



Ohio Revised Code Section 3746.17 Audits.

Effective: September 28, 1994

Legislation: Senate Bill 221 - 120th General Assembly

(A) The director of environmental protection shall conduct audits in connection with no further action letters issued under section 3746.11 of the Revised Code for all of the following purposes:

(1) Determining whether after completion of the voluntary actions under this chapter and rules adopted under it, the properties where the voluntary actions were conducted meet applicable standards;

(2) Reviewing the qualifications of and work performed by certified professionals under the voluntary action program to ascertain whether they possess the qualifications for certification pursuant to rules adopted under division (B)(5) of section 3746.04 of the Revised Code and whether their performance under the program has resulted in the issuance of no further action letters that are not consistent with applicable standards;

(3) Reviewing the qualifications of and work performed by certified laboratories in connection with the voluntary action program, and inspecting the facilities of certified laboratories to ascertain whether they possess the qualifications for certification pursuant to rules adopted under division (B)(6) of section 3746.04 of the Revised Code and whether their performance in connection with the program has resulted in the issuance of no further action letters that are not consistent with applicable standards.

An audit may be conducted for any of the purposes identified in divisions (A)(1) to (3) of this section or for any combination of those purposes.

(B) Commencing one year after the effective date of this section, the director annually shall conduct in connection with the no further action letters submitted to him during the preceding calendar year under section 3746.11 of the Revised Code audits of not less than twenty-five per cent of the letters pertaining the voluntary actions that involved remedial activities and not less than twenty-five per cent of the letters pertaining to voluntary actions that did not involve remedial activities. Audits



conducted pursuant to contracts entered into under division (E) of this section or division (B) of section 3745.01 of the Revised Code shall be included in determining the number of audits conducted by the director during the year in which the audits were conducted.

(C) Except as provided in division (D) of this section, the director shall select the no further action letters to be audited under this section in accordance with the selection criteria established in rules adopted under division (B)(9) of section 3746.04 of the Revised Code. Any such audit shall be conducted in accordance with the rules adopted under that division.

(D) Prior to the adoption of rules under section 3746.04 of the Revised Code, the director may conduct audits in connection with no further action letters issued under section 3746.11 of the Revised Code in order to determine if the relevant properties, certified professionals, certified laboratories, or any combination of them comply with the standards established in section 3746.07 of the Revised Code.

(E) The director may enter into contracts to have audits conducted under this section in accordance with rules adopted under division (B)(9) of section 3746.04 of the Revised Code. The director shall not select as a contractor to conduct audits under this section a person who meets any of the following:

- (a) Undertook the voluntary action in connection with which the audit is to be performed;
- (b) Is employed by, affiliated with, or related to the person who undertook the voluntary action in connection with which the audit is to be performed or was employed by or affiliated with that person during the year preceding the date that the audit is to be conducted;
- (c) Served as the certified professional who issued the no further action letter for the voluntary action in connection with which the audit is to be performed or is employed by, affiliated with, or related to the person who served as the certified professional or was employed by or affiliated with that person during the year preceding the date that the audit is to be conducted;
- (d) Performed or reviewed, or his employer performed or reviewed, any work that was conducted to support the request for the no further action letter in connection with which the audit is to be



performed;

(e) Served as a certified laboratory that performed any analyses that formed the basis for the issuance of the no further action letter in connection with which the audit is to be performed, is employed by, affiliated with, or related to the person who served as such a certified laboratory, or was employed by or affiliated with that person during the year preceding the date that the audit is to be conducted.