

Ohio EPA RCRA AND VAP MOA TRACK Procedures for Participation

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. **Procedures for Participation:** This 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 re-delineating an identified area, or deriving standards through a property-specific risk assessment may require further data collection. Refer to the Phase II Sampling Guidance for additional guidance on reevaluating information.

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:

Submit one electronic copy of each document through Ohio EPA’s eBusiness Center at <https://ebiz.epa.ohio.gov> or through our Liquid Files application (for larger files). Instructions for electronic submittals are included at the end of this document. **Do not include a copy of a check with the application.**

As explained below, documents must also be submitted to the document repository established for the property.

2. **Document Repository:** Establish a document repository at a public location (e.g., a public library) in the vicinity of the property. The “Document Repository Guidance” details the guidelines for establishing a document repository, including what RCRA and VAP MOA Track documents must be retained in the repository.
3. **Notice of Entry:** Complete the Notice of Entry for the property, using **FORM #1**, “Notice of Entry into the RCRA and VAP MOA Track,” and accompanying instructions. Include

the public repository facility's name and address in the completed Notice of Entry 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 #2**, the "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: For a property on the west side of Akron, the West Side Leader may be an example of a "local newspaper." Local city halls may be able to help Volunteers locate 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.

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

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

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 remain compliant with the procedures. The 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 #1**, "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 #1**) and proof of publication of the public notice to the Ohio EPA following the document submission instructions 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 #1**), Ohio EPA will provide an "Acknowledgment of Entry into RCRA and VAP MOA Track" letter.
8. Completion of Voluntary Action up to Redial Action Work Plan Checklist: 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 checklist (**FORM #3**) must be completed, publicly noticed, and approved by the Ohio EPA. All other steps and forms leading up to the remedial action work plan must be completed as well before a Certified Professional may issue an NFA.
9. The following activities must be completed, as appropriate, and the forms must be submitted to and approved by Ohio EPA before the Volunteer and CP can implement the remedy and issue the NFA.
 - e. 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. **Please redact all personally identifiable information (including Social Security numbers)**

- f. 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. **Please redact all personally identifiable information (including Social Security numbers)**

Note: If the Phase II conclusions indicate that the property meets applicable standards without needing to 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.

- g. 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 from the property-specific risk assessment, the Volunteer must 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.
- h. Remedies - Remedial Action Work Plan, O&M Plan: If a remedy needs to be performed for the property to meet applicable standards, the proposed remedy must be detailed in **FORM #3**, "Remedial Action Work Plan Checklist" and its supporting documentation. If a proposed remedial activity will 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 #3**. Remedial activities under the RCRA and VAP MOA Track must be conducted in accordance with OAC 3745-300-11.
- i. 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 #4**, the "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 #3** 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 #3**, and a public meeting may be necessary (see Step 4).

For review and approval, the Volunteer must submit the completed FORM #3 and all supporting documentation to Ohio EPA. 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 Checklist

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 Checklist, etc.), but prior to implementing any remedial action, the appropriate forms and documents referenced in Step 9 must 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 implementing the remedial activity according to the approved plan(s).

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. A Certified Professional must issue the NFA letter 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, remains subject to ORC 3746.11 and OAC

3745-300-13.

A cover letter indicating the Volunteer's name and 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 accordance with the current VAP rules using the NFA letter template.

Link to the template:

https://dam.assets.ohio.gov/raw/upload/epa.ohio.gov/Portals/30/vap/docs/NFA-Letter-template_final.docx

Certified Professionals or Volunteers may contact the VAP at 614-644-2924 with questions about the RCRA and VAP MOA Track.

Attachment 1

Instructions for Submission of MOA Track documents

Instructions for submitting Voluntary Action Program (VAP) documents through the Generic File Upload Service in eBiz

Go to Ohio EPA's eBusiness Center at <https://ebiz.epa.ohio.gov> (get an account, if needed) and log in with your eBiz User ID and Password.

Choose "**Generic File Upload**" from the list of **Available Services**,

For **Program**, select "**Response, Remediation, and Cleanup Programs**"

For **File Type**, choose from the drop-down menu the appropriate File Type for the document you are submitting.

In **Description**, please describe the file or files being uploaded.

If you already have a DERR ID number, include the number in the description.

Browse and select the files you would like to upload. Right-click and choose "*Send to Compressed (zipped) Folder.*" Once the files are zipped, choose the zipped folder to submit. Check the "I'm not a robot" box and click the "Submit" button.

Ohio EPA Staff will be notified of your submission and retrieve your submittal.

Electronic Submission of Data to Ohio EPA

Electronic submission of information to the Ohio EPA cannot be completed with external devices (jump drives, CDs, etc.). Instead, please complete the following:

1. Go to Ohio EPA's file sharing website: <https://fileshare.epa.ohio.gov/>.

Ohio EPA Large File Transfer (Powered by LiquidFiles)

Password

Remember me

2. Click on the button in the bottom right-hand corner to create an account.

Register (non-Ohio EPA users only)

Name

Email

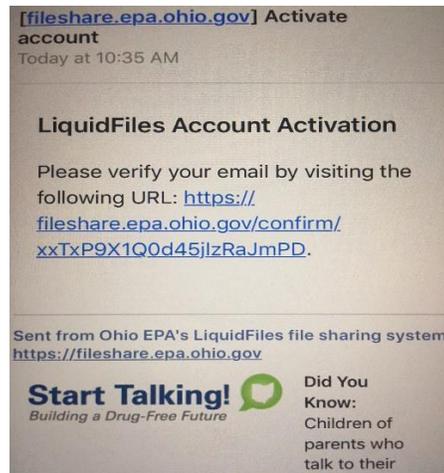
A confirmation email will be sent to this address. If you are a current Ohio EPA employee, email registration is not required. Click your browser's back-arrow button to return to the main page to use your network credentials.

Password

Password Confirmation

3. Provide your name, and email address, and create a password to create an account.

4. An email will be sent to you to activate your account. Click on the link in the email.



5. Log in to your account.



Ohio EPA Large File Transfer (Powered by LiquidFiles)

Ohio EPA Large File Transfer (Powered by LiquidFiles)

Password

Remember me

6. Fill in the recipient's email address, include a subject and message regarding the information, and then upload the data.

The screenshot shows a web form titled "Message". It has a "To" field with "user@example.com", "add cc", and "add bcc" buttons. A "Subject" field contains the text "Subject". Below is a rich text editor with a toolbar and a large empty text area. A "Drop Files Here" box is below the editor, followed by a green "+ Add Files..." button and a blue "Send" button. On the right side, there are several settings: a checked checkbox for "Require authentication to access/download", an "Access Restriction" dropdown menu set to "Only Specified Recipients can access", a "Message Expires After" section with a "Downloads per Recipient" input field, a checked checkbox for "Send a copy to myself", an unchecked checkbox for "Private Message", and "Limitations" including "Max size: 4 GB (Limit per message)" and a link for "Blocked Extensions".

7. Click send.
8. If you receive a message that an email is invalid, such as below, try unchecking the "Require authentication to access/download" button and click "Send" again.

The screenshot shows the same "Message" form as in step 6, but with an error message. A red box at the top says "At least one invalid email address" and lists "pic1049@gmail.com is not in any of the allowed domains". The "To" field now contains "pic1049@gmail.com" and has a red error message below it. The "Subject" field contains "tst:" and the message body contains "asdf". On the right, the "Require authentication to access/download" checkbox is checked. A blue arrow points to this checkbox. The browser address bar shows "https://fileshare.epa.ohio.gov/message/new".