Why Choose VCP? The Pros and Cons

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Topics

1. What is a Voluntary Cleanup Program (“VCP”)?
2. The VCP Process
3. Uses
4. Benefits of Entering VCP
5. Costs of Entering VCP
6. Examples
7. Conclusions & Questions

What is a Voluntary Cleanup Program?

A Statutorily-based, Non-Enforcement State Remedial Program – Allows owners, developers, prospective purchasers, and other eligible parties to voluntarily address environmental issues associated with buying, selling, reusing, and/or redeveloping contaminated properties

- Source (Kansas)
  - K.S.A. §§ 65-34,161 to -174 (1997, amended 2015)
  - K.A.R. §§ 28-71-1 to -12 (1998, amended 2017)
  - Superfund MOA between KDHE and EPA acknowledging adequacy of KDHE's VCP and State Cooperative Program (2001)
- Non-Enforcement
  - Voluntary, however participants can be removed for failing to meet/ or maintain program eligibility or requirements

What is a Voluntary Clean Up Program?

- Eligibility Requirements – Property
- Eligibility Requirements – Applicant

The VCP Process

- Application
- Non-Negotiable Voluntary Agreement
- Voluntary Cleanup Investigation
- Interim Remedial Measures
- Voluntary Cleanup Proposal
- Voluntary Cleanup Plan
- Public Participation
- Voluntary Cleanup Implementation
- No Further Action Determination

The VCP Process

Initial Site Classification	Is the Property a Source of Contamination?	What are the Affected or Threatened Media?			Has Contamination Migrated Offsite? (suspected or confirmed)	Initial Deposit Amount
		Soil	GW	Other		
Class I	No	Any Media			N/A	$2,000
Class II	Yes	X	-	-	No	$3,000
		X	X	-	No	$4,000
		-	X	-		
		X	-	*	Yes	$5,000
		-	X	*		
		X	X	*		

* Additional criteria for an initial deposit of $5,000 could include: site boundary, >10 acres (urban) or radius >0.5mi, multiple contaminants of concern, impact to surface water, or potential for vapor intrusion.

No Further Action Determination & Project Close Out

- **No Further Action (“NFA”)**
  - **Assurance** that no further action is required so long as conditions at the property do not change.
  - NFA vs. NFA with Conditions
- Project Close Out

Uses

- Planned or Pending Property Transactions
- Facility Expansion or Redevelopment
- Long-Term Follow-Up of Emergency Response Actions or Cleanup Actions
- Low Risk Sites

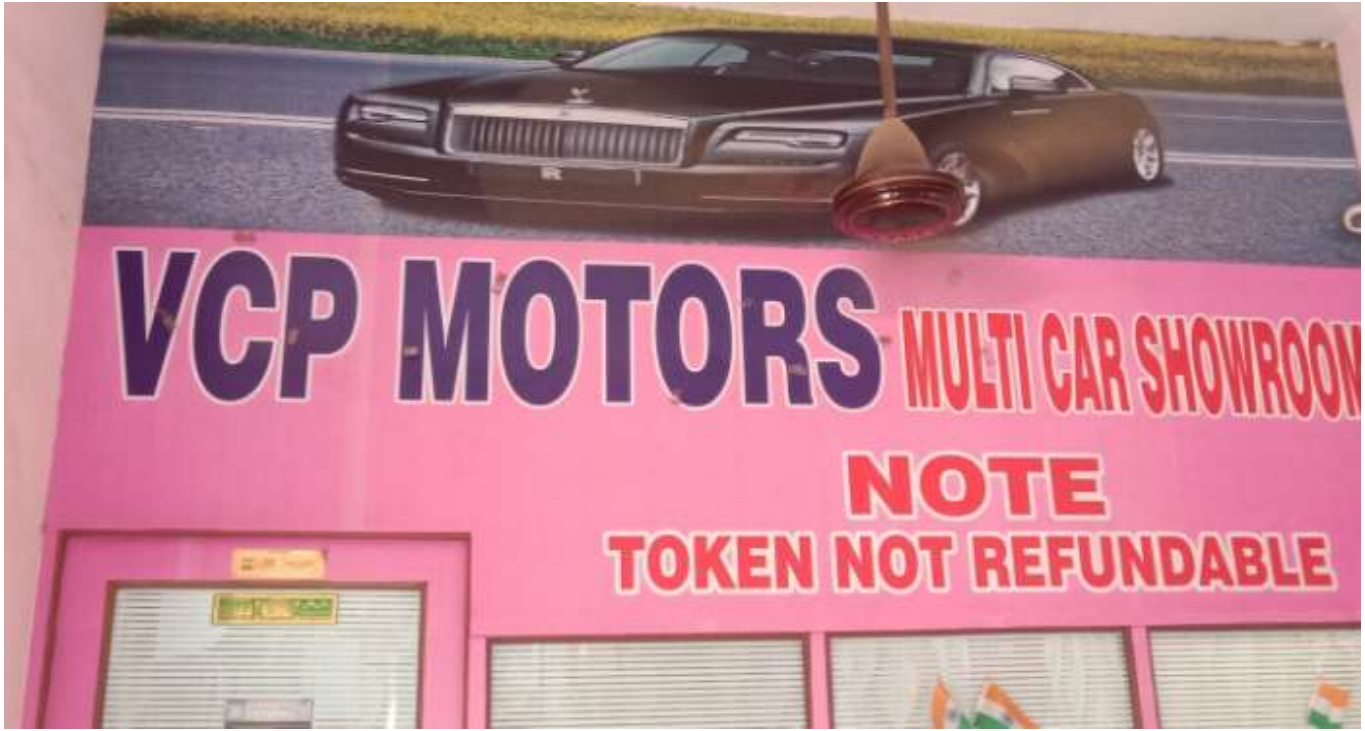
Benefits of Entering VCP

- Cost
- Time
- Remedial Effort
- Closure with NFA

Costs of Entering VCP

- Cost
- Time
- Remedial Effort
- Termination vs. Closure

Examples - VCP Motors



VCP Motors – The Cadillac

An underutilized property along a major street in a Kansas college town, where additional housing was needed.

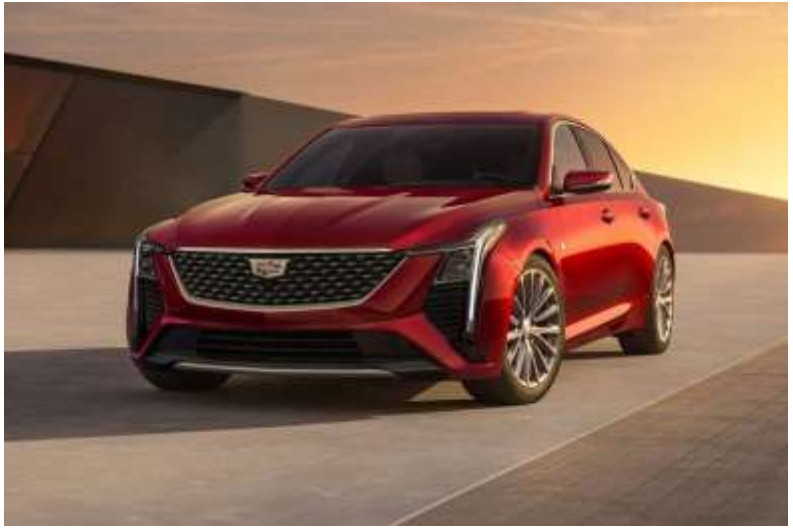
The developer identified contamination both onsite and adjacent due to historical property uses.

Property was entered into the VCP in 2019 to address the contamination concurrent with the redevelopment.

Project included completing a Voluntary Cleanup Investigation, in which groundwater impacts were delineated, and a Voluntary Cleanup Proposal, which chose Environmental Use Control and vapor mitigation as the remedial actions.

Vapor barrier was installed during redevelopment, along with a vapor mitigation system as a backup. The EUC was placed to restrict groundwater usage and ensure the barrier was protected.

Construction of the building was completed in 2020, and a NFA was issued in 2021.



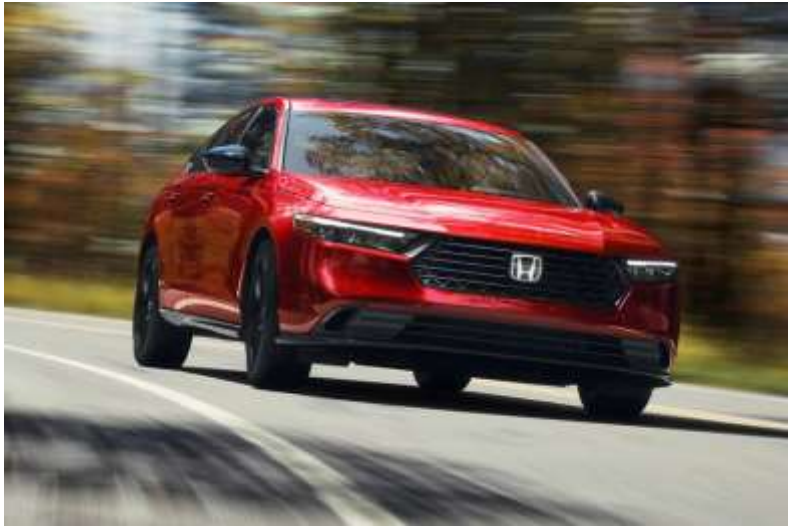
VCP Motors – The Honda

Large grain elevator in an industrialized area with widespread, known contamination impacting large area.

After years of back and forth on who's responsibility is what contamination, property was entered into the VCP in 2017 to address VOC impacts at elevator.

Through phases of investigation and research, the voluntary party was able to put together a comprehensive look at the area contamination and provide evidence on what was their responsibility vs. what was not.

Voluntary Party designed a pilot study as an Interim Remedial Measure to actively address contamination, which showed favorable results. This IRM has been accepted as the remedial action in the VC Plan, and they are currently continuing implementation, with monitoring and a plan for additional injections if necessary.



VCP Motors – The Renault

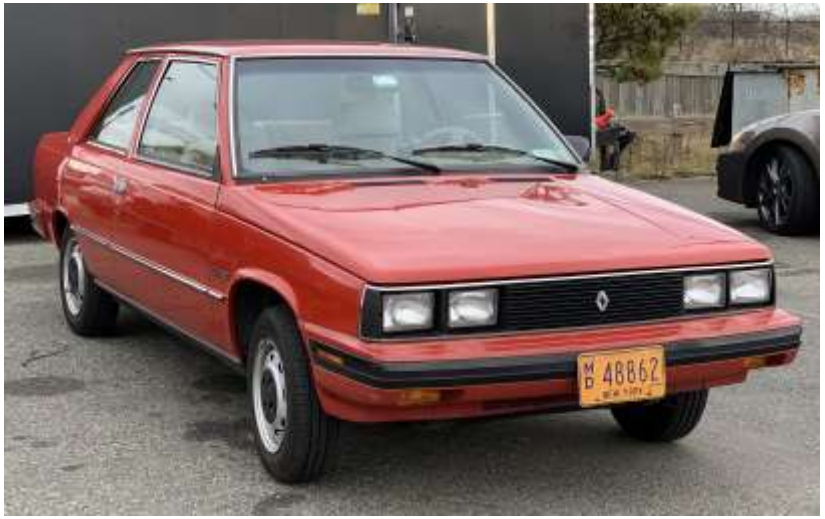
Agricultural site(s) with nitrate as the main contaminant are likely the most challenging (and most common group currently) in VCP.

Most propose limited sampling initially and end up with multiple phases of investigations over years to delineate.

If excavation occurs, they are unable to reach cleanup goals either due to financial feasibility or structural issues.

The monitoring network is usually not adequate due to an insufficient number of wells, or is only attempting to assess risk to nearby public/private wells by installation of one or two wells vs. delineation of a plume.

Overall, this has resulted in longer program times, more staff time, lack of closure on these sites (especially those facilities that are actively in business).



Conclusions and Questions

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