



Voluntary Action Program

2016 Legislative Report



Division of Environmental Response and Revitalization
August 2017

Voluntary Action Program Annual Report to the Legislature

Summary of Activities in 2016

- 29 No Further Action (NFA) letters were issued by certified professionals (CP). 41 CNS were issued for 2,047 acres of property
- Three properties entered the Memorandum of Agreement (MOA) track
- Eight NFA letters submitted in 2016 were selected for audit; 39 audits selected from previous years were completed
- Zero variances were requested
- No CNS were revoked
- Total program cost was \$3.7 million
- Tax abatements received totaled \$5.8 million

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 2016. 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 2016, Ohio EPA issued 41 CNS. The following are examples of successful revitalization projects:

Former Medco Health Company Property, Columbus, Franklin County



Photo credit: www.livethetribeca.com

The approximately five-acre property was used for commercial operations beginning in 1945 by the Crane Company. Many users occupied the site, including Medco Health from 1992 to 2005. The property was vacant from 2006 to 2012. Contaminants of concern included metals, volatile organic compounds (VOC) and semi-volatile organic compounds (SVOC).

Remediation included dynamic compaction of onsite soils and placement of clean soil. Property restrictions include land use for commercial and industrial or restricted residential, and use of ground water.

Edwards Tribeca LLC purchased the site in 2012 and constructed a four-story garden-style apartment complex.

Cleveland Municipal School District Building – Cleveland, Cuyahoga County

The property was first developed prior to 1886 with several commercial residential and public school buildings. By 1912, a machine shop with a garage replaced former saloons and the Stroh Brewing Company. By 1925, the majority of all buildings, including the machine shop, were razed. In 1930 the entire property was redeveloped into the six-story building that is present today. Contaminants of concern included metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), and petroleum products. Remediation activities included asbestos abatement and disposal. A ground water use restriction is in place with unrestricted land use.



Photo credit: www.druryhotels.com

The \$12.8 million renovation project received financing from the JobsOhio Revitalization program and the Ohio Development Services Agency's Brownfield Loan Fund, Energy Loan Fund and the Ohio Historic Preservation Tax Credit Program.

Former Toledo Jeep Assembly Plant – Toledo, Lucas County

The former Toledo Jeep Assembly Plant property was developed in the 1880s and used to manufacture sewing machines, bicycles and automobiles under various ownership until 2006. During the peak of automobile manufacturing, the property consisted of 62 buildings and sub-buildings encompassing more than 10 million square feet. The Toledo-Lucas County Port Authority, the volunteer, purchased the site in 2010 with the intent to redevelop the property into the Overland Industrial Park. Among other incentives, the Port received a \$2.9 million CORF grant to perform demolition and remediation activities. Contaminants of concern were metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), petroleum, polycyclic aromatic hydrocarbons (PAH) and polychlorinated biphenyls (PCB). Remediation included soil excavation and disposal, treatment of ground water, free product recovery, bioremediation, and asbestos abatement.



Photo credit: Toledo-Lucas County Port Authority

The property is limited to industrial and commercial uses and the potable use of ground water is prohibited. A 100,000 Class A industrial building was constructed on the site in 2014 and is now leased by Dana to manufacture high-tech axles. Financing for the facility was provided by the Toledo-Lucas County Port Authority as well as JobsOhio. In 2016, the Port announced a new 130,000 square-foot facility leased to Detroit Manufacturing Systems for their Tier 1 automotive supplier business.

Former FirstEnergy R.E. Burger Plant – Shadyside, Belmont County

The former coal-fired electric plant known as the R.E. Burger Plant in Shadyside operated from 1942 until 2012. The plant was capable of producing 568 megawatts of electricity. Demolition of the facility was initiated in 2015 and complete by the end of 2016. The 167-acre property is being prepared for development as a ethane gas converter facility. Natural gas recovered from oil and gas drilling in the Utica and Marcellus shale would be broken down or “cracked” into ethylene and other components usable for industry. FirstEnergy, JobsOhio, state and local officials are assisting with the project. An estimated \$5 billion investment is required to construct the new facility.



Photo credit: www.theintelligencer.net

Contaminants of Concern included metals, volatile organic compounds (VOC), semi-volatile organic compounds (SVOC), polycyclic aromatic hydrocarbons (PAH), petroleum, and polychlorinated biphenyls (PCB). Remediation included asbestos abatement and disposal. The property is limited to industrial use and the potable use of ground water is prohibited.

Providence North Property – Cincinnati, Hamilton County



Photo credit: Clean Ohio Revitalization Fund

The Providence North site consists of 1.7 acres in the West End neighborhood of Cincinnati. The property was part of the industrial/commercial landscape beginning in the late 1800s. Many of the previous uses, including industrial, commercial, and residential uses, did not involve hazardous substances or petroleum, with the exception of a former dry cleaning warehouse. All structures were demolished between 2005 and 2011.

In 2005, the adjacent property owner, Sam Adams Brewing Company (SABC), began to assess the property for future expansion. In 2010, the City of Cincinnati received a \$3 million Clean Ohio Revitalization Fund grant to perform remediation and demolition activities. Contaminants of concern included volatile organic compounds (VOC).

Remedial activities included soil excavation, soil treatment, and ground water treatment. The property is limited to industrial and commercial use, future buildings must be constructed with a vapor mitigation system and use of ground water for potable use is prohibited.

SABC invested more than \$45 million to expand their operations, including new brewing tanks, and revised their logistic operations realizing significant cost savings and efficiencies to their manufacturing process. The expansion created 50 new jobs and retained 100 jobs onsite.

Summary of Covenants Not to Sue Issued in 2016

County	NFA # Type	Site Name	Date Received	Date CNS Issued	CP Name, Number	Acreage	Site Address, City	Ohio EPA District
Belmont	16NFA665 90 Day	Eastern Hendershot Property Area P1	10/13/16	12/29/16	Bremer, D 311	190.03	56198 Dilles Bottom Road, Shadyside	SEDO
Belmont	16NFA666 90 Day	Ohio Edison Co R.E. Burger Plant	10/13/16	12/27/16	Bremer, D 311	167.7	57246 Ferry Landing Road, Shadyside	SEDO
Columbiana	15NFA629 90 Day	North Star Coal Property	7/29/15	7/6/16	Smith, L 133	4.07	10 Washington St, East Liverpool	NEDO
Cuyahoga	14NFA599 90 Day	Preferred Building Supply Property	8/19/14	1/6/16	Gross, S 192	0.85	3450 W 140th St, Cleveland	NEDO
Cuyahoga	14NFA609 90 Day	Chevron Englehard Parcel B	12/23/14	3/3/16	Burns, J 145	4.3	1000 Harvard Avenue, Cleveland	NEDO
Cuyahoga	15NFA618 90 Day	Shore Center Shopping Center	4/20/15	9/19/16	Knecht, M 105	1.61	22610-22656 Shore Center Drive, Euclid	NEDO
Cuyahoga	15NFA623 90 Day	Cleveland Municipal School District Building	6/11/15	6/10/16	Fay, D 254	1.76	1380 East 6th Street, Cleveland	NEDO
Cuyahoga	15NFA631 90 Day	Rockwell Parking Garage	8/26/15	8/12/16	Fay, D 254	0.46	801 Rockwell Ave, Cleveland	NEDO
Cuyahoga	15NFA638 90 Day	XIM Products Inc	10/15/15	4/25/16	Zampino, J 280	3.4	1169 Bassett Road, Westlake	NEDO
Cuyahoga	16NFA651 90 Day	3.699 Acre Crescent Avenue Property	3/10/16	9/1/16	Wilburn, E 306	3.7	5418 Crescent Ave, Cleveland	NEDO
Cuyahoga	16NFA658 30 Day	GMC Powertrain - City of Parma Parcel	8/2/16	9/20/16	Volpi, R 193	6	Cuyahoga County Parcel ID# 441-16-001, Parma	NEDO
Cuyahoga	16NFA670 90 Day	Ohio Awning & Manufacturing	11/14/16	12/28/16	Schultz, T 244	1.5	2658 Scranton Rd, Cleveland	NEDO
Erie	15NFA628 90 Day	Ford Motor Sandusky	7/29/15	8/10/16	Momenee, M 236	356.3	3020 Tiffin Ave, Sandusky	NWDO
Franklin	14NFA591 90 Day	Delphi Automotive Remaining Portion	8/4/14	11/4/16	Mignery, T 125	9.13	200 Georgesville Rd, Columbus	CDO
Franklin	15NFA635 90 Day	Strait Property	9/29/15	11/28/16	Savage, B 265	2.14	South of 5th and West of Cleveland Ave, Columbus	CDO
Franklin	16NFA648 90 Day	Harrisburg Pike Shopping Center	1/28/16	12/16/16	Savage, B 265	6.06	610-628 Harrisburg Pike, Columbus	CDO

County	NFA # Type	Site Name	Date Received	Date CNS Issued	CP Name, Number	Acreage	Site Address, City	Ohio EPA District
Franklin	16NFA652 90 Day	Medco Columbus	3/18/16	12/9/16	Ordeman, R 348	4.79	720 W 3rd Ave, Columbus	CDO
Franklin	16NFA657 90 Day	Federal Industrial Park	7/25/16	12/16/16	Pandey, A 224	67.84	1840-1920 Federal Pkwy, Columbus	CDO
Fulton	16NFA646 90 Day	Britsch Inc Petroleum Bulk Plant	1/7/16	12/21/16	Butler, M 137	0.98	449 N Brunell St, Wauseon	NWDO
Hamilton	14NFA587 90 Day	Providence North	8/1/14	4/18/16	Fay, D 254	1.75	317 & 20 Findlay St, 1654, 1660, 1668 & 1672 Central Ave, & 1663 Central Ave, Cincinnati	SWDO
Hamilton	15NFA633 90 Day	Cincinnati Milacron/Oakley North Redevelopment	9/18/15	6/30/16	Edwards, T 358	3.82	3101 Vandecar Way, Cincinnati	SWDO
Hamilton	15NFA641 90 Day	College Hill Mid-District Development	11/13/15	5/11/16	Luessen, M 267	2.06	5919-6031 Hamilton Avenue, Cincinnati	SWDO
Jackson	14NFA604 90 Day	Kuppenheimer Trouser Factory	9/30/14	4/12/16	May, M 350	3.97	12 East Second Street, Wellston	SEDO
Knox	15NFA642 90 Day	Ludlow Packaging	12/10/15	11/4/16	Mignery, T 125	44.18	201 Madison St, Mt Vernon	CDO
Lake	15NFA637 90 Day	Coe Manufacturing Company	10/8/15	9/27/16	Mignery, T 125	27.4	609 Bank St, Painesville	NEDO
Lawrence	14NFA574 90 Day	Brammer / Ironton Wharf Property	7/10/14	4/25/16	Hilty, G 282	15.57	101 Etna & Center Streets, Ironton	SEDO
Lorain	14NFA553 90 Day	Moen Inc	2/18/14	9/27/16	Bennett, M 295	31.03	377 Woodland Ave, Elyria	NEDO
Lucas	15NFA622 90 Day	Toledo Jeep Assembly Plant	6/8/15	5/9/16	Momenee, M 236	80.93	0 and 1000 Jeep Parkway, Toledo	NWDO
Lucas	15NFA624 90 Day	Plabell Rubber	6/12/15	6/27/16	Egan, K 259	3.8	300 South St Clair Street, Toledo	NWDO
Medina	16NFA645 90 Day	Town & Country Co-Op	1/7/16	9/27/16	Schultz, T 244	3.68	16 W Market St, Seville	NEDO
Montgomery	15NFA613 90 Day	Dayton Electroplate	1/29/15	2/29/16	May, M 350	1.41	1030 Valley Street, Dayton	SWDO
Portage	14NFA570 90 Day	BP Site 69115	7/1/14	2/3/16	Mustafaga, D 183	8.23	849 West Main Street, Kent	NEDO

County	NFA # Type	Site Name	Date Received	Date CNS Issued	CP Name, Number	Acreage	Site Address, City	Ohio EPA District
Richland	15NFA639 90 Day	Prestolite Electric Inc	10/22/15	9/19/16	Baker, B 198	0.65	1125 National Parkway, Mansfield	NWDO
Richland	15NFA643 90 Day	Mansfield Stamping Plant	12/28/15	4/1/16	Rhodes, L 201	266	2525 W Fourth St, Ontario	NWDO
Seneca	15NFA636 90 Day	Thyssen Krupp Crankshaft	10/5/15	8/3/16	Walker, D 354	47.38	901 Springville Ave, Fostoria	NWDO
Stark	14NFA588 90 Day	J&L Specialty Steel Corp	8/4/14	2/29/16	Smith, J 121	209.55	1500 W Main St, Louisville	NEDO
Summit	15NFA620 90 Day	Goodyear Power House	5/11/15	11/4/16	White, B 146	14.29	150 and 200 Innovation Way, Akron	NEDO
Summit	15NFA621 90 Day	Cornerstone Business Park	6/3/15	2/29/16	Wilburn, E 306	167.52	2000 East Aurora Road, Twinsburg	NEDO
Summit	15NFA640 90 Day	Highpoint Trucking Terminal	10/29/15	10/5/16	Garvey, J 118	6.29	3969 Congress Parkway, Richfield	NEDO
Trumbull	14NFA596 90 Day	US DOD DLA/DNSC Warren Depot	8/14/14	8/29/16	Schucker, J 258	146	Pine St Extension - Warren Depot, Warren	NEDO
Wayne	14NFA597 90 Day	Koppers Co Inc Orrville Plant Product Division	8/14/14	1/6/16	Gross, S 192	129.1	12873 Burtin City Rd, Orrville	NEDO

*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 2016. 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 2016

County	Property Name - Address, City	Volunteer	Date Entered MOA Track
Cuyahoga	Joseph & Feiss/Hugo Boss Property - 2149 W 53rd St, Cleveland	West 53rd Holdings, LLC	June 26
Jefferson	Titanium Met Timet - 100 Titanium Way, Toronto	Titanium Metals Corporation	March 2
Shelby	American Trim LLC - 1501 Michigan St, Sidney	American Trim LLC	June 8

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 a physical inspection and field investigation of an NFA letter property in order to determine if applicable standards are met. These standards may include sampling and analysis of one or more of the following media: soils, surface water, air, sediments, or ground water. A Tier I audit of NFA letter supporting documents must be completed prior to conducting a Tier II audit.

Eight audits of NFA letters requesting a CNS submitted during the previous year (2016) 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. Thirty-nine audits initiated in previous years were

completed in 2016, (an 80% increase on average) demonstrating a significant improvement to program efficiency and implementation.

NFA Letters Received in 2016 Selected for Audit in 2017

County	Project Name	Address	NFA #	District	Audit Pool
Belmont	Imperial Plaza	360 28th Street, Bellaire	16NFA660	SEDO	Random
Butler	STM Redevelopment	810 First Ave, Middletown	16NFA649	SWDO	Random
Cuyahoga	GMC Powertrain - City of Parma Parcel	Cuyahoga County Parcel ID# 441-16-001	16NFA658	NEDO	Discretionary
Cuyahoga	Ohio Awning & Mfg	2658 Scranton Rd, Cleveland	16NFA670	NEDO	Random
Franklin	The Pointe at Blacklick	John Street and Lancaster Ave, Reynoldsburg	16NFA664	CDO	Discretionary
Fulton	Britsch Inc Petroleum Bulk Plant	449 N Brunell St, Wauseon	16NFA646	NWDO	Random
Hamilton	CSXT Cincinnati Buck St	2261 Buck Steet, Cincinnati	16NFA661	SWDO	Random
Lorain	Ford Motor Lorain COAF Parcel	5401 Baumhart Rd, Lorain	16NFA672	NEDO	Discretionary

VAP Expenditures for Calendar Year 2016

Personnel	
Fund 4R9 - VAP Fund	\$796,445
Hazardous Waste Management Fund (505)	\$1,648,373
Environmental Protection Fund (5BC)	\$407,619
U.S. EPA Grants (Federal dollars)	\$103,337
Total Cost of Personnel	\$2,955,775
Maintenance of the Program	
Fund 4R9 - VAP Fund	\$299,064
Hazardous Waste Management Fund (505)	\$204,440
Environmental Protection Fund (5BC)	\$252,480
U.S. EPA Grants (Federal dollars)	\$3,657
Total Cost of Maintenance	\$759,641
Equipment	
Fund 4R9 - VAP Fund	\$2,841
Hazardous Waste Management Fund (505)	-
Environmental Protection Fund (5BC)	-
U.S. EPA Grants (Federal dollars)	-
Total Cost of Equipment	\$2,841
Contractual and Other	
Fund 4R9 - VAP Fund	\$1,688
Hazardous Waste Management Fund (505)	\$13,935
Environmental Protection Fund (5BC)	-
U.S. EPA Grants (Federal dollars)	\$1,688
Total Cost of Contractual and Other	\$17,310
Total VAP Program Cost	\$3,735,566

VAP Revenues for Calendar Year 2016

VAP Administration Fund Revenue

Certified Professional Fees	\$378,602
Certified Laboratory Fees	\$38,286
No Further Action (NFAs) Fees	\$473,366
Technical Assistance Cost Recovery	\$512,909
CP Training Reimbursements	-
AGO Collected	-
Misc. - Intra-governmental, photocopying, etc.	-
Total VAP Administration Fund Revenue	\$1,403,163

Tax Abatements in 2016

According to Ohio Revised Code 5709.87, parcels that are issued an NFA letter from CPs are exempt from increases in assessed value. Ohio Revised Code Section 709.88 similarly allows the exemption of a negotiated portion of the increase in the assessed value of parcels related to new buildings and improvements that are issued NFA letters from CPs and enter into agreements with a municipal corporation or county. The following is a list of the counties in which properties with parcels eligible for tax abatements are located and the amount of taxes exempted.

County	Number of properties	Taxes abated in 2016
Allen	2	\$0.00
Ashland	4	\$0.00
Ashtabula	4	\$0.00
Athens	1	\$23,782.51
Auglaize	1	\$0.00
Butler	8	\$11,537.49
Carroll	1	\$0.00
Champaign	2	\$0.00
Clark	6	\$151,912.33
Clermont	1	No response received
Clinton	1	No response received
Columbiana	2	\$12,360.82
Coshocton	1	\$15.38
Cuyahoga	64	\$3,741,966.97
Darke	1	\$0.00
Delaware	2	No response received
Erie	5	\$0.00
Fairfield	2	\$0.00
Franklin	39	\$1,568,514.57
Fulton	1	\$0.00
Geauga	2	\$0.00
Greene	4	\$22,291.17
Hamilton	30	\$54,475.30
Hancock	1	\$0.00
Hardin	1	\$0.00
Henry	2	\$2,721.45
Hocking	1	\$2,916.58
Huron	1	\$0.00
Jackson	3	\$3,952.30
Jefferson	3	\$1,059.00
Knox	2	\$17,924.35
Lake	5	\$0.00
Lawrence	4	\$18,835.18
Licking	1	No response received
Lorain	6	\$49,561.00
Lucas	13	No response received
Mahoning	10	No response received
Marion	1	\$468.25
Medina	1	\$0.00
Mercer	1	\$0.00
Miami	3	\$0.00

County	Number of properties	Taxes abated in 2016
Montgomery	16	\$12,802.50
Perry	3	\$1,801.95
Pickaway	1	\$0.00
Portage	4	\$7,923.97
Putnam	1	\$0.00
Richland	5	\$67,840.00
Ross	1	\$51,786.88
Sandusky	1	\$72.38
Scioto	2	\$10,201.74
Seneca	2	No response received
Stark	9	\$0.00
Summit	22	\$8,430.20
Trumbull	3	\$0.00
Tuscarawas	1	\$2,252.66
Van Wert	1	No response received
Vinton	1	\$0.00
Warren	1	\$0.00
Wayne	1	\$0.00
Williams	3	\$0.00
Wyandot	1	\$0.00
Totals	322	\$5,847,406.93



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

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