



Phase II ESAs and Voluntary Remediation Program

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What is a Phase II ESA?



- Includes analyses of samples or other testing
- Reasons for performing a Phase II ESA
 - Further investigate Recognized Environmental Conditions (RECs)
 - Determine how to address Continuing Obligations” to maintain CERCLA Liability defense
 - Evaluate business risk, costs, and feasibility of project or future development



Can be done before or after acquiring property

Phase II ESA Standard



- ASTM 1903-19 – Standard Practice For Environmental Site Assessments: Phase II Environmental Site Assessment Process
- Process for investigating hazardous substances, pollutants, contaminants, petroleum products, and controlled substances.
- Defines assessment process that may be used to generate sound, objective, and defensible information sufficient to satisfy user objectives

Phase II ESA

Development of the Sampling Plan



- Determine objectives
 - What do we need to know?
 - Verify RECs – has a release occurred?
 - Define risks to human health or environment based on proposed redevelopment.
 - Other environmental concerns/business risks – Asbestos Containing Building Materials, Lead Based Paint, etc...

Phase II ESA

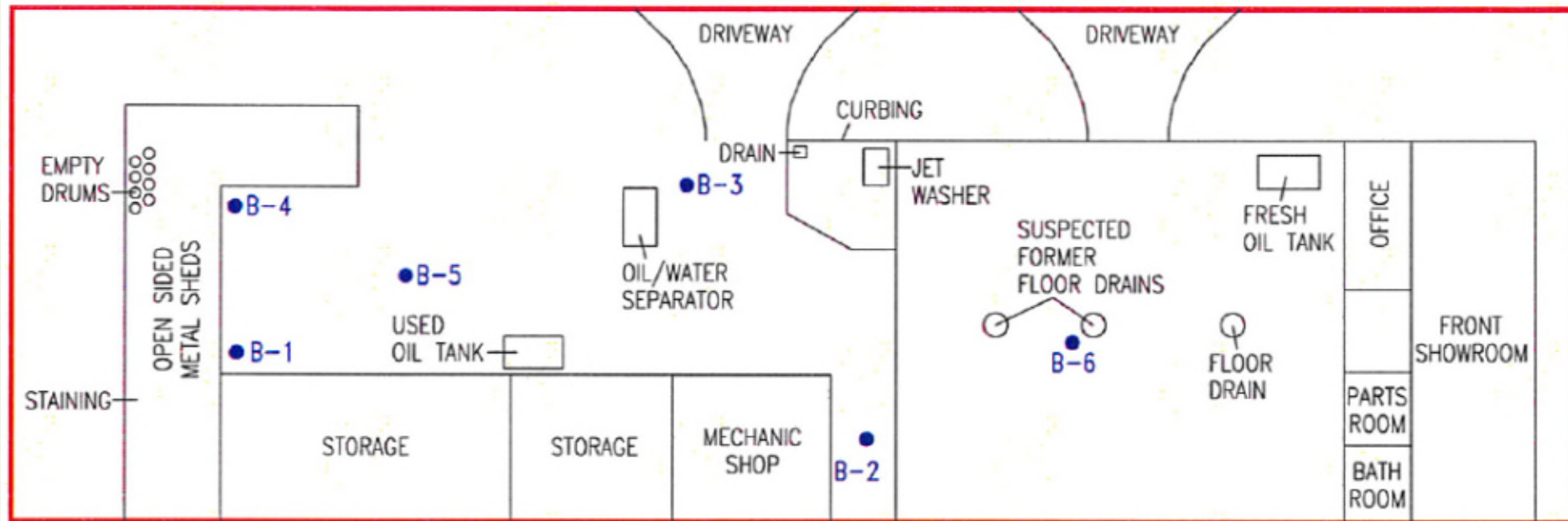
Development of the Sampling Plan



- What needs to be sampled?
- What locations should be sampled?
 - For environmental media – locations suspected of having highest concentrations –
 - Where they may have first entered environment – Info from Phase I
 - Where they may have moved to after – chemical behavior/geology/conditions of site
- What should samples be analyzed for?
 - Based on suspected sources

Phase II ESA

Development of the Sampling Plan



Phase II ESA

Development of the Sampling Plan



- Identify applicable procedures and protocols for sampling
 - May have regulatory considerations – ACM, Lead Based Paint
 - RECAP

If the Phase II is being funded with Brownfields grant money, a Quality Assurance Project Plan (QAPP) must be prepared and approved by EPA prior to sampling.

Phase II ESA

Interpreting the Results



- Is the property contaminated?
- LDEQ's Risk Evaluation/Corrective Action Program
 - RECAP Standards – constituent concentration levels in impacted media that do not pose unacceptable risks to human health or the environment.

Louisiana Department of Environmental Quality

Risk Evaluation/ Corrective Action Program (RECAP)



Prepared by:
Louisiana Department of Environmental Quality
Corrective Action Group

October 20, 2003

LDEQ RECAP



- Tiered framework
 - Screening Standard – uses conservative assumptions that are applicable to most sites. Standards are presented in look up tables
 - Management Options (MO-1, MO-2, MO-3) – As the management option level increases, additional site-specific information can be used; however, level of effort required to gather this information increases

Beyond the Phase II ESA



- Additional investigation may be necessary to delineate contamination or gain information necessary for further evaluation under RECAP or Cleanup Planning – may be an iterative process
- Louisiana Revised Statutes – Subtitle II of Title 30 Chapter 12
 - Part I – Typical statute that sites are assessed and cleaned up under – upon completion receive No Further Action
 - Part II – ***Voluntary Remedial Program*** – Upon completion, provides a release of liability if historical contamination is found in the future to applicants, current/future owners and developers (Certificate of Completion)

Voluntary Remediation Program



All sites are eligible except:

- Permitted hazardous waste units;
- Sites that have been proposed to the National Priorities List (NPL);
- Sites that have been placed on the NPL;
- Motor Fuel Trust Fund eligible sites;
- Sites that have pending environmental enforcement actions (not including cost recovery actions) that are related to the proposed voluntary remedial action.

Voluntary Remediation Program



All persons are eligible

- Responsible Persons must remediate the site to RECAP standards. Partial Remediation not allowed
- Non-responsible parties can perform a partial remediation
 - The definition of responsible party for the VRP is different than that for other Chapter 12 sites.

Responsible Person



Part I of Ch. 12

- Transporter/Contracted for Transport
- Generator
- Discharger or disposer
- Owner, operator, or lessee

Part II of Ch. 12 (VRP)

- Transporter
- Generators
- Discharger or disposer
- Owner, **only if**...
 - La. R.S. 30:2285.2
 - Were involved with or knowingly allowed the discharges or threatened discharges of hazardous substances to the property

VRP Remedial Action



Complete Remediation

- Remediates all contamination at the site to industrial or non-industrial standards.
- No use restrictions on property.
- Conveyance notice required if remediated to industrial standards.
- Requirement for responsible persons.

VRP Remedial Action



Partial Remediation

- Not all discharges or disposals or threatened discharges or disposals are removed
 - (e.g., soil remediation but not groundwater)
- Remedy/Cleanup must be protective of (married with) a future use
- Mandatory use restrictions on the property, recorded in the parish land title records (Conveyance Notice)

VRP Remedial Action



Partial Remediation

- Use restrictions are identified in the Voluntary Remedial Action Plan.
 - *Use restrictions cannot be modified, canceled, or removed unless the site is further remediated to remove or remedy remaining contamination*
- May require Monitoring and Maintenance Plan
- Partial Remediation Agreement required for future access.

Voluntary Remediation Program



- Area to be investigated is defined by the applicant through the legal description supplied in application.
 - Off site investigation is not required
 - Off site impacts would be addressed outside the VRP
- Investigation required is typically more intensive (i.e., expensive) than under other LDEQ programs
 - Expanded analytical
 - Investigation of site as defined by application
- A remedy must be performed pursuant to an approved work plan.

Components of the VRP



- Voluntary Remedial Investigation Application
 - Includes Voluntary Remedial Investigation Workplan
- Voluntary Remedial Investigation Report
 - Letter from LDEQ agreeing that all discharges have been adequately identified and characterized
- Voluntary Remedial Action Application
 - Public Comment Period – notify public and adjacent landowners
- Voluntary Remedial Action Report
 - Upon approval and receipt of any other required documentation and payment of invoices - COC

Former Haywilk Galvanizing



Operated as zinc galvanizing facility – 1930s until 2004

Owners conducted Phase II ESA in February 2005 in anticipation of selling the site

Found levels of metals in soil and groundwater above RECAP Screening Standards

August 2005 – Hurricane Katrina



Former Haywilk Galvanizing



- 2011 - Gulf Coast Scrap and Salvage purchases property to house their fabrication business
 - Phase I ESA done prior to acquisition
- Contacted LDEQ to discuss project
- Submitted Voluntary Remedial Investigation Application
 - Voluntary Remedial Investigation Workplan included additional sampling needed to satisfy VRP requirements

Former Haywilk Galvanizing – Voluntary Remedial Investigation



Former Haywilk Galvanizing-Voluntary Remedial Action



- Submitted Voluntary Remedial Investigation Report
 - Received approval that investigation has identified nature and extent of discharge – August 2013
- Conducted additional investigation to support cleanup planning
- Submitted Voluntary Remedial Action Application – October 2016
 - Included Partial Remedial Action Application

Former Haywilk Galvanizing- Voluntary Remedial Action



- Excavation of 300 square foot area of zinc-impacted soil
- Included Use Restrictions to manage groundwater issues and prevent exposure
- Voluntary Remedial Action Report – December 2017



Former Haywilk Galvanizing- Voluntary Remedial Action



- Filed Use Restrictions and Partial Remediation Agreement – March 2018
- Received Certificate of Completion (COC) – July 2018





LDEQ's Brownfield Redevelopment Program

Rebecca Otte, LDEQ Statewide Brownfields & VRP Coordinator

Louisiana Air & Waste Management Association Conference

October 27, 2022

What are Brownfields?

- Real Property
- Redevelopment or expanded use is hindered by real or perceived contamination.



Examples:

- Abandoned warehouse
- Vacant gas station
- Old school or municipal building
- Vacant Lot
- Abandoned commercial building



EPA Brownfield & Land Revitalization Program:

Address environmental barriers at Brownfield sites to facilitate their redevelopment/ expanded use

- Reduce Sprawl / Encourage Infill Development
- Reduce Blight & Revitalize Communities
- Increase Local Tax Base and Jobs
- Turn vacant properties into Community Assets



EPA Brownfield & Land Revitalization Program:

- ❖ Environmental Site Assessments
- ❖ Cleanup Funding
- ❖ Reuse Planning



Sites that
meet the
definition of
a Brownfield

Sites
eligible for
Brownfield
Assistance



Sites Eligible for Brownfields Assistance

- Meets definition of a Brownfield
- Reuse is for Economic Development or Community Benefit
- Owner must allow Access
- No Enforcement Actions
- Measures to Prevent Further Contamination at the Site



Good Candidates for Brownfields Assistance

- Community Input
- Good Potential for Successful Redevelopment
- Will Spur Further Revitalization
- Flexible Timeline



Brownfield Considerations

- ▶ Additional Hoops
- ▶ Not a Reimbursement Program
- ▶ Assessments normally performed by Brownfield Grantee's Consultant
- ▶ Cleanup Contractors normally chosen by the Applicant



Jumping through Hoops Graphic: <https://ohioenvironmental.com/deq-ed-avoiding-hoops-in-public-education/>



How can this help you/your client?

- ▶ Provide information to your client on resources to move their project forward
- ▶ Move their project to cleanup quicker



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