



Voluntary Action Program – A Primer



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State and Federal Resources to Redevelop Blighted Properties Workshop

A Short History of the Voluntary Action Program (VAP)

- ❖ **Senate Bill 221 – implementing legislation that created the VAP- became effective September 1994**
- ❖ **S.B. 221 created Ohio Revised Code (ORC) Chapter 3746 – aka the VAP Statute**
- ❖ **Ohio Administrative Code (OAC) Chapter 3745-300 – aka the VAP Rules, adopted December 1996, revised in 2002, 2009 and 2012. Currently undergoing revisions to all the rules –expected to be completed by mid-2014**

Voluntary Action Program

- ❖ The VAP is a voluntary program, no Ohio EPA oversight is required until the **volunteer** requests a covenant not to sue (CNS)
- ❖ However, a volunteer can ask for **technical assistance** from the Ohio EPA at any point during the investigation and cleanup

Voluntary Action Program

A **volunteer** is defined as the person(s) who wishes to clean up and redevelop a contaminated property. A volunteer may be....

- ❖ Owner of the Property
- ❖ Interested purchaser (developer)
- ❖ Public entity (city, township)
- ❖ Responsible Party
- ❖ Others (lessees, etc.)



Voluntary Action Program

- The VAP is considered a privatized voluntary cleanup program. It works by the Program certifying environmental professionals and laboratories to conduct work related to the cleanup of VAP properties. These professionals, known as **Certified Professionals (CPs)** and laboratories, known as **Certified Laboratories (CLs)** must meet stringent experience, educational and quality requirements to be certified which, in turn, helps ensure that quality voluntary cleanup work is performed from the start.



VAP Technical Assistance

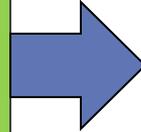
Technical assistance can be provided by the VAP when requested and is designed to help guide the CP and volunteer through the voluntary cleanup process, especially when dealing with complex site issues. VAP's technical assistance program works very similar to a consulting firm (agreement/contract and hourly billing). Grant-funded technical assistance is also available to public entities and not-for-profits.



Basic VAP Process

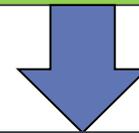
VAP Phase I:

- Property History
- Environmental History
- Site Walkover
- Determining areas of possible contamination



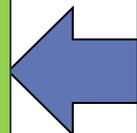
VAP Phase II:

- Sampling in areas of possible contamination
- Comparing contamination concentrations to standards (generic or risk-based standards)
- Classifying Ground Water, e.g. potable water, non-potable water, to determine standards



Remediation

- (If VAP standards are exceeded)
- Treatment /Removal
 - Engineering controls (O&M Agreement)
 - Land Use controls (Environmental Covenant)



No Further Action Letter

No Further Action Letter (NFA)

- All the information and reports prepared as a result of the VAP process that have been reviewed by a Certified Professional (CP) and have allowed that CP to determine that applicable standards, i.e. the appropriate cleanup standards, have been met and that the site is protective of human health, safety and the environment.
- If the volunteer would like to receive a **Covenant not to Sue** from the State of Ohio, the CP submits the NFA to the Ohio EPA.

Covenant Not to Sue (CNS)

- ❖ The **Covenant not to Sue** (CNS) is a release from state civil liability for the cleanup that was performed at the property.
- ❖ What that means is that the CNS protects the volunteer from future Ohio EPA enforcement for the releases described and addressed in the NFA.
- ❖ Transferable to Future Property Owners
- ❖ The CNS is recorded in the same manner as a deed to property.

Ohio EPA's Environmental Insurance Program (EIP)



Environmental Insurance - Benefits

- ❖ Addresses potential or unexpected risks that may be encountered when remediating a Property; as well as bodily injury, property damage and liability;
- ❖ Good non-capital source to demonstrate financial standing for loans; understood well by lenders and is valuable to developers for indemnity;
- ❖ Counts toward match requirements for some grant programs and covered by others



The OEPA Environmental Insurance Program

Provides Pollution Legal Liability Coverage (PLL) coverage at a 10% discount off the normal premium cost, including:

- ❖ Addressing third party lawsuits
- ❖ Addressing cost of remediating unknowns during cleanup
- ❖ Addressing legal costs associated with recovery of costs from responsible parties after finding unknowns
- ❖ Addressing bodily injury and property damage resulting from environmental clean up

How does OEPA's Environmental Insurance Program Work?

- ❖ Anyone can enter using VAP technical assistance (public entities qualify for free grant-funded technical assistance)
- ❖ Provide any documents related to the Due Diligence conducted for the property (*do not need to be VAP compliant documents*).
- ❖ You can enter into the EIP program at any time, you do not need to be in the VAP.
- ❖ Ohio EPA will review your Due Diligence documents and provide comments along with an EI checklist. You will need to select a broker to obtain insurance quotes (there is a link to qualified EI brokers on our website)

QUESTIONS???



Contact Information:

Environmental Insurance Program Website:

<http://epa.ohio.gov/portals/30/vap/docs/VAP%20INS/EIWebPagedesign.pdf>

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