



Ohio Revised Code

Section 3746.11 No further action letter duties for certified professional.

Effective: December 30, 2004

Legislation: House Bill 516 - 125th General Assembly

(A) After receiving the demonstrations and operation and maintenance plan, if any, required to be submitted to a certified professional under division (C) of section 3746.10 of the Revised Code, the certified professional shall review them to verify whether the property where the voluntary action was undertaken complies with applicable standards or shall ensure that they have been reviewed by another person or persons who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code. If, on the basis of the best knowledge, information, and belief of the certified professional, the certified professional concludes that the property meets applicable standards, the certified professional shall prepare a no further action letter for the property. The no further action letter shall contain all the information specified in rules adopted under division (B)(7) of section 3746.04 of the Revised Code or in division (E) of section 3746.07 of the Revised Code, as applicable.

Upon completion of a no further action letter, the certified professional shall send a copy of the letter to the person who undertook the voluntary action. The letter shall be accompanied by a written request that the person notify the certified professional as to whether the person wishes to submit the no further action letter to the director of environmental protection and by a written notice informing the person that the original letter may be submitted to the director only by a certified professional and that the person may receive a covenant not to sue from the director in connection with the voluntary action only if the no further action letter for the voluntary action is submitted to the director on the person's behalf by the certified professional.

Promptly after receipt of the letter and request, the person who undertook the voluntary action shall send written notice to the certified professional informing the certified professional as to whether the person wishes to submit the letter to the director and shall send a copy of the notice to the director. If the person's notice indicates that the person wishes to have the no further action letter submitted to the director, promptly after receipt of the notice, the certified professional shall submit the original no further action letter, together with a proposed environmental covenant, if applicable, and a proposed operation and maintenance agreement, if applicable, to the director by certified mail on



behalf of the person who undertook the voluntary action. If the person who undertook the voluntary action notifies the certified professional that the person does not wish to submit the no further action letter to the director, the certified professional shall send the original letter to the person promptly after receiving the notice.

(B) If after reviewing the demonstrations required to be submitted to the certified professional under division (C) of section 3746.10 of the Revised Code, the certified professional finds that the property where the voluntary action was undertaken does not comply with applicable standards, the certified professional shall send to the person who undertook the voluntary action written notice of that fact and of the certified professional's inability to issue a no further action letter for the property.

(C) A certified professional shall prepare a summary report detailing the certified professional's findings and conclusions about the environmental conditions at the property concerning which the professional was requested to prepare a no further action letter and the remedial activities undertaken to mitigate or abate any threat to public health and safety and the environment, including, without limitation, all of the following:

(1) A description of the nature and extent of contamination emanating from sources on the property;

(2) A risk assessment performed in accordance with rules adopted under division (B)(2) of section 3746.04 of the Revised Code if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of that section;

(3) A description of any remedy conducted at the property and how the remedy complies with applicable standards;

(4) A description of any plan for the proper operation and maintenance of engineering controls identified under division (C)(4) of section 3746.10 of the Revised Code;

(5) Any documents prepared by any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code.

(D) A certified professional shall maintain all documents and data prepared or acquired by the



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certified professional in connection with a no further action letter for not less than ten years after the date of issuance of the letter or after the notice required under division (B) of this section has been sent, as applicable, or for a longer period as determined in rules adopted under section 3746.04 of the Revised Code. The director shall have access to those documents and data in accordance with section 3746.18 or 3746.31 of the Revised Code.