

65-34,165. Application; fee; action on; agreement; deposit; access to property; termination of agreement; fund, use and disposition of. (a) Each application or reapplication for participation in the voluntary program shall be accompanied by a nonrefundable application fee of \$200 to cover processing costs.

(b) The department shall review and approve or deny all applications.

(c) The department shall notify the applicant in writing, whether the application is approved or denied. If the application is denied, the notification shall state the reason for the denial.

(d) Following departmental approval of an application, a voluntary agreement in accordance with this act must be executed between the participant and the department. The department shall not commence oversight and review activities until the voluntary agreement is executed.

(e) As part of the voluntary agreement, the department shall require the applicant to post a deposit not to exceed \$5,000. The deposit shall be used to cover all direct and indirect costs of the department in administration of the program, including but is not limited to providing technical review, oversight and guidance in relation to the property covered in the application. If the costs of the department exceed the initial deposit, an additional amount agreed upon by the department and the applicant will be required prior to proceeding with any voluntary work under the program. Timely remittance of reimbursements to the department is a condition of continuing participation. After the mutual termination of the voluntary agreement, the department shall refund any remaining balance within 60 days.

(f) During the time allocated for review of applications, assessments, other investigative activities and remedial activities under this act, the department, upon reasonable notice to the applicant, shall have access at all reasonable times to the subject real property.

(g) The applicant may unilaterally terminate the voluntary agreement prior to completion of investigative and remedial activities if the applicant leaves the site in no worse condition, from a human health and environmental perspective, than when the applicant initiated voluntary activities. The applicant must notify the department in writing of the intention to terminate the voluntary agreement. The department will cease billing for review of any submittal under the voluntary agreement upon receipt of notification. Within 90 days after receipt of notification for termination, the department shall provide a final bill for services provided. If the applicant requests termination of the voluntary agreement under this subsection, initial deposits are not refundable. In the event the department has costs in excess of the initial deposit, the applicant must remit full payment of those costs. Upon payment of all costs, the department shall notify the applicant in writing that the voluntary agreement has been terminated.

(h) The department may terminate the voluntary agreement if the applicant:

(1) Violates any terms or conditions of the voluntary agreement or fails to fulfill any obligations of the voluntary agreement; or

(2) fails to address an immediate and significant risk of harm to public health and the environment in an effective and timely manner.

The department shall notify the applicant in writing of the intention to terminate the voluntary agreement and include a summary of the costs of the department. The notification shall state the reason or reasons for the termination.

(i) There is established a fund in the state treasury the voluntary cleanup fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

(1) Moneys collected for application fees;

(2) moneys collected as deposits for costs associated with administration of the act, including technical review, oversight and guidance;

(3) moneys received by the secretary in the form of gifts, grants, reimbursements or appropriations from any source intended to be used for purposes of the fund; and

(4) interest attributable to the investment of moneys in the fund.

(j) Moneys in the voluntary cleanup fund shall only be expended for costs of:

(1) Review of applications;

(2) technical review, oversight, guidance and other activities necessary to carry out the provisions of this act;

(3) activities performed by the department to address immediate or emergency threats to human health and the environment related to a property under this act; and

(4) administration and enforcement of the provisions of this act.

(k) On or before the 10th of each month following the month in which moneys are first credited to the voluntary cleanup fund, and monthly thereafter on or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the voluntary cleanup fund interest earnings based on:

(1) The average daily balance of moneys in the voluntary cleanup fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(l) All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

History: L. 1997, ch. 137, § 5; July 1.