

Louisiana Department of Environmental Quality Remediation Division

Environmental Conditions Review

The Environmental Conditions Review (ECR) is used to respond to Phase II Assessments and other limited site assessments subject to LAC 33: Part I, Subpart I, Chapter 12 when the submitter requests a response from the department. **The ECR will replace the Limited Site Investigation Review Response.**

An ECR is the review of a report of environmental conditions at a specified tract(s) of immovable property when the site investigation and report of findings are not required or requested by the administrative authority. Limited site investigations associated with property transactions are routinely conducted in accordance with *ASTM E1903-19 Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process*. ASTM investigations (Phase I and Phase II assessments) are not within the regulatory jurisdiction of the Department and therefore these site investigations are conducted without LDEQ-RD oversight or approval.

All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial \$1,650 minimum fee. In addition, an accounting of time spent by LDEQ staff shall be kept and an invoice for the additional fee shall be transmitted to the person requesting the review after the review is complete.

In accordance with LAC 33: Part I, Subpart I, Chapter 12, an applicant requesting a review of environmental conditions for specific immovable property shall furnish the following information:

1. the agency interest number (if available);
2. the area of investigation, if different from the facility/agency interest location;
3. the basis for the request;
4. the purpose of the use of the property and the date-range of the use;
5. a brief description of activities that occurred on the property;
6. the future intended use of the property;
7. the types and results of investigations that have occurred, including the following information:
 - a. report dates;
 - b. the media investigated;
 - c. the constituents of concern (COC);
 - d. the maximum remaining concentration of the COC; and
 - e. the limiting RECAP standards for the COC;
8. any remedial standards previously developed for the property;
9. any remedial actions taken for the property; and
10. any other information requested by the administrative authority.

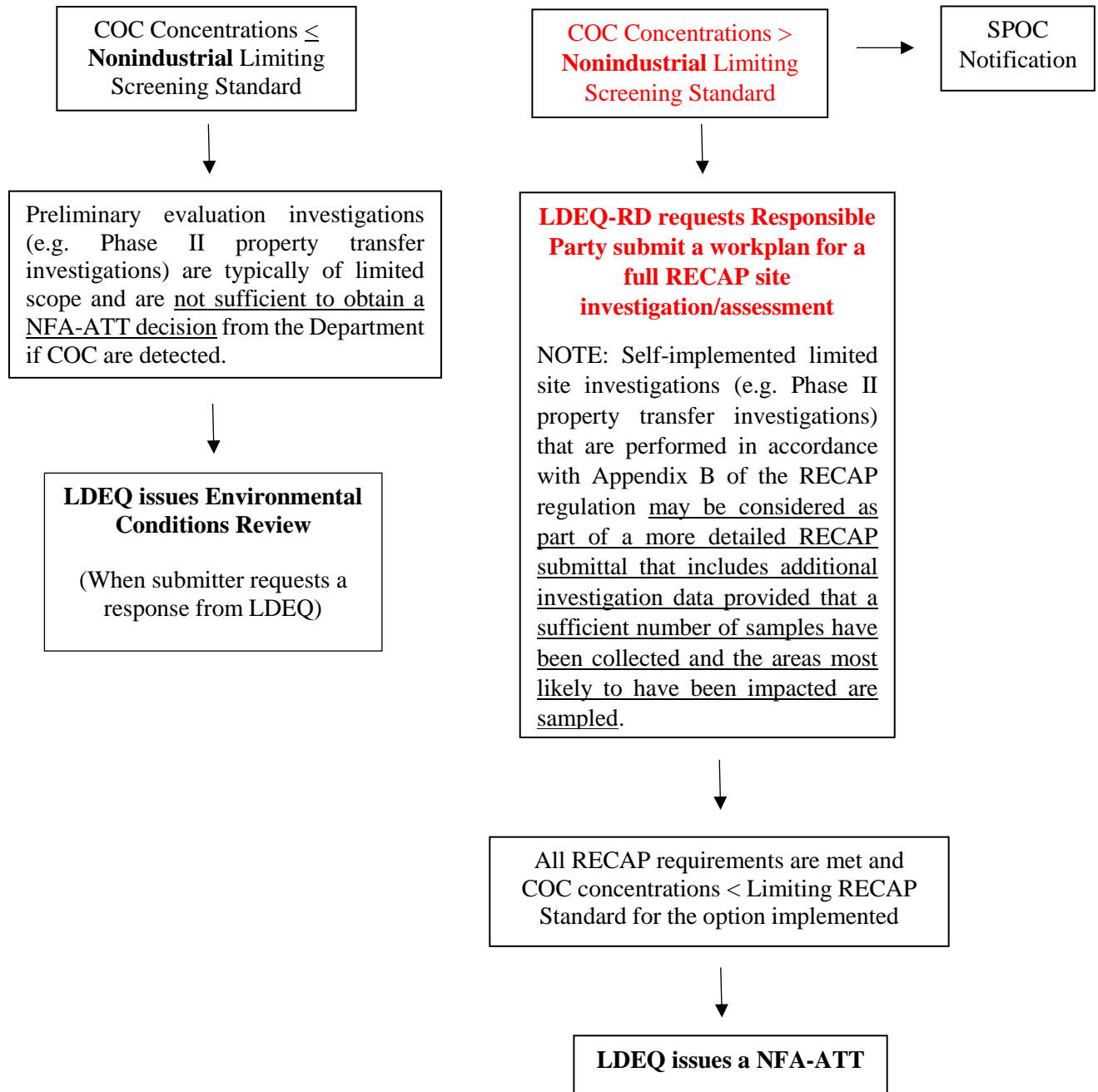
If the COC concentrations detected are less than or equal to the **nonindustrial** RECAP Limiting Screening Standard (LSS), the LDEQ Remediation Division will issue an ECR (if the submitter requests a response from LDEQ). Note that preliminary evaluation investigations (e.g. Phase II property transfer investigations) are typically of limited scope and are not sufficient to obtain a No Further Action At This Time (NFA-ATT) decision from the Department if COC are detected.

If COC concentrations detected are greater than the **nonindustrial** RECAP LSS, then the LDEQ Remediation Division shall request a workplan for a full RECAP site investigation/assessment. Note: If land use is industrial/commercial and COC concentrations are less than the RECAP industrial LSS but greater than the nonindustrial LSS, then the LDEQ Remediation Division shall request a workplan for a full RECAP site investigation/assessment.

If the self-implemented limited site investigations (e.g. Phase II property transfer investigations) was performed in accordance with Appendix B of the RECAP regulation, the results of the investigation may be considered as part of a more detailed RECAP submittal that includes additional investigation data provided that a sufficient number of samples have been collected and the areas most likely to have been impacted are sampled. Refer to Section 2.18 of RECAP for additional information on self-implementation of site investigation and remedial actions.

**ASTM E1903-19 Phase II Environmental Site Assessment
or other Self-Implemented Limited Site Investigation**

(Refer to LAC 33: Part I, Subpart I, Chapter 12 and RECAP Section 2.18)



LAC 33: Part 1, Subpart I

Chapter 12. Requests for Review of Environmental Conditions

§1201. Applicability and Scope

A. This Chapter applies to reviews by the department of reports of environmental conditions at specified tracts of immovable property when such reports from site investigations are not required or requested by the administrative authority.

B. Nothing herein shall be construed to diminish the responsibility of any person (e.g., owner, operator, employee, agent, contractor, or assign) having knowledge of the presence at any site of any hazardous substance, hazardous waste, hazardous waste constituent, or other pollutant or contaminant, to notify the department pursuant to LAC 33:I.Chapter 39. If additional information becomes available to indicate that the source of the release is a current discharge or a discharge that should have been reported, enforcement action may be taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007).

§1203. Procedure for Submittal of Request

A. All requests for reviews by the department of reports of environmental conditions shall be accompanied by an initial \$1,650 minimum fee.

1. All payments made by check, draft, or money order shall be made payable to the Department of Environmental Quality, and mailed to the department with the request.

2. Persons wishing to make payments using the electronic pay (e-pay) method shall access the department's website and follow the instructions provided on the website.

3. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

4. Cash is not an acceptable form of payment.

B. Contents of Request. An applicant requesting a review of environmental conditions for specific immovable property shall furnish the following information:

1. the agency interest number or a completed agency interest form from the department identifying the facility/agency interest;

2. the area of investigation, if different from the facility/agency interest location;

3. the basis for the request;

4. the purpose of the use of the property and the date-range of the use;

5. a brief description of activities that occurred on the property;

6. the future intended use of the property;

7. the types and results of investigations that have occurred, including the following information:

a. report dates;

b. the media investigated;

c. the constituents of concern (COC);

d. the maximum remaining concentration of the COC; and

e. the limiting RECAP standards for the COC;

8. any remedial standards previously developed for the property;

9. any remedial actions taken for the property; and

10. any other information requested by the administrative authority.

C. An applicant shall submit the request for review, in accordance with the requirements of Subsection B of this Section, in triplicate, with the initial minimum fee in Subsection A of this Section, to the administrator of the Office of Environmental Assessment.

D. The administrative authority will issue the result of the review to the owner/operator of the facility and to the person requesting the review.

E. The administrative authority shall keep an accounting of time spent by the department civil service employee processing the review request. Every hour or portion thereof that the department civil service employee works processing the request shall be multiplied by the maximum per-hour overtime salary, including associated related benefits, of the department civil service employee who performed the work. If this amount exceeds the initial minimum fee charged pursuant to R.S. 30:2011(D)(25) and Subsection A of this Section, an additional fee shall be charged for the amount exceeding the initial minimum fee.

1. An invoice for the additional fee shall be transmitted to the person requesting the review after the review is complete.

2. Failure to pay the additional fee by the due date specified on the invoice will constitute a violation of these regulations and shall subject the person requesting the review to relevant enforcement action under the Louisiana Environmental Quality Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and specifically 2011(D)(25), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:447 (March 2007), amended LR 33:2079 (October 2007), LR 35:2178 (October 2009), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2136 (November 2017), LR 44:1238 (July 2018).