



Texas Voluntary Cleanup Program

The Voluntary Cleanup Program (VCP)

What Is the Voluntary Cleanup Program?

The Texas VCP provides administrative, technical and legal incentives to encourage the cleanup of contaminated sites in Texas. The VCP offers an incentive for property owners and developers to clean up property, by providing a certificate of completion issued following cleanup activities. This certificate provides a release of liability from the State of Texas for non responsible parties such as future owners and lenders.

Created by the Texas Legislature in 1995, the VCP is run by the Remediation Division of the Texas Commission on Environmental Quality (TCEQ)

Since all non-responsible parties, including future lenders and landowners, receive protection from liability to the State of Texas for cleanup after issuance of a certificate, most environmental constraints for completing real estate transactions at sites are eliminated.

Any site not subject to a TCEQ enforcement order or permit is eligible to enter the VCP, provided cleanup has not already been initiated by participants and the site is not under the jurisdiction of the Texas Railroad Commission. Parties entering the VCP must submit an application, a Phase I Environmental Site Assessment describing the contaminated area of concern, and a \$1,000 application fee.

Upon acceptance of the application, the applicant must sign a VCP Agreement that describes a schedule of report submittals necessary to achieve assessment and cleanup in accordance with all TCEQ rules and requirements. After completion of the assessment and any required cleanup, the parties will receive a certificate of completion from the TCEQ, which states that non-responsible parties, including future owners and lenders are released from all liability to the state for cleanup of areas covered by the certificate.

Through April 2005, the VCP had received 1706 applications representing undeveloped property, office/warehouses, supermarket/retail, commercial development and industrial property. Of these sites, 859 have received final certificates of completion and 106 have received conditional certificates of completion.

Who Benefits?

- ! Property owners
- ! Adjacent landowners
- ! Lenders
- ! Future owners and renters

Description of the VCP Process

- Step 1:** Application; supporting documents and an application fee of \$1,000.
- Step 2:** Must sign TCEQ Agreement and determine the schedule of report submittals. (This agreement states the applicant agrees to pay the VCP for the time the project manager spends reviewing site assessment and closure documents).
- Step 3:** Contamination on the property must be identified by type, extent and level. A complete assessment report is prepared.
- Step 4:** Response Action Work Plan with description of what should be done to remediate any affected soil or groundwater.
- Step 5:** Remediation is performed, if necessary, based on future land use.
- Step 6:** Response Action Completion Report. Must be reviewed and approved by the VCP Project Manager.
- Step 7:** Certificate affidavit must be signed and notarized.
- Step 8:** Issue (Final or Conditional) Certificate of Completion.
- Step 9:** Certificate of Completion is filed in County Deed Records if required by TCEQ rules.

Should an Applicant not Complete the Program.

In the event an applicant determines that they cannot complete the program for any reason, they may notify the VCP of their withdrawal from the program. If the applicant

does not perform the necessary investigation and cleanup activities, the VCP participation in the program will end.

The VCP will notify the TCEQ Regional Field Office that the site has withdrawn or has been ended. The Field Office will determine the next appropriate course of action.

Other Programs in the VCP

The VCP administers two other programs, including the Innocent Owner/Operator Program (IOP) and Texas Brownfields Program.

Innocent Owner/Operator Program

The IOP provides a process for current owners and operators of property to be certified as “innocent” with an Innocent Owner/Operator Certificate (IOC), when they can prove that their property became contaminated from an off-site source. Unlike the VCP release of liability, the IOC does not carry forward to future owners/operators. Future innocent owners or operators must individually apply and be certified as innocent. A person is only eligible for the certification if they own or operate on the property. Prospective purchasers can obtain a letter acknowledging the TCEQ’s intent to issue an IOC after a demonstration of innocence has been made. This will be followed by a IOC issued once the person purchases or begins operation on the property.

To be eligible for an IOC, an applicant must meet the following criteria:

- The subject property must be contaminated.
- The innocent person must be a current owner or operator of the subject property.
- The applicant must not have caused or contributed to the source of contamination, and
- Certain rules apply to subdivided properties (contact the VCP to determine if your subdivided property is eligible).

Description of the IOP Process

Step 1: Submit an application, a Site Investigation Report describing the contaminated area of concern and a \$1,000 fee to cover the TCEQ’s review cost.

Step 2: TCEQ determination that contamination has migrated on to the property from an off-site source and that applicant has not contributed to the contamination.

Step 3: IOC Affidavit must be signed and notarized

Step 4: Issue IOC.

If the SIR demonstrates that the eligibility criteria have been met, then the owner/operator is issued an IOC by the TCEQ. Parties may terminate their participation in the IOP at any time by written notice to the program.

Through April 2005, the IOP had received 490 applications representing undeveloped property, office/warehouses, supermarket/retail, commercial development and private residences. Of these sites, 391 have received IOCs.

Texas Brownfields Program

In Texas, many former industrial properties lie dormant or underutilized due to liability associated with real or perceived contamination. These properties are broadly referred to as Brownfields. The TCEQ administers a grant provided by the U.S. Environmental Protection Agency (EPA) to perform Brownfields site assessments for local governments and non-profit organizations who are not responsible parties. In addition the TCEQ works in close partnership with other state and local redevelopment agencies and stakeholders, to facilitate cleanup, transferability and revitalization of Brownfields through the development of regulatory, tax and technical assistance tools. In addition to the specific programs mentioned here, the TCEQ is available at no cost to local governments and non-profit organizations to provide technical advice, education and project partnering for Brownfields redevelopment projects. If you have any comments or questions about the Brownfields Redevelopment Initiative, please contact the VCP.

How Do I Get More Information?

If you have any comments or questions about the VCP, IOP or Texas Brownfields Program, please contact the VCP.

- Call us at 512/239-5891
- Write us at the TCEQ, P.O. Box 13087, MC 221, Austin, TX 78711-3087.
- Visit our Web site:
<http://www.tceq.state.tx.us/permitting/remed/vcp>
- Send an e-mail to VCP@tceq.state.tx.us.