



State of Ohio Environmental Protection Agency

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**Date:** April 23, 2002  
**To:** Voluntary Action Program Certified Professionals and Interested Parties  
**From:** Amy Yersavich, Manager, Voluntary Action Program  
**Re:** VAP MOA Track Procedures

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As you know, U.S. EPA and Ohio EPA negotiated a memorandum of agreement (MOA) that was finalized and signed by both parties on July 31, 2001. The MOA officially states that U.S. EPA does not anticipate taking any removal or remedial actions using their federal enforcement authorities under CERCLA at sites which follow and complete the VAP MOA Track procedures.

The MOA Track differs from the current or "classic" VAP process in two distinct areas - oversight and public involvement. In negotiating the MOA, U.S. EPA wanted to ensure that Ohio EPA reviewed and approved all reports related to the investigation and remediation conducted under the MOA Track. In addition, U.S. EPA wanted to ensure that the public is provided adequate notice during the voluntary action, to afford the public the opportunity to familiarize themselves with the voluntary action and provide input to Ohio EPA, if desired.

Ohio EPA created the procedures and documents contained in this manual to essentially walk the CP and Volunteer through a voluntary action that both meets the "classic" VAP requirements (i.e. the requirements contained in ORC Chapter 3746 and OAC Chapter 3745-300) and, along the way, adds the MOA steps for public involvement and Ohio EPA review and approval. Many of the documents are simply revised versions of specific sections of the classic VAP's NFA Checklist. For example, the notice the Volunteer provides Ohio EPA to indicate the Volunteer is entering the VAP MOA Track (FORM #1) is Section A of the NFA Checklist, with minor revisions concerning public notification. Similarly, the Volunteer's initial eligibility determination, Phase I and Phase II investigation reports and risk assessment-derived standards are provided under the MOA Track using revised NFA Checklist sections. As these documents are reviewed and approved by Ohio EPA, they can form the majority of the necessary components of an NFA letter to help meet the requirements of OAC 3745-300-13. This manual also provides the forms and guidance documents developed specifically for the MOA Track.

Ohio EPA performs oversight under the MOA Track during four main steps - after the Volunteer's notice of entry, the initial investigation, the Phase II property assessment and the property-specific-risk assessment / remedial action plan. The guidance documents to be followed and forms to be completed at each step are contained in the

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Maureen O'Connor, Lieutenant Governor  
Christopher Jones, Director

four sections of this manual. At each step, Ohio EPA will review the work performed in a manner similar to a VAP technical assistance review. At the end of the review, Ohio EPA will provide the CP and Volunteer either a comment letter, if additional information or changes are needed, or an approval letter. Once an approval letter is received, the Volunteer and CP may proceed to complete the next step in the process.

**Because the step-wise progression of review and approval is an integral part of the MOA, all MOA Track projects must “begin at the beginning”. When significant investigatory work has already been performed, as long as a permanent remedy has not been initiated at the property, the project can still participate under the MOA Track. However, the CP and Volunteer must enter at the notice of entry stage by submitting a Notice of Entry Form, setting up a document repository and public noticing the entry into the MOA Track. This does not mean that previous work conforming to VAP criteria cannot be used; it simply means that the step-wise process must be followed to allow for the public involvement and up-front Ohio EPA oversight necessary under the MOA Track.**

When the steps of the MOA Track are successfully completed, the CP can prepare an NFA letter, using the many of the documents previously approved (step 16 of FORM #1 details preparation of an NFA letter following the MOA Track). As a result of the up-front oversight, NFA letter review and covenant issuance should be less time consuming than for classic VAP NFA letters. The covenant that will be issued to Volunteers who complete the MOA Track will contain specific language referring to the MOA between the two agencies and U.S. EPA’s agreement that they do not anticipate taking removal or remedial action at sites successfully completing the MOA Track.

I hope that the procedures, guidance documents and forms provided in this manual will help guide you through the successful completion of your MOA Track voluntary action. Because of the added MOA requirements, I am well aware that the process is rather complex. The VAP is interested in helping guide you through MOA Track investigations as we begin this new program. Keep in mind that grant funded technical assistance may be available to any public entity wishing to enter the MOA Track to cover technical assistance, including the MOA document reviews the Ohio EPA must perform.

Please feel free to contact me or other VAP staff if you have any questions as you implement these procedures and provide us with any comments you may have to help improve the process.