

Facts About: Voluntary Cleanup Program (VCP)

The Maryland Department of the Environment (Department) administers the Voluntary Cleanup Program (VCP). In February 1997, Maryland enacted the VCP as emergency legislation for the express purpose of encouraging the investigation, cleanup, and redevelopment of eligible properties with known or perceived controlled hazardous substance contamination. The statute requires that the VCP protect public health and the environment, accelerate cleanup of properties, and provide liability releases and finality to site cleanup. Effective October 1, 2004, eligible properties also contaminated by oil or petroleum are eligible to participate in the program.

To enroll a property in the VCP, a person submits the following documents:

- 1) Completed [application](#);
- 2) A non-refundable \$10,000 application fee or a \$2,000 fee for a subsequent application if there is an active VCP application in progress;
- 3) An environmental site assessment that includes:
 - a) Established Phase I site assessment standards based on the principles established by the American Society of Testing and Materials (ASTM) and that complies with the ASTM standards in effect at the time of application and was conducted within 180 days of submitting the application; and
 - b) A Phase II site assessment conducted within one year of submitting the application, unless the Department concludes, after review of the Phase I, that there is sufficient information to determine that there are no recognized environmental conditions as defined by ASTM. In some cases, a work plan for the Phase II may be submitted for review and approval by MDE prior to implementation and completion of the Phase II site assessment. Please refer to MDE's guidance titled [Preparing Phase II ESAs for VCP Projects](#) and [Facts About: Phase II Environmental Site Assessments](#).

Amendments from 2004 allow a person to request an Expedited Inculpable Person (EXP-IP) approval within five business days of receipt of the request (see Factsheet on VCP Inculpable and Responsible Person Status). The EXP-IP approval may be requested prior to submitting a complete VCP application. To receive this status, a person submits an additional \$2,000 fee, a written request, and an EXP-IP status affidavit.

After reviewing the application package, the Department may:

- Determine that the application is incomplete and request additional information;
- Approve the application and issue a No Further Requirements Determination (NFRD) stating that there are no further requirements related to the investigation of controlled hazardous substances (CHS) or petroleum (oil) at the eligible property; or

- Approve the application and advise the applicant that a response action plan (RAP) must be developed to address contaminants of concern at the property. At the time of approval of an application, the Department will also confirm the participant's status as an inculpable or responsible person.

Upon approval of the application, the Department may issue an NFRD conditioned on future land use controls and specific land use requirements. Issuance of the NFRD does not prevent the Department from taking action against inculpable or responsible persons for new or exacerbation of existing contamination at the property, or subject to Environment Article 7-505, prevent the Department from taking action against a person to prevent or abate imminent and substantial endangerment to the public health or the environment at the property. In addition, for responsible persons, the NFRD does not prevent the Department from taking action for previously undiscovered contamination at the property. If an NFRD is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall pay \$2,000 upon issuance of the NFRD.

If the Department determines that development of a RAP is necessary, the participant must submit a proposed RAP within 18 months of acceptance into the VCP. The proposed RAP shall include a schedule for implementation and completion of the plan, and a proposal for a performance bond or other security in an amount necessary to secure and stabilize the property if the RAP is not completed. Upon submittal of the proposed RAP to the Department for review, the participant shall initiate public notice in accordance with Environment Article 7-509 and hold a public informational meeting to provide the public with an opportunity to learn about the proposed RAP and submit comments.

Once the RAP is approved and a bond or other security is submitted, the participant can begin implementing the plan. Throughout the RAP implementation process, the VCP project manager conducts site visits and reviews project status reports submitted by the VCP participant's environmental consultant.

At the conclusion of all RAP activities, a Completion Report is submitted to the VCP for review and approval. Once the VCP has determined that the approved RAP has been completed to the Department's satisfaction, a Certificate of Completion (COC) is issued. The COC does not prevent the Department from taking action against inculpable or responsible persons for new or exacerbated contamination, or subject to Environment Article 7-505, prevent the Department from taking action against a person to prevent or abate an imminent and substantial endangerment to the public health or the environment at the property. Additionally, for responsible persons, the COC does not prevent the Department from taking action for previously undiscovered contamination at the property. The COC does not prevent the Department from taking action against any person who is responsible for long-term monitoring and maintenance for failure to comply with the RAP; does not prevent the Department from taking action against any person who does not comply with the conditions on the permissible use of the eligible property contained in the COC; and does not, subject to the provisions of Environment Article 7-512, prevent the Department from requiring any person to take further action if the eligible property fails to meet the applicable cleanup criteria set forth in the approved RAP.

For some sites, the Department may also require the completion of an environmental covenant as part of the NFRD or COC. If a COC is conditioned on the permissible use of the property, the participant shall pay \$2,000 upon issuance of the COC.

Approval of an application is based on the specific land use requested on the application form. If a VCP participant elects to change the requested land use after an application has been approved, a new application form, a \$2,000 fee, and all other application requirements must be met for the newly proposed use.

Department review of required submittals after the COC is issued (i.e. long term monitoring data, work plans for excavation or future development, etc.) will be conducted under the CHS Enforcement Division and will be subject to cost recovery.

For sites issued either a NFRD or COC, the Land Restoration Program (LRP) will conduct periodic inspections to ensure the site specific land use controls are in place. During these inspections, the LRP may request to review site specific documentation related to maintenance and repair of various engineering controls as detailed in the NFRD or COC.

LEARN MORE ABOUT THE VCP PROCESS:

Go to the Department website at: www.mde.maryland.gov

Select Land and Land Restoration to view fact sheets on the VCP process or individual project sites.