

ARCHIVE: Archived to revise and clarify the guidance within the document (technical content remains accurate). Refer to VA30005.03.001 for the updated document.

TITLE: Submitting addenda to an NFA issued by another Certified Professional in order to address deficiencies identified by the VAP

KEYWORDS: addenda, NFA, Certified Professional

RULES: OAC Rule 3745-300-13

QUESTION: Under what circumstances can a VAP Certified Professional (CP) submit addenda to a No Further Action (NFA) letter issued by another CP?

ANSWER: Ohio Administrative Code rule 3745-300-05 (F)(1)(b) requires that a CP render a voluntary action opinion only when he has **managed, supervised or actually performed the work** which is required to render a voluntary action opinion, **or has reviewed the work, performed by other qualified persons**, which is required to render a voluntary action opinion. Voluntary action opinions are designed to include NFA Letters issued in accordance with OAC Chapter 3745-300 and ORC Chapter 3746.

Therefore, before a CP may submit addenda to an NFA Letter that was issued by a different CP, the CP who prepared the addenda must review all of the work performed in connection with the NFA Letter, including the work performed by the CP who issued the NFA Letter. If, based upon a review of all work performed, information developed, and conclusions reached in connection with the NFA Letter (including all of the work of the CP who issued the NFA Letter), and the addenda, the CP who prepared the addenda concludes that an NFA Letter should be issued for the Property, such addenda may be submitted.

If upon review of the NFA Letter, the CP who prepared the addenda cannot determine that, absent the information being submitted in the addenda, the NFA Letter accurately concludes that the Property meets all applicable standards and other requirements of ORC Chapter 3746 and OAC Chapter 3745-300, the CP must complete whatever activities are necessary in order to ensure that the NFA Letter meets those requirements, prior to submittal of the addenda.

For the reasons discussed above, Ohio EPA would consider the CP who submits the addenda responsible for all of the contents of and conclusions made concerning the NFA Letter, including both the original NFA Letter and all addenda thereto. Accordingly, Ohio EPA would require that an affidavit be submitted with the addenda that includes attestations of all of the information contained in OAC Rule 37845-300-13 (P).

SUMMARY:

A VAP Certified Professional (CP) may submit addenda to a No Further Action (NFA) letter issued by another CP if he has performed and reviewed all of the work done by the CP in conjunction with the Voluntary Action and found that the Property meets the applicable standards and other requirements of the VAP.

If the NFA Letter does not show the Property meets all applicable standards and all other VAP requirements, the CP issuing the addenda must complete whatever activities are necessary in order to ensure that the NFA Letter meets those requirements prior to submittal of the addenda.

Ohio EPA would consider the CP who submits the addenda responsible for all of the contents of and conclusions made concerning the NFA Letter, including both the original NFA Letter and all addenda thereto.

**OHIO EPA
CONTACT:**

For any questions concerning this issue, please contact the VAP central office at (614)644-2924.