

# NFA Letter Template Guidance

October 2014



# Reasons for new NFA Format

- Why?
  - Cost savings
  - Predicable submittals
  - Statutory purity



# When ?

- Now
  - Used for all NFAs post 8/1/14
- New rule comports with new NFA format



# NFA Template

## I. Administrative information

- Similar to former Section A

### I. Administrative Information

Information or Component of NFA Letter	Provide response below
<b>1. Property Information</b>	
1.a. Name of NFA Letter Property:	
1.b. All alias Property names (if any):	
1.c. Street address/location of the Property:	
1.d. Total acreage on which the Voluntary Action is based:	
1.e. Tax Parcel number(s)/Taxing District:	
1.f. County/Ohio EPA District:	
1.g. Publicly available aerial photograph of site with the NFA Property boundary identified:	Attach to Form
<b>2. Payment Information and Fees</b>	
2.a. Date NFA Letter fee paid:	
2.b. Amount of NFA Letter fee paid:	
2.c. Is the NFA fee waived because it is a Clean Ohio Revitalization Fund (CORF) project? <small>Note: Per ORC 3746.13(D) the NFA fee is waived for CORF projects only. Clean Ohio Assistance Fund projects must still pay the fee.</small>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.d. Fees paid	<b>Standard NFA Letter</b> <input type="checkbox"/> NFA without environmental covenant (\$15,700) <input type="checkbox"/> NFA with environmental covenant (\$18,200)  <b>MOA Track NFA Letter</b> <input type="checkbox"/> NFA without environmental covenant (\$10,000) <input type="checkbox"/> NFA with environmental covenant (\$12,500)
2.e. NFA Letter review period: <small>Does the NFA letter rely on a consolidated standards permit or remedial activities for which there is a required operation and maintenance agreement or an environmental covenant?</small>	<input type="checkbox"/> <b>Yes (90 Day Review)</b> <b>Check all that apply:</b> <input type="checkbox"/> Consolidated Standards Permit <input type="checkbox"/> Operation and Maintenance Agreement <input type="checkbox"/> Environmental Covenant <input type="checkbox"/> <b>No (30 Day Review)</b>



# NFA Template

- II. Certified Professional (CP) Affidavit

## II. Certified Professional (CP) Affidavit

*[A CP affidavit is required by OAC 3745-300-13 when issuing an NFA letter or submitting the NFA letter to Ohio EPA with a request for a CNS under Ohio's Voluntary Action Program. The date the CP executes the affidavit for an NFA letter sets the NFA letter issuance date. The same CP affidavit may be used for submitting the NFA letter. CPs may also use this form to prepare the CP affidavit for issuing and submitting an NFA letter addendum. CP seal with correct expiration date should be stamped on CP's affidavit.]*

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

I, \_\_\_\_\_ *[name of CP affiant]*, being first duly sworn according to law, state that, to the best of my knowledge, information and belief:

1. I am an adult over the age of eighteen years old and competent to testify herein.
2. I am a Certified Professional, No. \_\_\_\_\_ *[CP number]*, in good standing under Ohio Revised Code (ORC) Chapter 3746 and Ohio Administrative Code (OAC) Chapter 3745-300, also known as Ohio's Voluntary Action Program.
3. I have prepared a No Further Action (NFA) Letter for property referred to as \_\_\_\_\_ *[property's common name]* and located at \_\_\_\_\_ *[property's address]* (the "Property.") *[In the case of submitting an addendum to the NFA Letter, add the following phrase to this paragraph: I am also issuing and submitting an addendum to the NFA Letter that I issued and submitted for the Property previously. The addendum amends the NFA Letter issued to on [insert date of original NFA Letter] to \_\_\_\_\_ [describe the main purpose of the addendum, i.e., "provide an updated executive summary," "supplement the Phase II property assessment," "respond to Ohio EPA's comments or deficiency notice dated \_\_\_\_."] Unless otherwise noted, the term "NFA Letter" in this affidavit refers to the NFA Letter as amended by the addendum.]*
4. I prepared the NFA Letter at the request of \_\_\_\_\_ *[name & address of each Volunteer]*. The Property is owned by \_\_\_\_\_ *[name & address of each owner of the Property]*.
5. I have read the standards of conduct contained in OAC 3745-300-05, and met the standards while rendering professional services regarding the voluntary action at the Property.
6. The Property is eligible for the Voluntary Action Program pursuant to ORC 3746.02 and OAC 3745-300-02.
7. The voluntary action has been conducted and the NFA Letter has been issued in accordance with ORC Chapter 3746 and OAC Chapter 3745-300. As a result, I determined that the Property complies with the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300.



# NFA Template

- III. Transmittal letter from CP to Volunteer(s)

## III. Transmittal letter from CP to Volunteer(s)

*(Note: Upon issuance of an NFA letter, the CP should use this transmittal letter to provide each volunteer with a copy of the NFA Letter and original CP affidavit concerning the issuance of the NFA letter, as required by OAC 3745-300-13(F). The same letter or separate letters may be prepared for multiple volunteers. Further the CP should provide to each volunteer a prepared copy of the Volunteer's Notification Form, to assist each volunteer in compliance with OAC 3745-300-13(G).)*

[Date]

[Name of Volunteer contact]

[Company Name]

[Address]

[City], [State] [Zip]

**RE: No Further Action Letter Issuance Notification Letter**  
**[name of VAP property] Property**  
**[property address]**

Dear Mr./Ms. \_\_\_\_\_ [name of Volunteer contact]:

Pursuant to the requirements of the Ohio Revised Code (ORC) 3746.11 and Ohio Administrative Code (OAC) 3745-300-13(F), in my role as Certified Professional (CP# \_\_\_\_\_), I am providing you with a copy of a No Further Action (NFA) Letter that I issued for the [name of NFA Letter property] property located at [property address], [City], [County] Ohio (the "Property"). The supporting documentation that I reviewed or developed and my findings are summarized in the NFA Letter.

On the basis of this information or my direct involvement in the voluntary action, I have determined that the Property meets the applicable standards under Ohio's Voluntary Action Program. This determination allows me to issue the NFA Letter

Please notify me in writing, as required by OAC 3745-300-13(G), if [List the names of each Volunteer] wishes me to submit the NFA Letter to the Director of the Ohio EPA (Director) with a request for a covenant not to sue (CNS) on its behalf. I have prepared a form for your use to meet this written notice to submit obligation (see attached). A CNS may be issued by the Director pursuant to ORC 3746.12 only if the original NFA Letter is submitted to the Director with a request for a Covenant Not to Sue by a Certified Professional on the Volunteer's behalf.

Regards,

\_\_\_\_\_  
[certified professional], CP#[number]  
[firm/company]



# NFA Template

## IV. Volunteer's Written Notice Regarding Submission of NFA Letter Form

IV. (Continued)  
Volunteer's Written Notice Regarding Submission of NFA Letter Form

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

I, \_\_\_\_\_ (the full name of the affiant), being first duly sworn according to law, state that, to the best of my knowledge, information and belief:

1. I am authorized to submit this affidavit on behalf of \_\_\_\_\_ (the "Volunteer").
2. A voluntary action is being conducted or completed at a property known as \_\_\_\_\_, and which is located at \_\_\_\_\_, in \_\_\_\_\_ County.
3. The Volunteer has received a copy of a No Further Action Letter ("NFA Letter") for the property based on a voluntary action performed under Ohio Revised Code ("ORC") Chapter 3746 and Ohio Administrative Code ("OAC") Chapter 3745-300. The NFA letter was issued on \_\_\_\_\_ by \_\_\_\_\_ who is a Certified Professional for the voluntary action.
4. The purpose of this affidavit is to direct the Certified Professional to either:
  - \_\_\_\_\_ **Submit** the original NFA Letter to the director of the Ohio Environmental Protection Agency for consideration of a covenant not to sue, pursuant to ORC 3746.11(A) and OAC 3745-300-13(H)(1).
  - \_\_\_\_\_ **Not submit** the original NFA Letter to the director of the Ohio Environmental Protection Agency for consideration of a covenant not to sue. (The Certified Professional should therefore send the original NFA letter to the Volunteer, pursuant to ORC 3746.11(A) and OAC 3745-300-13(H)(2)).



# NFA Template

## V. NFA Letter

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# Guidance

- NFA Letter
  - Eligibility
  - Risk Assessment performed
  - People on project
  - Records and info list
  - Summary Report (Executive Summary)



# Guidance

## V. NFA Letter

*[NFA Property Name and Address]  
[Volunteer(s) Name(s) and Address(es)]  
[CP Name and contact information]*

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- A. Is the NFA Property eligible for participation under the Voluntary Action Program (VAP) pursuant to ORC 3746.02 and OAC 3745-300-02? \_\_\_Yes\_\_\_No
- B. Has a risk assessment been performed in accordance with OAC 3745-300-09? \_\_\_Yes\_\_\_No
- C. Identify the person(s) who performed work in support of the NFA Letter:

*[List as appropriate, NO resumes]*

Name	Title	Company / Firm	Nature and Scope of Work Performed
<i>[Example – John Smith]</i>	<i>Geologist</i>	<i>XYZ Company, LLC</i>	<i>Boring and monitoring well installation]</i>

- D. List of all data, records, and information relied upon for NFA Letter:

*[Comprehensive list of documents with dates relied upon for the voluntary action in support of the issuance of the NFA Letter and that will be provided to the Ohio EPA upon issuance of the Covenant Not to Sue.*

*Examples – VAP Phase I and II property assessment reports, sampling plans, risk assessment report, certified laboratory reports with affidavits, remediation report, operation and maintenance plan, risk mitigation plan, environmental covenant, affidavits relied upon for voluntary action, and any other information relied upon for the voluntary action but not included in reports listed.]*



# Executive Summary

## E. Executive Summary (Continued)

\*\*\*Remove the Heading and Footers Prior to Submittal\*\*\*

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### EXECUTIVE SUMMARY

Property: [Property Name]

Alias Property Names: [List Alias Names, *if applicable*]

[Property Address or describe location] [City], [County], Ohio

Volunteer(s): [Volunteer(s) Name(s)] [Volunteer(s) Address(es)]

Owner(s): [Property Owner(s) Name(s)] [Property Owner Address(es) (*if different from Volunteer*)]

NFA Letter and Executive Summary Issued by: [CP Name], VAP Certified Professional, [CP Number], [CP's Company Name and Address], [CP Contact Phone Number]

This No Further Action (NFA) letter executive summary serves as both a summary and recording document to meet the requirements of Ohio Revised Code (ORC) 3746.14(A)(1) and Ohio Administrative Code (OAC) 3745-300-13(J) under Ohio's Voluntary Action Program (VAP). Copies of the NFA letter and request for Covenant Not to Sue (CNS) may be obtained by contacting the Ohio EPA – Division of Environmental Response and Revitalization, Central Office Records Management Officer. A legal description of the approximately [insert acreage]-acre property is included in the NFA letter.

### SECTION 1.0 HISTORY

#### Section 1.1 Property History

[Provide a concise summary and chronological timeline of the continuous past and current property uses, including but not limited to description of operations at the NFA Property where hazardous substances or petroleum were managed, treated, stored, or disposed.]

[Example language – The NFA Property was initially used from 1920 to 1972 by [identify historic owners and operators] for [identify the historic uses of the NFA Property such as various manufacturing purposes including a lumber yard and metal works/boiler machine shop]. From 1972 to 2006, the central building included warehousing of building materials, paints, solvents and adhesives. The NFA Property is presently vacant.]

#### Section 1.2 Surrounding Property History

[Provide a concise summary of the past and current surrounding property uses including relevant specifics where there is a reason to believe source areas may be impacting the NFA Property.]

[Example language – Review of reasonably available information indicates no off-property source areas.]





# Executive Summary

## V. NFA Letter (continued)

### F. Figures

1. Property location map (USGS topo map) ←
2. Property boundary map, as determined by a professional surveyor<sup>1</sup> ←
3. Site map(s) – showing property boundary, buildings, roads, utilities, surface waters and other site features, as applicable
4. Geologic cross-section(s) (if applicable)
5. Ground water flow map(s) (if applicable)
6. Identified area map(s) (if applicable)
7. Sample location map(s) (if applicable)
8. Conceptual site model figure or table (if applicable) – (See examples at end of template)
9. Site Map(s) – showing location of remedial activities and portions of property subject to various controls, such as engineering controls or risk mitigation measures (if applicable)

8<sup>1/2</sup>" x 11" size  
needed due to  
filing restrictions

### G. Attachments

1. Legal description<sup>1</sup>
2. Property location map (letter-size)
3. Proposed Environmental Covenant (if applicable)
4. O&M Plan (if applicable)
5. Proposed O&M Agreement and Financial Assurance Demonstration (if applicable)
6. Risk Mitigation Plan (if applicable)



# Guidance

- Summary Report (Exec Summary)
- No data
  - No field work
  - No data collection



# Guidance

- INOD/FNOD
  - Concept same as current process
  - Substantive revisions = new Executive Summary in addendum response
- Supporting documentation (Phase I/II, etc.) submitted post-CNS (w/in 30 days)



# Contact for Questions

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