

VAP-TIM

VAP Program Updates
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Assessment, Cleanup & Reuse Section
October 23, 2012



Region V Updates

- Joan Tanaka

- Remedial Response Branch #1

- Preliminary Assessments/Site Investigation (PA/SI)
- Remedial Investigation / Feasibility Study (RI/FS)
- Proposed Plan / Record of Decision (ROD)
- Remedial Design / Remedial Action (RD/RA) **Negotiation - new**

- Tom Short

- Remedial Response Branch #2

- RD/RA **Implementation**
- Operation & Maintenance (O&M)
- Five Year Reviews



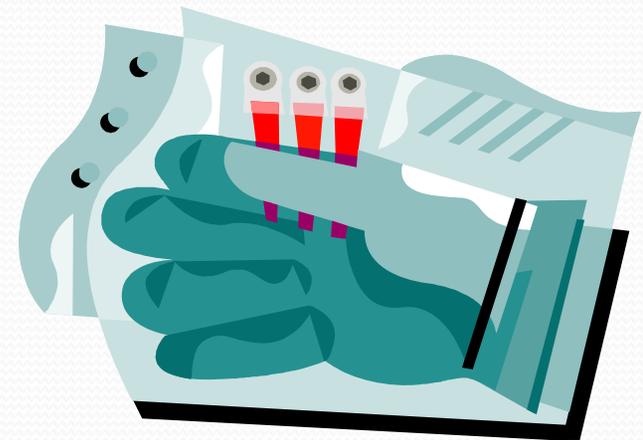
Mass Realty Decision

-Authority to collect oversight costs

- Decision is binding only in the First Appellate District, Hamilton County.
- Decision does not address federal law.
 - Section 107(a) of CERCLA, 42 U.S.C. 9607(a) authorizes states to recover response costs from responsible parties.....
- Ohio EPA will continue to pursue the recovery of response costs from responsible parties.

Ground Water Sampling Training

- ODNR - Horace Collins Laboratory – Alum Creek State Park
November 15, 2012 & December 6, 2012
 - 9:00 AM – 5:00 PM
 - 6-8 PDHUs – No cost
 - For CPs & their field staff - (limit 44 per class)
- Registration:
 - Opened on September 28th
- Additional Dates:



Ground Water Sampling Training

- 9:00 – 9:20 a.m.
- 9:20 – 10:00 a.m.
- 10:00 – 10:10 a.m.
- 10:10 – 11:00 a.m.
- 11:00 – 11:30 a.m.
- 11:30 a.m. – 12:30 p.m.
- 12:30 – 1:30 p.m.
- 1:30 – 1:40 p.m.
- 1:40 – 2:40 p.m.
- 2:40 – 2:50 p.m.
- 2:50 – 3:20 p.m.
- 3:20 – 4:10 p.m.
- 4:10 – 5:00 p.m.

Introduction

Well Development

Break (10 min)

Well Development (continued)

Pre-Sampling Field Procedures

Lunch (on your own)

Ground Water Sampling Methods

Break (10 min)

Ground Water Sampling Methods (continued)

Break (10 min)

Post-Sampling Field Procedures

Direct Push Ground Water Sampling

Monitoring Well Development and Purging Demonstration

Vapor Intrusion Sampling Training

- Soil Gas Sampling techniques:
 - Hands-on sampling. Demonstrate soil gas port installation, nested probe (soil gas) installation, basic sampling techniques – including leak testing, parameter stabilization, flow of sampler.
- Sub-slab sampling techniques:
 - Hands-on sampling. Demonstrate sub-slab installations and various options for installing sub-slab sampling ports, performing leak testing (similar to soil gas process). Discuss options/considerations for canister use, paperwork/logs.
- Discuss DQOs – with conceptual site modeling.
 - Considerations for placement of sample ports, number of samples. Plume tracking, characteristic differences between chlorinated and hydrocarbon plumes.

VAP Statistics – September 2012

- To Date:

- 499 NFAs issued
 - 29 in 2012
- 458 CNS requests
 - 39 in 2012
 - 373 issued
 - 1 voided
 - 2 revoked
 - 18 denied
 - 27 withdrawn

- Current Workload:

- 35 NFA reviews
- 22 MOA track

- 115 Open TAs
- 42 Open PAYGO TAs

- 6 USD reviews

Jul-09

Apr-10

Mar-11

July-11

Mar-12

Sept-12

NFA = 67
MOA = 21

NFA = 44
MOA = 24

NFA = 30
MOA = 27

NFA = 34
MOA = 24

NFA = 29
MOA = 23

NFA = 35
MOA = 22

TA = 100
PAYGO = 28

TA = 86
PAYGO = 43

TA = 122
PAYGO = 38

TA = 114
PAYGO = 41

TA = 131
PAYGO = 43

TA = 115
PAYGO = 42

IC = 20
Audits = 19

IC = 47
Audits = 43

IC = 39
Audits = 41

IC = 34
Audits = 43

IC = 43
Audits = 44

IC = 52
Audits = 50

USD = 9
O&M = 49

USD = 6
O&M = 51

USD = 1
O&M = 71

USD = 2
O&M = 79

USD = 4
O&M = 90

USD = 6
O&M = 93

VAP Coordinators – Central Office

Sydney Poole

- General TA (Pre NFA)
 - Internal & External
 - MOA & PAYGO
- CO USD Coordinator
- Sufficient Evidence
- Eric's Backup
 - Sit in on CP Calls
- GW Training
- NFA Reviews
 - DO overflow
- Policies & Guidance
 - GW Compliance

Eric Sainey

- NFA Review Oversight
- INOD Process
 - CP Calls
- FNOD Process
- CNS Package Review
 - DFF&Os
 - RMPs
 - ECs
 - O&M Plans
- CNS Amendments
- O&M Plan
 - Modifications
 - Terminations
- Background Workgroup
- VAP Training
- Policies & Guidance

Emily Patchen

- Post CNS Compliance
- Audit Selections
- Tier I & Tier II Audits
 - Templates & Guidance
 - Work Plans
- 5 Year Review Reports
- O&M Tracking
 - Changing dates
 - NOVs
- Property Owner Notice
- Rules Coordinator

New Staff.....



PAYGO Implementation

- Rules require PAYGO TA entry **PRIOR** to submitting NFA for CNS review
 - If submitted before opening PAYGO TA account:
 - 1) revoke request for CNS;
 - 2) request PAYGO TA; and then
 - 3) request PAYGO NFA review
- PAYGO TA = \$1,000 entry PAYGO NFA = \$1,140 fee
- Checks get lost if separate from NFA
 - If separate – must have site name or reference number

Background Workgroup

- Cuyahoga County sampling completed
- 100 samples to Microbac lab on 8/31/12.
 - 10 samples from 10 property locations
 - RCRA metal results are back
- Additionally, one bulk soil sample was submitted from each property for geotechnical analysis (grain size, Atterberg limits, soil classification, etc.)
 - Expect geotechnical report for the 10 samples by the end of September
- Reconvened workgroup members to analyze data and set background values

VAP Guidance

- Elevation Survey TGC
 - Attached
- Wet vs. Dry weight TGC
 - When requesting soil or sediment data from a CL, the CL must be asked to report the data as dry weight if the data are to be used for risk assessment purposes.
 - Stronger clarifications as to why reporting in dry weight is necessary.

- [NFA Letters w/Current Status](#)
- [No Further Action Letter Forms](#)
- [Attachment Naming Hierarchy](#)
- [Submission requirements for electronic copies of NFA Letters](#)
- [Electronic Submittals](#)
- [NFA Review Process](#)
- [NFA Response to Comments](#)
- [NFA Addenda](#)
- [Withdrawal of Request for CNS \[DOC\]](#)
- [Covenant Not to Sue Template Update \(Memo\)](#)
- [Post CNS Compliance Process](#)

Environmental Covenants/Use Restrictions:

- [Environmental Covenant Guidance](#)
- [Environmental Covenant Template DOC](#)

Operations & Maintenance - Risk Mitigation Plan:

- [Operations & Maintenance Plan Template \[DOC\]](#)
- [Operations & Maintenance Agreement \[DOC\]](#)
- [Risk Mitigation Plan Template \[DOC\] NEW](#)

▶ [PAYGO Information](#)

VAP Guidance

- RMP Template
 - Any NFA after January 1, 2013 – use new template
 - Email announcement on September 26th, 2012.
- USD Application & Guidance
 - Emphasis on how to submit the GIS shape file electronically
 - Available early 2013.



VAP Guidance

- Phase II Template? Or streamlining and revamping what constitutes a NFA Letter.....workgroup

Purpose:

- Standardize the submittals to expedite Ohio EPA review
 - Reduce audit-type NFA reviews
 - Reduce costs to volunteers
 - Rely more heavily on CP as agent for the program
 - Intention of the statute
-
- Goal is to have workgroup proposal by early 2013
 - Nullify need for current NFA Letter packaging training



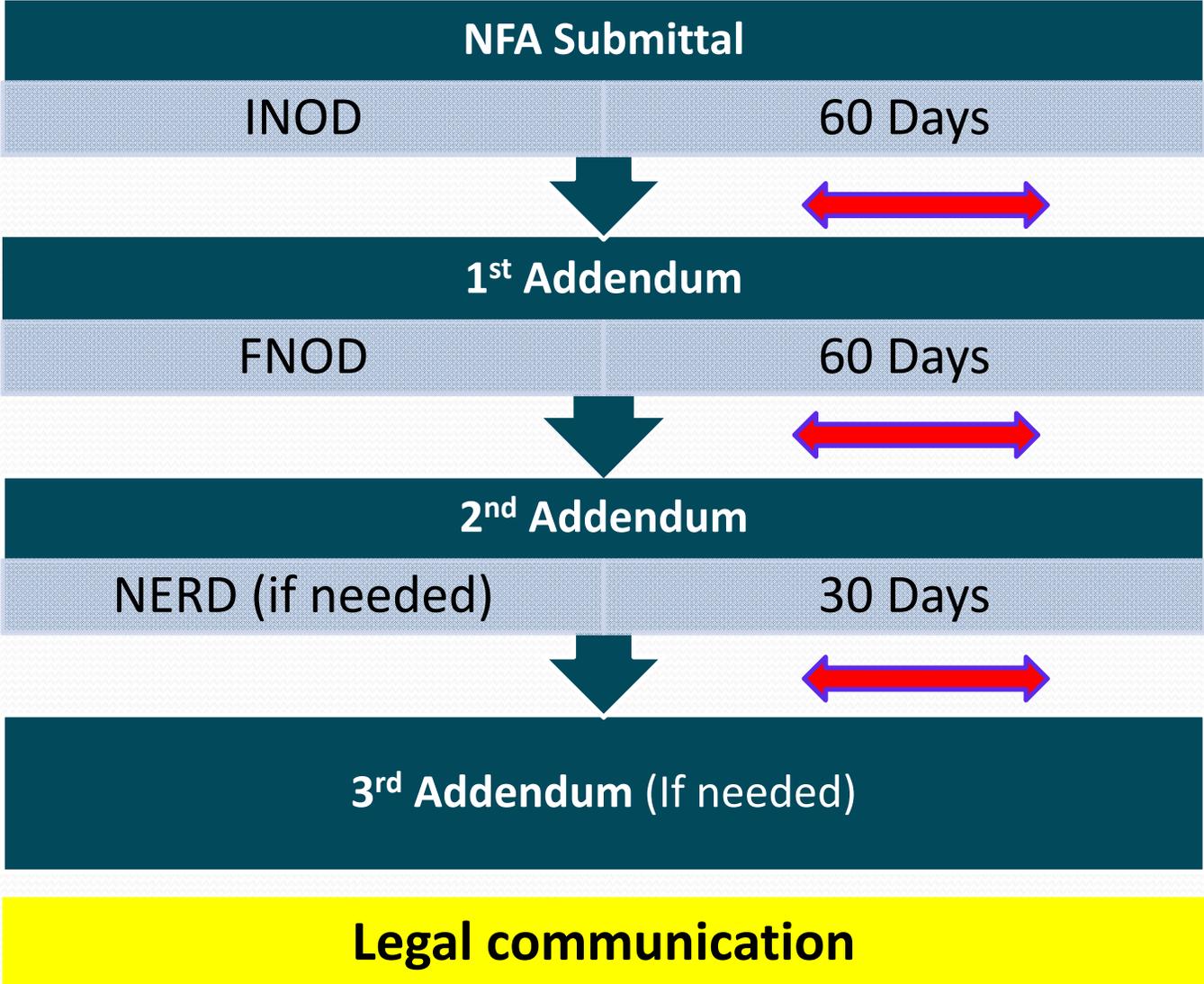
More on our VAP “to do” lists.....

- VAP/RCRA MOA Update - BUSTR eligibility, etc
- O&M Reporting templates
- DDAGW Verification Sampling guidance



NFA Review Process - LEGAL

- During 60 Day Comment Period (INOD or FNOD); or
- During 30 Day Comment Period (Exec Rem Doc Ltr)
 - Legal should be communicating with volunteer's counsel
 - Can share draft legal docs back and forth only during comment periods
- Addendum comes in from CP under affidavit
 - Everything outstanding (including additional legal comments), goes into the FNOD
 - No legal back & forth during formal addendum review



COF NFA Reviews

- <http://codes.ohio.gov/orc/122.654>
-If the applicant's notice indicates that the applicant wishes to have the no further action letter submitted to the director, promptly after receipt of the notice, the certified professional shall submit the original no further action letter to the director by certified mail on behalf of the applicant.

COF NFA Reviews

- <http://codes.ohio.gov/orc/122.655>
- **122.655 No further action letters.**
- (A)under section [122.654](#) of the Revised Code,[any restrictions](#) on the use of the property that are needed in order to comply with the applicable cleanup standards [shall be filed by the applicant](#) in the office of the county recorder
- [No applicant shall fail to comply with this division](#)



VAP - Rules

- Five year review – Due March 2014
- Staff will begin drafting changes in early 2013
- Hope to begin engaging stakeholders by Spring 2013
- Goal is to incorporate more efficiencies into the rules

Lessons Learned



VAP - ECs

- **Limitation on Building Occupancy - Remedy or Demonstration Obligation.** Prior to human occupancy of any building constructed on the [Property / portion of Property that is defined by the EC as subject to this limitation] after the recording date of this Environmental Covenant, either: (i) a remedy that eliminates indoor air vapor intrusion exposure to hazardous substances in soil or groundwater in excess of applicable standards shall be installed, operated and maintained as an engineering control under an operation and maintenance agreement in accordance with a covenant not to sue issued by the Director of Environmental Protection pursuant to ORC § 3746.12; or (ii) a demonstration attested by a certified professional shall be made to Ohio EPA, that the Property complies with applicable standards for the vapor intrusion to indoor air exposure pathway without further implementation of remedial activity and documented in accordance with ORC Chapter 3746 and the rules adopted thereunder.

VAP - ECs

- Q: Does the addition of this EC language trigger any O&M obligation to inspect to ensure continued compliance or is this implicit from the EC, like commercial/industrial use?
- A: The only reporting obligation associated with this limitation would be in the EC's *Compliance Reporting* obligation, and that obligation is triggered only "upon request by Ohio EPA."
- No O&M reporting obligation until such time as a new control needed to be monitored, e.g., vapor mitigation system, once built.



VAP - USDs

- The USD borders the Ohio River, and thus the state boundary. Rule 10(C)(2)(e)(v) requires us to survey area legal jurisdictions about their current and future ground water needs.
- VAP internal guidance says we should survey communities within 3 to 5 miles of the USD boundary. In this case, that radius extends into Kentucky.
- Should we include those jurisdictions in Kentucky in the survey?

VAP - USDs

- OAC Rule 3745-200-10(C)(2)(e) “The director may approve or deny a request for approval under this paragraph upon consideration of one or more of the following factors, *as relevant.*”
- Decided that we should look at the Kentucky communities if we consider their use a relevant factor in decision making
 - Community may not be familiar with our USD acronym, etc.
- As with any community, we can’t make them respond and any lack of response should be considered when approving or denying the USD request.
 - Answers (or lack of) may or may not be a relevant factor.

Questions?

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