



OHIO VOLUNTARY ACTION PROGRAM

ANNUAL REPORT  
TO THE  
OHIO LEGISLATURE

July 2000 - June 2001  
*Ohio Environmental Protection Agency*

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## **2000-2001 Voluntary Action Program Annual Report to the Legislature Introduction**

Ohio's Voluntary Action Program was created in September 1994, and became fully implemented with the promulgation of rules 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 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 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.

The program is getting sites cleaned up. Since full implementation, more than 133 sites have been cleaned up to meet VAP standards, and have received a No Further Action (NFA) letter. Eighty of those sites have received a liability release, or Covenant Not to Sue, from the State of Ohio; 19 were issued this past year (July 2000 - June 2001). You can read about some of these cleanups in this report.

This year has been busy and productive. On July 31, 2001, Ohio EPA finalized and signed the Voluntary Action Program Memorandum of Agreement (MOA) with U.S. EPA. After many months of negotiations between U.S. EPA and Ohio EPA, an MOA-Track program was developed to incorporate public involvement and up-front oversight into the existing VAP process. Volunteers who follow this track of the VAP will obtain both a Covenant Not to Sue from Ohio EPA and comfort that U.S. EPA will not require any additional cleanup at the site. The existing VAP process, known as the Classic VAP Track, will still be available to volunteers who do not feel the need for federal comfort and prefer not to incorporate up-front Agency oversight or public involvement into the voluntary cleanup process. VAP staff are currently working on implementing the MOA-Track portion of the program and plan to have that track up and running by early 2002. Detailed information about the VAP's MOA-Track process, including a copy of the MOA, can be found on the program Web page (under the section titled "Final Memorandum of Agreement - July 2001") at [www.epa.state.oh.us/derr/volunt.html](http://www.epa.state.oh.us/derr/volunt.html).

Another large project the VAP has undertaken this year is a review and revision of the technical rules governing the program. VAP staff are aided in this project by an external multidisciplinary board made up of members of the environmental, industrial, local government, citizen advocacy, environmental consultant and environmental science communities, among others. To comply with the five-year rule review (ORC 119.032)

timelines, the VAP and the multidisciplinary board plan to complete their recommended revisions by the end of 2001.

This report provides a report of VAP activities for SFY'01, as well as a program update to the beginning of September 2001. Please do not hesitate to contact the Ohio EPA VAP at (614) 644-2924 if you have any questions.

## **19 Properties Receive Covenants Not to Sue**

During SFY'01, 19 Covenants Not to Sue (CNS) were issued. Following are some examples of sites that received a CNS.

### **Central High School - Columbus**

The former Central High School property in Columbus consists of approximately 18 acres at 75 Washington Blvd. The property was used for commercial and industrial purposes before 1922. These uses included machine shops, a coffee and spice mill, an auto repair shop and a laundry facility. Other facilities in the area before and after 1922 included a carriage company, gasoline stations, a mounting manufacturing company, a shoe factory and a lumber company. Central High School was built between 1924 and 1926, with modifications and expansions later.

Property cleanup included removal of a heating-oil underground storage tank, abatement of asbestos-containing materials and removal of lead-based paint. Interior demolition/renovation debris, four drums of liquid and solid waste and fire debris also were removed from the building for proper disposal prior to razing. A declaration was recorded with the Franklin County recorder's office limiting the use of the property to commercial land uses only. The site is now home to COSI (the Center of Science and Industry).

### **Copeland Corporation - West Union**

The Copeland Corporation facility is located on State Route 41 in West Union (Adams County), and consists of a 168,000 square-foot building on 95 acres of land. The building was constructed in 1970 for the manufacture of compressors and compressor components used in refrigeration and air conditioning applications. Copeland terminated manufacturing operations at the facility in 1994. Subsequently, Copeland decommissioned the facility equipment, which was shipped to its facility in Alabama.

Collection and analysis of soil samples from various locations on the property, both inside and outside the building, indicated that applicable standards were met in all areas of the site except under the plant building in the former machining area. Soil samples in this area contained total petroleum hydrocarbon concentrations which exceeded the standards. Remedial action consisted of excavating the oil-containing soil, backfilling the excavated area, and replacing the concrete floor. In addition, the 22.02 acres which include the building are restricted to industrial use only, while the rest of the site meets standards for unrestricted residential use.

### **Dow Property - Heath**

The property, which consists of approximately 2.5 acres at 767 Faye Drive, Heath, has been used for commercial and industrial purposes since late 1945. Dowell, a former division of The Dow Chemical Company, used the property between 1955 and 1981 as a service center for oil and gas exploration, development and production operations. Refiners Transport and Terminal Corporation operated the property between late 1945 and 1955. The current owner of the property, Dow Chemical Company, submitted the request for no further action under Ohio EPA's Voluntary Action Program (VAP). Cleanup included excavation and removal of approximately 1,085 cubic yards of contaminated soil. A declaration was recorded with the Licking County recorder's office limiting the use of the property to commercial or industrial land uses only.

### **Eveready Battery Company - Cleveland**

The Eveready Battery Company (EBC) Edgewater plant is located on almost 13 acres of land in the western part of Cleveland. At some time near the turn of the century, the land surface in this area was covered with a layer of urban fill consisting of slag, asphalt, concrete, cinders, brick, and a variety of soil types. The buildings at the facility were constructed between 1905 and 1916, and have been used by EBS and its predecessor companies for the production of dry cell batteries, laboratory research and development, battery testing and customer service since 1926. Dry cell production included the assembly of carbon-zinc and nickel-cadmium (Ni-Cad) batteries. Prior to that, manufacturing operations included electrode sintering, electrode dipping, cadmium sponge, asphalt coating, and fabrication of the magnesium can.

All manufacturing and process equipment used by EBC during the production of dry cell batteries was removed from the buildings during the period 1989 through 1992. Chemical tanks and pipings were drained, dismantled and removed from the property during this period, also. Based on the site analysis and a site-specific risk assessment, semivolatile organic compounds (specifically benzo(a)pyrene) and metals (arsenic) were identified as the primary contributors to the potential health risk at the site. The following controls were implemented:

- the property is limited to commercial, industrial, or modified residential use only;
- the extraction of ground water at the property is prohibited for any use except for investigation or remediation of the ground water;
- the construction of any basements along the northern third of the property and residential dwellings in one portion of the property are prohibited; and,
- a landscape (2-foot cover), pavement, or structural cover is required on the property.

### **Former Carthage Mills Facility - Cincinnati**

The property is approximately 13 acres and is located in Carthage, a burg of Cincinnati. The development of this site dates back to the mid- to late-1880's when the Pollak Steel Company, a spring and axle manufacturing company, occupied the southwestern portion of the property until the 1920's. The site was then occupied by the Carthage Mills Company, a manufacturer of felt floor pads and linoleum, until 1978. The property lay vacant until the 1980's when Springlawn, Inc. acquired and leased various portions of the remaining structures. Uses varied from miscellaneous warehousing and job shops to metal coating and metal deburring processes.

Fourteen areas on the property were identified which exceeded standards for metals and non-hazardous and hazardous paint waste. Through excavation and off-property disposal, each of the areas was remediated to applicable standards. In total, 45 cubic yards of special non-solid waste, 417 tons of hazardous waste and 2,624 tons of non-hazardous waste were removed from the property. The property has been cleaned to meet the intended future residential use, which will include approximately 60 single-family residential houses, associated infrastructure, and a two-acre green space.

### **Former Columbus Auto Parts Property - Columbus**

Crewville, Ltd., conducted the voluntary investigation and cleanup of contamination at the 32.35 acre site of the former Columbus Auto Parts property at 575 Hudson Street in Columbus. The property had been used as an industrial facility that produced front-end components of auto parts for the automobile industry from 1902 until 1991, when the property was abandoned. The property was owned by Union Bolt Works from 1902 until 1914, when Standard Bolt Company acquired the property and operated it until 1928. Columbus Auto Parts operated the property from 1928 until 1991.

Property cleanup consisted of removal of corrosive and oily wastes from petroleum underground storage tanks, several waste drums, PCB-contaminated electrical equipment, machine pits, open pits, and one above-ground tank. Crewville proposes to develop the property for commercial use, including a Lowe's home-improvement store and strip mall.

The VAP had some questions regarding the possibility for residual contaminants to leach into ground water, the potential for migration off-site of contaminated ground water, and the methods of ground water sampling at the site. These hidden environmental concerns were addressed through further removal and remediation. The property complies with VAP standards for commercial land use.

### **Peerless-Winsmith Plant #2 - Warren**

Palmer Donavin Manufacturing purchased an industrial property, located in Warren, from Peerless-Winsmith, Inc., for use as a warehouse, manufacturing, storage, distribution and

sales facility. The plant property is approximately seven acres and until 1994 was used for the manufacture of industrial fans and blowers.

An assessment of the site indicated that the primary chemicals of concern are volatile organic compounds (VOCs). To prevent future human exposure on the property to ground water with VOCs in excess of the applicable standards, groundwater use restrictions were added to the property deed, along with restrictions prohibiting construction of subsurface structures for human occupancy. In addition, the property use is limited to commercial or industrial land uses only.

## Summary of Covenants Not to Sue Issued

Site Name & Address	NFA No.	Volunteer	Date Issued
Vacant Land, Hopewell Drive 650 Hopewell Drive Heath 43056 LICKING County	00NFA087	LANGAR Enterprises, Inc.	10/10/00
Eveready Battery Company, Inc. 1280 West 73rd Street Cleveland 44102 CUYAHOGA County	00NFA081	Eveready Battery Company, Inc.	10/24/00
7 acre peninsula off WaterMark Drive 1957 Dublin Road Columbus 43215 FRANKLIN County	99NFA064	H2O Island L.L.C.	10/25/00
Dura Corporation Property, Former 2000 Maysville Pike Zanesville 43701 MUSKINGUM County	00NFA090	C.L.D. Development Company	11/17/00
Central High School 75 Washington Street Columbus 43215 FRANKLIN County	97NFA008	City of Columbus Dept. of Parks and Recreation	12/4/00
Schuler Manufacturing Co., Former 4570 Edgewun Avenue Hilliard 43206 FRANKLIN County	00NFA100	Charles W. Schuler	12/7/00
Peerless-Winsmith Plant #2 1400 Front Street Warren 44485 TRUMBULL County	00NFA082	Peerless-Winsmith, Inc.	12/12/00
Dowell Inc., Former 767 Faye Drive Heath 43056 LICKING County	00NFA096	Dow Chemical Company	12/29/00
Virginia Dornbusch Estate 9787 Colerain Avenue Cincinnati 45251 HAMILTON County	00NFA098	J.D. Byrider Systems, Inc.	1/22/01
Simcox Grinding & Steel Co. Inc. 303 Tacoma Avenue Tallmadge 44278 SUMMIT County	97NFA006	National City Bank, Northeast	2/14/01
Columbus Auto Parts Property 575 Hudson Avenue Columbus 43211 FRANKLIN County	00NFA084	Crewville, Ltd.	3/5/01

Site Name & Address	NFA No.	Volunteer	Date Issued
Todd's Cleaners Property 16805 Chagrin Boulevard Shaker Heights 44120 CUYAHOGA County	00NFA101	Edens & Avant Properties Limited Partnership	3/5/01
Custom Cleaners Property 500, 508, & 510 N. Cassady Avenue Columbus 43209 FRANKLIN County	01NFA108	Custom Cleaners, Inc.	3/5/01
Carthage Mills Facility, Former 124 W. 66th Street Cincinnati 45216 HAMILTON County	00NFA097	City of Cincinnati	3/14/01
Motel Properties, Former (Parcel 1) 20495-20611 Lorain Road Fairview Park 44126 CUYAHOGA County	01NFA110	City of Fairview Park	3/14/01
I-F Foundry 714 N. Kaderly Avenue New Philadelphia 44663 TUSCARAWAS County	99NFA073	Emerson Electric Co.	3/26/01
Swan Cleaner Property, Former 1543 W. Lane Avenue Upper Arlington 43221 FRANKLIN County	00NFA103	U.A.P. Columbus 326132 Joint Venture	3/27/01
Dave Towell Cadillac, Inc. 111 W. Market Street Akron 44303 SUMMIT County	00NFA105	Dave Towell Cadillac, Inc.	3/29/01
Copeland Corporation 11545 State Route 41 West Union 45693 ADAMS County	99NFA063	Copeland Corporation	5/2/01

## **Low Interest Loans Issued to Properties Undergoing Voluntary Actions**

The Water Pollution Control Loan Fund (WPCLF) is administered by Ohio EPA's Division of Environmental and 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 \$3 million to a project for these eligible activities

Ohio EPA has made two major changes to the program recently. First, private borrowers are limited to a maximum repayment term of 10 years so future development of cleaned-up sites is not unduly subsidized. Second, an application fee of 0.5 percent of the requested loan amount is charged to help defray the costs of the State's additional expenses necessary to complete financial and legal reviews.

An ongoing concern is the sometimes inordinate amount of the time involved, not only to mutually agree upon sufficient sources of security and repayment, but to review and accept the documentation in support of those sources. For example, Ohio EPA may agree on a first mortgage on the property as security, then find the appraisal deficient or "overly-optimistic" in its appraised value of the property. Ohio EPA is beginning to explore alternatives, which could include an interest buy-down arrangement with a private lender (relieving Ohio EPA of making credit judgements).

Of course, the most difficult situations are those that present serious and immediate environmental problems, but applicants have profound financial difficulties that make it very difficult to financially justify the investment of WPCLF. The question remains open as to just how much financial risk justifies how much environmental benefit This must be addressed on a case-specific basis.

### WPCLF Low-Interest Loans Approved

Applicant	Project Name/Location	Amount of Loan	Interest Rate	Project Description
Mass Realty LLC	Mass Realty Project Lockland, Hamilton County	\$247,000	3.2%	Purchase of property and remediation of ground water
Ridge Park Square	Northcliff Project Brooklyn, Cuyahoga County	\$3,000,000	3.75%	Site assessment and remediation
Hemisphere LTD	Stickney West Industrial Park Project Toledo, Lucas County	\$2,648,000	4.14%	Site assessment and 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 used and will not be used for drinking water 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 drink the ground water. Other possible exposures to contaminated ground water (such as wildlife or streams in the area) still must be addressed when a USD is granted for an area.

Only the director of Ohio EPA can grant a USD. A certified professional must submit a written request for a USD to the director. 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 the 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 SFY'01.

Urban Setting Designation Name	City	Date Received	Total Acres in USD	Issued/Pending/Denied	Date Issued
Linaform Service	Barberton	06/14/00	2.2	Issued	11/07/00
West Valley Shopping Plaza	Berea	12/27/00	9	Issued	05/23/01
National Gypsum	Niles	04/04/01	12	Pending	Pending
Opportunity Park	Akron	05/30/01	1000	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 Ohio EPA Central Office by calling Kay Hughes at (614) 644-2924.

## Audits of No Further Action Letters

Ohio EPA annually 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 the properties meet applicable standards after completion of the remedial activities. Audits also are 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 to prioritize 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, including those 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 audit at least 25 percent of NFA letters for properties where remedial activities occurred and 25 percent of those where no remedial activities occurred. Letters are randomly selected from the priority audit pool and the random audit pool to meet the 25 percent quota.

During 2000 and early 2001, the VAP audited eight NFA Letters submitted to Ohio EPA during the previous year (1999). The table below summarizes the properties audited, the name of the volunteer for each property and the basis for selecting the property for audit.

## 1999 NFA Letters Selected for Audit in 2000/2001

<b>Property Name and Address</b>	<b>Name of Volunteer(s)</b>	<b>County</b>	<b>Audit Pool</b>
<b>Copeland Corporation- Wapakoneta Property</b>	Copeland Corporation	Auglaize	Selected from Priority Audit Pool.
<b>Holland Axel Products</b>	Holland Binkley Company	Allen	Selected from Priority Audit Pool.
<b>Lima Locomotive Works</b>	City of Lima/Liberty Commons	Allen	Selected from Priority Audit Pool.
<b>Collinwood Railroad Yard</b>	Collinwood Properties Co., LLC	Cuyahoga	Selected from Priority Audit Pool.
<b>Miranova Residential Property</b>	Pizzuti Properties	Franklin	Selected from Priority Audit Pool.
<b>Tri-Dayton Property</b>	B&B Development, Inc.	Miami	Selected from Priority Audit Pool.
<b>3M Quarry Area Property</b>	3M Company	Summit	Selected from Priority Audit Pool.
<b>Lowe's Northern Parcel</b>	Lowe's Companies, Inc.	Cuyahoga	Selected from Random Audit Pool.

## VAP Expenses

<b>PERSONNEL &amp; PERSONAL SERVICES</b>	
Fund 4R9 - VAP Fund	\$ 374,442.76
Hazardous Waste Management Fund	5,205.77
General Revenue Fund	410,519.70
Superfund grants (federal dollars)	<u>270,382.40</u>
<b>Total cost of personnel &amp; personal services</b>	<b>\$ 1,060,550.63</b>
<b>SUPPLIES, TRAVEL &amp; MAINTENANCE</b>	
Fund 4R9 - VAP Fund	\$ 19.62
Hazardous Waste Management Fund	36.00
General Revenue Fund	1,805.16
Superfund grants (federal dollars)	<u>2,607.69</u>
<b>Total cost of supplies, travel &amp; maintenance</b>	<b>\$ 4,468.47</b>
<b>EQUIPMENT</b>	
Fund 4R9 - VAP Fund	\$ -0-
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund grants (federal dollars)	<u>6,194.70</u>
<b>Total cost of equipment</b>	<b>\$ 6,194.70</b>
<b>OTHER MISCELLANEOUS EXPENSES</b>	
Fund 4R9 - VAP Fund	\$ 29,980.07
Hazardous Waste Management Fund	3.34
General Revenue Fund	105,388.74
Superfund grants (federal dollars)	<u>37,654.48</u>
<b>Total cost of other miscellaneous expenses</b>	<b>\$ 173,026.63</b>
<b>OPEN ENCUMBRANCE SFY'01</b>	
Fund 4R9 - VAP Fund	\$ 1,752.21
Hazardous Waste Management Fund	-0-
General Revenue Fund	-0-
Superfund grants (federal dollars)	<u>\$ 5,810.35</u>
<b>Total open encumbrance SFY'01</b>	<b>\$ 7,562.56</b>
<b>TOTAL VAP PROGRAM COST FOR SFY'01</b>	<b>\$ 1,251,802.99</b>

## VAP Revenue

Certified Professional fees	\$ 178,500.00
Certified Laboratory fees	57,000.00
No Further Action (NFA) fees	116,200.26
Technical assistance cost recovery	<u>35,492.28</u>
<b>TOTAL REVENUE FOR SFY'01</b>	<b>\$ 387,192.54</b>