-SMU for journalization, public notification and distribution.
2. If the health department is unapproved, the Director denies a request for a license transfer and follows the steps mentioned in the previous paragraph.

V. POINT OF CONTACT:

The appropriate district office or the Compliance Monitoring and Enforcement Unit at central office at (6 14) 644-262 1.

ATTACHMENT A

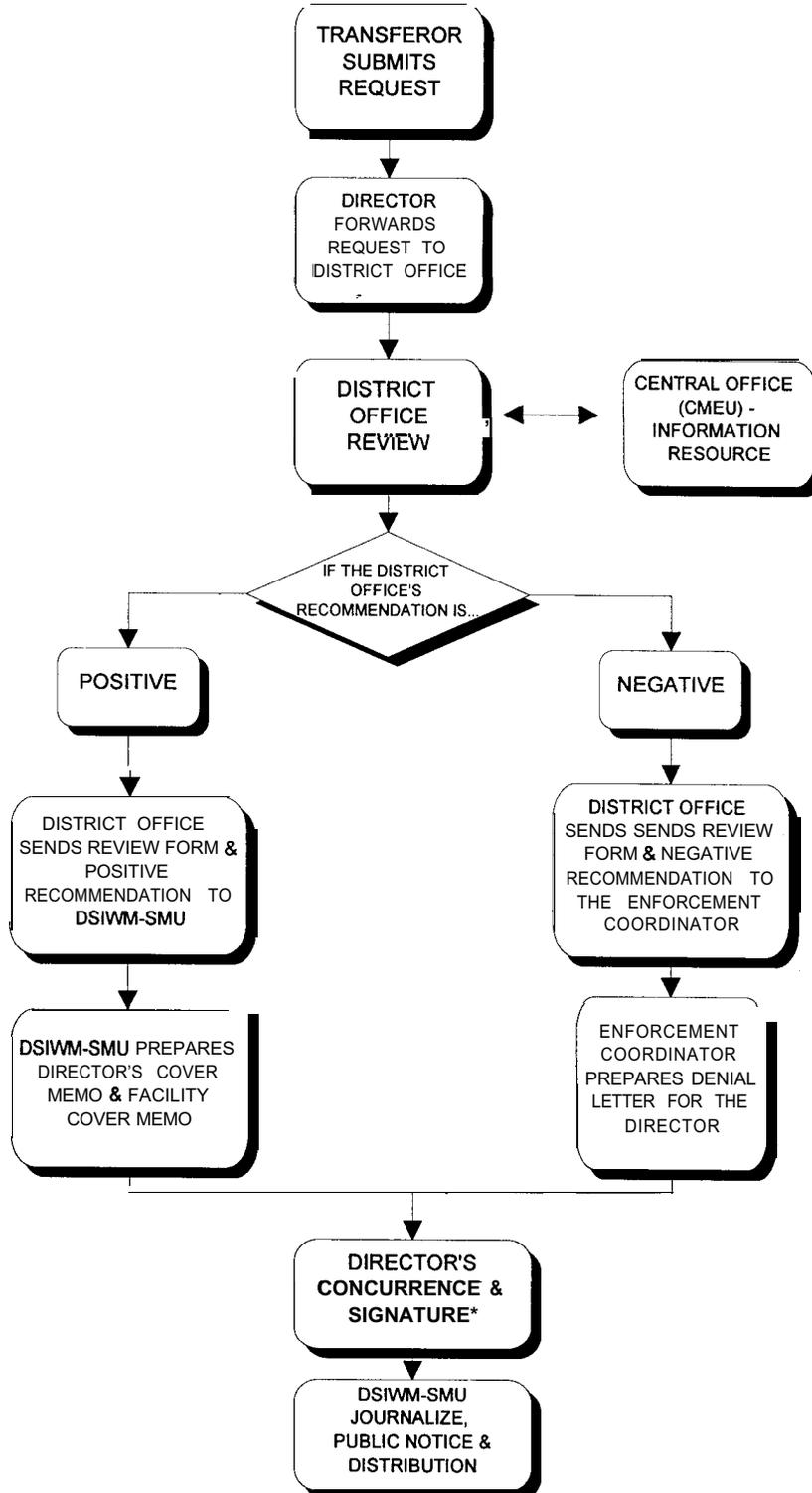
APPROVED HEALTH DEPARTMENT



*THE ACTIONS TAKEN BY EITHER THE HEALTH DEPARTMENT OR THE OEPA ARE APPEALABLE TO THE ENVIRONMENTAL REVIEW APPEALS COMMISSION

ATTACHMENT B

UNAPPROVED HEALTH DEPARTMENT



*THE ACTION TAKEN BY THE OEPA IS APPEALABLE TO THE ENVIRONMENTAL REVIEW APPEALS COMMISSION

ATTACHMENT C

OHIO EPA LICENSE TRANSFER APPROVAL LETTER

(when the health department is the license-issuing authority)

Date

Transferor

Company/Facility

Address

City, State Zip Code

Dear _____,

Ohio EPA is in receipt of your letter dated _____ 200_ , in which you request approval to transfer the Solid Waste Facility License # - currently issued for the *TRANSFEROR* to the *TRANSFEEE*.

Ohio EPA hereby approves the transfer of the license from the *TRANSFEROR* to the *TRANSFEEE*, however, in order for the transfer to be effective, the City or County Health Department must also approve of the transfer of the license to the *TRANSFEEE*.

The action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Ohio Revised Code Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Review Appeals Commission within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio EPA within three (3) days of filing with the Environmental Review Appeals Commission at the following address: Environmental Review Appeals Commission, 236 East Town Street, Room 300, Columbus, Ohio 43215.

If you have any questions, please contact *MANAGER* of the _____ *District Office, DSIWM* at ().

Sincerely,

Donald R. Schregardus, Director
Ohio Environmental Protection Agency

DRS/CM/dk

cc: *CHIEF, DSIWM*
MANAGER, ___ District Office, DSIWM
HEALTH COMMISSIONER
DIRECTOR OF ENVIRONMENTAL HEALTH

District CHIEF, District Office
BOARD OF HEALTH
Transferee

ATTACHMENT D

OHIO EPA LICENSE TRANSFER APPROVAL LETTER

(when the health department is not the license-issuing authority)

Date

Transferor

Company/Facility

Address

City, State Zip Code

Dear _____,

Ohio EPA is in receipt of your letter dated _____ 200_ , in which you request approval to transfer the Solid Waste Facility License # - currently issued for the *TRANSFEROR* to the *TRANSFEEE*.

Ohio EPA hereby approves the transfer of the license from the *TRANSFEROR* to the *TRANSFEEE*.

The action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Ohio Revised Code Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Reviews Appeals Commission within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio EPA within three (3) days of filing with the Environmental Review Appeals Commission at the following address: Environmental Review Appeals Commission, 236 East Town Street, Room 300, Columbus, Ohio 43215.

If you have any questions, please contact *MANAGER of the _____ District Office, DSIWM* at ().

Sincerely,

Donald R. Schregardus, Director
Ohio Environmental Protection Agency

DRS/CM/dk

cc: *CHIEF, DSIWM*
MANAGER, — District Office, DSIWM
HEALTH COMMISSIONER
DIRECTOR OF ENVIRONMENTAL HEALTH

District CHIEF, District Office
BOARD OF HEALTH
Transferee

ATTACHMENT E

OHIO EPA LICENSE TRANSFER DISAPPROVAL LETTER

Date

Transferor

Company/Facility

Address

City, State Zip Code

Dear _____,

Ohio EPA is in receipt of your letter dated _____, 199, in which you request approval to transfer the Solid Waste Facility License # _____ currently issued for the *TRANSFEROR* to the *TRANSFEEE*.

Pursuant to OAC Rule 3745-37-06, Ohio EPA hereby disapproves the transfer of the license from the *TRANSFEROR* to the *TRANSFEEE* for the following reasons:

- 1.
- 2.
- 3.

The action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Ohio Revised Code Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Review Appeals Commission within thirty (30) days after notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio EPA within three (3) days of filing with the Environmental Review Appeals Commission at the following address: Environmental Review Appeals Commission, 236 East Town Street, Room 300, Columbus, Ohio 43215.

If you have any questions, please contact *MANAGER of the _____ District Office, DSIWM at () or Enforcement Coordinator- Central Office, at ()*.

Sincerely,

Donald R. Schregardus, Director
Ohio Environmental Protection Agency

DRS/CM/dk

cc: *CHIEF, DSIWM* *District CHIEF, District Office*
BOARD OF HEALTH *HEALTH COMMISSIONER*
MANAGER, _____ District Office, DSIWM *Transferee*
DIRECTOR OF ENVIRONMENTAL HEALTH

DISTRICT OFFICE REVIEW:

Reviewed By: _____ Date: _____
Title: _____
Signature: _____

STATUS RECOMMENDATION BY DISTRICT OFFICE:

_____ Approval _____ Denial (See back page)
Unit Supervisor Signature: _____ Date: _____
Group Leader Signature: _____ Date: _____
District Office Chief: _____ Date: _____

ENFORCEMENT COORDINATOR CONCURRENCE:

_____ Concur _____ Does not concur
Enforcement Coordinator Signature: _____ Date: _____
* For a Recommended Denial

ADDITIONAL REASON(S) FOR DENIAL (If other than those cited by district office):

Please state the specific reason for recommending denial, including the Chapters and Sections of the Ohio Revised Code and/or the rules of the Ohio Administrative Code with which the applicant is not in compliance. The reasons stated herein will be quoted in the denial order sent to the applicant. (Use an additional sheet if necessary).

CENTRAL OFFICE REVIEW (Systems Management Unit):

Reviewed by: _____ Date: _____
Title: _____
Signature: _____

DATE OF ISSUANCE: _____ SW License Number: _____