



Voluntary Action Program

2017 Legislative Report



Division of Environmental Response and Revitalization
September 2018

Voluntary Action Program Annual Report to the Legislature

Summary of Activities in 2017

- 23 No Further Action (NFA) letters were issued by certified professionals (CP).
- 17 Covenants Not to Sue (CNS) were issued by Ohio EPA for 225 acres of property.
- Three properties entered the Memorandum of Agreement (MOA) track.
- Six NFA letters submitted in 2017 were selected for audit; 10 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 \$305,015.

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 2017. 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 and 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 2017, Ohio EPA issued 17 Covenants Not to Sue. The following are examples of successful revitalization projects:

Miceli Lograsso Company Expansion – Cleveland, Cuyahoga County

The project property consists of the Miceli's Dairy primary manufacturing facility along E 90th Street and an adjacent property with a history of industrial operations dating back to 1887. In 1923 John Miceli, Sr. started the business and has operated at this facility since 1949. Operations expanded over the years to include food service distributors, schools, government institutions as well as fresh and frozen food entrees. The company's success and growth required operations and facilities at multiple properties. Rather than leaving for more attractive property, the Miceli's invested in their neighborhood. The project allowed consolidation and expansion adjacent to the main production facility and offers further expansion in the future.



Photo credit: Ohio Development Services Agency

In 2013, the new Miceli's visitor center was constructed as well as new milk intake center, test kitchen and research and development center. The estimated \$20 million phase 1 expansion project received financing from the Small Business Administration and local and state financing for road and infrastructure improvements. The Clean Ohio Revitalization Fund awarded a grant to the city of Cleveland for cleanup activities.

Contaminants of concern included metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), petroleum products, polycyclic aromatic hydrocarbons (PAH) and polychlorinated biphenyls (PCB). Remediation activities included asbestos abatement, soil removal and land use and ground water use prohibitions. The land use restriction limits the site for commercial or industrial purposes and includes a restriction prohibiting the extraction or use of ground water.

The Pointe at Blacklick Property, Reynoldsburg, Franklin County



Photo credit: <https://listings.byredwood.com>

The approximately 17-acre property was used for more than 50 years as an apple orchard and a residence. In the 1980s many of the trees were removed and between 2000 and 2011 all structures and remaining trees were removed. Contaminants of concern included metals, pesticides and herbicides.

Remediation included soil removal. Property restrictions include land use for restricted residential. Construction began on ranch style apartment units in 2017.

Former Toledo Jeep Parkway, Trails and Recreation Property – Toledo, Lucas County

The former Toledo Jeep Parkway trails and recreation property is part of the former Willys Jeep manufacturing facility. First developed in the 1880s, manufacturing operations included sewing machines, bicycles and automobiles under various ownership until 2006. The volunteer, Toledo-Lucas County Port Authority, purchased the site in 2010 with the intent to redevelop the property into the Overland Industrial Park including a trails and greenspace area along the Ottawa River. Among other incentives, the Port received a \$1.4 million Clean Ohio Revitalization Fund grant to perform remediation activities and install park features. The property will be used primarily for greenspace as well as a riparian restoration and phytoremediation area. Infrastructure improvements along Jeep Parkway and a new interchange at I-75 and Willys Parkway will ease access to the property.



Contaminants of concern were metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), petroleum and polycyclic aromatic hydrocarbons (PAH). Remediation included asbestos abatement and soil excavation.

The property is limited to restricted residential uses which is suitable for recreational purposes. Additionally, the potable use of ground water is prohibited and a restriction for constructing habitable structures without first conducting a vapor intrusion investigation to demonstrate protection of future users. The riparian and phytoremediation area was constructed along the west bank of the Ottawa River in cooperation with the University of Toledo. This area is designed to reduce flooding, sediment loading to the river and create a natural habitat. An area between the proposed Jeep Parkway and the Ottawa River is being studied by the Army Corps of Engineers for a Great Lake Fishery and Ecosystem Restoration Program. One portion of the former parking lots west of the Ottawa River may be used for future commercial/industrial use.



Photo credit: Home Ave. Redevelopment LLC

Dayton Aviation Heritage Redevelopment Project - Dayton, Montgomery County

A portion of the property was first developed about 1910 by the Wright Company to manufacture airplanes and airplane components. By 1919, the property was also occupied by the Standard Foundry Company and General Motors (GM). In January 1999, Delphi Automotive separated from GM and continued manufacturing automotive components until 2008. A

development entity, Home Ave. Redevelopment LLC, acquired the site in 2012. Remarkably, the former Wright Company buildings were preserved from demolition or renovation over the years and are one of the few remaining icons of the Wright Brothers presence in the Wright-Dunbar neighborhood. This portion of the 54-acre site is intended for use as the Dayton Aviation Heritage Museum through the National Park Service. The remainder of the property will be used for commercial or industrial purposes.

Contaminants of concern included metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), petroleum and polychlorinated biphenyls (PCB). Remediation included asbestos abatement and soil removal on property as well as sub-slab depressurization systems in off-property structures to mitigate vapor intrusion. The property is limited to commercial/industrial use and the potable use of ground water is prohibited. Additionally, a portion of the property contains a restriction for constructing habitable structures without first conducting either a vapor intrusion investigation or a remedy to mitigate risk for vapor intrusion.



Photo credit: clevelandmetroschools.org

Max Hayes Career Tech High School – Cleveland, Cuyahoga County

The 13-acre project property is located in an area of Cleveland commonly referred to as the stockyards. From at least 1884, the southern portion of the site was a livestock slaughterhouse. A cooperage was also present from the late 1800s until the 1930s. The slaughterhouse ceased operation around 1960. A craft store and a church used the property until 2006. The remainder of the property was used for a variety of commercial and industrial uses including metal stamping, dry cleaning, machine shop, warehouse storage for solvents, a gasoline service station and auto shop and metal spinning. Areas of the property not used for commercial or industrial activity were occupied by residences, small restaurants and neighborhood bars/taverns.

In 2006, the Cleveland Municipal School District acquired a majority of the property razing the remaining buildings in 2012. The final piece of the property was assembled in 2013 and remediation activities began. Construction of a new vocational high school was complete in 2015.

Contaminants of concern included metals, volatile organic compounds (VOC), polycyclic aromatic hydrocarbons (PAH), petroleum and polychlorinated biphenyls (PCB). Remedial activities included asbestos abatement, soil excavation and vapor mitigation system. The property is limited to certain allowable residential uses, including a school. The use of ground water for potable use is prohibited and future structures are limited to slab-on-grade construction.

The \$48 million new school aims to provide students with a hands-on education in high-tech industries including manufacturing and engineering, construction technology and diesel technology. Programs also offer job shadowing, internships and earning college credits.

Summary of Covenants Not to Sue Issued in 2017

County	*NFA #	Site Name	Date CNS Issued	CP Name, Number	Acreage	Volunteer	Site Address, City	Ohio EPA District
Ashland	16NFA650	Grumman Flexible, Loudonville	7/14/17	Pradhan, M CP108	16	MCI Service Parts Inc	520 N. Spring St., Loudonville	NWDO
Belmont	16NFA660	Imperial Plaza, Bellaire	7/10/17	Betts, S CP363	10.21	BI Imperial, LLC	360 28th St., Bellaire	SEDO
Cuyahoga	*15NFA632	Max Hayes Technical School, Cleveland	3/15/17	Knecht, M CP105	13.81	Cleveland Municipal School District	2211 West 65th St., Cleveland	NEDO
Cuyahoga	16NFA662	Miceli Lograsso Co Expansion, Cleveland	5/30/17	Zampino, J CP280	16.18	Miceli Dairy Products Company	2720 East 90th St., 2734 Tennyson Rd., 2801 Grand Ave., Cleveland	NEDO
Cuyahoga	*17NFA677	St Vincent Charity Medical Ctr, Cleveland	11/15/17	Smith, J CP121	2.4	City of Cleveland	2351 East 22nd St., Cleveland	NEDO
Cuyahoga	17NFA678	Standard Building, Cleveland	5/16/17	Knecht, M CP105	0.52	1370 Standard Building, LLC	1370 Ontario St., Cleveland	NEDO
Franklin	14NFA600	Means Services Fac Former, Columbus	6/19/17	Gross, S CP193	3.18	Aramark Uniforms and Apparel, LLC LAPCO R/E Holdings, LLC	3540 E. Fifth Ave., Columbus	CDO
Franklin	*16NFA664	The Pointe at Blacklick, Reynoldsburg	4/25/17	Garvey, J CP118	17.44	Reynoldsburg One, LLC	John Street and Lancaster Ave., Reynoldsburg	CDO
Franklin	*17NFA675	Columbus Works, former - Parcel D	8/22/17	Brown, D CP127	16.98	Empire Ventures / 6200 E Broad LLC	6200 E. Broad St., Columbus	CDO
Hamilton	*16NFA661	CSXT Cincinnati Buck St	12/12/17	Iden, B CP312	2.63	CSX Transportation	2261 Buck St., Cincinnati	SWDO
Lake	16NFA659	CP Chemical Facility, former	5/18/17	Garvey, J CP118	8.5	Umicore USA Inc.	28960-29008 Lakeland Blvd., Wickliffe	NEDO
Lorain	16NFA656	St Joseph Community Ctr, Lorain	8/15/17	Wilburn, E CP306	4.93	City of Lorain South Shore Community Development Corp.	205 West 20th St., Lorain	NEDO
Lucas	16NFA663	Toledo Jeep Assembly Plant	11/21/17	Momenee, M CP236	29.6	Toledo-Lucas County Port Authority	0 and 1000 Jeep Parkway and 830 Berdan Ave., Toledo	NWDO

County	*NFA #	Site Name	Date CNS Issued	CP Name, Number	Acreage	Volunteer	Site Address, City	Ohio EPA District
Marion	16NFA655	Fairfield Engineering Former, Marion	9/20/17	Paetz, J CP315	7.99	Clarksco Properties, LLC	324 Barnhart St., Marion	NWDO
Montgomery	*16NFA647	Dayton Aviation Heritage Redevelopment	10/5/17	Funk, L CP286	54.35	City of Dayton Home Ave Redevelopment, LLC	2701 Home Ave., Dayton	SWDO
Montgomery	16NFA671	Wright State University Kettering Center	2/2/17	Gross, S CP192	0.82	City of Dayton Board of Trustees Wright State University	140 E. Monument Ave., Dayton	SWDO
Portage	16NFA654	ODOT District 4 Ravenna	1/4/17	Reaman, K CP250	19.79	Ohio Department of Transportation	Rear of 705 Oakwood St., Ravenna	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.

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 2017. The original VAP process, known as the classic VAP track, also is 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 2017

County	Property Name - Address, City	Volunteer	Date Entered MOA Track
Jefferson	Yorkville Intermodal Terminal Property – 0 Old Rte. 7, Yorkville	Yorkville Intermodal Terminals LLC	January 11
Cuyahoga	E. 69th Hotel Development – 6975 Euclid Ave., Cleveland	Cuyahoga County Dept of Development & Health Tech Hospitality LLC	March 22
Allen	Randall Bearings – NE Intersection of Paul and Atlantic Streets, Lima	Randall Graphite Bearings, Inc.	April 10

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 also may 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 (2017) 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 2017.

NFA Letters Received in 2017 Selected for Audit in 2018

County	Project Name	Address	Volunteer	NFA #	District	Audit Pool
Cuyahoga	Coyne Textile Facility	12315 Kirby Ave. Cleveland	12315 Kirby, LLC	17NFA674	NEDO	Random
Cuyahoga	Orlando Bakery/ Van Dorn	2525 Rockefeller Ave.; 2655 and 2727 Transport Rd. Cleveland	ORFAM Limited Partnership City of Cleveland	17NFA683	NEDO	Discretionary
Geauga	Nalco Diversified Technologies, Inc.	7145 Pine St. Chagrin Falls	Nalco Company, LLC	17NFA690	NEDO	Random
Montgomery	Waynetown Plaza Shopping Center	7603, 7635-7747 Old Troy Pike, Huber Heights	Waynetown Plaza, LLC	17NFA682	SWDO	Discretionary
Portage	AMETEK Industrial Products	627 Lake St. Kent	City of Kent	17NFA695	NEDO	Random
Wood	East Broadway Industrial Warehouse	1769 and 2151 E. Broadway St., Northwood	Pilkington North America, Inc.	17NFA679	NWDO	Discretionary

VAP Expenditures for Calendar Year 2017

Personnel

Fund 4R9 - VAP Fund	\$ 760,652
Hazardous Waste Management Fund (505)	\$ 1,227,811
Environmental Protection Fund (5BC)	\$ 674,513
U.S. EPA Grants (Federal dollars)	\$ 156,389
Clean Ohio (5S10)	\$ 129,262

Total Cost of Personnel \$ 2,948,627

Maintenance of the Program

Fund 4R9 - VAP Fund	\$ 290,538
Hazardous Waste Management Fund (505)	\$ 199,214
Environmental Protection Fund (5BC)	\$ 383,166
U.S. EPA Grants (Federal dollars)	\$ 387
Clean Ohio (5S10)	\$ 45,397

Total Cost of Maintenance \$ 918,702

Equipment

Fund 4R9 - VAP Fund	\$ 1,534
Hazardous Waste Management Fund (505)	\$ -
Environmental Protection Fund (5BC)	\$ -
U.S. EPA Grants (Federal dollars)	\$ 4,896

Total Cost of Equipment \$ 6,430

Contractual and Other

Fund 4R9 - VAP Fund	\$ 21,873
Hazardous Waste Management Fund (505)	\$ 28,474
Environmental Protection Fund (5BC)	\$ 1,808
U.S. EPA Grants (Federal dollars)	\$ -

Total Cost of Contractual and Other \$ 52,155

Total VAP Program Cost \$ 3,925,914

VAP Revenues for Calendar Year 2017

VAP Administration Fund Revenue

Certified Professional Fees	\$234,733
Certified Laboratory Fees	\$34,869
No Further Action (NFAs) Fees	\$293,000
Technical Assistance Cost Recovery	\$375,465
CP Training Reimbursements	\$-
AGO Collected	\$1,218
Misc. - Intra-governmental, photocopying, etc.	\$1,585
Clean Ohio Funded NFA Reimbursements	\$149,167
Total VAP Administration Fund Revenue	\$1,090,037

Tax Abatements in 2017

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	\$0.00
Ashtabula	4	*
Athens	1	*
Auglaize	1	\$0.00
Belmont	3	\$0.00
Butler	8	*
Carroll	1	\$0.00
Champaign	2	\$0.00
Clark	5	\$8,236.01
Clermont	1	\$0.00
Clinton	1	*
Columbiana	2	*
Coshocton	2	\$15.88
Cuyahoga	62	*
Darke	1	\$0.00
Delaware	1	*
Erie	5	\$0.00
Fairfield	2	\$0.00
Franklin	40	*
Fulton	1	\$0.00
Geauga	2	\$0.00
Greene	4	*
Hamilton	30	\$196,221.99
Hancock	1	\$0.00
Hardin	1	*
Henry	2	\$0.00
Hocking	1	\$0.00
Huron	1	\$0.00
Jackson	3	\$6,270.78
Jefferson	3	\$1,007.34
Knox	2	\$14,795.84
Lake	6	\$0.00
Lawrence	4	\$22,764.03
Licking	1	*
Lorain	7	\$47,703.44
Lucas	17	\$0.00
Mahoning	9	\$57.40
Marion	2	\$0.00
Medina	1	\$0.00
Mercer	1	\$0.00
Miami	3	\$0.00
Montgomery	18	*

County	Number of properties	Taxes abated in 2017
Perry	3	*
Pickaway	1	\$0.00
Portage	5	\$167.05
Putnam	1	\$0.00
Richland	4	\$0.00
Ross	1	\$0.00
Sandusky	1	\$0.00
Scioto	2	\$717.39
Seneca	4	\$0.00
Stark	9	*
Summit	22	\$2,282.00
Trumbull	3	*
Tuscarawas	1	\$2,202.62
Van Wert	1	*
Vinton	1	*
Wayne	1	\$2,573.00
Williams	3	\$0.00
Wyandot	1	*
Totals	333	\$305,014.77

*County did not provide a report



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