

Internal Operating Procedure: Annual Surveys of Approved Health Districts



Ohio EPA's Delegation of the Solid & Infectious Waste (ORC 3734.) and Construction & Demolition Debris (ORC 3714.) Programs to Health Districts



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Internal Operating Procedure

Annual Surveys of Approved Health Districts

Section I - Overview

The Ohio Environmental Protection Agency (Ohio EPA) Division of Materials and Waste Management conducts a survey of each approved health district on an annual basis. The requirements for the annual surveys are specified in Ohio Revised Code (ORC) Section 3734.08 for the Solid and Infectious Waste Program and in ORC Section 3714.09 for the Construction and Demolition Debris (C&DD) Program. The purpose of the annual survey is to determine whether the health district that the director has authorized to implement the Agency's programs is in substantial compliance with ORC Chapters 3734. and 3714. and with applicable Ohio Administrative Code (OAC) chapters, and whether the health district has been meeting program obligations throughout the survey period.

In 2011, 75 of Ohio's 127 local health districts were approved to administer and enforce Ohio's solid waste, infectious waste, and construction and demolition debris laws and regulations. This included 63 of 88 county health districts (72%) and 12 of 39 city health districts (30%) being placed on the director's approved lists. A health district can be approved for both the Solid & Infectious Waste and C&DD programs, or for only the C&DD Program if requested by a health district pursuant to ORC Section 3714.09(B).

The annual survey of an approved health district provides a defined opportunity for Ohio EPA to evaluate the effectiveness and competency of a health district's program. The annual survey period commences on the day following the previous survey period and ends on the day when the Ohio EPA inspector completes all administrative and field activities described in this internal operating procedure. Ohio EPA district office staff interact with health district staff throughout the survey period to provide technical assistance, inspection support, and general guidance. While health district performance throughout the survey period may be considered when determining its eligibility to be placed on the director's approved lists, the annual survey consists of a discreet administrative and field survey of the health district at the conclusion of the survey period.

Section II – Pre-survey Preparation

Whenever possible, the annual survey should be scheduled with the health district close to its anniversary date. However, this date may be adjusted for scheduling conflicts, inclement weather conditions, or other events that delay the survey. If the survey will be delayed by more than a month from the anniversary date, the Ohio EPA inspector should consult with the district office supervisor. Once survey dates are scheduled, the Ohio EPA inspector will send a confirmation letter to the health commissioner and environmental health director.

Prior to scheduling the annual survey with health district personnel, the Ohio EPA inspector should identify the facilities that will be included in the field survey portion of the annual survey

(See Section IV for field survey expectations). When selecting the facilities, the following factors should be considered:

- (1) if multiple facilities exist in health district, selected facility:
 - (a) has not been visited by Ohio EPA inspector during survey period, or
 - (b) was not inspected during previous annual survey;
- (2) if multiple sanitarians conduct inspections, selected facilities:
 - (a) provide representation of health district sanitarians, and
 - (b) include sanitarians not included in previous annual survey;
- (3) selected facility presents relevant issues for which the health district will be evaluated during field survey.

In addition to identifying facilities that will be inspected during the annual survey, the Ohio EPA inspector should consider the health district sanitarians who will be evaluated. For health districts that have multiple sanitarians, the Ohio EPA inspector should schedule field inspections with sanitarians who were not evaluated during the previous annual survey. While it is the overall performance of the health district that is being evaluated, it is important to provide a complete representation of the health district program by evaluating the ability of the sanitarians to conduct inspections.

Prior to meeting with the health district, review all relevant files stored at the district office. The Ohio EPA inspector should be able to determine compliance with administrative requirements related to license issuance prior to the annual survey (OAC Rules 3745-37-08(C)(1),(2),(3),(4),(5),(10) and (D)(1),(2),(3),(4),(9),(11),(12)). A cursory review of these files at the health district should be conducted to verify findings.

In order to adequately prepare to conduct the annual survey, the Ohio EPA inspector will follow the steps listed in the table below (Pre-Survey Tasks).

Pre-Survey Tasks

Schedule appointment with health district personnel and allow sufficient time for administrative review of health district files and facility inspections.

Send pre-survey letter to provide written notice of the scheduled dates of the annual survey. The letter can be sent through e-mail or regular mail, depending on the health district preference.

Review the criteria used to evaluate the health district's programs in OAC Rule 3745-37-08.

Review background information on health district activities (i.e., prior annual survey results, health district's documentation of and response to violations, follow-up to continuing noncompliance, complaints, etc.).

Review facility files (i.e., permits, registrations, licenses, Director's findings and orders, compliance history, etc.).

Section III – Opening Conference

Prior to the annual survey, the Ohio EPA inspector will offer the health commissioner and environmental health director the opportunity to meet in order to explain the annual survey procedure and answer any related questions. Health district sanitarians may be included in the conference at the discretion of the health commissioner or environmental health director.

The Ohio EPA inspector may offer to cover the opening conference during a separate telephone call or meeting and invite the district office supervisor if requested by the health district, or may provide the opening conference upon arriving at the health district. The topics for discussion at

the opening conference will vary based on the health district's familiarity with the survey process, the length of time that the Ohio EPA inspector has been assigned to the health district, and the types of facilities and current issues present.

If the health district declines the opening conference, the Ohio EPA inspector should begin the annual survey.

Opening Conference Discussion Topics

The intent and purpose of the survey.

How the survey will be performed.

The criteria used to evaluate the health district's programs (i.e., OAC Rule 3745-37-08 and ability to identify compliance points and document findings).

How the survey findings will be presented to the health district.

How the results of the survey can be used to improve the health district's programs.

How Ohio EPA can provide technical assistance to the health district.

Compliance monitoring and enforcement guidance.

Overview of any specific regulatory changes.

General solid and infectious waste program and C&DD program requirements.

Section IV – Conducting the Survey

The Ohio EPA inspector will conduct an annual survey of a health district and record observations regarding the health district's ability to carry out its responsibilities in accordance with the requirements of OAC Rule 3745-37-08. Any correspondence generated during the survey period, as well as the inspection letters resulting from the field survey described below, should be considered during the annual survey process. The survey will address both the Solid and Infectious Waste Program and the Construction and Demolition Debris Program. The survey itself consists of two aspects: the administrative review of records and the field survey.

Administrative Review

Prior to arriving at the health district, the Ohio EPA inspector should have reviewed all relevant files stored at the district office, as described in Section II. The purpose of the remaining administrative review that takes place at the health district is to fill in information gaps.

During the annual survey, a thorough review of facility files and complaint logs should be conducted to ensure compliance with remaining administrative requirements (OAC Rules 3745-37-08(C)(6),(7),(8),(9),(11) and (D)(5),(6),(7),(8),(10)). The Ohio EPA inspector will review inspection letters and other documents to determine whether the health district has accurately documented violations, performed inspections at an adequate frequency to ensure substantial compliance at facilities/sites, and to determine whether appropriate follow-up and action has been taken by the health district whenever necessary to bring about compliance at a facility/site. Health district personnel should interact with the assigned Ohio EPA inspector throughout the year for program support. A health district may be deemed to not be in substantial compliance when appropriate actions are not taken to bring about compliance, which includes guidance provided by Ohio EPA during the survey period. The health district's performance is not evaluated on the operators' compliance status, but rather the sanitarian's

ability to identify and document violations and effectiveness in taking steps whenever necessary to bring about compliance.

Field Survey

While health district performance throughout the survey period may be considered when determining its eligibility to be placed on the director's approved lists, the field survey portion of the annual survey consists of inspections scheduled at one of each facility type located within the health district's jurisdiction. Throughout the survey period, it is essential for the Ohio EPA inspector to visit other solid waste, infectious waste treatment, and C&DD facilities located within the health district's jurisdiction. These visits provide an opportunity for the Ohio EPA inspector to remain familiar with the operations that may change over time as a result of expansions or other reasons, to maintain open dialogue with the health district and regulated entity, and to provide technical assistance to the health district and regulated entity.

The health district staff will inspect one of each of the following facility types: licensed solid waste landfill, licensed solid waste transfer facility, licensed or registered composting facility, registered infectious waste generator, licensed or registered infectious waste treatment facility, licensed scrap tire facility, and licensed C&DD facility. A solid waste facility which has closed and is subject to post-closure care requirements and an illegal facility or open dump will also be inspected by the health district.

During the inspection of each facility type, the Ohio EPA inspector will evaluate the performance of the health district sanitarian (not the compliance by the facility operator). At no time should the Ohio EPA inspector take the lead or interject information that would impede the sanitarian from completing the comprehensive inspection. If the health district sanitarian is not prepared to provide technical assistance to a facility operator or requests guidance from the Ohio EPA inspector, it is appropriate to offer the necessary information.

At the completion of the inspection, the Ohio EPA inspector and health district sanitarian will conduct a private discussion regarding the sanitarian's field observations and a determination of whether any violations were identified. If the sanitarian's observations and Ohio EPA's are not the same, then the Ohio EPA inspector and health district sanitarian should discuss the differences. Once all observations and violations are agreed upon by the Ohio EPA inspector and health district sanitarian, a closing conference led by the health district sanitarian will be held with the facility operator. In situations when violations are observed by the Ohio EPA inspector and the sanitarian does not observe or communicate them to the facility operator, the Ohio EPA inspector should appropriately inform the facility operator of the rule requirements.

In cases where the health district sanitarian does not accurately observe all violations or does not demonstrate adequate familiarity with the program laws and rules, the Ohio EPA inspector may require an additional inspection of the same facility type (if available in jurisdiction). This additional inspection provides the Ohio EPA inspector an opportunity to evaluate whether the health district sanitarian is familiar with the program and applies the guidance provided during the earlier inspection.

Summary of Conducting Annual Survey

Administrative Review

- Review records of all licensed and registered facilities, including landfills in post-closure care. These records should include copies of inspection reports, complaints received and resolutions thereof, correspondence, site evaluations (including all Notice of Violation letters), plan reviews, approved PTI/detail plans, and litigation information.
- Review status of complaints received that are relevant to approved programs. These records should include documentation indicating the nature of the complaint, copies of inspection reports, resolutions achieved, correspondence, site evaluations (including inspection letters), and any litigation information.
- Specific attention will be focused on determining proper implementation of the Solid and Infectious Waste and C&DD Programs by the health district. The records inspection will address whether proper documentation exists, whether proper enforcement actions have been taken to resolve non-compliance, and corrective actions have been achieved and whether re-inspections have been conducted. As the records examination proceeds, the findings should be discussed with health district personnel and summarized in the annual survey summary report.

Field Inspections

- The health district staff will inspect one of each of the following facility types: solid waste landfill, solid waste transfer facility, composting facility, infectious waste generator, infectious waste treatment facility, scrap tire facility, and C&DD facility. A solid waste facility which has closed and is subject to post-closure care requirements and an illegal facility and open dump will also be inspected by the health district.
- It is important to remember that for the purpose of the annual survey, each inspection must be treated as a “snapshot in time.” Prior positive or negative compliance history for a particular site/facility should not influence the findings encountered during these inspections.
- For the field inspection component of the annual survey, the Ohio EPA inspector should evaluate and document the ability of the health district sanitarian to conduct an effective inspection. The health district sanitarian will be responsible for evaluating each facility for compliance with all applicable solid and infectious waste and C&DD program laws and rules. The Ohio EPA inspector should not take the lead on the inspection or take over the inspection from the sanitarian.

Evaluating Performance

When evaluating the health district sanitarian’s ability to conduct an inspection, the Ohio EPA inspector should, at a minimum, consider the following aspects:

- Did the sanitarian demonstrate sufficient knowledge of the appropriate regulations for the facility being inspected?
 - Did the sanitarian demonstrate sufficient knowledge of the facility’s permit, registration, license, or other authorizing documents?
 - Did the sanitarian evaluate each facility for compliance with all applicable Solid and Infectious Waste or C&DD laws and rules?
 - Did the sanitarian utilize appropriate checklists and take field notes? Are other methods of documenting the inspection used?
 - Did the sanitarian conduct a complete and comprehensive inspection?
 - Did the sanitarian properly document observations in field notes and inspection letters, including all violations and any unusual conditions that may be observed at the site/facility?
 - Did the sanitarian adequately explain the findings of the inspection to the owner/operator?
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Section V – Post-survey Conference

Upon completion of the review of the administrative records and field survey portions of the annual survey, the Ohio EPA inspector will convey the annual survey findings at a post-survey conference with the health commissioner or the health district's environmental health director. The health district sanitarians may be included in the conference at the discretion of the health commissioner or environmental health director. The post-survey conference should be held on the same day as the last facility inspection or as soon as possible thereafter. The conference should include a summary of the health district's efforts to comply with each component of OAC Rule 3745-37-08 and offer suggestions or recommendations that the health district may implement to improve/enhance its program. The Ohio EPA inspector should also inform the health district that a recommendation about the program's overall adequacy will be forwarded to the director and that an action on the health district's approval status will be forthcoming.

Section VI – Annual Survey Summary and Director's Letter

Following the annual survey conducted by the Ohio EPA district office, a report summarizing the survey findings will be prepared by the Ohio EPA inspector. The original report should be attached to the director's letter and then forwarded to central office along with a recommendation for the health district's eligibility to remain on the approved lists. The recommendation is reviewed and processed by the Solid Waste Compliance & Inspection Support Unit. Within forty-five (45) days after the post-survey conference, the Ohio EPA inspector should prepare and complete a report documenting the annual survey. When creating the report, the Ohio EPA inspector will use the template located on the division's intranet site or SharePoint site.

Prior to completing the report, the Ohio EPA inspector should review a copy of the health district sanitarian's inspection letters sent to the owners/operators detailing all observations made during the field survey portion of the annual survey. This provides the Ohio EPA inspector with the opportunity to compare annual survey field inspection notes with the health district sanitarian's inspection letters and verify that the letters accurately reflect the inspections and that proper rule references and violations were cited.

When preparing the field survey portion of the survey summary report, the Ohio EPA inspector should document the health district sanitarian's ability to conduct an inspection and observe violations. The result of the inspection may be summarized. It is not necessary to list every violation that was observed, unless the health district sanitarian did not adequately perform the inspection or document violations. The Ohio EPA inspector should then list the violations that the health district sanitarian missed. When appropriate, the Ohio EPA inspector should include a summary of actions taken by the health district to bring about compliance.

Review of Sanitarian's Inspection Letter

Observations for site conditions and violations accurately summarized.

Violations referred to as "in violation of" or "not in compliance with" followed by appropriate rule citation.

Length of time between inspection and letter less than two weeks, except when health district compiles multiple inspection results during month and no violations are cited.

Paragraph requesting owner/operator to respond in writing within 14 days with steps to be taken to redress violations.

Includes date of inspection and persons present during inspection.

Once completed and signed by the Ohio EPA inspector, the survey summary report will be attached to the director's letter and sent to central office for finalizing. The purpose of the annual survey summary is to document the health district's efforts to implement the director's programs consistently with Agency policies and in accordance with rules specified in OAC Chapter 3745-37 throughout the survey period. This summary should also include any suggestions or recommendations to improve and enhance the health district's programs. Please note, however, that the summary should not indicate the division's recommendation to the director. If the health district does not meet a requirement but is still recommended for approval, then the Ohio EPA inspector should note this in the briefing memo to central office. Depending on the issue, the director's approval letter should also mention the missed requirement and give the expectation that the health district should meet the requirement in the next survey period. The district office should contact central office when deficiencies are identified to ensure program consistency.

The information contained in this summary will be used by the director to determine whether he will place the health district on the approved lists of health districts administering and enforcing the requirements of ORC Chapters 3714. and 3734. The director will provide notification of the health district's program status in an attached correspondence. The director's approval letter is a final action and can be appealed to Environmental Review Appeals Commission.

If the Ohio EPA inspector is considering a recommendation for a health district's ineligibility to be placed on the approved lists, the district office supervisor should be consulted. In most instances, the district office may be aware of issues with the health district's programs prior to conducting the annual survey. As soon as the district office identifies issues that may warrant a health district's ineligibility to be placed on the approved lists, dialogue with central office should begin to ensure the recommendation is consistent with program expectations.

Section VII – Resurvey of a Health District

Following a director's notice-of-ineligibility letter, the Ohio EPA inspector should schedule the resurvey so that it takes place within the 120 to 180 day timeframe. The process for scheduling and conducting the resurvey is the same as the annual survey as described above. The resurvey should look at the Agency's inspection policies and all of the OAC Rule 3745-37-08 criteria, as well as specifically address the particular compliance issues that were identified in the director's notice-of-ineligibility letter.

The district office and central office should have begun discussions regarding the health district's inadequacies during the regular timing of the annual survey. Following the director's notice-of-ineligibility letter, the district office and central office will offer a meeting with the health commissioner and environmental health director to review the expectations outlined in the director's letter that must be met in order to be placed on the approved lists. This meeting should be scheduled as soon as possible following the director's letter to provide the health district with sufficient time to improve its programs. In addition, district office and central office management will identify which staff member from the Solid Waste Compliance & Inspection Support Unit should participate in the resurvey.

The results of the Ohio EPA inspector's observations of the resurvey, and any documentation of the health district's efforts to comply with each component of OAC Rule 3745-37-08, should be included in the survey summary report. The Ohio EPA inspector will prepare a recommendation

that will be sent to the Solid Waste Compliance & Inspection Support Unit and will follow the same process as the annual survey. The recommendation will include a briefing memo detailing the reasons for either retaining or removing the health district from the approved lists, a summary of the health district's compliance with the OAC Rule 3745-37-08 criteria and Agency policies, and a letter for the director's signature indicating whether the health district is eligible to be placed on the approved lists. This letter will highlight the pertinent compliance issues with the health district.

If the director removes a health district from the Solid & Infectious Waste Program approved list, the health district must also be removed from the C&DD Program approved list. The removal of a health district from the C&DD approved list similarly requires its removal from the Solid & Infectious Waste Program approved list.

Section VIII – Time Accounting System (TAS) Coding

When performing tasks associated with the annual survey, the Ohio EPA inspector should code time spent as Health Department Annual Surveys (work subclass) under Compliance (work class) for the appropriate program codes (Solid Waste, Infectious Waste, Composting, Scrap Tire, and C&DD). Tasks associated with the annual survey include preparatory work included in Section II, conducting the annual survey as included in Sections III, IV, and V, preparing survey documents as included in Section VI, resurveying in Section VII, and any other activity described in this internal operating procedure. All other instances throughout the year when the Ohio EPA inspector is providing technical assistance, guidance, or information to the health district should be coded in accordance with division policy.

Appendix A

As required by OAC Rule 3745-37-08, an approved health district must inspect facilities subject to ORC Chapters 3714. and 3734. at a sufficient frequency to ensure substantial compliance with statute and program rules. At a minimum, inspections of licensed facilities must occur quarterly. When initially licensed, inspections must occur every other week for the first quarter of operations.

The Solid and Infectious Waste and Construction & Demolition Debris Programs include a variety of non-licensed facilities that typically do not require a quarterly inspection to ensure substantial compliance. While these locations or vehicles are still subject to ORC Chapters 3714. or 3734., Ohio EPA considers the minimum inspection frequency provided in the table below as sufficient to ensure substantial compliance.

Regardless of the minimum inspection frequency, it is the expectation of all approved health districts (and Ohio EPA whenever there is no approved health district) that additional inspections and follow-up occur whenever necessary to bring about compliance. Generally, re-inspections should be performed to ensure operational-related violations are remedied within an appropriate period of time. In instances when the facility operator is able to demonstrate compliance through proper documentation or digital photographs, it may be sufficient to perform an inspection during the next quarter. Follow-up to administrative-type violations can often occur in writing by the facility operator or property owner for paperwork violations or steps to be taken to address an open dump.

It is the expectation that the health district ensure all violations are documented and follow-up, including re-inspections and enforcement, is taken whenever necessary to bring about compliance. Regardless of the frequency of inspection, the type of violation, or the type of facility/property where the violation is observed, resolution must always be documented in writing and updated to the file. Prior to conducting an inspection, previous inspection letters should be referenced and the inspector should ensure information gaps do not exist. The inspection letters should follow the timeline of all violations from when first observed to resolution.

Minimum Inspection Frequency for Facilities Subject to ORC Chapters 3714. and 3734.	
Licensed Solid Waste Landfill	Quarterly
Closed Solid Waste Landfill (< 3 years post-closure care)	Semi-annually
Closed Solid Waste (4-30 years post-closure care)	Annually
Closed Solid Waste Landfill (post-closure care completed)	Complaint Basis
Licensed Solid Waste Transfer Facility	Quarterly
Licensed Class I/II Solid Waste Composting Facility	Quarterly
Registered Class III/IV Solid Waste Composting Facility	Annually
Registered Infectious Waste Generator	Complaint Basis
Small (non-registered) Infectious Waste Generator	Complaint Basis
Licensed Infectious Waste Treatment Facility	Quarterly
Registered Infectious Waste Treatment Facility	Quarterly
Licensed Scrap Tire Facility (Collection, Recovery, Monofill, Storage)	Quarterly
Registered Scrap Tire Transporter	Whenever on-site during inspection
Licensed C&DD Landfill	Quarterly
Closed C&DD Landfill	Complaint Basis
Open Dumps / Illegal Facilities (non-residential)	Monthly until resolved

See Intranet or SharePoint Site for Annual Survey Templates

