



Ohio Administrative Code

Rule 3745-300-06 Phase I property assessments for the voluntary action program.

Effective: October 17, 2019

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see rule 3745-300-15 of the Administrative Code titled "Incorporation by reference - voluntary action program."]

(A) Purpose and scope of a phase I property assessment under the voluntary action program. The purpose of a phase I property assessment is to determine whether there is any reason to believe that any releases of hazardous substances or petroleum have or may have occurred on or from a property including any release due to management, handling, treatment, storage, or disposal activities from on or off-property activities. The scope of a phase I property assessment is to characterize a property for the purposes of participation in the voluntary action program, and to determine the necessity for and initial scope of a phase II property assessment.

[Comment: If the voluntary action is part of a property transfer or is to be financed in part or in whole by a lending institution, additional requirements for an environmental investigation at the property may be imposed by the lending institution.]

(B) If the volunteer has information that establishes any reason to believe that any releases of hazardous substances or petroleum have or may have occurred on or from the property, including any release due to management, handling, treatment, storage, or disposal activities from on or off-property activities, upon completion of the phase I property assessment, the volunteer shall conduct a phase II property assessment that addresses each release in accordance with rule 3745-300-07 of the Administrative Code prior to obtaining a no further action letter from a certified professional, except when paragraph (E)(2) of this rule is applicable.

(C) At a minimum, the volunteer shall perform a review of the historic and current uses of the property, review the environmental history of the property, and review the history of the property pertaining to the treatment, storage, management, or disposal of hazardous substances or petroleum,



and the existence of source areas on the property, and shall conduct a property inspection. Any current owner of a property upon which a voluntary action is conducted shall provide to the volunteer any information known by that owner which may be relevant to the determination of the existence of source areas on the property or whether treatment, storage, management, or disposal of hazardous substances or petroleum occurred or may have occurred at the property. Any information that is determined not to be reasonably available shall be identified, and an explanation shall be provided in the phase I property assessment report as to why the information was not reasonably available.

(1) Historic and current uses of the property. The objectives of this portion of the phase I property assessment are to establish a continuous history of the uses of the property from the present back to the property's first developed use, or back to 1940, whichever is earlier, and to determine if those uses may have included the treatment, management, handling, storage, or disposal of hazardous substances or petroleum, which have or may have led to any releases of hazardous substances or petroleum on or from the property.

The volunteer shall identify the first industrial or commercial use of the property through and including the present use of the property. To complete the property history portion of the phase I property assessment, a volunteer shall perform the following as necessary to provide a continuous history:

(a) History analysis. A diligent inquiry of reasonably available historical records to establish a continuous history of the use of the property, including significant changes in the use of the property, and to determine whether there were any releases of hazardous substances or petroleum on or from the property.

(b) Land title and property tax file investigation. A review of the recorded land title records and property tax file records for the property to evaluate current and previous ownership and identifiable uses of the property. The investigation shall include a review of documents pertinent to the determination of whether there is any reason to believe that any releases of hazardous substances or petroleum have or may have occurred on or from the property. The documents include but are not limited to deeds, mortgages, easements of record and similar documents that are reasonably available to the volunteer.



(c) Interviews. Reasonable attempts to locate and conduct interviews with persons who reside or have resided or who are or were employed at or within the areas surrounding or adjoining the property regarding the current and past uses of the property to determine if there is any reason to believe that a release of hazardous substances or petroleum has or may have occurred on or from the property.

(2) Environmental history review. The objective of this portion of the phase I property assessment is to provide a continuous environmental history to determine whether any management, handling, treatment, storage, or disposal activities at the property have occurred which have or may have led to any release of hazardous substances or petroleum on or from the property.

(a) To the extent that such information is reasonably available, or available through diligent inquiry, a volunteer shall review any previous environmental assessments or studies, property assessments, or geologic studies for the property.

(b) A volunteer shall conduct a diligent investigation of the environmental compliance history of the property and all persons who owned or operated the property. This investigation shall relate to releases of hazardous substances or petroleum and to factors which may affect the eligibility of the property to participate in the voluntary action program and, at a minimum, shall include a review of reasonably available information from U.S. EPA, Ohio EPA, the Ohio department of natural resources, and the Ohio bureau of underground storage tank regulations.

(c) A volunteer shall review records for the property and surrounding properties within a minimum of one half-mile from the property boundary, except as indicated in paragraphs (C)(2)(c)(i) to (C)(2)(c)(ix) of this rule. Such review shall include the records, as the records relate to the property and all areas located within a minimum of one half-mile of the property boundary, except as indicated in paragraphs (C)(2)(c)(i) to (C)(2)(c)(ix) of this rule, to the extent necessary to determine if hazardous substances or petroleum may have been released from surrounding properties and could potentially impact the subject property. The records that shall be reviewed include the following:

(i) Federal national priorities sites list of sites within one mile of the subject property boundary.

(ii) Federal Comprehensive Environmental Response, Compensation, and Liability Act information



system list.

(iii) Federal Resource Conservation and Recovery Act corrective action facilities list of facilities within one mile of the subject property boundary.

(iv) Federal Resource Conservation and Recovery Act treatment, storage, and disposal facility list.

(v) Federal emergency release notification system list.

(vi) Federal Resource Conservation and Recovery Act information database.

(vii) Ohio EPA, division of environmental response and revitalization database.

(viii) Ohio bureau of underground storage tank regulations leaking underground storage tank list.

(ix) Ohio EPA spill database.

(d) A volunteer shall review records for the property and adjoining properties. This shall include a review of the records, as such records relate to the property and all adjoining properties, to the extent necessary to determine if hazardous substances or petroleum may have been released onto the property or are emanating onto the property from adjoining properties. The records that shall be reviewed include the following:

(i) Federal Resource and Conservation Recovery Act generators list.

(ii) Ohio bureau of underground storage tank regulations registered underground storage tank list.

(e) A volunteer shall review records for the property only. This shall include a review of the records as such records relate to the potential release of hazardous substances or petroleum on or from the property. The records that shall be reviewed include the following:

(i) Community right-to-know inventory report records of the state emergency response commission and the local emergency planning committee.



(ii) Local fire department records.

(iii) Local health department records.

(f) A volunteer shall review records for the property and surrounding properties. A review of other appropriate federal, state and local agency records, and other databases, such as those referenced in ASTM E1527, paragraph 8.2, when a volunteer has reason to believe that relevant information may be obtained from such records. For example, reviews may include Ohio department of natural resources well log information, historical society records, library records, or historical newspaper search engines.

(3) Interviews. Interviews with reasonably available key property personnel, residents, or former property personnel who have knowledge relevant to historical uses, operations, and environmental conditions at the property or surrounding properties. A sufficient number and quality of interviews shall be conducted so that those persons with relevant knowledge have the opportunity to provide as much meaningful and relevant information about the property or surrounding properties as is reasonably possible. All interview information, including interview questions and relevant responses obtained during the interviews, shall be documented in the phase I property assessment report, as provided in paragraph (G) of this rule.

(4) Property inspection. The objective of this portion of the phase I property assessment is to obtain information from a physical inspection of the property to determine whether any releases of hazardous substances or petroleum have or may have occurred on or from the property. The volunteer shall conduct a physical inspection of all areas of the property, including an inspection of the interior and exterior of all buildings and structures on the property, and an inspection of all other areas of the property. At a minimum, to conduct the property inspection, the volunteer shall identify and document the following:

(a) Areas that contain hazardous substances or petroleum, or areas where hazardous substances or petroleum were located. These areas include, but are not limited to, the following:

(i) Underground storage tanks.



- (ii) Above-ground storage tanks.
- (iii) Wells (including oil and gas wells and underground injection control wells).
- (iv) Cans.
- (v) Boxes and other containers.
- (vi) Pipes.
- (vii) Drains.
- (viii) Storm sewers or sanitary sewers.
- (ix) Electrical equipment.
- (x) Cables.
- (xi) Fuel tanks.
- (xii) Oil pans.
- (xiii) Lagoons.
- (xiv) Stacks.
- (xv) Cooling systems.
- (xvi) Inventory.
- (xvii) Pits.



(xviii) Piles.

(xix) Landfills.

(xx) Waste or process water treatment systems.

(xxi) Equipment.

(xxii) Structures associated with the areas listed under paragraph (C)(4)(a) of this rule that contain or previously contained any hazardous substances or petroleum.

(xxiii) Areas used for the treatment, storage, management, or disposal of any hazardous substances or petroleum.

(b) If any of the sources identified under paragraph (C)(4)(a) of this rule are identified in the property inspection, the volunteer shall determine the condition of the sources.

(c) Evidence that a release of hazardous substances or petroleum occurred or may have occurred on or from the property. This evidence may include, but is not limited to, the following:

(i) Spilled materials.

(ii) Stressed vegetation.

(iii) Discolored soils.

(d) Any other available evidence of the current and past uses of the property or evidence of practices regarding the management, handling, treatment, storage, or disposal of any hazardous substances or petroleum.

(e) The general topographic conditions of the property and area surrounding the property.

(f) Evidence of current and past uses of adjoining properties which may be observed from the



property or which are accessible from public rights of way.

(g) Identifiable migration conduits for hazardous substances or petroleum including but not limited to basements, drains, tiles, wells, and utility lines.

(h) Any physical obstructions which limit the visibility of conditions on the property, including but not limited to buildings, snow or leaf cover, rain, fill, asphalt, or pavement.

(5) Property hazardous substance or petroleum release history. Based on information obtained from paragraphs (C)(1) to (C)(4) of this rule, areas where hazardous substances or petroleum were or are located on or off property shall be evaluated to determine which areas have known or suspected releases of hazardous substances or petroleum. The volunteer shall identify for each release, to the extent known or suspected, the following:

(a) The contaminant type.

(b) The quantity.

(c) The date of release.

(d) The areas of the property impacted by the release.

(e) The environmental media impacted by the release, i.e. soil, soil gas, ground water, surface water, and sediments. Releases to dirt floors inside buildings are considered releases to environmental media.

(f) Any measures taken to address the release, including the result of those measures.

(D) Requirements to supplement ASTM phase I property assessment. To the extent that a previous ASTM phase I property assessment does not comply with the requirements of this rule it shall be supplemented to meet all requirements of this rule.

[Comment: For example, if a phase I property assessment was completed December 1, 1990 and



was in compliance with this rule except the requirement to provide a property history, including the uses of the property and all adjoining properties and any surrounding areas, the 1990 phase I property assessment shall be supplemented to include a continuous property history in accordance with paragraph (C)(1) of this rule, and a new phase I property assessment in accordance with this rule shall be performed for the period between December 2, 1990 up to the date of the issuance of the no further action letter or the performance of a phase II property assessment, whichever is applicable to the particular voluntary action.]

(E) Designation of identified areas.

(1) The volunteer shall identify each area at the property where a release of hazardous substances or petroleum has or may have occurred to environmental media. Each identified area shall be detailed in the written phase I property assessment report as required in paragraph (G) of this rule.

(a) Each identified area may be re-delineated or eliminated if data obtained during a phase II property assessment conducted in accordance with rule 3745-300-07 of the Administrative Code supports re-delineation or elimination of the identified area.

(b) If the volunteer has reason to believe a release has or may have occurred, but cannot visually observe or otherwise define the portion of the property that may have been affected by hazardous substances or petroleum, the volunteer shall designate the portion of the property as an identified area that is suspected to be affected by the hazardous substances or petroleum.

(c) If the volunteer has knowledge that a release of hazardous substances or petroleum occurred on the property but has no information on the location of the release, the volunteer may designate the whole property as one identified area.

(2) Exceptions to the designation of identified areas.

(a) De minimis areas. As determined in this rule, areas with releases that are de minimis are not identified areas. De minimis areas are those areas where the following criteria are demonstrated and documented in the phase I report. The logic and reasoning used to evaluate the information for the de minimis demonstration shall consider the following:



(i) Whether the release of hazardous substances or petroleum is confined to surficial soils on the property and that no hazardous substances or petroleum were released from the de minimis area into surface water, sediments, or ground water on or from the property.

(ii) That the release of hazardous substances or petroleum was a small quantity confined to a limited area of shallow depth of the soil surface that generally would not present a threat to human health, safety, and the environment.

(iii) That the release of hazardous substances or petroleum was not part of a pattern of disposal or mismanagement.

(iv) There are no more than three de minimis areas per acre at the property.

(b) Areas previously addressed under regulatory programs. As determined in this rule, areas previously addressed under a regulatory program are not identified areas. Areas where a release of hazardous substances or petroleum was previously investigated or remediated to the most stringent standards without the need for institutional or engineering controls are not identified areas if both of the following apply:

(i) The volunteer has evaluated documents from the regulatory program and determined that the release meets current unrestricted residential standards, or the equivalent. The regulatory program process shall address all potential constituents of the release identified under this phase I property assessment, or the additional constituents shall be considered an identified area. The size of the area, the environmental media, and the pathways investigated under the regulatory program shall be consistent with what would have been investigated under this chapter, or the release shall be considered an identified area.

(ii) The release was addressed under one or more of the following regulatory jurisdictions, as appropriate:

(a) Closure of an underground storage tank system or corrective action of petroleum releases that are subject to the jurisdiction of the Ohio bureau of underground storage tank regulations of the state fire



marshal's office.

(b) Closure, corrective action, or other remedial activities that are subject to the jurisdiction of a program administered by Ohio EPA.

(c) Closure, corrective action, or other remedial activities that are subject to the jurisdiction of a program administered by U.S. EPA.

(F) Eligibility evaluation. The volunteer shall do the following:

(1) Evaluate the property based on each exception to voluntary action eligibility provided in rule 3745-300-02 of the Administrative Code.

(2) Document the completion, resolution, or non-applicability of the exception as needed to support a demonstration to Ohio EPA pursuant to the rule that the property is eligible for the voluntary action program.

(3) Identify any activities that remain to be completed or statements from regulatory agencies that remain necessary to confirm the eligibility of the property as required by that rule.

(G) The volunteer shall complete a written phase I property assessment report which, at a minimum, includes the following:

(1) An introduction that identifies the property, the date that the phase I property assessment and the written report were completed, the name and job title of each person who conducts the investigation, and a summary of the current use of the property.

(2) A summary of the areas where hazardous substances or petroleum were or are located on or off property and the areas of known or suspected releases of hazardous substances or petroleum. The summary shall include all identified areas at the property of known or suspected releases, and include, as applicable, the de minimis areas and the previously addressed areas determined not to be identified areas pursuant to paragraph (E) of this rule. For each designated identified area, the report shall include the location and the approximate boundaries of the identified area and the contaminant



type known or suspected to be present for evaluation during a phase II property assessment. Any of the identified areas designated in the phase I property assessment report may be re-delineated or eliminated as a result of data collected and assessed in accordance with paragraph (E) of rule 3745-300-07 of the Administrative Code.

(3) The results of the eligibility evaluation conducted pursuant to paragraph (F) of this rule.

(4) Asbestos.

(a) A summary of the asbestos-containing building material at the property, as identified and documented in accordance with paragraph (C)(4)(a) of this rule. An asbestos survey may be included in an appendix of the report completed under this rule to document the presence of asbestos. The completion of an asbestos survey is not a requirement of a phase I property assessment conducted pursuant to this rule.

(b) Documentation of compliance with the standards for asbestos emission control during demolition and renovation activities, as applicable, in accordance with Chapter 3745-20 of the Administrative Code, which may document the absence of an asbestos release under this rule. The standards are referred to also as national emission standards for hazardous air pollutants (NESHAPs).

(5) Maps.

(a) A property location map using the most currently available 7.5 minute U.S. geological survey topographic map, which includes the property boundary and the surrounding significant features such as roads and other rights of way, surface water bodies, and adjacent properties.

(b) A property map which identifies significant structures and features, including but not limited to property improvements, including all roads, railroads, and above ground and below ground structures and appurtenances, the property's boundaries, and identifies the property which is the subject of the voluntary action.

(c) Identified areas and other areas. A property map which identifies the location and type of all known or suspected releases of hazardous substances or petroleum on the property including areas



determined under this rule to be de minimis areas and previously addressed areas in accordance with paragraph (E) of this rule.

(d) A map which identifies all sites within one half-mile surrounding the property which were identified in paragraph (C)(5) of this rule.

(e) All maps required by this rule shall include the following:

(i) A citation that indicates accuracy, including the author and date of current source.

(ii) Scale. The scale shall maintain readability even if the map is reproduced without color.

(6) An explanation of all procedures used during the phase I property assessment.

(7) A summary of all relevant information used to meet the objectives in paragraph (C) of this rule.

(8) A statement of any limitations, qualifications, or data gaps which impact the phase I property assessment. This statement shall include an identification and explanation of any records which were not reviewed because either the records were determined not to be reasonably available or the records could not be obtained despite good-faith efforts.

(9) A recommendation that states either of the following:

(a) A no further action letter can be issued.

(b) A phase II property assessment is required in order to obtain a no further action letter for the property.

(10) To the extent available, a bibliography of references which identifies a description, date, source, and location of any document reviewed as part of the phase I property assessment and include the name, address, and telephone number of any persons interviewed in the phase I property assessment.

(11) Sufficient color photograph documentation of the property's current condition. The volunteer



shall identify the dates that the photographs of the property were taken.

(12) Appendices for all appropriate supporting documentation.

(H) Phase I assessment update. If more than one hundred eighty days has elapsed since the completion of the requirements in paragraphs (C) and (E) of this rule, the phase I property assessment shall be updated as follows:

(1) In accordance with paragraph (E)(1)(c) of rule 3745-300-07 of the Administrative Code, before the phase II property assessment begins.

(2) In accordance with paragraph (D)(1) of rule 3745-300-13 of the Administrative Code, prior to issuance of a no further action letter.