

**Ohio EPA RCRA AND VAP MOA Track:
Procedures for Participation (revised July 2015)**

The *RCRA and Voluntary Action Program Memorandum of Agreement* between the United States Environmental Protection Agency (U.S. EPA) and the Ohio Environmental Protection Agency (Ohio EPA), became effective November 8, 2007 and supersedes the RCRA and VAP MOA which was in effect from July 31, 2001 until November 7, 2007. Requiring no change to Ohio Revised Code (ORC) Chapter 3746, the rules adopted in Ohio Administrative Code (OAC) Chapter 3745-300 or the RCRA CA guidance, the RCRA and VAP MOA Track provides opportunities for public involvement, and incorporates document reviews and oversight by Ohio EPA of the voluntary action. Listed below is the step by step process for Volunteers choosing to conduct a cleanup of property under the RCRA and VAP MOA Track.

RCRA and VAP MOA Track “Step-by-Step” Procedures

1. Purpose of FORM #1: This form provides Volunteers with step-by-step procedures for conducting a voluntary action under the RCRA and VAP MOA Track. Participation in the RCRA and VAP MOA Track requires Volunteers to follow Steps 1 through 11 for the property that is the subject of the voluntary action (the “property”).

Note: Property-specific circumstances or VAP rule criteria may necessitate a varied or iterative application of certain procedures. For example, Phase II sampling may require redelineation of an identified area or deriving standards through a property-specific risk assessment may require further data collection. For additional guidance on reevaluation of information, refer to the Phase II Sampling Guidance (FORM #9).

Document submissions to Ohio EPA: Where RCRA and VAP MOA Track procedures call for document submission to Ohio EPA, please submit with a cover letter, clearly indicating the Volunteer’s name, the MOA Track property’s name, and its location:

- a. *One* paper copy (or an original as required) and *one* electronic disk copy of the documents to Ohio EPA’s central office; and
- b. *Two* copies to the applicable Ohio EPA district office, using the Ohio EPA contacts and addresses provided in Attachment 1 of this form.

Documents must also be submitted to the document repository established for the property, as explained below.

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2. Document repository: Establish a document repository at a public location (e.g., a public library) in the vicinity of the property. Guidance for establishing a document repository, including what RCRA and VAP MOA Track documents must be retained in the repository, is detailed in **FORM #2**, “Document Repository Guidance.”
3. Notice of Entry: Complete the Notice of Entry for the property, using **FORM #3**, “Notice of Entry Into the RCRA and VAP MOA Track” and accompanying instructions. Include in the completed Notice of Entry the public repository facility’s name and address, and attach a copy of the public notice language prepared for the property.
4. Public notice of submitted Notice of Entry: The Volunteer needs to notify the public of the Volunteer’s entry into the RCRA and VAP MOA Track. To prepare the public notice, use **FORM #4**, “Public Notice: Notice of Entry” template. The date of submittal of the Notice of Entry, property information, and the name and location of the established public repository must be listed in the public notice. The public notice must be published at least once in a local newspaper. For the purposes of the RCRA and VAP MOA Track, a “local newspaper”:
 - a. Serves the public in the immediate vicinity of the property;
 - b. Has the largest general circulation in the vicinity of the property;
 - c. Has a nonspecialized circulation audience, representing varied interests; and
 - d. Is published at least once a week.

Note: An example of a “local newspaper” may include, for a property on the west side of Akron, the West Side Leader. Local city halls may be able to provide Volunteers with help locating the local newspapers that meet the above criteria for the property. Additional public notices may be issued in other newspapers.

Proof of publication of the public notice must be submitted to Ohio EPA within 30 days of submission of the Notice of Entry. The proof of publication must include:

- a. A clipping from the local newspaper of the printed public notice (or an accurate photocopy of the clipping); and
- b. The newspaper clipping must be accompanied either by a statement from the Volunteer identifying the newspaper name and date of publication or, the affidavit of a newspaper representative, identifying the same.

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Note: In its Weekly Review, Ohio EPA will publish notices of the received Notices of Entry.

Note: The MOA requires a public meeting, when there is significant public interest in the site, conducted by the Volunteer.

5. Volunteer's agreement to comply with RCRA AND VAP MOA Track procedures: The MOA requires Volunteers to agree to follow the procedures provided under the RCRA and VAP MOA Track and to remain in compliance with the procedures. Agreement includes reimbursing Ohio EPA for its document reviews and oversight, as part of the VAP's Technical Assistance Program. To acknowledge agreement, an authorized representative of the Volunteer must complete and sign, before a notary public, the "Acknowledgment of Volunteer's Agreement" template (included with **FORM #5**, "Notice of VAP Technical Assistance Program and Volunteer's Agreement to Comply").

Note: If the Property is owned or maintained by a public entity (e.g., city, county, port authority) the Volunteer may qualify for subsidized technical assistance from Ohio EPA through a grant with U.S. EPA. Please contact the VAP staff in the Central Office at (614) 644-2924 for further information about grant-funded technical assistance for Ohio EPA's review of RCRA and VAP MOA Track submittals.

6. Initial Eligibility Determination: Complete the Initial Eligibility Determination (**FORM #7**) and submit the Initial Eligibility Determination, along with **FORM #4**, **FORM #5 (the Volunteer's Agreement to Comply portion)** and proof of publication of the public notice to Ohio EPA following the document submission instructions contained in Step 1.
7. Ohio EPA acknowledgment of Entry into RCRA AND VAP MOA Track: Upon receipt of the Notice of Entry, proof of publication of the public notice, and signed acknowledgment, and a complete and acceptable Initial Eligibility Determination (**FORM #7**), Ohio EPA will provide an "Acknowledgment of Entry into RCRA and VAP MOA Track" letter (see **FORM #6** for example).
8. Completion of Voluntary Action up to Remedial Action Work Plan: Upon receiving Ohio EPA's "Acknowledgment of Entry into RCRA and VAP MOA Track" memorandum (Step 7), the Volunteer may complete the remainder of the voluntary action up to the remedial action work plan. If a remedy must be implemented, a remedial action work plan (**FORM #16**) must be completed, public noticed and approved by Ohio EPA. All other steps and forms leading up to the remedial action work plan must be completed as well before an NFA may be issued by a Certified Professional.

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9. The following activities must be completed, as appropriate, and the forms submitted to and approved by Ohio EPA before the Volunteer and CP may move forward to implement the remedy and issue the NFA.
- a. Phase I Property Assessment: The Volunteer must conduct a Phase I Property Assessment in accordance with OAC 3745-300-06. If the Phase I conclusions indicate a Phase II must be performed, the Volunteer should move to the next step.

Note: If the Phase I conclusions indicate no release of hazardous substances or petroleum occurred or may have occurred, the Volunteer may submit the Phase I to Ohio EPA and once approved by the Agency, have their Certified Professional issue an NFA.

- b. Phase II Property Assessment: The Volunteer must conduct a Phase II Property Assessment, in accordance with OAC 3745-300-07 if the Phase I indicated a release of hazardous substances or petroleum occurred or may have occurred. The new VAP Phase II report template must be used for the Phase II assessment.

Note: If the Phase II conclusions indicate that the property meets applicable standards without the need to conduct a remedy or perform a property-specific risk assessment, the Volunteer may proceed to Step 10, below. Further, upon receipt of Ohio EPA's "Phase II Notice of Approval," the Certified Professional may prepare an NFA letter for the property following Step 11.

- c. Property-specific risk assessment, risk-derived standards: Applicable standards for properties under the RCRA and VAP MOA Track are determined in accordance with OAC Chapter 3745-300, and therefore may include OAC 3745-300-08 (generic standards) and OAC 3745-300-09 (property-specific risk assessment derived standards). When a remedy is needed for the property to comply with applicable standards derived by the property-specific risk assessment, the Volunteer needs to include the risk assessment documentation as part of the Phase II report (per the Phase II report template) with the documentation required for a remedial action outlined below.
- d. Remedies - Remedial Action Work Plan, O&M Plan: If a remedy needs to be performed in order for the property to meet applicable standards, the proposed remedy must be detailed in **FORM #16**, "Remedial Action Work Plan" and its supporting documentation. If a proposed remedial activity will

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result in the property achieving applicable standards in the future, or if a remedy must be operated or maintained (such as a pump and treat system or a cap system), an operation and maintenance (O&M) plan must be prepared in accordance with the current VAP O&M Plan Template. Include the O&M plan with the supporting documentation of **FORM #16**. Remedial activities under the RCRA and VAP MOA Track must be conducted in accordance with OAC 3745-300-11.

- e. Public Notice of the Proposed Remedial Action: The Volunteer needs to provide notice to the public of the Volunteer's proposed remedial action. To prepare the public notice, use **FORM #18**, "Public Notice: Proposed Remedial Action Work Plan" template. The public notice must be published at least once in a "local newspaper" (see Step 4). Prior to the public notice, the Volunteer must place a copy of **FORM #16** and all supporting documentation in the document repository. Under the MOA, a 30-day comment period is afforded to the public. Ohio EPA will consider all comments received before providing final comments or approving the remedial action. Further, proof of publication of the public notice must be submitted to Ohio EPA within 30 days of submission of **FORM #16**, and a public meeting may be necessary (see Step 4).

The Volunteer must submit to Ohio EPA, for review and approval, the completed **FORM #16** and all supporting documentation. Pursuant to the MOA, Ohio EPA must approve the Volunteer's remedial activities before their implementation, except when the activities are necessary to mitigate an imminent and substantial threat to public health or safety or the environment.

10. Submission and Approval of Phase I, Phase II, Risk Assessment and Remedial Action Work Plan

When the Volunteer has completed all the assessments and plans necessary for the property (e.g., Phase I; Phase I and II; Phase I, II and Risk Assessment; Phase I, II and Remedial Action Work Plan, etc), but **prior to implementing any remedial action**, the appropriate forms and documents referenced in Step 9 are to be submitted to Ohio EPA (see Step 1 for submission instructions).

Following the public comment period (required only if a Remedial Action Work Plan was necessary for the property) and after completing the review of the Phase I, Phase II, Risk Assessment and Remedial Action Work Plan, Ohio EPA will provide the Volunteer with either a Notice of Approval or a comment letter identifying deficiencies. Once the Volunteer receives Ohio EPA's Notice of Approval for the above-mentioned documents, the Volunteer may begin to implement the approved remedial activity according to the approved plan(s).

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11. Issuance of NFA letter for property completing RCRA and VAP MOA Track:

A no further action (NFA) letter issued for a property completing the RCRA and VAP MOA Track, Steps 1 to 10 above, is subject to the same requirements as any other NFA letter issued under ORC Chapter 3746 and OAC Chapter 3745-300. The NFA letter must be issued by a Certified Professional in accordance with the requirements for an NFA letter specified in ORC 3746.11 and OAC 3745-300-13. Submittal of the NFA letter, with a request to the Director of Ohio EPA for a covenant not to sue, also remains subject to ORC 3746.11 and OAC 3745-300-13.

A cover letter indicating the Volunteer's name, the property's name, and a statement that the NFA letter was completed following review under the RCRA and VAP MOA Track must be included with the NFA letter.

The NFA letter must be completed in the format of the NFA letter template for VAP rules effective August 1, 2015.

Link to template: <http://epa.ohio.gov/derr/volunt/volunt.aspx#123276677-nfa-information-process--procedures>

Certified Professionals or Volunteers may contact Ohio EPA with questions about the RCRA and VAP MOA Track. Contact VAP central office staff at (614) 644-2924 or DERR/VAP district office staff at the phone numbers or addresses given in Attachment 1.

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Attachment 1

Instructions for Submission of MOA Track documents

Submit to Ohio EPA, at the Central Office location, one paper copy of the documents **plus one electronic disk copy** of the documents. **The electronic disk copy should be in .pdf format and indexed by section and attachments.** Also, submit an additional **two** hard copies to the appropriate District Office (see addresses below).

Central Office:

Mailing Address

Ohio EPA/DERR
Voluntary Action Program
Attn: VAP Supervisor
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049

Physical Address

Ohio EPA/DERR
Voluntary Action Program
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, OH 43215

Central District Office:

VAP Coordinator: Doug Crandall (614) 387-6181

Mailing Address

Ohio EPA/DERR-CDO
Central District Office
Attn: VAP District Coordinator
P.O. Box 1049
Columbus, OH 43216-1049

Physical Address

Ohio EPA/DERR-CDO
Central District Office
Attn: VAP District Coordinator
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, OH 43215

Northeast District Office:

VAP Coordinator: Sue Netzly-Watkins (330) 963-1200

Ohio EPA/DERR
Northeast District Office
Attn: VAP District Coordinator
2110 Aurora Road
Twinsburg, OH 44087

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Northwest District Office:

VAP Coordinator: Archie Lunsey (419) 373-3035

Ohio EPA/DERR
Northwest District Office
Attn: VAP District Coordinator
347 North Dunbridge Rd.
Bowling Green, OH 43402

Southeast District Office:

VAP Coordinator: Kris Vanecko (740) 380-5271

Ohio EPA/DERR
Southeast District Office
Attn: VAP District Coordinator
2195 Front St.
Logan, OH 43138

Southwest District Office:

VAP Coordinator: Joe Smindak (937) 285-6064

Ohio EPA/DERR
Southwest District Office
Attn: VAP District Coordinator
401 E. Fifth Street
Dayton, OH 45402-2911

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Submission requirements for electronic copies of documents.

When submitting documents, an electronic copy on compact disc or DVD is also required to be submitted.

The formatting of these documents should be as follows:

- Documents should be submitted in PDF format only.
- Each PDF must be bookmarked or indexed by section. Instructions for bookmarking are on the VAP web page at <http://www.epa.ohio.gov/portals/30/vap/docs/Electronic%20Submittals.pdf>.
- Each PDF should be no larger than 150,000 KB.
- DO NOT submit each document as a separate PDF.
- Documents should be combined into as few PDFs as possible, without exceeding the 150,000 KB limit.
- When creating PDFs, please compress the size of the files whenever possible.
- When naming documents:
 - DO NOT use any special characters (i.e., *, <, >, /, |, ?, etc...)
 - Only letters, numbers, dashes (-) and underscore (_) should be used.
 - Names should not exceed 25 characters.
 - Names should be indicative of the contents of the document (i.e., ExecSum.pdf, RMP.pdf, etc...) for ease of reference.
 - Refrain from using only internal project numbers as the name of documents.

The submittal of documents is not considered complete until the electronic copies comply with these standards. Any electronic copy submitted not adhering to these standards may be returned for correction and review of the documents will be delayed until the electronic copy is determined to have been submitted correctly.