



Voluntary Action Program 2018 Legislative Report



Division of Environmental Response and Revitalization

September 2019

Voluntary Action Program Annual Report to the Legislature

Summary of Activities in 2018

- 24 No Further Action (NFA) letters were issued by certified professionals (CP)
- 23 Covenants Not to Sue (CNS) were issued by Ohio EPA for 631 acres of property
- Three properties entered the Memorandum of Agreement (MOA) track
- Six NFA letters submitted in 2018 were selected for audit; 11 audits selected from previous years were completed
- Zero variances were requested
- No CNS' were revoked
- Total program cost was \$3.8 million
- Tax abatements reported from county auditors totaled \$7,385,127

Overview

Ohio's Voluntary Action Program (VAP), created in September 1994, was fully implemented in early 1997. The program was created to allow eligible participants a way to investigate possible environmental contamination, clean it up if necessary, and receive a promise from the State of Ohio (via a CNS) that no more cleanup is needed. Prior to the creation of this program, valuable land sat idle because fear of immense liability and clean-up costs deterred potential developers, businesses and banks. Some developers abandoned plans to clean up their contaminated properties because Ohio EPA, which must focus its efforts on the worst sites, could not make those properties a priority. By creating this program, Ohio recognized the need to remove the environmental and legal barriers that stalled redevelopment and reuse of contaminated properties.

This report provides an update of the program activities for 2018. For questions contact the Division of Environmental Response and Revitalization at (614) 644-2924.

Definitions

VAP (Voluntary Action Program) — A program created to allow eligible participants to undertake a cleanup project without direct oversight and be assured the property meets specific environmental standards developed by Ohio EPA. Once cleanup is complete, the company receives a promise from the State of Ohio that no more cleanup is needed.

NFA letter (No Further Action) — Describes any environmental problems found at the site, how those environmental problems were investigated, mitigated if needed, and how the site meets applicable standards.

CP (Certified Professional) — A qualified, experienced professional such as an engineer, geologist or environmental scientist, who is certified by Ohio EPA to issue NFA letters.

CNS (Covenant Not to Sue) — Legal action issued by the director of Ohio EPA that protects the property owner or operator and future owners from being legally responsible for additional investigation and cleanup.

MOA (Memorandum of Agreement) — Agreement signed with U.S. EPA stating that sites cleaned under Ohio's VAP also receive comfort that U.S. EPA would not ask for additional cleanup if the volunteer incorporates public involvement and upfront oversight from Ohio EPA.

USD (Urban Setting Designation) — Designation granted by the director exempting the cleanup of ground water to drinking water standards in urbanized areas which rely on community water systems to supply residents with safe drinking water. Other possible exposures to contaminated water such as to wildlife or streams in the area still must be addressed.

Covenants Not to Sue

During 2018, Ohio EPA issued 23 Covenants Not to Sue. The following are examples of successful revitalization projects.

[Hercules Apartments, former Hercules/White Motor Company – Canton, Stark County](#)

The project property consists of 3.6 acres of the former Hercules/White Motor Company at 1000 South Market Avenue. Industrial manufacturing dates to the 1870s when the C. Aultman Company manufactured steam-powered farm equipment. In 1930, the Hercules Engine Company began operations that included engine manufacturing, metal casting, engine testing, and a foundry. All manufacturing operations ceased in 1999. In 2005, Broadview Development/Cormony gained ownership to repurpose the deteriorating property on the southern edge of Canton's downtown.



With the downturn of the economy in 2008, the redevelopment opportunity stalled until 2013 when bank financing and an economic redevelopment bond from the city jump-started a residential reuse for the historic buildings on the property. With a \$17 million investment, 95 market-rate apartments were built into 125,000 square feet of the historic buildings. They became available in 2018.



Contaminants of concern included volatile organic compounds (VOC), semi-volatile organic compounds (SVOCs), total petroleum hydrocarbons (TPH), polychlorinated biphenyls (PCB), and metals. Remediation activities included asbestos abatement prior to renovation, implementation of soil barriers (pavement, landscaping, floor slabs) to prevent direct contact to soil, a sub-slab vapor mitigation system and vapor barriers, and land use and ground water use prohibitions. The land use is limited to restricted residential uses or commercial/industrial uses. A risk mitigation plan protects workers should any future excavations occur at the property. Direct contact barriers and vapor mitigation systems are maintained with an operation and maintenance plan.

[The Youngstown Foundation Amphitheater, Wean United facility, Youngstown, Mahoning County](#)



The project property consists of the former Wean United facility on the west edge of downtown Youngstown. The 10.5-acre property was developed as an industrial steel mill around 1885. Steel production and fabrication were conducted by various occupants including Ohio Alloy Steel, United Engineering and Wean United. Wean ceased operations in 1985 and steel cutting and warehousing occurred at the property from 2003 to about 2012. The city of Youngstown took possession of the property in 2014.

In 2018, the Youngstown Foundation Amphitheatre was constructed to provide an impressive and well-appointed 4,800-person structure that invites the community to experience the pinnacle of outdoor entertainment and community events, nestled amongst vast green spaces while overlooking the Youngstown skyline. Funding for the amphitheater included a \$4 million loan to be repaid from a share of the city's annual Community Development Block Grant disbursement and a \$3 million donation from the Youngstown Foundation that secured naming rights for the building. The venue opened in the summer of 2019.

Contaminants of concern included VOC, SVOC, TPH, PCB, and metals. Remediation activities included asbestos abatement prior to demolition, soil removal, free product oil removal from the ground water table, and land use and ground water use prohibitions. The land use is limited to recreational, commercial, and industrial uses. A risk mitigation plan protects workers should any future excavations occur at the property.



Former Joseph Demsey Steel Company, Vallorec & Mannesmann – Youngstown, Trumbull County



The former Joseph Demsey Steel Company processed steel at the property from 1972 to 1993. Raw hydrochloric acid and spent pickle liquor were stored and used at the facility as part of leveling, cutting, blanking, and slitting of steel products. General Steel operated steel warehousing and brokering at the property from the 1950s to 1972. After 1993, the property sat vacant and fell into disrepair.

The City of Youngstown acquired the 14.7-acre property in 2009 in support of the Vallorec & Mannesmann (V&M) steel mill which was planning a \$500 million expansion with 500 new jobs on its existing site, south and adjacent to the property. The city was awarded a \$1.2 million Clean Ohio Revitalization grant in 2010 for cleanup and to provide potential opportunities at the property for V&M or other commercial/industrial users. V&M proceeded with their plant expansion and currently uses the property for product storage.



Contaminants of concern included VOC, SVOC, TPH, PCB, and metals. Remediation activities included asbestos abatement prior to demolition, removal of industrial waste materials, drums, tanks, and liquids in pits/vats, soil removal, and land use and ground water use prohibitions.

In 2015 during the Ohio EPA's review of the No Further Action Letter, the City encountered previously unknown chemical wastes during excavation of utilities along the northern property boundary. This resulted in additional soil and waste removal. The Voluntary Action Program worked with the city as they sought additional cleanup funds. Upon completion of the remedy the Covenant Not to Sue was issued in 2018. The land use is limited to commercial/industrial use. A risk mitigation plan protects workers should any future excavations occur at the property.

Summary of Covenants Not to Sue Issued in 2018

County	*NFA #	Site Name	Date CNS Issued	CP Name, Number	Acreage	Volunteer	Site Address, City	Ohio EPA District
Ashtabula	*18NFA698	Middle Rd Prop, Ashtabula	09/26/18	Svitana, K CP247	67.44	Middle Road Properties, LLC	3325 Middle Rd, Ashtabula	NEDO
Butler	17NFA688	Aeronca Inc, Middletown	05/08/18	Schucker, J CP192	7.81	City of Middletown	2200 Wedekind Dr, Middletown	SWDO
Butler	*16NFA649	STM Redevelopment, Middletown	11/01/18	Luessen, M CP267	5.06	City of Middletown	810 First Ave, Middletown	SWDO
Crawford	17NFA691	Amerace Swan Hose, Bucyrus	03/15/18	Pradhan, M CP108	28.4	TPI Acquisition Subsidiary, Inc.	201 East Beal Ave, Bucyrus	NWDO
Cuyahoga	*17NFA683	Orlando Bake/V Dorn Cleveland	02/26/18	Pandey, A CP224	2.62	ORFAM Limited Partnership and the City of Cleveland	2700 E 79th St, Cleveland	NEDO
Cuyahoga	*17NFA674	Coyne Textile Fac Cleveland	03/07/18	Knecht, M CP105	6.25	12315 Kirby, LLC	12315 Kirby Ave, Cleveland	NEDO
Cuyahoga	17NFA681	Fortuna Development, LLC	03/15/18	Zampino, J CP280	11.79	Fortuna Development, LLC	2525 Rockefeller Ave, 2655 Transport Road and 2727 Transport Road, Cleveland	NEDO
Cuyahoga	18NFA703	E 69th Hotel Dev Cleveland	11/13/18	Bowyer, P CP362		Health Tech Hospitality, LLC	6955 Euclid Ave, Cleveland	NEDO
Fairfield	17NFA686	Lancaster Glass	02/13/18	Savage, B CP265	2.7	City of Lancaster	240 W Main St, Lancaster	CDO
Franklin	16NFA673	Graham Ford, Columbus	02/06/18	Regalbuto, D CP235	6.78	Development Company, LLC	707 W Broad St, Columbus	CDO
Geauga	*17NFA690	Nalco Diversified Tech Inc	03/26/18	Lozier, W CP135	5.86	Nalco Company LLC	7145 Pine Street, Chagrin Falls	NEDO
Jefferson	17NFA680	RG Steel-COAF Study Area	01/25/18	Kreeger, D CP330	109	River Rail Development, LLC	440 South Third St, Steubenville	SEDO
Lorain	*16NFA672	Ford M Lorain IRG COAF Parc	04/25/18	Momenee, M CP236	104.1	IRG Lorain North, LLC	5401 Baumhart Rd, Lorain	NEDO
Lucas	*17NFA687	Toledo Edison 1045 Post St	02/26/18	Reaman, K CP250	14.9	Toledo Edison Company	1045 Post St, Toledo	NWDO
Mahoning	*17NFA685	Wean United Ind Youngstown	02/26/18	Smith, J CP121	10.43	City of Youngstown	219 South Phelps St, Youngstown	NEDO
Mahoning	*17NFA684	Yngstwn Sheet/Tube Campb N	04/04/18	Smith, J CP121	32.84	City of Campbell	100 Industrial Rd, Campbell	NEDO
Portage	17NFA676	Chestnut Commerce Center	01/09/18	Knecht, M CP105	47.26	Chestnut Commerce Center, LLC	6800 North Chestnut Str, Ravenna	NEDO
Portage	17NFA695	AMETEK Industrial Products	05/23/18	Smith, J CP121	14.03	City of Kent	627 Lake St, Kent	NEDO
Sandusky	17NFA697	Whirlpool Park, Green Spring	03/08/18	Roelker, R CP157	27.02	Whirlpool Corporation	1911 CR 187 (1911 TR 187), Green Springs	NWDO
Stark	18NFA701	White Engine Inc Canton	08/21/18	Smith, J CP121	3.7	Broadview Department	1000 Market St, Canton	NEDO
Trumbull	17NFA581	Demsey Steel, Girard	06/05/18	Pierko, J CP186	17.77	City of Youngstown	1300 S State St, Youngstown	NEDO
Trumbull	17NFA689	BRT Extrusions, Inc.	09/10/18	Smith, J CP121	26.06	BRT Property Group, LLC	1818 North Main Street, Niles	NEDO
Wood	17NFA679	E Broadway Ind Warehouse	01/18/18	Momenee, M CP236	79.41	Pikington North America, Inc	1769 and 2151 East Broadway St, Northwood	NEDO

*Indicates applicable standards were established through performance of a Site-Specific Risk Assessment rather than the generic numerical standards provided in OAC 3745-300-08

NOTE: Ohio EPA Districts: CDO = Central District (Columbus); NEDO = Northeast District (Twinsburg); NWDO = Northwest District (Bowling Green); SEDO = Southeast District (Logan); SWDO = Southwest District (Dayton)

VAP Memorandum of Agreement Track

The MOA track program incorporates public involvement and up-front oversight into the existing VAP process. Volunteers who follow this track of the VAP obtain both a CNS from Ohio EPA and assurance that U.S. EPA will not require any additional cleanup at the site. Three properties entered the MOA track in 2018. The original VAP process, known as the classic VAP track, is also available to volunteers who are not seeking federal assurance and prefer not to incorporate up-front Agency oversight or public involvement into the voluntary cleanup process.

VAP staff created procedures and documents to assist volunteers and CPs through a voluntary action that meets both the traditional VAP requirements and the additional public involvement and Ohio EPA review requirements for the MOA track. Detailed information about the VAP's MOA track process, including a copy of the MOA between Ohio EPA and U.S. EPA, can be found at epa.ohio.gov/portals/30/vap/docs/MOA%20Track.pdf.

Properties that Entered the MOA Track in 2018

County	Property Name - Address, City	Volunteer	Date Entered MOA Track
Muskingum	Ungemach Pottery Property – 26 Potters Lane, Roseville	The Freddie J. Dixon Foundation	February 28
Clark	Moyno Inc – 1895 West Jefferson Street, Springfield OH 45501	Moyno Inc.	April 10
Warren	Peters Cartridge Factory – 1415 Grandin Road, King Mills	Peters Cartridge Factory, LLC	November 15

Audits of No Further Action Letters

The VAP is required to audit at least 25 percent of the NFA letters submitted to Ohio EPA during the previous calendar year. NFA letters may also be audited on a discretionary basis. Ohio Administrative Code 3745-300-14 defines the audit pools and the selection process. The random audit pool and discretionary audit pool are established annually from the previous year's NFA letters that requested a CNS. Another audit type, a compliance audit, may be conducted at any time for any NFA letter with a CNS.

NFA letters selected for audit from the random audit pool must follow the audit review procedures of a Tier I/Tier II audit outlined in the rule. Both the discretionary audits and compliance audits follow the procedures of a Tier I/Tier II audit, but the program also has the flexibility within the rule to deviate from those procedures. The Tier I audit involves the review and analysis of the NFA letter and supporting documents and includes a property walkover. The Tier II audit is performed, as needed, following completion of a Tier 1. A Tier II audit typically consists of a physical inspection and field investigation to confirm applicable standards were met.

Six audits of NFA letters requesting a CNS submitted during the previous year (2018) were initiated. The following table summarizes the name and address of the properties audited, the NFA number, the basis for selecting the property for audit, and the status of the audit. Ten audits initiated in previous years were completed in 2018.

NFA Letters Received in 2018 Selected for Audit in 2019

County	Project Name	Address	Volunteer	NFA #	District	Audit Pool
Cuyahoga	Voss Industries, Inc.	2168 West 25th Street, Cleveland	Voss Industries, LLC	18NFA699	NEDO	Discretionary
Franklin	Gravity Project	500 W Broad St, Columbus	The Gravity Project LLC	18NFA700	CDO	Random
Cuyahoga	Henninger Landfill	4103 Pearl Road, Cleveland	Western Reserve Land Conservancy	18NFA702	NEDO	Discretionary
Lorain	Tappan Stove Mfg	856 Garden Street and 206-208 Woodford Ave, Elyria	City of Elyria	18NFA709	NEDO	Random
Hancock	Proposed Distribution Center	1000 Campbell Drive, Findlay	Campbell Soup Supply Company, LLC	18NFA714	NWDO	Random
Mercer	BP 69376, Fort Recovery	2318 State Route 49, Fort Recovery	BP Products North America Inc.	18NFA721	NWDO	Discretionary

VAP Expenditures for Calendar Year 2018

Personnel	
Fund 4R9 - VAP Fund	\$823,606
Hazardous Waste Management Fund (505)	\$916,342
Environmental Protection Fund (5BC)	\$1,160,359
U.S. EPA Grants (Federal dollars)	\$103,975
Clean Ohio (5S10)	\$76,401
	\$3,080,684
Total Cost of Personnel	
Maintenance of the Program	
Fund 4R9 - VAP Fund	\$202,156
Hazardous Waste Management Fund (505)	\$174,526
Environmental Protection Fund (5BC)	\$264,536
U.S. EPA Grants (Federal dollars)	\$289
Clean Ohio (5S10)	\$2,276
	\$ 643,782
Total Cost of Maintenance	
Equipment	
Fund 4R9 - VAP Fund	\$10,165
Hazardous Waste Management Fund (505)	-
Environmental Protection Fund (5BC)	-
U.S. EPA Grants (Federal dollars)	-
	\$10,165
Total Cost of Equipment	
Contractual and Other	
Fund 4R9 - VAP Fund	\$53,215
Hazardous Waste Management Fund (505)	\$ 13,514
Environmental Protection Fund (5BC)	\$2,573
U.S. EPA Grants (Federal dollars)	-
	69,302
Total Cost of Contractual and Other	
Total VAP Program Cost	\$3,803,932

VAP Revenues for Calendar Year 2018

VAP Administration Fund Revenue	
Certified Professional Fees	\$247,004
Certified Laboratory Fees	\$36,288
No Further Action (NFAs) Fees	\$320,673
Technical Assistance Cost Recovery	\$681,276
CP Training Reimbursements	-
AGO Collected	\$1,025
Misc. - Intra-governmental, photocopying, etc.	\$171
Clean Ohio Funded NFA Reimbursements and Interest	\$77,968
Total VAP Administration Fund Revenue	\$1,364,406

Tax Abatements in 2018

According to Ohio Revised Code 5709.87, parcels included in a Covenant Not to Sue (CNS) issued by the Director of Ohio EPA are exempt from the increase in assessed value between commencement of remedial activities and issuance of the CNS. The exemption allows for a 10-year abatement period. The following is a list of the counties with parcels eligible for tax exemption and the amount of taxes abated.

County	Number of properties	Taxes abated in 2017
Allen	2	*
Ashland	5	\$5,990.00
Ashtabula	4	*
Athens	1	*
Auglaize	1	\$2,928.64
Belmont	3	\$995.18
Butler	8	*
Carroll	1	\$0.00
Champaign	2	\$820.00
Clark	3	\$908.00
Clermont	1	\$0.00
Clinton	1	\$0.00
Columbiana	2	*
Coshocton	2	\$16.15
Crawford	1	*
Cuyahoga	66	\$4,491,060.45
Darke	1	\$0.00
Delaware	1	*
Erie	5	*
Fairfield	4	\$0.00
Franklin	42	\$2,387,145.26
Fulton	1	*
Geauga	3	\$0.00
Greene	4	\$27,856.15
Hamilton	30	*
Hancock	1	\$0.00
Hardin	1	\$0.00
Henry	1	\$0.00
Hocking	1	\$0.00
Huron	1	\$0.00
Jackson	3	\$0.00
Jefferson	3	*
Knox	2	\$10,294.56
Lake	6	\$2,862.00
Lawrence	4	\$2,899.90
Licking	1	*
Lorain	8	\$248,126.18
Lucas	16	\$0.00
Mahoning	11	\$0.00
Marion	2	*
Medina	1	\$0.00
Mercer	1	\$0.00
Miami	3	\$0.00
Montgomery	18	*
Perry	3	*
Pickaway	1	\$0.00
Portage	7	\$467.59
Putnam	1	\$0.00

County	Number of properties	Taxes abated in 2017
Richland	6	\$0.00
Ross	1	\$0.00
Sandusky	2	\$0.00
Scioto	5	\$729.18
Seneca	4	\$0.00
Stark	9	*
Summit	21	\$0.00
Trumbull	3	*
Tuscarawas	1	\$2,226.34
Van Wert	1	\$0.00
Vinton	1	*
Wayne	1	*
Williams	2	\$0.00
Wood	1	\$0.00
Wyandot	1	\$0.00
Totals	349	\$7,385,127.91

*County did not provide a report



Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049
(614) 644-3020
www.epa.ohio.gov

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