



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 26 2013

REPLY TO THE ATTENTION OF:

Ms. Cindy Hafner, Chief  
Division of Environmental Response and Revitalization  
Ohio Environmental Protection Agency  
Post Office Box 1049  
Columbus, Ohio 43216-1049

Re: Memorandum of Agreement (MOA) Track Voluntary Action Program (VAP)

Dear Ms. Hafner:

This letter follows recent conversations regarding the 2007 MOA between the U.S. Environmental Protection Agency staff and the Ohio Environmental Protection Agency staff to explain and clarify the roles and responsibilities of the Agencies, and the potential utilization of the MOA-track of Ohio EPA's VAP to assess and address contaminated sites in Ohio.

In 2011 (H.B. 153) and 2012 (S.B. 294), the Ohio General Assembly amended the VAP statute to expand eligibility for the program, allowing its use for sites with certain petroleum underground storage tanks (USTs). In light of those VAP statute amendments, Ohio EPA and U.S. EPA are discussing amendments to the 2007 MOA so that these newly eligible brownfields sites would also be included.

In addition to developing appropriate legal language, the MOA amendment process may require additional EPA review of the State petroleum UST program. In the interim, however, EPA does not object if these newly eligible brownfield properties begin the MOA Track VAP, with the understanding that these properties will not receive the full benefits of the MOA with respect to petroleum underground storage tanks until the appropriate MOA amendments are finalized and effective. In addition, EPA acknowledges that brownfield properties with contamination issues to which the MOA does not apply (e.g., sites contaminated with polychlorinated biphenyls (PCBs)) are not disqualified from participation in the MOA Track VAP if they are otherwise eligible under OAC 3745-300-02. Rather, these properties are subject to other federal and/or state environmental regulatory requirements, and while they may begin the MOA track process with these requirements unfulfilled, only when those regulatory requirements are satisfied do these sites qualify for the benefits described in Section I.B.3 of the MOA.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret M. Guerriero".

Margaret M. Guerriero  
Director  
Land and Chemicals Division