

**Utah Department of Environmental Quality  
Division of Environmental Response and Remediation (DEQ/DERR)  
Enforceable Written Assurance (EWA) Checklist**

Notice: This checklist is prepared by the DEQ/DERR as a tool to assist DEQ staff reviewing and applicants applying for an EWA. This checklist is not expected to cover all situations that may be encountered and therefore is not all encompassing, since it is intended to be used only for guidance. This checklist is for informational purposes and should not be considered professional or legal advice. This checklist does not replace an applicant's obligation to ensure they have met all relevant requirements, state and/or federal statutes, rules, standards and procedures applicable to an EWA.

**EWA Name:** \_\_\_\_\_

**EWA #:** \_\_\_\_\_

**Date Application Received:** \_\_\_\_\_

**Reviewer:** \_\_\_\_\_

**Date Applicant Expected to Acquire Property:** \_\_\_\_\_

***EWA Application and Phase I ESA Report:***

	<b>EWA Application</b>	<b>Phase 1 ESA</b>	<b>Comments (if Different)</b>
EWA Applicant/ Phase I ESA User:			
Property Acreage:			
Property Address:			
Property Parcel Numbers:			

***EWA BASICS: All Appropriate Inquiries, Affiliation and Applicant Continuing Obligations  
(EWA Application – Questions 1-12)***

<b>Review Item</b>	<b>Status</b>	<b>Comments</b>
<b>All Appropriate Inquiries</b>		
Was AAI performed prior to Applicant's acquisition of the Property?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Does AAI meet all requirements? (See DEQ/DERR AAI Checklist)	<input type="checkbox"/> Y <input type="checkbox"/> N	
<b>Affiliation</b>		
Is the Applicant potentially liable or affiliated with any other person potentially liable for response costs?	<input type="checkbox"/> Y <input type="checkbox"/> N	
<b>Continuing Obligations</b>		
Will the Applicant comply with land use restrictions/institutional controls in connection with a response action?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Will the Applicant provide full cooperation, assistance and access to persons authorized to conduct response actions?	<input type="checkbox"/> Y <input type="checkbox"/> N	

Continuing Obligations		
Has the Applicant demonstrated a willingness to exercise appropriate care with respect to contamination, by taking Reasonable Steps to: - Stop continuing releases - Prevent threatened future releases - Prevent or limit human, environmental or natural resource exposure to any previously released hazardous substance or hazardous material?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Will the Applicant comply with information requests and administrative subpoenas?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Does the Applicant represent it will provide all legally required notices?	<input type="checkbox"/> Y <input type="checkbox"/> N	

**EWA Evaluation Principles:**

***(Evaluated against All Appropriate Inquiries and Other Supporting data/Information) (R311-600-3)***

1) After All Appropriate Inquiries, there is no indication of a release, a threatened release, or the possibility of a release at the property, <u>or</u> ;	
2) If there is a threatened release or the possibility of a release at the property, there has been sufficient characterization to demonstrate that there is no reason to take action, <u>or</u> ;	
3) If there has been a release, the release has been or is being cleaned up with oversight provided by the Department and the applicant is sufficiently informed to take reasonable steps to avoid exposing the contamination to the public, avoid contributing to or exacerbating the contamination, and to avoid interfering with or substantially increasing the costs of response actions, <u>or</u> ;	
4) If the release has not been and is not being cleaned up, there has been sufficient characterization to demonstrate the release is not ongoing, there are no uninterrupted exposure pathways, and the applicant is sufficiently informed to take reasonable steps to avoid exposing the contamination to the public, avoid contributing to or exacerbating the contamination, and to avoid interfering with or substantially increasing the costs of response actions, <u>or</u> ; there has been sufficient characterization to demonstrate that there is no reason to take action.	
<b>Select the Principle that best describes the Property:</b>	<b>Principle</b> <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 or <input type="checkbox"/> 4
<b>Have the EWA Evaluation Principles been met?</b>	<input type="checkbox"/> Y <input type="checkbox"/> N
<b>Principles Met</b>	<b>Principles Not Met</b>
EWA can be recommended if Applicant qualifies as a Bona fide Prospective Purchaser, is not a liable person under HSMA and the Evaluation Principles have been met.	Applicant can gather more information to address identified data gaps and amend application to demonstrate Evaluation Principles met.
	Applicant can obtain a Conditional EWA and enter VCP as a Reasonable Step to complete characterization and Response Actions.
	Applicant can terminate EWA Application.

**Other State/Federal Interest: Additional Letters Needed Before EWA:**

Review Item	Yes/No	Comments
If an EPA interest, has an EPA Reasonable Steps Letter been obtained prior to the EWA?	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	
If a DWMRC interest, has a DWMRC Comfort Letter or equivalent been obtained prior to the EWA?	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	

**EWA Application Summary:**

Review Item	Yes/No	Comments
Is the Application on the current DEQ/DERR EWA Application form?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Has the Applicant included the EWA fee and an email indicating they will cover costs in excess of the application fee?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Has the Applicant included the Site Eligibility Report with the EWA Application? <ul style="list-style-type: none"> <li>- Results of AAI</li> <li>- Information demonstrating compliance with R311-600-3 (Evaluation Principles)</li> <li>- Analytical Results</li> <li>- Proposed Reasonable Steps</li> <li>- Compliance with Activity and Use Limitations</li> </ul>	<input type="checkbox"/> Y <input type="checkbox"/> N	
Has the Applicant included a legal description with the EWA Application?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Has the Applicant completed all questions on the EWA Application?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Will the Applicant be applying to the VCP?	<input type="checkbox"/> Y <input type="checkbox"/> N	
Can DERR staff recommend an EWA?	<input type="checkbox"/> Y <input type="checkbox"/> N	

**NOTES:**

1. If the site has a Federal or other state interest (e.g., Superfund site, DWMRC site), ensure the Applicant has first obtained a Reasonable Steps letter from EPA or a Comfort letter from DWMRC. These letters are attached to the EWA.
2. To obtain an EWA, an Applicant must demonstrate they have met the federal Bona Fide Prospective Purchaser liability defense, are not a liable party and have met the criteria in Rule R311-600.

# EWA Evaluation Principles Flowchart

