the foregoing definition may assist in the conduct of all appropriate inquiries in accordance with this part if such person is under the supervision or responsible charge of a person meeting the definition of an environmental professional provided above when conducting such activities.

Relevant experience, as used in the definition of environmental professional in this section, means: participation in the performance of all appropriate inquiries, investigations, environmental site assessments, or other site investigations that may include environmental analyses, investigations, and remediation which involve the understanding of surface and subsurface environmental conditions and the processes used to evaluate these conditions and for which professional judgment was used to develop opinions regarding conditions indicative of releases or threatened releases (see §312.1(c)) to the subject property.

Good faith means: the absence of any intention to seek an unfair advantage or to defraud another party; an honest and sincere intention to fulfill one’s obligations in the conduct or transaction concerned.

Institutional controls means: non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy.

§312.11 References.

The following industry standards may be used to comply with the requirements set forth in §§312.23 through 312.31:


[70 FR 66107, Nov. 1, 2005, as amended at 73 FR 78655, Dec. 23, 2008]
Environmental Protection Agency § 312.20

(i) Interviews with past and present owners, operators, and occupants (see § 312.23);
(ii) Searches for recorded environmental cleanup liens (see § 312.25);
(iii) Reviews of federal, tribal, state, and local government records (see § 312.26);
(iv) Visual inspections of the facility and of adjoining properties (see § 312.27); and
(v) The declaration by the environmental professional (see § 312.21(d)).

(iv) Previously collected information is updated to include relevant changes in the conditions of the property and specialized knowledge, as outlined in § 312.28, of the persons conducting the all appropriate inquiries for the subject property, including persons identified in § 312.1(b) and the environmental professional, defined in § 312.10.

(d) All appropriate inquiries can include the results of report(s) specified in § 312.21(c), that have been prepared by or for other persons, provided that:

(1) The report(s) meets the objectives and performance factors of this regulation, as specified in paragraphs (e) and (f) of this section; and

(2) The person specified in § 312.1(b) and seeking to use the previously collected information reviews the information and conducts the additional inquiries pursuant to §§ 312.28, 312.29 and 312.30 and the all appropriate inquiries are updated in paragraph (b)(3) of this section, as necessary.

(e) Objectives. The standards and practices set forth in this part for All Appropriate Inquiries are intended to result in the identification of conditions indicative of releases and threatened releases of hazardous substances on, at, in, or to the subject property.

(1) In performing the all appropriate inquiries, as defined in this section and provided in the standards and practices set forth in this subpart, the persons identified under § 312.1(b) and the environmental professional, as defined in § 312.10, must seek to identify through the conduct of the standards and practices set forth in this subpart, the following types of information about the subject property:
   (i) Current and past property uses and occupancies;
   (ii) Current and past uses of hazardous substances;
   (iii) Waste management and disposal activities that could have caused releases or threatened releases of hazardous substances;
   (iv) Current and past corrective actions and response activities undertaken to address past and on-going releases of hazardous substances;
   (v) Engineering controls;
   (vi) Institutional controls; and

(2) In the case of persons identified in § 312.1(b)(2), the standards and practices for All Appropriate Inquiries set forth in this part are intended to result in the identification of conditions indicative of releases or threatened releases of hazardous substances to the subject property.
§312.21 Results of inquiry by an environmental professional.

(a) Persons identified under §312.1(b) must undertake an inquiry, as defined in paragraph (b) of this section, by an environmental professional, or conducted under the supervision or responsible charge of, an environmental professional, as defined in §312.10. Such inquiry is hereafter referred to as “the inquiry of the environmental professional.”

(b) The inquiry of the environmental professional must include the requirements set forth in §§312.23 (interviews with past and present owners * * *), 312.24 (reviews of historical sources * * *), 312.26 (reviews of government records), 312.27 (visual inspections), 312.30 (commonly known or reasonably ascertainable information), and 312.31 (degree of obviousness of the presence * * * and the ability to detect the contamination * * *). In addition, the inquiry should take into account information provided to the environmental professional as a result of the additional inquiries conducted by persons identified in §312.1(b) and in accordance with the requirements of §312.22.

(c) The results of the inquiry by an environmental professional must be documented in a written report that, at a minimum, includes the following:

(1) An opinion as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances (and in the case of persons identified in §312.1(b)(2), hazardous substances, pollutants, contaminants, petroleum and petroleum products, and controlled substances (as defined in 21 U.S.C. 802)) on, at, in, or to the subject property. Sampling and analysis may be conducted to develop information to address data gaps.

(h) Releases and threatened releases identified as part of the all appropriate inquiries should be noted in the report of the inquiries. These standards and practices however are not intended to require the identification in the written report prepared pursuant to §312.21(c) of quantities or amounts, either individually or in the aggregate, of hazardous substances pollutants, contaminants, petroleum and petroleum products, and controlled substances (as defined in 21 U.S.C. 802) that because of said quantities and amounts, generally would not pose a threat to human health or the environment.