



OHIO VOLUNTARY ACTION PROGRAM

**ANNUAL REPORT
TO THE
OHIO LEGISLATURE**

JULY 1999 - JUNE 2000

Ohio Environmental Protection Agency

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1999-2000 Voluntary Action Program Annual Report to the Legislature Introduction

Ohio's Voluntary Action Program was created in September of 1994, and with the promulgation of rules, became fully implemented in early 1997. The program was created to allow companies a way to investigate possible environmental contamination, clean it up if necessary, and receive a promise from the State of Ohio that no more cleanup is needed. Prior to the creation of this program, valuable land sat idle because fears of immense liability and cleanup costs scared off potential developers, businesses and banks. Some developers had 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 the creating this program, Ohio recognized the need to remove the environmental and legal barriers that stalled redevelopment and reuse of contaminated properties.

With this program, anyone can undertake a cleanup project and be assured it meets environmental standards without direct oversight from Ohio EPA. This program 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 designed by Ohio EPA. If done according to these standards, the company can ask for Ohio EPA to release the owner from the responsibility to do further investigation and cleanup.

The program is getting sites cleaned up. Since the program was fully implemented, over 113 sites have been cleaned up to meet VAP standards and have received a No Further Action (NFA) Letter. Seventy seven of those sites have received a liability release, or covenant not to sue, from the State of Ohio, twenty three of which were issued this past year (October 1999 - September 2000). You can read about some of these cleanups in this report.

The VAP has made great strides this year in developing both external technical guidance for the certified professionals who oversee cleanups under the program and internal technical and administrative guidance to assist VAP staff members in expediting NFA reviews. The first volume of the *VAP Technical Decision Compendium* or TDC was issued to all VAP certified professionals in late 1999 and the first semi-annual update of technical guidance documents for the TDC were delivered in June of this year.

Negotiations between Ohio EPA and USEPA to establish a Voluntary Cleanup Program Memorandum of Agreement (MOA) for the VAP began this year. As a result of USEPA's concerns about the extent of public participation and oversight in the VAP, Ohio EPA staff developed an innovative approach to voluntary cleanup which will provide the Federal

comfort of the USEPA/Ohio EPA MOA to those volunteers who desire the added layer of protection while providing the flexibility of cleaning up under the VAP as it now stands, for volunteers who are less concerned about protection from Federal liability. This approach, known as the "Two-Track Voluntary Action Program" gives a volunteer two choices. The first choice, known as the MOA Track, requires volunteers to notify Ohio EPA of their intent to enter the VAP as well as submit investigation and cleanup documentation to Ohio EPA for review during the pendency of their voluntary action. If the voluntary action is conducted in accordance with the rules and the site is determined to be protective of human health and the environment, a covenant not to sue as well as Federal comfort is provided to the volunteer. The second choice, the current or Classic VAP Track, does not require up front oversight or public participation. Classic VAP volunteers must conduct a voluntary action that meets the VAP rule requirements in the same manner as the MOA Track participants. At the end of the cleanup, Classic VAP volunteers will receive a covenant not to sue from Ohio EPA but will not receive official Federal comfort under the MOA.

MOA negotiations between Ohio EPA and USEPA are moving along smoothly and we expect that a final MOA document will be ready for the signatures of the Ohio EPA Director and the USEPA Regional Administrator by the end of this year.

The remainder of this report provides an update of the program up to September of 2000. Please do not hesitate to contact the Ohio EPA Voluntary Action Program at (614) 644-2924 if you have any questions.

24 Properties Receive Covenants Not to Sue in SFY2000

During SFY2000, 24 Covenants Not to Sue (CNS) were issued, one request for a CNS was denied and six requests for CNS were allowed to be withdrawn. The following are some examples of the sites that were issued a CNS.

Lima Locomotive Works - Lima

The former **Lima Locomotive Works** is a major brownfield site in Lima that had been vacant for 20 years. Global Energy Inc. announced plans to build a \$500 million advanced fuel technology energy plant on the 67-acre property within the Liberty Commons Industrial Park. An agreement with Ohio EPA allowed the City of Lima to plan when it would remove the contaminated soil at the Locomotive Works site so that it would coincide with the construction activities planned by Global.

On April 27, 2000, a covenant not to sue was issued for the site, releasing the City of Lima from further liability at the site and paving the way for Global Energy to develop the site. Through the VAP, the site was assessed and a cleanup strategy developed. Contaminated soil was removed according to the cleanup strategy and the site was determined to meet environmental cleanup standards for industrial use.

Chilcote - Cleveland

The **Chilcote** company property consists of .75 acres located at 2103 Payne Avenue, Cleveland (Cuyahoga County). Between 1937 and 1970, the property was used as a gas station. The station was equipped with gasoline pump islands, a service bay hydraulic lift and a truck scale. Following closure of the underground storage tanks, the property was purchased by a parking services company and used for commuter vehicle parking from 1973-1997. In 1997, the property was sold to The Chilcote Company, which creates die-cut paper, paperboard and cardboard products. Chilcote would like to develop the property for industrial office or warehouse use with associated parking. A deed restriction has been placed on the property limiting it to industrial and commercial uses.

Kichler Lighting - Cleveland

The **Kichler Lighting** property consists of 3.24 acres located at 1517 through 1541 East 38th Street. The Kichler Lighting facility was formerly used to manufacture light fixtures. The property has been owned and operated by various companies and was also used as a plating operation. Contamination found at this site resulted from past industrial and commercial operations. The property is currently being used as a warehouse. The deed restrictions limit the property to modified commercial/industrial use.

Summary of Requests for Covenants Not to Sue (CNS) Received in FY2000

Site Name & Address	NFA No.	Volunteer	Action
Bostik Property, Former 4805 Lexington Ave. Cleveland CUYAHOGA County	CN00013	Bostik, Inc.	09/21/1999 Request for CNS Withdrawn
Kilgore Farms, Former 800 Tussic Street Rd. Westerville 43081 DELAWARE County	CN00015	The Keethler Co., William Keethler	09/21/1999 Request for CNS Withdrawn
Mercury Marine Plant 66 2150 Eastern Ave. Gallipolis 45631 GALLIA County	97NFA002	Allen Haase, Mercury Marine	08/16/1999 CNS Issued
Kilgore Farms, Former 800 Tussic Street Rd. Westerville 43081 DELAWARE County	97NFA010	The Keethler Co., William Keethler	09/21/1999 Request for CNS Withdrawn
Aerovent Property, Former 8515 Industry Park D Piqua MIAMI County	97NFA012	AV Acquisition, Inc. of Delaware/ ABB,	07/13/1999 CNS Issued
ODRC Substance Abuse Boot Camp 10 S Madison St. Glouster ATHENS County	97NFA013	Athens County Commissioners	09/21/1999 Request for CNS Withdrawn
Kichler Lighting 1517 through 1541 E 38th Street Cleveland 44114 CUYAHOGA County	98NFA022	Harold S & Clare Minoff	08/30/1999 CNS Issued
Stanley Works 1429 S Fayette St. Route 35A Washington Court House FAYETTE County	98NFA027	The Stanley Works	07/12/1999 CNS Issued
Parr West Property 5151 Denison Avenue Cleveland CUYAHOGA County	98NFA029	Beazer East, Inc.	07/13/2000 CNS Issued

Site Name & Address	NFA No.	Volunteer	Action
Exquisite Cleaners 8153 Montgomery Road Cincinnati 45236 HAMILTON County	98NFA043	Frank D. Watkins, Jr.	07/07/1999 CNS Issued
Chilcote Company 2103 Payne Avenue Cleveland 44114 CUYAHOGA County	98NFA044	Chilcote Company	10/15/1999 CNS Issued
Findlay Machine & Tool, Inc. 1100 East Main Cross Street Findlay HANCOCK County	98NFA046	Findlay Machine & Tool, Inc.	11/26/1999 Request for CNS Withdrawn
Capitol Dry Cleaners - South 4 West Central Avenue Oxford 45056 BUTLER County	99NFA049	First National Bank of Southwestern Ohio	12/02/1999 CNS Issued
Lima Locomotive Works 1046 South Main Street Lima ALLEN County	99NFA050	City of Lima/Liberty Commons	09/21/1999 Request for CNS Withdrawn
Lima Locomotive Works 1046 South Main Street Lima ALLEN County	99NFA076	City of Lima/Liberty Commons	04/27/2000 CNS Issued
Capitol Dry Cleaners - North West Central Ave. Oxford 45056 BUTLER County	99NFA051	First National Bank of Southwestern Ohio	12/02/1999 CNS Issued
Steelcraft Facility 9017 Blue Ash Road Blue Ash 45242 HAMILTON County	99NFA053	Masco Tech, Inc.	12/16/1999 CNS Issued
City of Cleveland/ City of Brook Park "No Formal Address" CUYAHOGA County	99NFA056	City of Cleveland/City of Brook Park	11/30/1999 CNS Issued
McKinley Avenue Property 1861-1867 McKinley Avenue Columbus 43222 FRANKLIN County	99NFA057	Seitz, Owings & Delora, Inc. of Indiana	06/30/1999 CNS Issued

Site Name & Address	NFA No.	Volunteer	Action
Collinwood Railroad Yard 15800 S. Waterloo Rd. Cleveland CUYAHOGA County	99NFA058	Collinwood Properties Co., LLC	03/24/2000 CNS Issued
Universal Cooperatives, Inc, Lube Plant 723 Steiner Ave. Kenton 43326 HARDIN County	99NFA059	Universal Cooperatives, Inc.	08/27/1999 CNS Issued
3M Quarry Area Property 3149 Copley Rd. Copley SUMMIT County	99NFA060	Minnesota Mining & Manufacturing (3M) CO	11/17/1999 CNS Issued
Tri Dayton Property 1275 Archer Drive Troy MIAMI County	99NFA062	B&B Development, Inc.	05/30/2000 CNS Issued
Miranova Property Residential Portion 270 West Mound Street Columbus FRANKLIN County	99NFA066	Pizzuti Properties/ Miranova Limited	12/29/1999 CNS Issued
NOVA Chemicals 1122 Jacoby Road Copley 44321 SUMMIT County	99NFA067	NOVA Chemical Inc.	10/12/1999 CNS Issued
HWH Property, LTD, Former Sundstrand 1501-1601 Dixie Highway Lima ALLEN County	99NFA071	Phoenix National, LLC	01/04/2000 Request for CNS Denied
Kingsford Products Property 310 Baltimore-Somerset Rd. Baltimore FAIRFIELD County	99NFA072	COMACO, Inc.	06/26/2000 CNS Issued
Old Jack Factory 280 West Main Street New Vienna 45159 CLINTON County	99NFA074	Wells Manufacturing Company, Inc.	03/24/2000 CNS Issued
Wells Manufacturing Property 280 West Main Street New Vienna 45159 CLINTON County	99NFA075	Wells Manufacturing Company, Inc.	03/24/2000 CNS Issued

Site Name & Address	NFA No.	Volunteer	Action
Cleveland Gear 3211 East 79th Street Cleveland CUYAHOGA County	99NFA078	City of Cleveland	06/14/2000 CNS Issued
Coyne Laundry Site, Former 6710 Lexington Ave. Cleveland CUYAHOGA County	99NFA079	Catholic Charities Facilities Corp.	06/23/2000 CNS Issued

**Low Interest Loans and Grants Issued to Properties
Undergoing Voluntary Actions
(July 1999 - June 2000)**

The Water Pollution Control Loan Fund (WPCLF) is administered by Ohio EPA's Division of Environmental Financial Assistance. Any environmental investigation or remediation performed under the VAP rules that will result in water quality benefits to surface and/or ground water is eligible for WPCLF financing (this can include activities such as literature searches, site evaluation studies, sampling, monitoring, laboratory analyses and cleanup activities). The WPCLF will provide up to a total of \$3 million to a project for these eligible activities.

Applicant	Project Name	Type of Financial Incentive	Amount of Loan	Project Description
PLM Properties LLC	SPECO Project	WPCLF Low- Interest Loan	\$330,170.00	Ground Water Remediation

Summary of Urban Setting Designations Received

When developing the VAP regulations, Ohio EPA recognized that many brownfield properties are located in highly urbanized areas which rely on community water systems to supply residents with safe drinking water. In those areas, ground water that contains chemicals from prior industrial/commercial activities poses no appreciable risk to the community because the ground water is not being used and will not be used for drinking water purposes in the foreseeable future. In these situations, an Urban Setting Designation (USD) may be appropriate. A USD recognizes that cleaning up the ground water to drinking water standards is not necessary because no one will be drinking the ground water. Other possible exposures to contaminated ground water (such as exposures to wildlife or streams in the area) still must be addressed even when a USD is granted for an area.

USDs can be granted only by the Ohio EPA director. A written submittal to the director requesting a USD must be made by a certified professional. The request must successfully demonstrate the property (or properties) meets all the criteria of a USD as specified in Ohio Administrative Code(OAC) rule 3745-300-10 (D) before such a designation can be granted. All USD requests must be submitted and approved by the director prior to completion of an NFA Letter which relies upon a USD for applicable ground water standards for a property. The following table summarizes both Urban Setting Designations submitted to the Voluntary Action Program for review and those USD approvals issued during the past year (October 1, 1999 - September 30, 2000).

Urban Setting Designation Name	City	Date Received	Total Acres in USD	Issued/ Pending/ Denied	Date Issued
Pen West	Columbus	04-30-99	152	Issued	10-26-1999
Frank J. Stolzka & Son Property	Akron	08-16-99	1.2	Issued	02-17-2000
Linaform Service	Barberton	06-14-00	2.2	Pending	Pending

Files relating to these urban setting designations are available for review at Ohio EPA's Northeast District Office by contacting Lilly Aaron at (330) 963-1129, or at the Ohio EPA Central Office by calling Kay Hughes at (614) 644-2924.

Audits of No Further Action Letters in 1999

Ohio EPA audits at least 25 percent of all No Further Action (NFA) letters submitted to the Voluntary Action Program. These audits can be limited to a review and analysis of the documents pertaining to the NFA letter to determine compliance with program requirements (Tier I Audit), or be expanded to include sampling and analysis of soils, surface water, air, sediments or ground water (Tier II Audit). Audits are conducted to determine if, after completion of the remedial activities, the properties meet applicable standards. Audits are also conducted to ensure that certified professionals and certified laboratories that performed work in support of the NFAs possess the qualifications necessary to perform work under the VAP and their work results in NFAs that are consistent with applicable standards.

OAC 3745-300-14 describes the procedures for selecting and conducting audits of NFA letters. The rule establishes three “pools” of NFA letters for the purpose of prioritizing their selection for audits. These are the mandatory, priority and random audit pools. The *mandatory audit pool* includes NFA letters meeting one of six criteria that provide reason to believe the NFA letter was issued fraudulently or that performance of the Certified Professional who issued the NFA letter or the Certified Laboratory that performed analyses in support of the NFA letter was inadequate. The *priority audit pool* includes NFA letters that included a risk assessment or employed an engineering control or institutional control as a remedial activity. The *random audit pool* includes all other NFA letters and all NFA letters from the priority audit pool that are not selected during the initial random selection as described below. Properties were selected according to criteria and procedures described in OAC 3745-300-14.

In addition to auditing all NFA letters in the mandatory audit pool, OAC 3745-300-14 requires Ohio EPA to conduct audits of at least 25 percent of NFA letters for properties where remedial activities occurred and 25 percent of those where no remedial activities occurred. Initial selections are made through a random selection of 25 percent of those NFA letters in the priority audit pool. Additional selections are made from the random audit pool to meet the required 25 percent quota for NFA letters where remedial activities occurred and where no remedial activities occurred.

During 1999 - 2000, the VAP audited eight properties for which No Further Action Letters had been issued and submitted to Ohio EPA during the previous year (1998). The table below summarizes the properties audited, the name of the volunteer for each property and the basis for selecting the property for audit.

1998 NFA Letters Selected for Audit in 1999/2000

Property Name and Address	Name of Volunteer(s)	County	Audit Pool
Chilcote Company Property	Chilcote Company	Cuyahoga	Selected from Priority audit pool.
Cleveland Hopkins Airport - Bence Parcel	City of Cleveland	Cuyahoga	Selected from Random audit pool.
Crabar Business Systems	Millennium Holdings	Putnam	Selected from Priority audit pool.
Doherty Road Property	Dominion Homes, Inc.	Franklin	Selected from Random audit pool.
Findlay Machine and Tool	Findlay Machine & Tool, Inc.	Hancock	Selected from Priority audit pool.
Montrose Plaza Property	Albrecht, Inc.	Summit	Selected from Random audit pool.
Stark County Garage	Stark County Commissioners	Stark	Selected from Priority audit pool.
Former Wellsville Brickyard	Columbiana County Port Authority	Columbiana	Selected from Priority audit pool.

VAP EXPENSES FOR FISCAL YEAR 2000 (FY-00)
PERSONNEL & PERSONAL SERVICES

Fund 4R9 - VAP Fund	\$ 466,973.89
Hazardous Waste Management Fund	25,779.98
General Revenue Fund	327,663.65
Superfund Core Grant (Federal dollars)	<u>188,570.08</u>
Total Cost of Personnel & Personal Services	\$1,008,987.60

SUPPLIES, TRAVEL & MAINTENANCE

Fund 4R9 - VAP Fund	\$ 24,310.27
Hazardous Waste Management Fund	-0-
General Revenue Fund	98,937.16
Superfund Core Grant (Federal dollars)	<u>11,776.31</u>
Total Cost of Supplies, Travel & Maintenance	\$ 135,023.74

EQUIPMENT

Fund 4R9 - VAP Fund	\$ -0-
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund Core Grant (Federal dollars)	<u>-0-</u>
Total Cost of Equipment	\$ -0-

OTHER MISCELLANEOUS EXPENSES

Fund 4R9 - VAP Fund	\$ 2,420.00
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund Core Grant (Federal dollars)	<u>\$ -0-</u>
Total Cost of Other Miscellaneous Expenses	\$ 2,420.00

OPEN ENCUMBRANCE SFY2000

Fund 4R9 - VAP Fund	\$ 1,050.00
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund Core Grant (Federal dollars)	<u>\$ -0-</u>
Total Open Encumbrance SFY2000	\$ 1,050.00

TOTAL VAP PROGRAM COST FOR FY-00**\$ 1,147,481.34**

VAP REVENUE FOR FY-00*

[*Administration of the VAP is funded through fees for services provided to the users of the program]

Certified Professional Fees	\$ 190,500.00
Certified Laboratory Fees	71,000.00
No Further Action (NFAs) Fees	162,200.00
Technical Assistance Cost Recovery	76,663.19
Other	<u>2,420.00</u>

TOTAL REVENUE FOR FY-99**\$ 502,783.19**