



## Ohio Administrative Code Rule 1501-7-05 Lease and sale agreements.

Effective: June 30, 2024

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(A) Any person desiring to take, divert, or otherwise make use of water for commercial, industrial, agricultural, fire protection, hydroelectric power generation, or public water supply use from a canal or canal reservoir shall first submit a request in writing to the division which includes the following:

- (1) The name, address, and telephone number of the applicant;
- (2) The name of the appropriate contact person;
- (3) The location(s) of the proposed withdrawal, diversion, or use;
- (4) The intended purpose of the withdrawal, diversion, or use;
- (5) The estimated quantity of water to be used annually;
- (6) A description of the method of withdrawal;
- (7) A description of the type of metering system to measure or method used to estimate withdrawal amounts.

(B) The chief will consult with all affected divisions in the department on all requests pursuant to paragraph (A) of this rule.

(C) Within thirty days from the date of receipt of a written request pursuant to paragraph (A) of this rule to withdraw water from a canal or canal reservoir, the director will do one of the following:

- (1) Notify the applicant that the request for a lease or sale is approved or denied, and if denied, the reason for denial; or



(2) Notify the applicant of any modification or additional information needed to evaluate the request for a lease.

(D) The rate for the cost for water for commercial, industrial, agricultural, hydroelectric power generation, and public water supply uses will be determined by the following formula:

$C = 500 + 250 (M-1)^{.75}$  C equals the annual cost in dollars and M equals the number of million gallon units of water

(E) Any lease agreement granted by the director for fire protection will be granted without cost for water to the lessee. The applicant assumes all legal and financial responsibilities for any capital operations and maintenance costs associated with such project.

(F) "Escalator clause" - the lease rate as provided for in paragraph (D) of this rule, will be recalculated every five years beginning on the first day of July following the fifth anniversary of the effective date of this rule and any increase will be at the same rate of increase as the "National Consumers Price Index" (C.P.I.). The annual base rate for calculation purposes will be the rate established by the U.S. department of labor for the city of Cleveland, Ohio, urban, all categories (C.P.I.U.) for November, 2001. That annual base rate is 172.3. The new rate will be the most recent C.P.I.U. annual rate established to the nearest month prior to the date of recalculation by the U.S department of labor. Once the new annual rate has been determined and the amount of increase has been calculated, then the new annual rate will become the base annual rate for calculation purposes for the next five year period of time. This change in rates will continue until such time as the C.P.I.U. is no longer used or the director determines that another method may be more accurate. The lease rate percentage increase will be established in the following manner:

The base annual rate will be subtracted from the new annual rate, the base rate will be divided into the difference between the base rate and the new rate and the answer will be the percentage of increase or decrease over that five year period of time:

example: new rate (nr) 176.3 - base rate (br) 172.3 = difference (df) 4.0

(df) 4.0 / (br) 172.3 = .0232 or 2.32 percent increase



current lease rate: \$10,000.00 x .0232 increase = \$232.00 new lease rate: \$10,232.00

At no time will the lease rate charged in any lease written by the state of Ohio pursuant to section 1520.03 of the Revised Code or by these rules be lowered.

Should the United States department of labor discontinue the use of C.P.I. the director will select as nearly compatible a statistical formula on the purchasing power of the consumer dollar as is then available and published in some responsible governmental publication.

(G) Any lease or sale agreement granted under this rule will be valid for a period of time as determined by the director but will not exceed twenty-five years.

(H) Any person holding a lease or sale agreement shall permit agents, employees, or other representatives of the director to inspect any pump hookups, intake structures, or records that are required under this chapter of the Administrative Code at any reasonable time.

(I) The withdrawal of water from a canal or canal reservoir at a location other than that specified in a person's lease or sale agreement or for a use other than that specified in the agreement will be considered an unauthorized withdrawal of water under section 1520.03 of the Revised Code. Any unauthorized withdrawal will be sufficient cause for the director to terminate the agreement.