Baseline Environmental Assessment

A Community Fact Sheet (2001)

Michigan law allows innocent owners to protect themselves from liability when purchasing a piece of property that may be contaminated (1994 PA 451). Baseline environmental assessments (BEA) are often performed when addressing brownfield sites. A brownfield is any property that has contamination that exceeds residential clean-up standards and that has the potential for redevelopment (MDEQ, 1999). Additionally, in qualified local units of government (designated as Core Cities) any property that is blighted or functionally obsolete.

What is a Baseline Environmental Assessment?

A Baseline Environmental Assessment (BEA) is an evaluation of environmental conditions for a piece of property or facility prior to being purchased. A BEA focuses on the contamination of hazardous substances on the piece property.

The purpose of a BEA is to protect the purchaser of the facility from liability from previous owners’ actions and to hold the new owner accountable for future use and contamination. The BEA is defined under Michigan’s Part 201 of the Natural Resources and Environmental Act (1994 PA 451).

What is a facility?

A facility as defined by the Michigan Department of Environmental Quality (MDEQ) is “any area, place or property where there is a release of a hazardous substance in an amount that exceeds the established state cleanup standards for residential property.” In the case of residential property, a BEA is not necessary. An example of a facility would be an old automotive oil change shop where oil has contaminated the soil.

What is a Hazardous Substance?

The term “hazardous substance” applies to chemicals that when released into the environment, may present substantial harm to the public health, welfare, or to the environment, including ecosystems and natural resources. Examples of typical hazardous substances are metals, lead, paint/solvents, and organic chemicals (benzene, toluene, ethyl benzene, xylene or BTEX).

---

1 42 U.S.C. §9601(35)(A), 9607(b)(3) 1988: Innocent landowner is one “who acquired contaminated property… and who undertook all appropriate inquiry at the time of acquisition.”
2 PA 146 of 2000
**When should a BEA be completed and by whom?**

The MDEQ requires that a BEA be completed before, but no later than 45 days after purchase, occupancy, or foreclosure. Some owners also have a BEA completed when refinancing the property. Most property owners have a qualified environmental consultant complete the BEA.

**After the BEA is completed what happens next?**

In completion with the BEA the Environmental consultant will usually perform the following procedures:

- Properly characterize the property according to its proposed use and location.
- When necessary, evaluate where the contamination came from.
- Evaluate the length and cost of work to cleanup the site to meet property specifications.

Following the completion of the BEA it is advised that the purchaser have the MDEQ evaluate the BEA and give a written document stating the buyer is free from environmental liability. There is a fee for an MDEQ evaluation of a BEA. Along with the BEA, the new owner is responsible for “due care” provisions.

**What are “due care” provisions?**

Due care provisions outline the responsibilities of the new owner to take precautions to not to exacerbate existing contamination. The new owner must also not change property conditions to increase cleanup costs in the future. The aspects of due care are defined by the following:

- Prevent exacerbation: Exacerbation means that an activity taken by the property owner causes contamination to migrate out of property boundaries, or changes conditions of the onsite contamination.
- Take reasonable precautions: Reasonable precautions must be taken against foreseeable acts of omission by third parties that may that may affect residual.

The “due care” is defined under Michigan’s Part 201 Amendments in section 7a.

**What is the approximate cost of a BEA?**

Most environmental consultants charge between $2000-$3000 to have a BEA completed. When having the BEA evaluated by the MDEQ there is an evaluation fee of $750.
Is a BEA a public document?

A BEA document is available to the public and can be obtained through the MDEQ.

Useful Tools

1. http://www.deq.state.mi.us/

   Senate Bill 420 gives information concerning petition fees to the MDEQ for a BEA.

   Gives instructions on the procedure of a BEA.

This fact sheet was written by Todd Zynda, Michigan State University TAB Program.

The Technical assistance for Brownfield Communities (TAB) Program provides independent technical expertise to communities with contaminated sites and promotes community involvement in site-cleanup projects. For more information about TAB, please contact Lisa Szymcko, TAB Coordinator, at (800) 490-3890.