

Operations and Maintenance Plan

- Required when:
 - Engineering control is employed
 - Any remedial activity not completed prior to NFA issuance

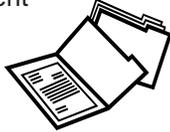
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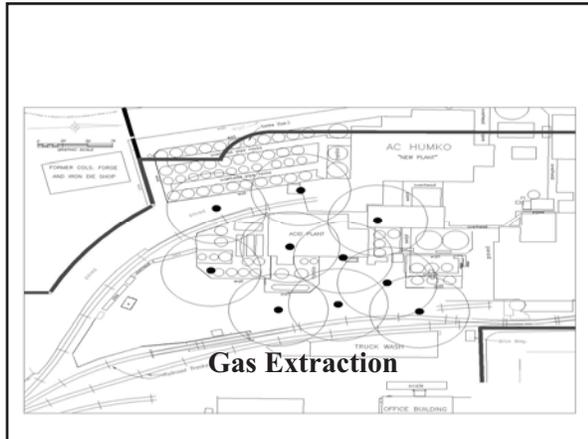


Operations and Maintenance Plan Contents

- Summary of applicable standards
- Plan for implementation
- Plan for evaluating effectiveness
- Description of equipment
- Plan for adjustments



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Operations and Maintenance Plan Contents (cont.)

- Address potential problems – including contingency plan
- Placeholder for keeping records
- Plan for termination of remedial activities

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**Operations and
Maintenance Plan
Reporting**

- At least annually
- Demonstrate efficacy of remedy
- Report on contingency measures
- Confirm remedy is still in place

**Operations and Maintenance
Agreement**

- Contents include:
 - Operations and maintenance plan
 - Implementation agreement provision
 - Periodic reporting requirement
 - Notification to Ohio EPA Director requirement



Operations and Maintenance Agreement

- Contents include (cont.):
 - Review and approval for proposed modifications provision
 - Notification to prospective buyers or transferees provision
 - Notification to Ohio EPA of transfer of property and O&M obligations

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Operations and Maintenance Agreement

- Contents include (cont.):
 - Financial assurance provision
 - Inspection rights for Ohio EPA
 - Mechanism for providing reports
 - Logs, data, records, etc.



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Operations and Maintenance Agreement – In Practice

- Generic template available through VAP
- O&M plan and agreement must be submitted with NFA Letter
- O&M agreement negotiated after submittal

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Uniform Environmental Covenant



- Law effective on Dec. 31, 2004
- Created new procedure for creating use restrictions
- Applies to properties with NFA that request CNS
- Activity and Use Limitations established through “environmental covenants”

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Uniform Environmental Covenant

- VAP has guidance on appropriate language
- CP must submit proposed language with NFA Letter
- Should discuss language with VAP prior to issuance of NFA

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VAP Environmental Covenants Guidance

May 2005 Guidance:
Developing Proposed Environmental Covenants with “Activity and Use Limitations” for Properties under Ohio’s Voluntary Action Program

Overview

This guidance applies to property cleanups under Ohio’s Voluntary Action Program (VAP), when the volunteer requests a VAP-certified professional (CP) to submit to Ohio EPA a no further action (NFA) letter with a request for a covenant not to sue. An NFA letter submitted with covenant not to sue request is an “environmental response project” that is subject to Ohio’s new Uniform Environmental Covenants law. See Ohio Revised Code (ORC) 5301.80 to 5301.92 (effective December 30, 2004).

If the property’s remedy relies on “activity and use limitations” (formerly known as use restrictions) to restrict property use, the volunteer must provide to the CP a “proposed environmental covenant” that complies with ORC 5301.82. The “proposed environmental covenant” with its activity and use limitations is a remedy to support the CP’s issuance of an NFA letter. See ORC 3746.10(C)(3)(b) and 3746.11(A) (as revised effective December 30, 2004).

This guidance provides volunteers and CPs with language for development of proposed environmental covenants in coordination with the **Environmental Covenant Template**—an Ohio EPA template for use with all agency environmental response projects. If you have questions regarding the template or this guidance, please contact Ohio EPA’s Legal Office at 614-644-3037 and ask for a VAP attorney.

Background Section of Environmental Covenant

Using a “whereas clause” format for the background section, identify the volunteer and the property owner, identify the VAP cleanup, identify the property that is the subject of the voluntary action as compared to the environmental covenant, describe the purpose of the activity and use limitations, and explain where the reader can find more information about the voluntary action with focus on the NFA letter’s executive summary. Some of the information blanks would remain blank until the agency’s review of the proposed environmental covenant, for example, Ohio EPA’s assigned NFA tracking number.

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Uniform Environmental Covenant – In Practice

- CP should discuss implications of AULs with Volunteer
- Recordation of environmental covenant within 30 days of CNS issuance
- VAP has generic templates

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INDEX **TECHNICAL DECISION NUMBER**

VA3001.0.06.006 - VAP FAQ #5: Appropriate Application of Yield and Hydraulic Conductivity Data (See VA3007.03.009)

VA3001.0.06.007 - VAP FAQ #6: Assuming Ground Water Meets Unrestricted Potable Use Standards (See VA3007.03.012)

VA3001.0.06.008 - VAP FAQ #7: Appropriate Use of Multiple Chemical Adjustments for Risk-Derived Potable Use Standards (See VA3008.03.007)

VA3001.0.06.009 - VAP FAQ #8: Determining Which COCs Require Multiple Chemical Adjustments for the Protection of Ground Water Demonstration (See VA3007.03.077)

VA3001.0.06.010 - VAP FAQ #9: Use of 95% SCL for Protection of Ground Water Demonstration

VA3001.0.06.011 - VAP FAQ #10: Use of Long-Term Monitoring to Demonstrate the Protection of Ground Water Requirements

VA3001.0.06.012 - VAP FAQ #11: Qualitative Demonstration of the Protection of Ground Water Requirements (See VA3007.03.072)

VA3001.0.06.013 - VAP FAQ #12: Use of 95% SCL for Protection of Ground Water Requirements (See VA3007.03.074)

VA3001.0.06.014 - VAP FAQ #13: Determination that Not Less Than 90% (or 75% of the Parcels Within the City or Township are Connected to a Community Water System (See VA3010.03.023)

VA3001.0.06.015 - VAP FAQ #14: Determination of Wells Used for Potable Purposes (See VA3010.03.024)

VA3001.0.06.016 - VAP FAQ #15: Ground Water Sampling Notification Letter: Purpose of VAPC 2014 and 2015 (See VA3009.03.000)

VA3001.0.06.021 - Right of Ground Water Assessment When Off-Property Data Used (See VA3007.04.001)

VA3001.0.06.024 - Comparison to Another Saturated Zone to Determine that a Zone Falls below the Criteria of Class A Ground Water (See VA3009.03.001)

VA3001.0.01.021 - Ground Water Sample Filtration (See VA3007.03.005)

VA3012.06.000 - Varieties

VA3013.06.000 - Content and Scope of NFA Letters

- VA3013.00.001 - Multiple Land Uses under One NFA Letter
- VA3013.00.001 - Issuing NFA Letters for Non-contiguous Parcels
- VA3013.00.001 - Issuing NFAs for Non-Contiguous Parcels (See VA3013.03.001)

VA3014.06.000 - Audit of NFA Letters

VA3015.06.000 - O&M Remedies

- VA3015.01.001 - Using a Passive Remedy to Ensure Compliance with Applicable Standards for Potential "Future" Exposure Scenarios
- VA3015.04.001 - Injection Wells Used for Remedial Purposes

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Injection wells



- Formal injection permit may not be necessary if fluids do not exceed standards
- CP must apply and receive 5X26 exemption for remedial projects
- More information found at:
 - <http://www.epa.state.oh.us/ddagw/Documents/5X26-ARP.pdf>

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Hazardous Waste Reporting Requirements

- Comply with annual reporting requirements found in 3745-52-41 if Volunteer:
 - Generates 1000 kg hazardous waste/month (or subject to 3745-52-34) and,
 - Ships hazardous waste off-site

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Hazardous Waste Reporting Requirements



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