SUBPART 55-3
ENVIRONMENTAL LABORATORY APPROVAL FEE

Sec.

55-3.1 Definitions.

(a) Adjusted volume shall mean the number of tests performed annually on New York State samples for each analyte determined and for which approval is requested, multiplied by the difficulty factor listed in section 55-3.9 of this Subpart.

(b) Analytes shall mean the total number of analytes per category for which an environmental laboratory is approved.

(c) Approval fee shall mean the annual fee charged to an environmental laboratory calculated pursuant to section 55-3.7 of this Subpart.

(d) Approval year shall mean the State fiscal year (April 1st to March 31st).

(e) For purposes of this program:

(1) Environmental testing is defined as laboratory examination of samples of drinking water, wastewater, recreational waters, natural surface water, swimming pools, air, solid waste, hazardous waste, soil or sediment or other matrices to determine the biological, chemical, physical, or radiological qualities, for the purpose of public or personal health protection or protection of the environment and natural resources.

(2) Not included in the definition of testing for purposes of fee computation are quality control testing, proficiency testing, process control testing, testing on samples taken outside New York State and testing for research and development of new methods. Process control testing includes testing for quality control purposes during a manufacturing process or testing of an effluent of waste treatment, in which tests on an analyte are performed in addition to those required to ensure compliance with a relevant discharge requirement. Research and development testing includes tests performed in order to develop alternate testing methods for approval by the department. Process control testing and research and development testing are generally characterized by (i) no reporting of the analytical result to a client or outside the facility, (ii) no charge assessment, and (iii) no advertisement or promotion of the analysis as a service.

(3) All other tests performed in categories, subcategories or analytes for which the laboratory is approved, regardless of the purpose of the testing not otherwise excluded, must be reported for fee computation purposes.

(f) A governmental laboratory is defined as any laboratory operated by the federal government, a State agency, or an authority, county, city, town, village, water district, sewer district or other political subdivision of the State.

55-3.2 Annual approval fee.
An environmental laboratory which is issued a certificate of approval pursuant to Subpart 55-2 of this Part shall pay an annual approval fee.

55-3.3 Annual report.
(a) On or before March 1st of each year, each approved laboratory shall report the total number of individual analyte tests for the previous calendar year (January 1st - December 31st) in each category for which approval is given on forms to be provided by the department. If requested by the laboratory, this report shall be deemed confidential and exempt from disclosure under the Freedom of Information Law (article 6 of the Public Officers Law) pursuant to the authority in section 89(5) of the Public Officers Law. Failure to report or reporting falsely shall result in non-renewal of the certificate of approval. Governmental laboratories are exempted from reporting their total adjusted volume.
(b) Thirty days after approval of the State budget, the department shall bill each laboratory for its approval fee and any adjustment due from the previous year and shall advise each laboratory of the total number of analyte tests reported by all laboratories and the total number of analytes approved for all laboratories.

55-3.4 Method of payment of approval fee.
Payment for the approval fee must be made thirty days after billing, except that a laboratory may elect to make four equal payments with the first payment due thirty days after billing (the "first payment date"), the fourth payment due February 15th of the State fiscal year to which the billing relates, and the remaining two payments due on dates equidistant between the first and fourth payment dates. Nothing herein precludes making full payment before these dates.

55-3.5 Suspension or renewal of certificate of approval.
Failure to meet at least the quarterly payment requirement shall result in suspension or nonrenewal of the certificate of approval. A laboratory whose approval has been suspended or not renewed pursuant to this section shall be assessed a fee calculated pursuant to section 55-3.7(b) of this Subpart, if it seeks reapproval.

55-3.6 Annual cost adjustment.

Prior to calculating fees for the next permit year, the department shall review and finalize the actual annual cost of the environmental laboratory approval program for the previous fiscal year and compare that cost to the fees collected or anticipated to be collected for that previous fiscal year. Any difference will be reflected in an adjustment to the next annual billing.

55-3.7 Approval fee computation.

(a) Except as otherwise provided in this section, the approval fee assessed to each environmental laboratory shall be computed as follows:

(1) the total projected budget of the environmental laboratory approval program for the upcoming State fiscal year (April 1st to March 31st) shall be computed (hereafter "the budget");

(2) the total number of laboratories shall be multiplied by $500 and the product deducted from the budget, resulting in the balance of the program cost;

(3) one-half of the balance of the program cost shall be divided by the sum of the total adjusted volume of all laboratories, excluding governmental laboratories. The resulting number shall be the volume fee constant;

(4) one-half of the balance of the program cost shall be divided by the sum of the analytes for all laboratories, based on the highest number of analytes for which each laboratory held approval during the previous approval year. The resulting number shall be the analyte fee constant.

(5) The approval fee for each laboratory shall be calculated by adding:

(i) $500; and

(ii) the volume fee constant multiplied by the sum of the adjusted volume for the applicant laboratory; and

(iii) the analyte fee constant multiplied by the sum of the analytes for that laboratory.

(6) Governmental laboratories are exempted from paying that portion of the fee based on adjusted volume.

(b) An environmental laboratory, which is applying for a certificate of approval in a category in which it was not conducting tests on New York State samples prior to its application, shall pay for such approval a fee of:

(1) $500 regardless of the number of months remaining in the approval year; and

(2) an amount calculated by multiplying the analyte fee constant described in subdivision (a) by the total number of analytes within each category for which a certificate of approval is sought, prorated for the months remaining in the approval year.

(c) An environmental laboratory, which is applying for a certificate of approval in a category in which it was conducting tests on New York State samples prior to its application, shall pay an initial approval fee computed as an annual fee but prorated for the months remaining in the approval year or $500, whichever is greater. Such laboratory's adjusted volume shall not be used in recalculating a fee constant for the first approval year in which it operates.

(d) Changes in analytes or subcategories during an approval year shall not require payment of additional fees during that approval year.
(e) Failure to pay the fee for out-of-state inspection shall result in suspension or non-renewal of the laboratory approval.

55-3.9 Environmental laboratory approval program difficulty factors.

ANALYTE	FACTOR
BIOLOGICAL TEST PROCEDURES	
Coliform, fecal	0.3
Coliform, Total	0.3
Standard Plate Count	0.3
INORGANIC TEST PROCEDURES	
Acidity	0.3
Alkalinity	0.3
Aluminum, Total	0.5
Ammonia (as N)	0.5
Antimony, Total	0.5
Arsenic, Total	0.7
Barium, Total	0.5
Beryllium, Total	0.5
Biochemical Oxygen Demand	0.8
Boron, Total	0.5
Bromide	0.8
Cadmium, Total	0.5
Calcium, Total	0.5
Carbonaceous BOD	0.8
Chemical Oxygen Demand	0.4
Chloride	0.5
Chromium, VI	0.8
Chromium, Total	0.5
Cobalt, Total	0.5
Copper, Total	0.5
Cyanide, Total or amenable to chlorination	0.8
Fluoride, Total	0.5

Gold, Total	0.5
Hardness, Total	0.2
Calcium Hardness	0.2
Hydrogen Ion (pH)	0.1
Iron, Total	0.5
Kjeldahl Nitrogen, Total	0.5
Lead, Total	0.5
Magnesium, Total	0.5
Manganese, Total	0.5
Mercury, Total	0.7
Molybdenum, Total	0.5
Nickel, Total	0.5
Nitrate (as N)	0.5
Nitrite (as N)	0.5
Nitrogen Dioxide	1.5
Nitrogen Oxide	1.5
Oil and Grease, Total Recoverable	0.8
Organic Carbon, Total	0.5
Orthophosphate (as P)	0.5
Palladium, Total	0.5
Percent Sulfur	2.0
Phenols	0.8
Phosphorus, Total	0.5
Platinum, Total	0.5
Potassium, Total	0.5
Selenium, Total	0.7
Silica, Dissolved	0.5
Silver, Total	0.5
Sodium, Total	0.5
Sulfate (as SO4)	0.5
Sulfide (as S)	0.7
Sulfite (as SO3)	0.7
Sulfur Dioxide	1.0
Surfactants	0.6

Thallium, Total	0.5
Tin, Total	0.5
Titanium, Total	0.5
Vanadium, Total	0.5
Zinc, Total	0.5
NON-PESTICIDE ORGANIC COMPOUNDS	
Acenaphthene	0.5
Acenaphthylene	0.5
Acetone	0.5
Acrolein	0.5
Acrylonitrile	0.5
Anthracene	0.5
Benzene	0.5
Benzidine	0.5
Benzoic Acid	0.5
Benzo(a)anthracene	0.5
Benzo(a)pyrene	0.5
Benzo(b)fluoranthene	0.5
Benzo(ghi)perylene	0.5
Benzo(k)fluoranthene	0.5
Benzyl Alcohol	0.5
Benzyl Chloride	0.5
Benzyl Butyl Phthalate	0.5
Bis(2-chloroethoxy)methane	0.5
Bis(2-chloroethyl)ether	0.5
Bis(2-ethylhexyl)phthalate	0.5
Bromobenzene	0.5
Bromodichloromethane	0.5
Bromoform	0.5
Bromomethane	0.5
4-Bromophenylphenyl ether	0.5
2-Butanone	0.5
n-Butylbenzene	0.5
sec-Butylbenzene	0.5

tert-Butylbenzene	0.5
Carbon Disulfide	0.5
Carbon Tetrachloride	0.5
4-Chloroaniline	0.5
4-Chloro-3-methylphenol	0.5
Chlorobenzene	0.5
Chloroethane	0.5
2-Chloroethylvinyl ether	0.5
Chloroform	0.5
Chloromethane	0.5
2-Chloronaphthalene	0.5
2-Chlorophenol	0.5
4-Chlorophenylphenyl ether	0.5
2-Chlorotoluene	0.5
4-Chlorotoluene	0.5
Chrysene	0.5
Dibenzo(a,h)anthracene	0.5
Dibenzofuran	10.0
Dibromochloromethane	0.5
1,2-Dibromo-3-chloropropane	0.5
1,2-Dibromoethane	0.5
Dibromomethane	0.5
1,2-Dichlorobenzene	0.5
1,3-Dichlorobenzene	0.5
1,4-Dichlorobenzene	0.5
3,3-Dichlorobenzidine	0.5
Dichlorodifluoromethane	0.5
1,1-Dichloroethane	0.5
1,2-Dichloroethane	0.5
1,1-Dichloroethene	0.5
1,2-Dichloroethene (any isomer or total)	0.5
trans-1,2-Dichloroethene	0.5
2,4-Dichlorophenol	0.5
1,2-Dichloropropane	0.5

1,3-Dichloropropane	0.5
2,2-Dichloropropane	0.5
1,1-Dichloropropene	0.5
cis-1,3-Dichloropropene	0.5
trans-1,3-Dichloropropene	0.5
Diethyl phthalate	0.5
2,4-Dimethylphenol	0.5
Dimethyl phthalate	0.5
Di-n-butyl phthalate	0.5
Di-n-octyl phthalate	0.5
2,4-Dinitro-2-methylphenol	0.5
2,4-Dinitrophenol	0.5
2,4-Dinitrotoluene	0.5
2,6-Dinitrotoluene	0.5
Epichlorohydrin	0.5
Ethylbenzene	0.5
Ethylene Glycol	0.5
Fluoranthene	0.5
Fluorene	0.5
Formaldehyde	0.8
Hexachlorobenzene	0.5
Hexachlorobutadiene	0.5
Hexachloroethane	0.5
2-Hexanone	0.5
Indeno (1,2,3-cd)pyrene	0.5
Isophorone	0.5
Isopropylbenzene	0.5
p-Isopropyltoluene (p-Cymene)	0.5
2-Methylnaphthalene	0.5
Methylene Chloride	0.5
2-Methyl-4,6-Dinitrophenol	0.5
4-Methyl-2-Pentanone	0.5
2-Methylphenol	0.5
4-Methylphenol	0.5

Naphthalene	0.5
2-Nitroaniline	0.5
3-Nitroaniline	0.5
4-Nitroaniline	0.5
2-Nitrophenol	0.5
Nitrobenzene	0.5
4-Nitrophenol	0.5
N-Nitrosodimethylamine	0.5
N-Nitrosodi-n-propylamine	0.5
N-Nitrosodiphenylamine	0.5
2,2-oxybis(1-chloropropane)	0.5
PCB-1016	0.5
PCB-1221	0.5
PCB-1232	0.5
PCB-1242	0.5
PCB-1248	0.5
PCB-1254	0.5
PCB-1260	0.5
Pentachlorophenol	0.5
Phenanthrene	0.5
Phenol	0.5
n-Propylbenzene	0.5
Pyrene	0.5
Styrene	0.5
2,3,7,8-Tetrachlorodibenzo-p-dioxin	10.0
1,1,2,2-Tetrachloroethane	0.5
Tetrachloroethene	0.5
Toluene	0.5
1,2,3-Trichlorobenzene	0.5
1,2,4-Trichlorobenzene	0.5
1,1,1-Trichloroethane	0.5
1,1,2-Trichloroethane	0.5
Trichloroethene	0.5
Trichlorofluoromethane	0.5

2,4,6-Trichlorophenol	0.5
1,2,3-Trichloropropane	0.5
1,2,4-Trimethylbenzene	0.5
1,3,5-Trimethylbenzene	0.5
Vinyl Acetate	0.5
Vinyl Chloride	0.5
Xylene (any isomer or total)	0.5
PESTICIDES	
Aldrin	0.5
Atrazine	0.5
Azinphos Methyl	0.5
alpha-BHC	0.5
beta-BHC	0.5
delta-BHC	0.5
Lindane	0.5
Captan	0.5
Carbaryl	0.5
Chlordane (any)	0.5
2,4-D	0.5
4,4'-DDD	0.5
4,4'-DDE	0.5
4,4'-DDT	0.5
Demeton-O	0.5
Demeton-S	0.5
Diazinon	0.5
Dicamba	0.5
Dichloran	0.5
Dicofol	0.5
Dieldrin	0.5
Disulfoton	0.5
Endosulfan I	0.5
Endosulfan II	0.5
Endosulfan sulfate	0.5
Endrin	0.5

Endrin aldehyde	0.5
Endrin ketone	0.5
Heptachlor	0.5
Heptachlor epoxide	0.5
Isodrin	0.5
Malathion	0.5
Methoxychlor	0.5
Mirex	0.5
Parathion methyl	0.5
Parathion ethyl	0.5
PCNB	0.5
Perthane	0.5
Strobane	0.5
2,4,5-T	0.5
2,4,5-TP (Silvex)	0.5
Toxaphene	0.5
Trifluralin	0.5
PHYSICAL TESTS OR PROCEDURES	
Asbestos (PLM)	1.5
Asbestos (TEM)	5.0
Calorific Value (BTU)	1.5
Color	0.3
Density	0.3
E.P. Toxicity (extraction only)	0.3
Fibers	1.5
Ignitability	0.6
Particulates	0.3
Percent Solids	0.3
Percent Water	0.3
Reactivity	0.5
Specific Conductance	0.1
Suspended Particulates	0.3
Temperature	0.1
Total Dissolved Solids	0.3

Total Solids	0.3
Total Suspended Solids	0.3
Volatile Content	0.3
RADIOLOGICAL TEST PROCEDURES	
Gross Alpha	0.5
Gross Beta	0.5
Photon Emitters	0.5
Cesium-134	0.5
Iodine-131	0.5
Plutonium	0.5
Radium-226	0.5
Radium-228	0.5
Radon (any method)	0.5
Strontium-89	0.5
Strontium-90	0.5
Tritium	0.5
Uranium	0.5

The Commissioner may grant certification for additional analytes, if necessary for the protection of public health and the environment, assigning a difficulty factor commensurate with similar analytes.