

## Hearing Summary

Rule Package: Voluntary Action Program (VAP)

Original filing date: July 31, 2019

Public comment start date: July 31, 2019

Public comment end date: September 6, 2019

Public hearing date: September 6, 2019

List of Rules: 3745-300-01, 3745-300-02, 3745-300-03, 3745-300-04, 3745-300-05,  
3745-300-06, 3745-300-07, 3745-300-08, 3745-300-09, 3745-300-10,  
3745-300-11, 3745-300-12, 3745-300-13, 3745-300-14, 3745-300-15

Were there any participants in this public hearing beyond Ohio EPA staff or JCARR staff?

☐ Yes

☒ No

Were there comments received during the public comment period outside of those presented at this hearing?

☒ Yes

☐ No

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This hearing summary has been compiled to meet the requirements of Section 119.03 of the Revised Code.

This hearing summary includes this cover sheet and the following attachments:

1. **Attachment A** - A copy of the public notice for this hearing.
2. **Attachment B** - A copy of the sign-in sheet for this hearing.
3. **Attachment C** - A copy of the script read into the record to begin and end the hearing.
4. **Attachment D** - A copy of the response to comments and comment letter received.

Ohio EPA's response to comments document includes the comments received, who commented, the agency response to comments, and a statement of whether or not the rule was changed due to the comments.

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Ohio EPA digitally records all public hearings for rules. The digital recordings are available upon request in a WAVE (.wav) file format. These recordings may be sent out for transcription if necessary.

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**Public Notice  
Proposed Rulemaking Governing  
The Voluntary Action Program**

Notice is hereby given that the Director of Environmental Protection, under the authority of Sections **3745-300** of the Ohio Revised Code and in accordance with Chapter 119, proposes to **original file** the following rule of the Ohio Administrative Code:

<b><u>Rule #</u></b>	<b><u>Title:</u></b>	
3745-300-01	(rescind)	Definitions.
3745-300-01	(new)	Definitions.
3745-300-02	(amend)	Eligibility for participation in the voluntary action program.
3745-300-03	(amend)	Voluntary action program fees.
3745-300-04	(rescind)	Certified laboratories.
3745-300-04	(new)	Certified laboratories.
3745-300-05	(amend)	Certified professionals.
3745-300-06	(amend)	Phase I property assessments for the voluntary action program.
3745-300-07	(amend)	Phase II property assessments for the voluntary action program.
3745-300-08	(rescind)	Generic numerical standards.
3745-300-08	(new)	Generic numerical standards.
3745-300-09	(rescind)	Property-specific risk assessment procedures.
3745-300-09	(new)	Property-specific risk assessment procedures.
3745-300-10	(rescind)	Ground water classification and potable use response requirements, and urban setting designations.
3745-300-10	(new)	Ground water classification and potable use response requirements, and urban setting designations.
3745-300-11	(rescind)	Remediation.
3745-300-11	(new)	Remediation.
3745-300-12	(amend)	Variances and case-by-case determinations.
3745-300-13	(rescind)	Content and scope of no further action letters.
3745-300-13	(new)	Content and scope of no further action letters.
3745-300-14	(amend)	Audits.
3745-300-15	(new)	Incorporated by reference – voluntary action program.

This rule address Voluntary Action Program (VAP) regulations.

The purpose of this rule making is to comply with section 119.03 of the Ohio Revised Code by performing a five year rule review of all rules governing the VAP.

The public comment period will run until **September 6, 2019**. A public hearing on this proposed rule making will be held to consider public comments in accordance with Section 119.03 of the Ohio Revised Code. This hearing will be held at **Ohio EPA, 50 W. Town St. Columbus, OH 43215**

**on September 6, 2019 at 10:30am.**

To facilitate the scheduling of oral presentations, persons intending to give testimony at the hearing should notify the Ohio EPA Public Interest Center, P.O. Box 1049, Columbus, Ohio 43216-1049, (614) 644-2160. Prior registration will ensure that registrants are heard ahead of those individuals who register at the hearing. Oral testimony may be limited to five minutes, depending on the number of persons testifying. All interested persons are entitled to attend or be represented and to present oral and/or written comments concerning the proposed rule making.

Written testimony should be sent to the attention of Sydney Poole Funk at the Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus Ohio 43216-1049. Written comments may also be submitted to the Hearing Officer at the public hearing. Written testimony will receive the same consideration as oral testimony. All testimony received at the hearing or by close of business on **September 6, 2019** will be considered by Ohio EPA prior to final action on this rulemaking proposal. Written comments submitted after this date may be considered as time and circumstances permit.

Questions regarding this rule package should be directed to Sydney Poole Funk, at Division of Environmental Response and Revitalization, at **(614) (644-3751)**.

To receive a copy of the proposed rules, please contact the DERR receptionist at **(614) (644-2924)**. In addition, full copies of all proposed rules are available for review at any Ohio EPA district office and at the Ohio EPA central office. The proposed rules are also accessible on the DERR web page at <https://epa.ohio.gov/derr/derrrules.aspx>.



## SIGN-IN SHEET

Subject: VAP Rules

County: Statewide

Date: 9/6/19

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## DERR VAP Rules Hearing

9/6/19

My name is Mary McCarron. I will be presiding over today's public hearing.

The purpose of the hearing today is to obtain comments from any interested person regarding Ohio EPA's proposed rules.

Ohio EPA Division of Environmental Response and Revitalization is proposing to original file the following rules of the Ohio Administrative Code chapter 3745-300-01 through 15. These rules address requirements of the voluntary action program.

These rules have been filed with the Joint Committee on Agency Rule Review. Copies of the rules are available for public review at Ohio EPA's Columbus Office and on our website.

All interested persons are entitled to attend or be represented, and to present oral and/or written comments concerning the proposed rules. All written and oral comments received as part of the official record will be considered by the director of Ohio EPA.

To be included in the official record, written comments must be received by Ohio EPA by the close of business, today, September 6, 2019.

No one is present at the hearing so we will go off the record until 11.

The time is now 11 and no one has arrived, so this hearing is adjourned.



## Division of Environmental Response and Revitalization Response to Comments

### Voluntary Action Program

**Agency Contact for this Package:** Sydney Poole, Sydney.Funk@epa.ohio.gov

Ohio EPA held a public comment period from July 31, 2019 to September 6, 2019 with a public hearing held on September 6, 2019 regarding the Voluntary Action Program rules. This document summarizes the comments and questions received at the public hearing and during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

### General/Overall Concerns

**Comment 1:** Greater Ohio Policy Center (GOPC) has had the opportunity to review all of the proposed changes to Rules 3745-300-01 through 3745-300-15 governing the Voluntary Action Program, currently under the five year review required by section 119.03 of the Ohio Revised Code (ORC). These rules were originally promulgated under the authority of Section 3745-300 of the ORC. While GOPC has no specific comment on any of the proposed changes under consideration, we wish to emphasize the importance of ensuring the Voluntary Action Program remains an effective, easily understandable program, so as to encourage brownfield remediation across the state. Brownfield remediation is a vital piece to unlocking the economic potential in Ohio's communities.

Over the past few years, brownfield remediation has been a key policy focus for GOPC – as our organization endeavors to unlock the potential of these more than 9,000 former industrial and commercial brownfield sites across the state that are unusable in their current condition. GOPC has documented the positive economic impact that brownfield cleanups can have on Ohio's cities and town. Additionally, GOPC is a leading voice on policy changes that allow former industrial sites to be put back into productive use - which include both regulatory reform and the identification of a sustainable funding source for a brownfield clean-up and redevelopment program.

We appreciate the work and effort that went into the process of reviewing and updating the rules governing the Voluntary Action Program, and for your consideration of our comments on this matter.

**Response 1:** Ohio EPA appreciates the comment in support of the Voluntary Action Program.

**End of Response to Comments**



**TO:** Sydney Poole Funk, Division of Environmental Response and Revitalization, Ohio EPA

**FROM:** Greater Ohio Policy Center

**DATE:** 6 September 2019

**SUBJECT:** Rules 3745-300-01 – 3745-300-15: The Voluntary Action Program

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Greater Ohio Policy Center (GOPC) has had the opportunity to review all of the proposed changes to Rules 3745-300-01 through 3745-300-15 governing the Voluntary Action Program, currently under the five year review required by section 119.03 of the Ohio Revised Code (ORC). These rules were originally promulgated under the authority of Section 3745-300 of the ORC. While GOPC has no specific comment on any of the proposed changes under consideration, we wish to emphasize the importance of ensuring the Voluntary Action Program remains an effective, easily understandable program, so as to encourage brownfield remediation across the state. Brownfield remediation is a vital piece to unlocking the economic potential in Ohio's communities.

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We appreciate the work and effort that went into the process of reviewing and updating the rules governing the Voluntary Action Program, and for your consideration of our comments on this matter.

If you have any questions, please feel free to contact GOPC at any time.

Best regards,

Aaron Clapper  
Project Manager  
Greater Ohio Policy Center

399 E. Main Street, STE 220  
Columbus, Ohio 43201  
[aclapper@greaterohio.org](mailto:aclapper@greaterohio.org)  
614-224-0187