

3745-300-03

Voluntary action program fees.

~~{Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see paragraph (B) of rule 3745-300-01 of the Administrative Code titled "Incorporation by reference."}~~

(A) Applicability.

Fees shall be derived from the estimated actual costs, as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code, associated with performing all of the tasks, duties and services related to the relevant application or voluntary action program activity. Fees shall be primarily based upon: the estimated typical time to complete each task, duty or service; the person or persons performing each task, duty or service; the applicable hourly rate plus fringe benefits for the person or persons performing the task, duty or service; and the estimated frequency of each task, duty or service.

~~(1) Fees shall be derived from the estimated direct and indirect costs, as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code, associated with performing all of the tasks, duties and services related to the relevant application or voluntary action program activity. Fees shall be primarily based upon: the estimated typical time to complete each task, duty or service; the person or persons performing each task, duty or service; the applicable hourly rate plus fringe benefits for the person or persons performing the task, duty or service; and the estimated frequency of each task, duty or service.~~

~~(2) Fifty per cent of the direct and indirect costs of performing audits under this chapter and Chapter 3746. of the Revised Code shall be incorporated into the fee for a no further action letter submitted for a covenant not to sue. Twenty five per cent of the direct and indirect costs of performing audits under this chapter and Chapter 3746. of the Revised Code shall be incorporated into the initial and annual fees for certified professionals. Twenty five per cent of the direct and indirect costs of performing audits under this chapter and Chapter 3746. of the Revised Code shall be incorporated into the initial and annual fees for certified laboratories.~~

(B) The ~~fees to be administered by the~~ voluntary action program ~~and the amount of those~~ fees for the activities listed below are as follows:

(1) Initial certification of professionals - \$2,500.00~~;~~

(2) Annual fee for certified professionals - \$2,000.00~~;~~

(3) Initial certification of of a fixed-base laboratory - \$5,000.00~~;~~

~~(4) Initial certification of mobile laboratory—actual costs pursuant to paragraph (D) of this rule.~~

~~(5)~~(4) Annual fee for certified laboratories - ~~\$3,000.00~~\$500.00.;

~~(6) Certified laboratories: additional certification for additional parameter groups, analytes or methods—\$500.00;~~

~~(7)~~(5) No further action letter submitted for a covenant not to sue with no environmental covenant~~that includes only a phase I property assessment with no releases identified~~ - ~~\$2,980.00~~\$15,700 .00.;

~~(8)~~(6) No further action letter submitted for a covenant not to sue that includes an environmental covenant - ~~\$18,200.00~~only a phase I property assessment with asbestos as the only contaminant identified—\$6,270.00;

(7) No further action letter submitted for a covenant not to sue after having completed the voluntary action program memorandum of agreement track - \$10,000.00.

(8) No further action letter submitted for a covenant not to sue after having completed the voluntary action program memorandum of agreement track that includes an environmental covenant - \$12,500.00.

~~(9) No further action letter submitted for covenant not to sue that includes both a phase I and phase II property assessment—\$12,760.00;~~

~~(10) No further action letter submitted for a covenant not to sue that includes both a phase I and phase II property assessment and an operation and maintenance plan and agreement—\$17,650.00;~~

~~(11) Variance from applicable standards—\$23,810.00;~~

~~{Comment: The fees identified in paragraph (B)(11) of this rule are in addition to the other fees assessed in paragraphs (B)(7) to (B)(10) of this rule.}~~

~~(C) Prior to the issuance of a no further action letter, and upon written notice to the Ohio EPA in a format prescribed by the agency, a volunteer may elect to utilize the alternative direct billing schedule for project review under the voluntary action program as follows:~~

~~(1) With the volunteer's written notice, the volunteer shall pay a one thousand dollar down payment towards the cost of technical assistance for the initial notice review and conference with an agency review team.~~

- ~~(2)~~ During the project review, the volunteer shall pay the additional actual costs, as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code, incurred by the agency, as invoiced to the volunteer under a technical assistance account established with the voluntary action program.
- ~~(3)~~ Once a no further action letter is issued and submitted to the director with a request for a covenant not to sue, the volunteer, on whose behalf the no further action letter was submitted, shall pay both:
- ~~(a)~~ The actual costs of the agency's review of the no further action letter, as invoiced by the agency under a technical assistance account established with the voluntary action program; and
 - ~~(b)~~ An additional administrative processing fee of one thousand sixty dollars plus the increase, if any, pursuant to paragraph (G) of this rule.
- ~~(D)~~(C) For initial certification fees, a mobile laboratory shall pay the actual costs as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code incurred by the agency relating to reviewing requests for certification pursuant to rule 3745-300-04 of the Administrative Code.
- ~~(E)~~(D) In addition to payment of all applicable initial certification, and renewal certification fees pursuant to paragraph (B) of this rule, ~~and additional certification fees~~, a certified laboratory shall pay the following:
- (1) The actual costs ~~as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code~~ incurred and invoiced by the agency that are associated with laboratory requests for modification of its certification or proposed revisions to its standard operating procedures or quality assurance program plans pursuant to rule 3745-300-04 of the Administrative Code;
 - (2) The actual costs, limited to travel costs, incurred by the agency in performing system audits pursuant to rule 3745-300-04 of the Administrative Code; ~~and~~
 - (3) The actual costs incurred by the agency in performing compliance audits pursuant to rule 3745-300-04 of the Administrative Code.
 - (4) The actual costs incurred by the agency that are associated with laboratory requests for additional certification for additional parameter groups, analytes or methods pursuant to rule 3745-300-04 of the Administrative Code.
- ~~(F)~~(E) For all activities not addressed by paragraph (B), (C), or (D), ~~or (E)~~ of this rule, the actual costs incurred by the agency shall be charged to and paid by the

beneficiary or subject, as applicable, of the activity. These activities may include, but are not limited to: providing site-specific technical assistance; reviewing demonstrations of sufficient evidence of entry into the voluntary action program; reviewing urban setting designation requests; reviewing a variance request, or a case-by-case groundwater demonstration; enforcing or administering compliance schedule agreements; monitoring compliance with operation and maintenance agreements, risk mitigation plans, ~~environmental covenants~~, or institutional controls; reviewing and approving remedy changes; and any other activities necessary for the enforcement or administration of this chapter and Chapter 3746. of the Revised Code.

~~(G)~~(F) In addition to any applicable existing permit fees, any person requesting a consolidated standards permit shall pay the actual direct and indirect costs related to obtaining and administering the consolidated standards permit.

~~(H) Consistent with the need to cover the costs of the voluntary action program as provided in division (B)(9) of section 3746.04 of the Revised Code, the director annually shall increase the fees prescribed in paragraphs (B)(7) to (B)(11) and (C)(3) of this rule by the per cent change, if any, by which the published consumer price index as defined in paragraph (A) of rule 3745-300-01 of the Administrative Code for the most recent calendar year ending December thirty first exceeds the published consumer price index for the previous calendar year ending December thirty first. Upon calculating any increase in voluntary action fees and rounding to the nearest multiple of ten dollars as required by this paragraph, the agency shall annually compile a revised fee schedule of the calculated increased fees for paragraphs (B)(7) to (B)(11) and (C)(3) of this rule. The revised fee schedule shall be effective beginning July 1, 2008 and annually on July first for each year thereafter. The revised voluntary action program fee schedule shall be made available to persons required to pay the fees assessed and to the public by electronic publication on the voluntary action program's web site.~~

~~(I) The voluntary action program fees may be further revised based upon existing and additional time and cost estimates as well as actual time and cost data related to voluntary action program activities. These revisions may occur periodically as necessary.~~

~~(J)~~(G) Full payment of fees shall accompany ~~all application(s) or form(s)~~any application or form, and shall be in the form of either a check or money order which indicates in the memo field the applicable fee or fees being paid. Fees are not refundable, unless specifically provided for in this chapter, and shall be made payable to "Treasurer, State of Ohio."

~~(K)~~(H) Any certification, permit, covenant, renewal or other action by the director under this chapter or Chapter 3746. of the Revised Code which requires payment of a fee

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or cost shall not be made effective until full payment of all applicable fees or costs.