

3745-300-03

Voluntary action program fees.

(A) As used in this rule:

- (1) "Actual costs" ~~means~~are the actual, substantiated direct, indirect and other costs associated with a specific voluntary action program activity.
- (2) "Consumer Price Index" or "CPI" means the Midwest Consumer Price Index for All Urban Consumers for the U.S. Average for All Items - unadjusted (Midwest CPI-U), index base period 1982-84 = 100, annual average as of the close of the twelve-month period ending on the thirty-first day of December of that year, as published by the United States department of labor.
- ~~(2)~~(3) "Direct costs" ~~means~~are all costs directly tracked or accounted for which may be attributed to a specific voluntary action program activity.
- ~~(3)~~(4) "Indirect costs" ~~means~~are all costs other than direct costs which may be attributed to a fee source including, but not limited to, administrative overhead, training of personnel, reporting to the legislature, rule development, guidance development, program marketing, database management, and word processing, printing, copying and tele-faxing. Indirect costs will be determined by multiplying direct costs by the indirect rate.
- (4)(5) "Indirect rate" ~~means~~is the rate or percentage by which direct costs are multiplied to determine the indirect costs for a given fee or activity.
- (5) "~~Phase I no further action letter" means a no further action letter submitted to the director for a covenant not to sue which:~~
- ~~(a) Did not involve additional investigation beyond a phase I property assessment;~~
 - ~~(b) Does not require restrictions on the access to or use of the property to achieve applicable standards; and~~
 - ~~(c) Does not require the use of either engineering or institutional controls to achieve applicable standards.~~

(B) Voluntary action program fees.

- (1) Fees shall be derived from the estimated direct and indirect costs 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.
- (C) The fees to be administered by the voluntary action program and the amount of those fees are as follows:
- (1) Initial certification of professionals - \$2,500.00;
 - (2) Annual renewal of certified professionals - \$2,000.00;
 - (3) Initial certification of laboratories - \$5,000.00;
 - (4) Annual fee for renewal of certified laboratories - \$3,000.00;
 - (5) Certified laboratories: certification for additional parameter groups, analytes or methods - \$500.00;
 - (6) ~~Phase I no~~ No further action letter submitted for a covenant not to sue that includes only a Phase I investigation with no releases identified - ~~\$950.00~~ \$2,800.00;
 - (7) No further action letter submitted for a covenant not to sue that includes only a Phase I investigation with asbestos as the only contaminant identified - \$5,900.00
 - ~~(7)~~(8) No further action letter submitted for covenant not to sue that includes both a Phase I and Phase II assessment - ~~\$4,950.00~~ \$12,000.00;
 - ~~(8)~~(9) No further action letter submitted for a covenant not to sue that includes both a Phase I and Phase II assessment and an operation and maintenance plan and agreement - ~~\$2,950.00~~ \$16,600.00;

~~(9)~~(10) Variance from applicable standards - ~~\$18,500.00~~\$22,400.00;

[Comment: The fees identified in (C)(10) are in addition to the other fees assessed in (C)(6) through (C)(9) of this rule.]

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

(1) Review of initial notice of intent to enter the voluntary action program and initial conference with voluntary action program review team - \$1,000.00;

(2) All additional review fees for actual direct and indirect costs are to be paid by the volunteer in accordance with a technical assistance account agreement established with the voluntary action program;

(3) Once issued and submitted to the director with a request for a covenant not to sue, the cost for review of a no further action letter shall be paid in accordance with the terms of the technical assistance account agreement established with the voluntary action program; and

(4) An additional administrative processing fee of \$1,000.00 will be charged to volunteers submitting a no further action letter with a request for a covenant not to sue under this rule. This administrative fee shall be paid in addition to the cost of review of the no further action letter under paragraph (E)(3) of this rule.

~~(D)~~(E) In addition to all applicable initial certification, annual renewal and additional certification fees paid, a certified laboratory shall pay the actual costs incurred by the director, his designee or his contractor associated with administering the necessary performance evaluations, as required in rule 3745-300-04 of the Administrative Code, including the costs associated with providing performance evaluation samples and scoring and evaluating results. A certified laboratory shall also pay the actual travel costs incurred by the director or his designee in performing any system audits or compliance audits pursuant to rule 3745-300-04 of the Administrative Code.

~~(E)~~(F) For all activities not addressed by paragraphs (C) ~~and~~, (D) or (E) of this rule, the actual direct and indirect costs incurred by the agency shall be charged to 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; enforcing and administering compliance schedule agreements; monitoring compliance with operation and

maintenance agreements or institutional controls; and any other activities necessary for the enforcement and administration of this chapter and Chapter 3746. of the Revised Code.

~~(F)~~(G) 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)(8) of section 3746.04 of the Revised Code, the director annually shall increase the fees prescribed in paragraphs (C)(6) to (C)(10) and (D)(4) of this rule by the percent change, if any, by which the published Midwest CPI-U as defined in paragraph (A) of this rule for the most recent calendar year ending December 31 exceeds the published Midwest CPI-U for the previous calendar year ending December 31. Upon calculating any increase in voluntary action fees and rounding to the nearest multiple of ten dollars as required by this paragraph, the director shall annually compile a revised fee schedule for paragraphs (C)(6) to (C)(10) of this rule. The revised fee schedule shall be effective beginning July 1, 2007 and annually on July 1 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.

~~(G)~~(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.

~~(H)~~(J) Full payment of fees shall accompany all application(s) or form(s), and shall be in the form of either a ~~certified~~ 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".

~~(H)~~(K) 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 or cost shall not be made effective until full payment of all applicable fees or costs.

Effective:

R.C. 119.032 review dates: 02/24/2006

Certification

Date

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