



Voluntary Action Program (VAP) Phase I - All Appropriate Inquiry (AAI) Comparison Chart

Criteria	All Appropriate Inquiry	VAP Phase I
What is the legal basis of the assessment?	CERCLA §101(35)(B), as amended; 40 CFR Part 312. [Specific rule references in brackets.]	Ohio Administrative Code 3745-300-06. [Specific OAC references in brackets.]
What is the purpose of the assessment?	To provide standards and practices for “all appropriate inquiries” for the purposes of CERCLA. Applicable to: persons seeking to establish innocent landowner defense or bona fide prospective purchaser liability protection or contiguous property owner liability protection, pursuant to CERCLA. Also applicable to: persons conducting site characterizations and assessments under CERCLA Brownfields program. [§ 312.1]	To determine if releases of hazardous substances or petroleum have occurred or may have occurred; to designate identified areas where releases of hazardous substances have or may have occurred; to determine the necessity for and scope of a Phase II Property Assessment. A required component of the No Further Action (NFA) letter submitted in order to receive a covenant not to sue (CNS). [3745-300-06(A); 3745-300-06(E); 3745-300-13(E)(3)]
Under what program this should be used?	Under the CERCLA enforcement program, to be able to establish innocent landowner defense. Targeted brownfield assessment.	Under the Voluntary Action Program.
When must investigation take place?	“All appropriate inquiries” must be conducted within one year <u>prior</u> to the acquisition of the subject property. [§ 312.20 (a)]	There are no specified requirements.
How often must the assessment be updated?	More than 180 days old by the date of acquisition, the following must be updated: interviews, record reviews, property inspection, lien search and declaration by environmental professional. [§ 312.20(a)(3)(b)]	Within 180 days of the date of issuance of NFA or subsequent investigation conducted per 3745-300-06(C); must be performed to ensure conditions have not changed since the activities in 3745-300-06(C) and (F) were performed. [3745-300-06(I)(3)]
What is the area to be Investigated?	The intended result is the identification of conditions indicative of releases and the impact of releases on the property itself. [Rule reference: § 312.20]	The impact of releases on property and adjacent properties and receptors is the area to be investigated. [3745-300-06(A) and (B)]
Who can conduct the assessment?	There are specific requirements for the Environmental Professional (can be a VAP CP); does not have to be licensed or certified by federal government, state, tribe or U.S. territory. Additional inquiries per § 312.22 may be made by party seeking liability protection, and then information given to environmental professional. [§§ 312.10(b) and 312.21]	There are no specific requirements, but site walk-over and assessment must be performed and certified by a Certified Professional (CP). [3745-300-06(J); 3745-300-13(D)]
Are interviews required?	Yes. Interviews with owners, operators and occupants are required, including the current owner/occupant. [§ 312.23]	Reasonable attempts must be made to conduct interviews with persons who reside or have resided, or who are employed or were employed at or within the areas surrounding or adjoining the property. [3745-300-06(C)(1)(c)]
Are reviews of historical sources required?	Yes. Documents and records covering a time period as far back as it can be shown that subject property contained structures or since property used for residential, agricultural, commercial, industrial or governmental purposes. Documents/records may include: aerial photos, fire insurance maps, building department records, chain of title documents and land use records. [§ 312.24]	Yes. A diligent inquiry of reasonably available historical sources to establish a continuous history of the use of property and a review of the chain of title for the property to evaluate current and previous ownership and identifiable uses. Documents may include: deed, mortgages, easements of record and similar documents. [3745-300-06(C)(1)]

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Are searches for environmental cleanup liens required?	Yes, a search is required for all cleanup liens filed under federal, tribal, state or local law. [§§ 312.22 and 312.25]	A search is not required, but could be included in the chain of title documents.
Are reviews of government records required?	Yes, a review of federal, tribal, state and local government records or databases is required for the subject property and adjoining or nearby properties. These records include: records of reported releases, CERCLIS records, public health records and registries of engineering controls and institutional controls. [§ 312.26]	Yes, to the extent that documents are reasonably available, any previous environmental assessments or studies, property assessments or geologic studies of the property must be reviewed. A review of reasonably available documents from U.S. EPA, Ohio EPA, ODNR, BUSTR, local fire and health departments is also required. [3745-300-06(C)(2)]
Are visual inspections of the property required?	Yes, a visual on-site inspection of the subject property by an environmental professional is required, and a visual inspection of adjoining property from property line or public right of way by an environmental professional is required. [§ 312.27]	Yes, a property inspection of all areas of the property, including all buildings, is required. In addition, a walkover of the property by the CP is required. [3745-300-06(C)(5); 3745-300-06(J)]
Is obtaining any specialized knowledge of the owner required?	Yes, the owner/defendant must take into account their specialized knowledge of the subject property, the area surrounding the subject property, the conditions of adjoining property and any other experience relevant to the inquiry. [§ 312.28]	This information is useful, but not required.
Is relation of the purchase price to value required?	Yes. Applies to persons seeking liability protection and those seeking Brownfields grants. Consideration must be given to whether the purchase price reasonably reflects the fair market value of property, if the property were not contaminated; and, if does not reasonably reflect fair market value, consideration must be given to whether this is due to releases of hazardous substances, etc. [§ 312.29]	No, it is not required.
Is a review of commonly known information required?	Yes, commonly known or reasonably ascertainable information within the local community must be taken into account. This could include: owners/occupants of adjoining property, government officials and local organizations, such as historical society. [§ 312.30]	Yes, a review of “reasonably available” information is required. [3745-300-06(C)]
Is sampling conducted?	Sampling is NOT required, but you must identify data gaps, identify the sources of information consulted to address such data gaps and comment on the significance of data gaps. [§ 312.20 (g)]	Sampling is done during Phase II. You must determine identified areas. Sampling during Phase I may be conducted for de minimus areas. [3745-300-06(F)]
What is the end product of the assessment?	A report compiling all information related to the identification of conditions indicative of releases of hazardous substances on, at, in or to the subject property and the identification of data gaps is required. [§§ 312.20 and 312.21]	A report concluding whether there is reason to believe releases of hazardous substances have or may have occurred and identifying areas where hazardous substances or petroleum are known or suspected to be present is required. [3745-300-06(H)]
Who is the intended audience of the report?	The property owner or lender is the audience.	The property owner/Volunteer, state government, property owner's prospective purchasers or lenders is the audience.
Are pathways considered?	Only potentially contaminated media (any) is considered. [§ 312.20(e)]	Only potentially contaminated media (soil, ground water, surface water, sediments, air) is considered. (Targets/completeness of pathways is addressed in Phase II.) [3745-300-06(A) and (B)]
What maps are required to show the site location?	None are specified.	USGS 7.5-minute topo map showing property boundary. Property map identifying structures, features and property line. Map of identified areas. Map showing all sites of possible releases on adjoining property within ½-mile radius of the property. [3745-300-06(H)(3)]