

The TCEQ Brownfields Initiatives:

Redevelopment Tools
to Help You Grow!

How Do I Get More Info?

Call us at 512-239-2200

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www.tceq.texas.gov



BROWN
FIELDS
INITIATIVES

Across the nation, many former commercial or industrial properties lie dormant or underutilized due to the liability associated with real or perceived contamination. These properties are broadly referred to as brownfields.

In Texas, the Texas Commission on Environmental Quality (TCEQ)—in close partnership with the U.S. Environmental Protection Agency (EPA); various federal, state, and local redevelopment agencies; and local stakeholders—facilitates the cleanup, transferability, and revitalization of brownfields through programs that provide regulatory, tax, and technical assistance.

The TCEQ has three distinct brownfields programs: the Brownfields Site Assessment Program, the Voluntary Cleanup Program, and the Innocent Owner/Operator Program. Eligible entities can avail themselves of one or more of these programs, depending on the specific circumstances. This brochure provides a general introduction to the three programs.

The life cycle of a brownfield project begins when an eligible entity identifies a brownfield property in its community and also identifies the community's redevelopment needs and goals. The TCEQ is the technical decision maker and determines what assessment and cleanup activities need to be conducted. The EPA provides funding and support services. The EPA can also provide direct environmental assessment and cleanup. The life cycle of the project is completed when the property has been successfully redeveloped.

By identifying environmental hazards, removing blight, and increasing the tax base, brownfields revitalization generates significant environmental, social, and economic benefits for the local community.

The Brownfields Site Assessment Program

The TCEQ Brownfields Site Assessment (BSA) Program provides services such as Phase I and Phase II environmental site assessments for eligible entities at no cost. For brownfield projects that have been awarded EPA Subtitle A grants, the BSA program also offers free technical oversight.



BSAs are designed to discover the real or perceived environmental barriers to redevelopment and provide the environmental information required in real estate or financial transactions involving brownfield properties. By knowing the degree of contamination that is present on brownfield properties, entities are more likely to successfully market those properties, which will facilitate their redevelopment.

What Entities Are Eligible for the BSA Program?

A variety of organizations are potentially eligible for admission into the BSA Program. These include:

- State, local, and tribal governments
- Regional councils of governments

- Quasi-governmental agencies, such as redevelopment agencies, housing authorities, and conservation districts

- Nonprofit groups, such as community development corporations and religious organizations

Note: Potentially responsible parties or private owners are not eligible.

What Does the BSA Program Offer?

The BSA Program provides environmental site assessments and technical assistance at no cost and also conducts cleanups as funds are available.

How Does the BSA Program Work?

The applicant submits a completed application, access agreement, and core data form. Once the site is accepted into the BSA program, a TCEQ contractor performs an environmental site assessment (ESA). Upon completion of the ESA, depending on the findings of the report, the TCEQ will recommend a cleanup, ask for additional investigation, or issue a “no further action” letter (also known as a “closure” letter), which allows acquisition or development to proceed.

The Voluntary Cleanup Program

The Texas Voluntary Cleanup Program (VCP) provides administrative, technical, and legal incentives to encourage the cleanup of contaminated sites to ensure that they are made safe for their intended use, thereby protecting human health and the environment.

Under the VCP, individuals who are not responsible parties at the time of application—including most lenders and prospective landowners—receive protection from liability to the State of Texas for contaminants at VCP sites. This serves to reduce or eliminate some of the significant constraints for completing real estate transactions at those sites. As a result, many underutilized or unused properties may be restored to productive commercial or community use.



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What Sites Are Eligible for the VCP?

In general, any site that is not subject to a TCEQ permit, order, or pending enforcement action is eligible to enter the VCP. Sites with contamination under the jurisdiction of the Railroad Commission (RRC) of Texas may enter the VCP, but the VCP certificate will not cover RRC contamination. Sites listed or proposed for listing on the National Priority List are not eligible. Other eligibility criteria may also apply.

What Does the VCP Offer?

After the cleanup is completed, the TCEQ will issue a certificate of completion, which states that qualified persons are released from liability to the state for the cleanup of areas covered by the certificate. The certificate of completion “runs with the land” —that is, it will adhere to the property title, and be valid for current and future owners.

How Does the VCP Work?

Parties entering the VCP must submit a completed VCP application, an appropriate site-investigation report describing the contaminated area of concern, and a \$1,000 application fee.

Upon acceptance of the application, the applicant must sign an agreement that describes a schedule of events necessary to achieve cleanup and requires the applicant to pay all VCP oversight costs. Parties may terminate their participation in the VCP at any time by advance written notice. As funds are available, the hourly VCP oversight fee can be waived for entities that are in the BSA Program. Please note that the \$1,000 application fee cannot be waived.

The Innocent Owner/ Operator Program

The Texas Innocent Owner/Operator Program (IOP) can provide an Innocent Owner/Operator Certificate (IOC) to an owner or operator if it can be established that their property is contaminated as a result of a release or migration of contaminants from a source (or sources) not located on the property and that they did not cause or contribute to the source of the contamination. Certain provisions exist, however, for obtaining an IOC for portions of properties subdivided from source tracts, depending upon when the property was subdivided.

What Sites Are Eligible for the IOP?

Any site under TCEQ jurisdiction that has detectable levels of certain contaminants may enter the IOP. However, the TCEQ will not issue an IOC unless the applicant demonstrates that it meets the relevant criteria.

What Does the IOP Offer?

Like the Texas Voluntary Cleanup Program, the IOP can be used as a redevelopment tool or as a marketing tool, adding value to a contaminated property by providing an IOC. Additionally, the IOC may be valuable in demonstrating to lenders or other parties that the TCEQ considers the person an innocent owner or operator, thereby potentially facilitating or expediting a property transaction. However, unlike the VCP certificate, IOCs do not run with the land: they are not transferable to future owners or operators. Prospective innocent owners or operators are eligible to enter the IOP and may receive an IOC upon becoming an owner or operator of the site.

How Does the IOP Work?

The owner or operator submits a completed application, which requires payment of any IOP oversight costs, a fee of \$1,000 to cover the TCEQ’s initial review costs, and a Site Investigation Report (SIR) that describes the contaminated area of concern. Upon completion of the review of a SIR that properly demonstrates that the applicant is an innocent owner or operator, the applicant may receive an IOC from the TCEQ.

Parties may terminate their participation in the IOP at any time by advance written notice to the program. As funds are available, the hourly IOP oversight fee can be waived for entities that are in the BSA Program. Please note that the \$1,000 application fee cannot be waived, and that the IOP is not designed to be a cleanup program.

*For more information, contact the TCEQ
Brownfields Team at 512-239-2200 or
<BRNFLDS@tceq.texas.gov>.*



Texas Commission on Environmental Quality
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