

**ARCHIVE:** Archived because this document no longer provides current guidance and because revisions made to VAP rules in 2002 in OAC Chapter 3745-300 render this guidance unnecessary.

**TITLE:** What Constitutes a Permanent Remedy When Remedy Includes off-site Disposal of Waste?

**DATE EFFECTIVE:** 1996

**KEYWORDS:** licensed solid waste disposal facility, offsite disposal of waste, permanent remedy

**RULES/ AUTHORITY:** Ohio Revised Code (ORC) Chapter 3746, Sections 3746.10 (D), 3734.13, and 3746.30 (A), 40 CFR Part 761.

**QUESTION:** Can contaminated soils be disposed off-site in support of site remediation within the VAP?

**ANSWER:** Contaminated soils may be disposed off-site. However, any remedy involving the removal, storage and disposal of contaminated soil must be **completed in accordance with applicable Federal and Ohio laws prior** to the issuance of a No Further Action (NFA) Letter and a request for a CNS, in order to constitute a complete and acceptable VAP remedy.

**EXAMPLE:** In 1996, a volunteer entered into the Voluntary Action Program (VAP) to complete the remedy of a former steel mill property. Completion of the remedy consisted of the disposal of two piles of soil, each approximately 1200 cubic yards, containing polychlorinated biphenyls (PCBs), and petroleum contaminated soils (PCS) combined with other solid wastes. The agency required that all PCB contaminated soil be disposed of in accordance with applicable law, including 40 CFR Part 761: PCBs, Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions, and, all PCS be disposed of at a permitted and licensed solid waste disposal facility. Ohio Revised Code (ORC) Sections 3746.30 (A) and 3746.10 (D) require that voluntary actions be conducted in compliance with federal and state laws and local ordinances.

As a result of discussions with the Divisions of Emergency and Remedial Response and Solid and Infectious Waste Management,

Ohio EPA has determined that, any remedy involving the removal, storage and disposal of contaminated soil must be **completed in accordance with applicable law prior** to the issuance of a NFA Letter and a request for a CNS, in order to constitute a complete and acceptable VAP remedy. The agency has significant concern that the VAP not be used in a manner that would result in contamination being moved from one site to another, unless sent to a properly licensed and permitted disposal facility, or otherwise addressed in a manner consistent with ORC Chapter 3746., and the rules adopted thereunder.

**SUMMARY:**

Contaminated soils may be disposed off-site if done so in accordance with applicable Federal and Ohio law prior to the issuance of a No Further Action (“NFA”) Letter and a request for a CNS.

**OHIO EPA  
CONTACT:**

For any questions concerning this issue, please contact the VAP central office at (614) 644-2924.