



ACRE Updates

Tiffani Kavalec, Manager
CP Coffee
January 21, 2014



Email

- All Ohio EPA email extensions have changed. Old extensions are still working, but for a limited time
 - Please update your contact lists

New: @epa.ohio.gov

Old: @epa.oh.state.us



Personnel

■ New Site Coordinators

■ SWDO – 2

- Astrea Taylor
- Leslie Williams
 - 1/13/14 start date

■ SEDO – 2

- Kristy Hunt
- Dustin Tschudy

■ NEDO – 2



Training Survey Results

Risk Assessment Training – this is a broad topic. Please list the area you would like training in.	2.6
VI risk assessment training – includes evaluation of data, use of models to evaluate data, etc.	2.8
Evaluation of Saturated Zone/Aquifer Yield & Hydraulic Conductivity – includes yield testing for VAP GW classification and hydraulic conductivity testing (slug tests and falling head permeability tests).	3.4
Hands-on Ground Water Sample Training – low-flow sampling with a pump; bailer sampling; proper sampling technique; proper sample storage, etc.	3.9
Hands-on Soil, Surface Water & Sediment Sample Training – includes various sampling tools, considerations when using different tools and consideration based on parameters sampling for; includes Method 5035.	4.9
Laboratory Training – discuss various analytical methods, what the results mean, potential room for error, data validation, etc.	5.2
Subsurface Data Presentation & Evaluation – focus on evaluation various subsurface data (boring log data, ground water day, field monitoring data) and how to present this information.	6.25
Field Monitoring Training - use of common field monitoring instruments (PIDs, FIDs, 4-gas meters, LEL/O2 meters, immunoassay, etc) and use of field lab equipment such as a portable GC and portable XRF.	6.4
Geoprobe Training - includes description & applications of direct push technology; advantages and limitations; health and safety; equipment and installation requirements for soil borings, discreet ground water sampling and well installation; use of direct push for vapor intrusion/soil gas studies; etc.	6.6

Background Studies

- Lucas County – late February completion
- Montgomery – late March completion
- Summit – in progress
- Hamilton – not started



2014 Audits

- **Received 56 NFA's in 2013**
- 43 NFA letters in the priority pool where either of the following applies:
 - Where a risk assessment was conducted; or
 - Action included either a remedial activity, engineering control, and/or institutional control
 - 25% of 43 = 10.75 (11)
- 13 NFA letters not relying on a remedy
 - Random pool consists of these 13 NFAs plus all NFAs that were part of the priority pool, but not previously selected for a priority pool audit (32) – 45 total
 - 25% of 13 = 3.25 (4)
- **15 selected for audit**



2013 Summary of Selected VAP NFA's

NFA Property Name	Audit Pool	Office	NFA #	Date NFA Submitted	RA?	IC Applied	Eng. Control	O&M	Applied Remedy?
Monument Avenue Gateway	Priority	SWDO	13NFA541	12/23/2013	Yes	Yes	No	No	Yes
Brier Hill Asphalt Plant	Priority	NEDO	13NFA514	5/2/2013	-	Yes	No	No	Yes
Textron Inc.	Priority	SWDO	13NFA521	7/22/2013	-	Yes	No	No	Yes
CSU Viking Hall	Priority	NEDO	13NFA527	9/18/2013	-	Yes	No	No	Yes
Frick Gallagher	Priority	SEDO	13NFA538	12/10/2013	Yes	Yes	Yes	Yes	Yes
Linden Place	Priority	NWDO	13NFA494	1/14/2013	-	Yes	No	No	Yes
Ironton Iron Works	Priority	SEDO	13NFA512	5/1/2013	Yes	Yes	Yes	Yes	Yes
Honeywell Signal Cleveland	Priority	NEDO	13NFA492	1/14/2013	-	Yes	No	No	Yes
Penguin Cleaners	Priority	NEDO	13NFA506	4/9/2013	Yes	Yes	Yes	Yes	Yes
Goodyear Tire Building 116	Priority	NEDO	13NFA498	2/11/2013	-	Yes	No	No	Yes
Grandview Heights Yard	Priority	CDO	13NFA542	12/24/2013	Yes	Yes	No	No	Yes
Lake East Hospital	Random	NEDO	13NFA522	8/26/2013	No	No	No	No	No
Grandview Yard Big Bear	Random	CDO	13NFA544	12/24/2013	Yes	Yes	No	No	Yes
Asia Plaza	Random	NEDO	13NFA545	12/26/2013	Yes	Yes	Yes	Yes	Yes
Northern Portion PPN 791-01-010	Random	NEDO	13NFA536	11/29/2013	-	Yes	No	No	Yes

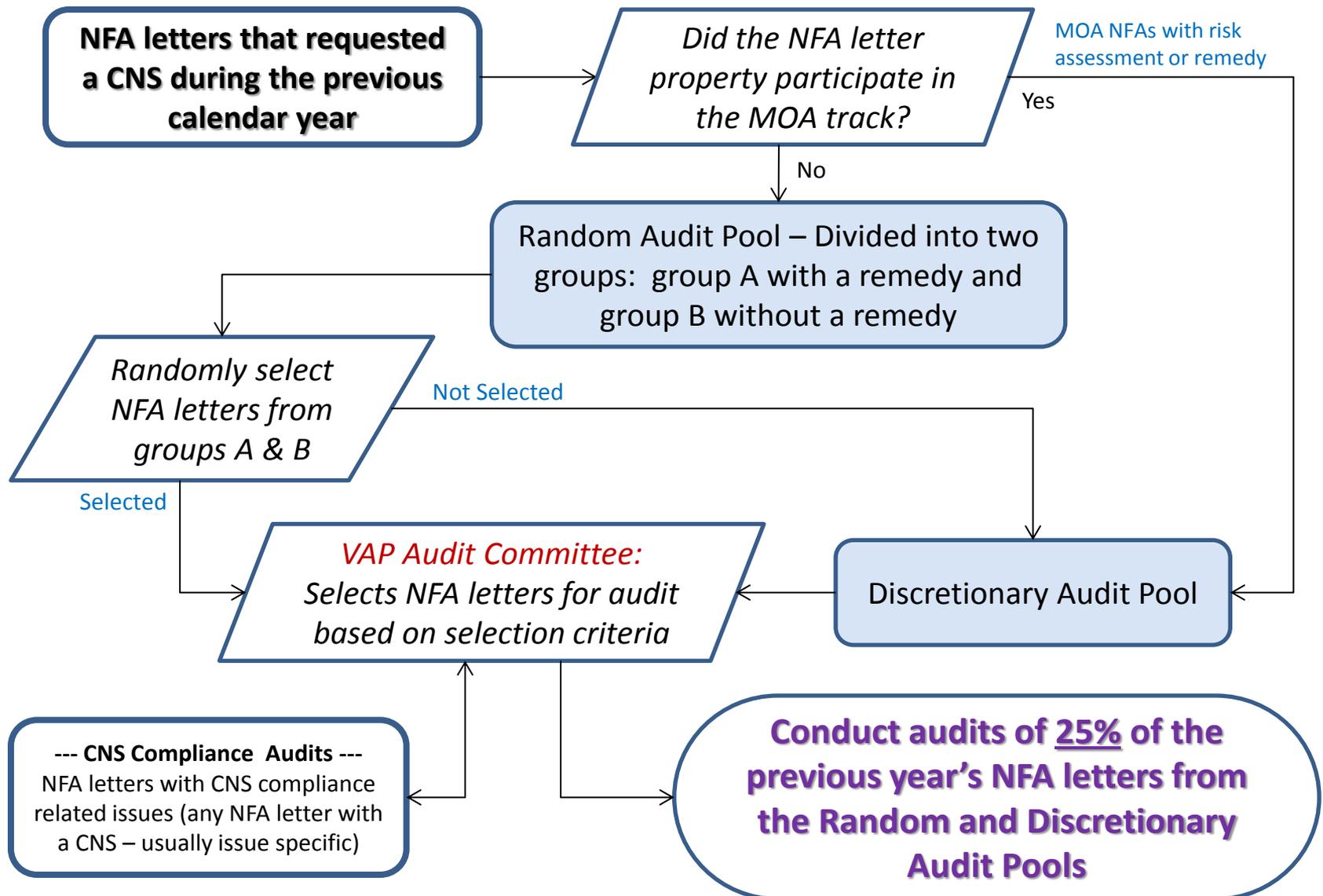
VAP 5 Year – Rule 14 - Proposals

NFAs participating in the MOA track will be exempt from the random audit pool

- NFAs that participate in the MOA track are already thoroughly reviewed prior to issuance of the NFA letter, closely along the lines of an audit
- This is beneficial, as it saves time and money for the Agency, and it will remove uncertainty for volunteers and CPs in regard to being randomly selected for audit



VAP 5 year – Rule 14 - Proposals



VAP 5 Year – Rule 14 - Proposals

Creation of the VAP Audit Committee

- The committee will determine which NFA letters will be selected for **discretionary** audits.
- The committee will make these selections by applying defined selection criteria (**to be developed**)



2014 Rule Schedule

	2014				
	Jan	Feb	March	May	July
Interested Party Review / Business Impact Analysis (BIA)	1/28	2/28			
Original File Draft Rules			3/24		
JCARR Jurisdiction/Hearing			3/24	5/17	
Effective Date (no earlier)					7/1

*Pending no unexpected delays.....



Rules and Laws Governing the Voluntary Action Program and RCRA



Voluntary Action Program Rules

In accordance with Ohio Revised Code Chapter 3746, Ohio EPA developed the necessary rules with considerable input from a steering committee and technical subcommittees representing diverse interests, such as environmental advocacy groups, manufacturers, environmental consultants, cities and counties, bankers and medical professionals.

Within the Effective Rules tab, you may click on any rule number and view the entire text of the rule on your computer screen. Like all other directly viewable Web documents, you may also print out the entire rule text or save files to your PC hard drive while you are still logged into the web page.

DERR SITE NAVIGATION LINKS

Select an item and click "Go" to navigate

Go

FEATURES

▶ CURRENT EFFECTIVE VAP RULES

As of April 18, 2013

▶ CORRECTIVE ACTION PROGRAM RULES

Pertaining to Closure, Post-Closure and Corrective Action

▶ SIGN UP FOR UPDATES

Register to receive automatic updates about our rules.

▶ AGENCY RULES

See all Ohio EPA rules.

Resource Conservation and Recovery Act (RCRA)

Ohio Revised Code (ORC) Chapter 3734 and Ohio Administrative Code (OAC) Chapters 3745-50 through 57, 65 through 69, 205, 256, 266, 270, 273 and 279 contain the rules for hazardous waste management in Ohio. These rules were developed with input from stakeholders and can be viewed on the [Division of Materials and Waste Management's website](#).

➔ If you have questions about VAP rules, email [Emily Patchen](#) or call (614) 728-5441.

➔ If you have questions about RCRA rules, email [Ed Lim](#) or call (614) 644-2824.

Announcements

Early Stakeholder Outreach

Interested Party Review

Proposed Rules

Effective Rules

Additional Information

In accordance with ORC 119.032 Ohio EPA has begun a review of the rules that govern the Voluntary Action Program. Ohio EPA will evaluate the efficacy of these rules, the efficiency of their processes, and their adherence to the statutory requirements and spirit.

[Ohio EPA VAP Five Year Rule Review - Stakeholder Informational Meetings](#)

VAP 5 Year Rule – To Do

What needs to get done before rule changes are effective:

- Review and consider comments, make any language adjustments, and develop a responsiveness summary (prior to March 17th)
- CNS revisions – currently refer to Table 10, add remedy change flexibility, etc.
- Redo CP Initial Training
- NFA review guidance for staff
- NFA Template – develop template letter from CP to Volunteer that transmits NFA; include “pass-through” demonstration/clean hands language; & get on web for use in post July 1st NFAs
- **Develop Phase II template**
 - **Audit review efficiency**



VAP 5 Year Rule – To Do

Phase II Template

- Suggested (by CPs) that we let CPs form a workgroup and develop a Phase II template
- We agree!
- Volunteers needed:
 - Please email eric.sainey@epa.ohio.gov by Friday, January 24th if you would like to participate; or
 - Sign up here before you leave today
- Kickoff meeting with volunteers in mid-February and set up process for non-volunteering CPs to review and comment
- Desire to have available for use online by July 1, 2014, but not required to be used until January 1, 2015 with new CNS requests



VAP 5 Year Rule – To Do

What needs to get done before rule changes are effective:

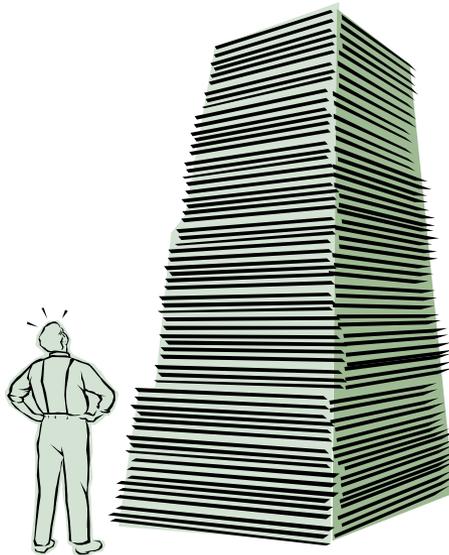
- Conceptual site model guidance update, develop examples
- Update audit guidance to reflect new rules and audit review team concept
- Pathway Omission template - “Diligent Efforts”
- Remedy Revision Notice templates
- Variance and Case by Case templates and examples



VAP 5 Year Rule – To Do

What needs to get done before rule changes are effective:

- Update Technical Guidance Compendium docs with new rules and rule citations
- Update websites



Concerns During Stakeholder Mtgs

Anxiety about not having PAYGO option remain available

Response:

- PAYGO ahead of a NFA submittal is simply TA and that option remains available
- PAYGO under to slimmed down NFA reviews loses its usefulness
- It will take us 100 hours to perform the new NFA review, INOD/FNOD, develop CNS package whether TA or PAYGO was received ahead of NFA submittal or not
- PAYGO was developed to assume cost saving for volunteers for NFA reviews if a lot of up front TA was performed
- Existing PAYGO process does not factor in agency costs for Audits or Environmental Covenant 5-year reviews
- Proposed fees of \$15,700 and \$18,200 would be the cost the agency would charge for NFA review moving forward (in a PAYGO style process or not)



Concerns During Stakeholder Mtgs

Eligibility of townships and villages for USDs

Response:

- New proposed language for Rule 3745-300-10(C)(1)(a)(iii):

A community that is surrounded by a city, or by a township with a population of twenty thousand or more residents in the unincorporated area, or by both

- Those communities not wholly surrounded by this criteria may not satisfy the concept of “urban” area, and often have adjacent rural communities which do not meet the intent of “urban” areas in the rule



VAP 5 Year - Rule 09 - Proposals

- Clarification: requirements to address impacted sediment – applies to contaminated sediment on the property and to contaminated sediment off the property impacted by releases from the property.



Renegotiation of VAP MOA

- STILL responding to questions from Region V on January 10, 2014 re:

Tank Program Review Elements

- A description of the State response program(s) for tanks and how they relate to VAP sites
- An outline of the State authorities which establish its various components
- A list of any relevant federal authorities the state has been authorized by EPA to implement concerning tanks
- A description of the universe of tank sites that would be covered/not covered by the MOA, including explanations, as appropriate
- Documentation to establish that the four CERCLA Section 128(a) elements have been established
- A timely survey and inventory of brownfields sites in the state. (This has probably been covered already as I don't expect there are any "tank only" sites that wouldn't be on the existing list)
- Oversight and enforcement authorities or other mechanisms and resources to assure compliance with the tank requirements
- Mechanisms and resources to provide meaningful opportunities for public participation and establishment of a public record
- Mechanisms for approval of a cleanup plan and verification and certification that cleanup is complete. This includes a discussion on how cleanup levels are established
- Documentation to establish that a public record is established for these sites as required by CERCLA § 128(b)(1)(C)



Renegotiation of VAP MOA

- Due to the fact that the VAP rules will not be effective until July, Region V has made it clear they will not sign the revised MOA until rules have been adopted
 - Adding in BUSTR Class C & “other” eligibility; and
 - Allowing TSCA sites and hazardous substances USTs to work concurrently with VAP while in MOA track
- Both situations can now begin MOA track, but must be satisfied before submitting NFA.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV 26 2013

REPLY TO THE ATTENTION OF:

Ms. Cindy Hafner, Chief
Division of Environmental Response and Revitalization
Ohio Environmental Protection Agency
Post Office Box 1049
Columbus, Ohio 43216-1049

Re: Memorandum of Agreement (MOA) Track Voluntary Action Program (VAP)

Dear Ms. Hafner:

This letter follows recent conversations regarding the 2007 MOA between the U.S. Environmental Protection Agency staff and the Ohio Environmental Protection Agency staff to explain and clarify the roles and responsibilities of the Agencies, and the potential utilization of the MOA-track of Ohio EPA's VAP to assess and address contaminated sites in Ohio.

In 2011 (H.B. 153) and 2012 (S.B. 294), the Ohio General Assembly amended the VAP statute to expand eligibility for the program, allowing its use for sites with certain petroleum underground storage tanks (USTs). In light of those VAP statute amendments, Ohio EPA and U.S. EPA are discussing amendments to the 2007 MOA so that these newly eligible brownfields sites would also be included.

In addition to developing appropriate legal language, the MOA amendment process may require additional EPA review of the State petroleum UST program. In the interim, however, EPA does not object if these newly eligible brownfield properties begin the MOA Track VAP, with the understanding that these properties will not receive the full benefits of the MOA with respect to petroleum underground storage tanks until the appropriate MOA amendments are finalized and effective. In addition, EPA acknowledges that brownfield properties with contamination issues to which the MOA does not apply (e.g., sites contaminated with polychlorinated biphenyls (PCBs)) are not disqualified from participation in the MOA Track VAP if they are otherwise eligible under OAC 3745-300-02. Rather, these properties are subject to other federal and/or state environmental regulatory requirements, and while they may begin the MOA track process with these requirements unfulfilled, only when those regulatory requirements are satisfied do these sites qualify for the benefits described in Section I.B.3 of the MOA.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret M. Guerriero".

Margaret M. Guerriero
Director
Land and Chemicals Division



The VAP minimizes governmental red tape and maximizes resources and expertise in the private sector. If someone wants to clean up a piece of property, it may be done following specific standards developed by Ohio EPA. When cleanup requirements are met, the director of Ohio EPA issues a covenant not to sue. 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.

What's New

Program Info/Services

How Do I?

Links and Resources

Contacts

Information & Services

- [BUSTR Class C and Class D Releases are Now Eligible for the VAP](#)
- [Fees](#)
- [Guidance](#)
- [Rules](#)
- [Technical Guidance Compendium](#)
- [Evaluation of Background Metal Soil Concentrations](#)

▶ [Certification](#)

▶ [Financial Assistance/Incentives](#)

▼ [Memorandum of Agreement \(MOA\) Track](#)

- [MOA Track Forms](#)
- [MOA Track Information](#)

