



State of Ohio Environmental Protection Agency

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To: VAP Certified Professionals, Attorneys, and Other Interested Parties
From: Tiffani Kavalec, Manager, DERR, ACRE-CO
Date: December 3, 2009
Re: Ohio EPA NFA Letter Review – Volunteer’s Response to Comments

EFFECTIVE – DECEMBER 3, 2009*

The following criteria apply to a volunteer’s responses to Ohio EPA comments on no further action (NFA) letters in the Voluntary Action Program (VAP). The purpose of these criteria is to ensure agency resources are focused appropriately, and to communicate clear agency expectations regarding a volunteer’s time frame to respond to NFA letter comments:

If any outstanding issues or deficiencies are identified by Ohio EPA upon review of the NFA letter, a comment letter will be sent to the volunteer. This comment letter will specify a deadline for a response which will be approximately 60 days from the date of the comment letter.

- **Upon receipt of the comment letter, the volunteer will have two options:**
 1. **Submit to Ohio EPA an addendum that adequately addresses the comments by the deadline specified in the comment letter.**
 2. **Withdraw the request for a covenant not to sue (CNS) on or before the deadline specified in the comment letter.**

If no response is received by the deadline, or if an addendum is submitted that does not adequately address the issues in the comment letter, a letter specifying a “notice of intent to deny” (NOID) will be sent to the volunteer. This NOID will contain a deadline of an additional 60 days for the volunteer to respond.

- **Upon receipt of a NOID, the volunteer will have two options:**
 1. **Submit to Ohio EPA an addendum that adequately addresses the comments by the deadline specified in the NOID.**
 2. **Withdraw the request for a CNS on or before the deadline specified in the NOID.**

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

No extension requests will be granted beyond the deadline specified in the NOID.

If an approvable addendum is not received by the deadline specified in the NOID, or if Ohio EPA does not receive a response by the deadline specified in the NOID, the CNS request will be denied.

A template for requesting withdrawal is on the VAP website at:

<http://www.epa.ohio.gov/derr/volunt/volunt.aspx>

Please note that Ohio EPA may not provide an opportunity for an addendum and proceed straight to denial for any of the following:

- The NFA letter does not protect human health and safety and the environment.
- The NFA letter was submitted fraudulently.
- The NFA letter was not conducted in compliance with all applicable state laws.

*Includes NFA letters already received by Ohio EPA.