

May 2009

## Fees and Billing Under the Voluntary Action Program

### Introduction

Ohio's Voluntary Action Program (VAP) was created to give businesses and property owners a way to investigate possible environmental contamination due to hazardous substances or petroleum releases, clean up the property if necessary and receive a covenant not to sue (CNS); that is, a promise from the State of Ohio that no more cleanup is needed.

The VAP maximizes resources and expertise in the private sector by using qualified, experienced professionals such as engineers and scientists certified by Ohio EPA as certified professionals (CP). To ensure high quality laboratory data, Ohio EPA also designates qualified laboratories as certified laboratories (CL) to test environmental samples which generate data used to support environmental cleanups.

When a CP determines after site investigation and, if necessary, cleanup that the property meets the standards contained in the program rules (OAC Chapter 3745-300), he or she can prepare what is called a No Further Action (NFA) letter. This document, which must be submitted in a prescribed format developed by the VAP, describes the environmental problems found at the site, how those environmental problems were investigated and how the site was cleaned up.

VAP technical staff reviews NFA letters submitted to Ohio EPA to determine if program standards are met and that the site is protective of public health, safety and the environment. When cleanup requirements are met, the director of Ohio EPA issues a CNS. This covenant protects the property owner or operator and future owners from being legally responsible to the State of Ohio for further investigation and cleanup. This protection



applies only when the property is used and maintained in the same manner as when the covenant was issued.

The VAP was designed by the legislature as a fee-based program. The fees for CP and CL certification, as well as the fees for the review of NFA letters requesting a CNS, are contained in OAC 3745-300-03.

### Technical Assistance

Because of the privatized nature of the VAP, Ohio EPA is not required to review any documentation pertaining to a voluntary action until, at the completion of the assessment and cleanup, an NFA letter for the property is submitted to the Agency. In order to address the problem of volunteers and CPs who seek property-specific technical guidance from a largely privatized program, the VAP established a technical assistance program. The charge for technical assistance is based on the hourly rate of the Ohio EPA staff member(s) providing the assistance, plus fringe and overhead. Technical assistance rates vary depending on the salary of the staff member(s) performing the technical assistance and how much time the staff member(s) spends on the project.

### Grant-Funded Technical Assistance

U.S. EPA provides grant money which allows the VAP to offer technical assistance at no cost to communities and non-profit organizations as long as funds remain available.

A representative of the community or non-profit must complete a request letter and application form and submit it to the VAP to see if the project qualifies. A kick-off meeting may be requested with the representative and their CP, if one has been hired, to define work expectations and timelines.

### Fee Structure

The fees for CP training and certification are:

- Initial training - \$200;
- Annual training - set by private contractor;
- Initial certification - \$2,500; and
- Renewal certification - \$2,000.

Other CP training offered by the VAP (i.e., CP coffees) is free.

Fees for CL certification are:

- Initial certification - \$5,000;
- Annual renewal fee - \$3,000; and
- Certification for additional parameter groups, analytes or methods - \$500.

The fees for review of NFA letters vary according to the complexity of the document. The fees increase each year by the amount that the consumer price index increases, and are updated every July 1.



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As of July 1, 2008, the fees are:

- NFA letter with only a Phase I investigation with no releases identified - \$2,980;
- NFA letter with only a Phase I investigation with asbestos contamination only - \$6,270;
- NFA letter with both Phase I and Phase II assessments - \$12,760;
- NFA letter with Phase I and Phase II assessments and operation and maintenance plan and agreement - \$17,650; and
- NFA letter submitted with a variance from applicable standards - \$23,810.

## PAYGO

A hybrid version of NFA letter review that combines technical assistance with a fee for the review is called Pay-As-You-Go (PAYGO). Under PAYGO, the applicant first must notify the VAP of the intent to

enter the PAYGO track of NFA letter review. This must be done prior to the CP issuing the NFA letter. The initial request must include a \$1,000 processing fee. The VAP review team sets up a kick-off meeting and reviews any draft documents (e.g., Phase I, Phase II) submitted by the applicant.

Based upon the results of the draft document review and the initial meeting, the VAP review team provides a preliminary estimate of the cost to review the NFA letter. This review is then done under direct billing. The CP or volunteer can drop out of the process at any time with no consequences.

Once the CP is ready to issue an NFA letter, a processing fee is submitted along with the request for a CNS. This fee is currently \$1,060, and increases annually with any increases in the consumer price index. The NFA letter is also reviewed under direct billing.

Please note that communities cannot cover PAYGO costs with monies received for grant-funded technical assistance.

## Information

For more information regarding VAP fees, PAYGO and grant-funded technical assistance, please contact one of the Central Office VAP staff at (614) 644-2924