

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY VOLUNTARY CLEANUP PROGRAM APPLICATION INSTRUCTIONS

The information provided on the Voluntary Cleanup Program (VCP) application will be used to determine a site's eligibility for participation in the VCP. The application assumes that at a minimum, a Phase I Environmental Site Assessment or similar investigation has been completed at the site. **A TCEQ Form 10400 (CORE data form) must be attached to the application. Incomplete, outdated or inaccurate applications will be rejected.**

General Information

This provides site-specific information and should be completed in the greatest detail possible.

Applicant(s)

Applicant A is generally considered the person requesting the Certificate of Completion (COC) and agreeing to pay Texas Commission on Environmental Quality (TCEQ) oversight costs. If billing should be directed to another person or address, be sure to provide this information on the application form under Billing Information along with written proof of consent to be billed.

Submittal of Revised VCP Application: If a prospective buyer wants to apply as a new or co-applicant and receive a COC, an amended or revised application will be required. Please prepare and submit a new VCP application and agreement, \$1000 VCP application fee and TCEQ CORE data form. These items should be sent to the TCEQ Cashier's Office at the address listed on the VCP application form. Please include a cover letter that states that you are amending an application of an existing VCP site. You should also reference the "**PCA Number**" and original **VCP ID** on the cover letter, application and \$1000 check.

Withdrawal of Applicant "A" with New Party Assuming Cleanup: If Applicant "A" is withdrawing from the VCP and another party is assuming the role of Applicant "A" and is also the new billing party, an amended or revised VCP application and agreement, \$1000 VCP application fee and TCEQ CORE data form should be submitted. These items should be sent to the TCEQ Cashier's Office at the address listed on the VCP application form. Please include a cover letter that states that you are amending an application of an existing VCP site. You should also reference the "**PCA Number**" and original **VCP ID** on the cover letter, application and the \$1000 check.

A person (e.g., a future owner, future lessee, future operator or lender) who is not a responsible party under §361.271 or §361.275(g) at the time they apply or when the TCEQ issues a COC is qualified to obtain the protection from liability provided by §361.610(b), Subchapter S, Solid Waste Disposal Act (SWDA) (Health and Safety Code, Section 1, Chapter 361). Therefore, a person who is not a responsible party who intends to purchase the property before the COC is issued, should be either the sole applicant or an additional applicant in order to benefit from this liability protection (§361.610(a), SWDA).

Current Site Owner

If the current owner is not included as an applicant, then provide the requested information on the application form for the current property owner.

Other Contacts

If others are involved in the voluntary cleanup, such as an environmental consultant or legal representative, provide the requested information for this person. These persons should be (in the applicant's determination) those with the greatest capability to provide site-specific information or make decisions related to the voluntary cleanup.

Billing Information

If the billing is to be directed to someone other than Applicant A, provide the requested information and have the billing party sign the application under Billing Information, indicating their consent to be obligated for payment of TCEQ oversight costs. If an applicant desires to change the billing party after the VCP agreement has been signed, then a new application will be required. In addition, if the original billing party desires to close out their account with the TCEQ and receive a final billing invoice, then the new application must include an application fee (\$1,000).

Current Property Use

Check the correct category or provide a more appropriate description under "Other." If the site is divided into more than one use category, indicate this by providing the percent of the land area used for each land use category. If the site is non-residential, describe the type of business.

Involvement with Other Regulatory Programs

Describe any contact with any state or federal regulatory program. Please provide names and dates, contacts and any actions taken as a result of these contacts. It is especially important to describe any order, notice of violation, permits or inspections related to the site, as this may directly impact the eligibility of the site for participation in the VCP. No site which is under a TCEQ permit or order is eligible to participate in the VCP. The term TCEQ permit does not apply to wastewater or air permits, but is intended only for permits which address site cleanup. If there has been no prior contact with any state or federal environmental regulatory agency, indicate this by checking "No." This section must not be left blank.

Applicant's Intended Response Action Objectives

This section is requesting information about the applicant's intentions related to the site cleanup. The applicant is not required to make this decision this early in the process; however, if the applicant has made this determination, it will make completion of the VCP agreement easier. Please check the appropriate selection.

Federal Brownfields Tax Deduction

The Taxpayer Relief Act (HR 2014) signed on August 5, 1997, includes a tax incentive to encourage the cleanup and redevelopment of Brownfields in distressed urban and rural areas. The eligible time period for this law is from August 5, 1997 until December 31, 2004.

To receive the tax deduction, you must obtain pre-certification from the TCEQ that the property is located within a targeted area and the property has had a release or threat of release, or disposal of any federal hazardous substance. A federal hazardous substance, as defined in section 101(14) of CERCLA 1980 is: "(A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic substances Control Act. **The term does not include petroleum**, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas)."

In addition to the petroleum exclusion, you should be aware of several other requirements including:

- , The property must be held by the taxpayer incurring or paying the expenses;
- , The property must be held for use in a trade or business or for the production of income, or property included in the taxpayer's inventory;
- , The property is not a site on U.S. Environmental Protection Agency's (EPA's) National Priorities List (Federal Superfund);
- , For costs incurred before December 16, 2000, the property must be located in one of four eligible areas:
 - Brownfields Pilot areas designated prior to February 1997;
 - Census tracts where 20 percent or more of the population is below the poverty level;
 - Census tracts that have a population less than 2,000 and have 75 percent or more of their land zoned for industrial or commercial use, and are adjacent to one or more census tracts with a poverty rate of 20 percent or more; or

- Any empowerment zone or enterprise community (EZ/EC) (and any supplemental zone designated on December 21, 1994). EZ/EC designated areas may be located by contacting the Texas Department of Economic Development at (512) 936-0260.

To receive pre-certification, please download and complete a Brownfields Federal Tax Deduction Pre-Certification Form located at www.tceq.state.tx.us/permitting/remed/vcp.htm and return it to the address listed at the bottom of the form.

The Brownfields Tax Incentive ends on December 31, 2004. For additional information regarding the federal brownfields tax deduction, contact EPA at (202) 260-3525.

State Property Tax Abatement

Effective September 1, 1997, the Texas Tax Code, Chapter 312 was amended by Senate Bill 1596 to provide ad valorem tax incentives for the development or redevelopment of certain properties cleaned up through the VCP. Only properties located within a reinvestment zone, as defined in the Texas Tax Code, are eligible for the tax abatement. The change in the tax code allows the governing body of a municipality to enter into a tax abatement agreement with a property owner to exempt from taxation a portion of the value of the property for a period not to exceed four years after the date the owner receives a VCP COC. Also, the property owner must have signed a VCP agreement prior to entering into an agreement with the governing body of a municipality. The tax exemption takes effect the next year after the date the owner receives a VCP COC. A property owner who files a copy of the COC for the first tax year is not required to refile the COC in subsequent tax years to receive a tax abatement. Cancellation or modification of the tax abatement may occur should the land use change to a use which may result in an increased risk to human health or the environment. School districts are not eligible to enter into a tax abatement agreement to exempt from taxation an owner who receives a VCP COC. Properties with projects funded by tax increment bonds are also not eligible.

Environmental Assessment

A copy of the Phase I Environmental Site Assessment and all other previously completed site investigation reports, if any, should be submitted with the completed application. The assessment should be of sufficient detail to fulfill the requirements of SWDA, §361.604(c)(1)-(5). At a minimum, the document should identify all areas of known or suspected contamination that will be addressed by the VCP application and agreement. Specifically, the Phase I Environmental Site Assessment must include, but is not limited to the following items:

1. A legal description of the site, including a site map drawn to scale;
2. A description of the physical characteristics of the site;
3. A discussion of the operational history of the site to the extent the history is known by the applicant;

4. Information of which the applicant is aware concerning the nature and extent of contamination at the site and in areas immediately contiguous to the site; and
5. Relevant information of which the applicant is aware concerning the potential for human exposure to contamination at the site.

A detailed explanation of these items is presented on the next page.

Legal Description of the Site

A legal description of the property must be prepared for the site. Although the legal description does not have to include a survey performed by a licensed surveyor at the time of application, the description should provide adequate detail such that the areal extent and location of the site is obvious. Include a site map drawn to scale which clearly indicates property boundaries and also surrounding properties. It may be necessary to include two maps of different scale; at least one map should indicate the site location relative to the intersection of two major roads.

A metes and bounds legal property description conducted by a registered professional survey is required for **partial response action areas (PRAAs) only**.

For sites other than PRAAs, a lot and block legal property description along with the name of the site owner, must meet the Texas Health and Safety Code §361.609(b) legal description requirement. However, if a lot and block legal property description does not exist, a metes and bounds property description will be necessary to accurately describe the boundaries of the area covered by a COC. A new metes and bounds survey is not necessary if a previously completed survey matches the property description.

All legal property descriptions should also include a map which accurately identifies the entire area covered by the COC. The map must be submitted in order for VCP project managers to verify that the site physical address correlates with the legal property description. This map should display a Texas-registered land surveyor's stamp (for a metes and bounds description) or some other indication that it is permanently contained in the county property records (for a lot and block description).

Physical Characteristics of the Site

The physical characteristics of the site must be described using a map illustrating site features. The site map must depict the following: property lines, building and road outlines, potential contamination source areas (i.e., chemical storage areas, above and below ground tanks, process equipment, loading/unloading areas, floor drains, waste treatment, storage or disposal areas), surface water bodies, water supply wells and utility rights-of-way. In addition, a map must be prepared that identifies adjacent property uses (e.g., gas station, dry cleaner, battery recycler or residential).

Summary of Operational History

A summary of the historical and current business operations must be prepared for the site with an emphasis upon identifying possible contaminant source areas. The summary should include a list of the potential source areas and a discussion of the types of contaminants for each area if known. A map must be included that clearly identifies known or suspected primary source areas (process area, product storage, etc.) and secondary source areas (contaminated soils).

Nature and Extent of Contamination

To the degree that it is known at the time of VCP application, the nature and extent of contamination must be described. At a minimum, a site map must be prepared illustrating known or suspected areas of contamination.

Potential for Human and Environmental Exposure

Discuss potential exposure and risk to human health and the environment presented by known or suspected contamination in the response action area. Highlight any areas that may require immediate action.

How Long Does it Take to Process Applications?

As per §361.604(d) SWDA, applications will be processed in the order they are received. The TCEQ will provide written notice of the acceptance or rejection of an application within 45 days of receipt. If the application is rejected because it is not complete or accurate, the TCEQ will provide written notice of the rejection, which includes a list of information needed to make the application complete or accurate. The applicant will then have 45 days to resubmit the application with the requested information without incurring an additional application fee. If the application is not resubmitted in the allotted time frame or if the application was rejected because the site was not eligible, the TCEQ will refund half of the application fee (\$500) as per 361.605(c) SWDA.

Can I Submit an Agreement with the Application?

VCP applicants may submit a VCP agreement with the application. To enable the VCP project manager to begin work on the project as soon as possible, applicants are encouraged to submit a signed VCP agreement with the application if they are able to complete at least some of the information required for a complete agreement. This generally includes: (1) the name, address and phone number for persons (not to exceed two) the applicant desires to receive copies of documents which the TCEQ issues; (2) applicable rules; (3) anticipated submittals with a schedule for submission; and (4) proposed future land use. The VCP project manager can complete any missing information after discussing the site with the applicant.

ATTENTION: Please do not submit this application without attaching a CORE Data Form (TCEQ-10400). If you do not submit this form, TCEQ will not be able to process the application in a timely manner. You may find this form at:

<http://www.tceq.state.tx.us/permitting/projects/cr/10400.pdf>

OFFICE USE ONLY

PCA number: _____

VCP Project number: _____

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY VOLUNTARY CLEANUP PROGRAM

Program Application

Please complete this form, a Texas Commission on Environmental Quality (TCEQ) Form 10400 and an agreement form to request assistance and review from TCEQ staff in the Voluntary Cleanup Program (VCP) pursuant to §361.604 of the Texas Solid Waste Disposal Act. You may download this document, TCEQ Form 10400 and any other VCP documents via the Internet at <http://www.tceq.state.tx.us/permitting/remed/vcp/vcp/html>.

Complete all applicable sections. The TCEQ may reject incomplete or inaccurate applications as per §361.605 of the VCP statute. To accurately complete this form, please refer to the VCP Application Instructions or call the TCEQ's Voluntary Cleanup Section at (512) 239-5891 with any questions concerning the completion of this form.

General Site Information

Site Name _____

Site Size (acres) _____

Regulated Entity Reference No. (if issued): CN-_____

Applicant(s)

Applicant A (The person or entity seeking review and approval of a plan or report and/or issuance of a VCP Certificate of Completion by the TCEQ. Applicant A is responsible for payment of TCEQ costs of review and oversight unless indicated otherwise on page 2 of this form).

Applicant _____

Contact Person _____ Title _____

Customer Reference No. (if issued): CN- _____

Organization _____ Phone () _____ Fax () _____

Interest in Property _____

To receive copies of TCEQ correspondence? Yes _____ No _____

Applicant B

Applicant _____

Contact Person _____ Title _____

Customer Reference No. (if issued): CN- _____

Organization _____ Phone () _____ Fax () _____

Interest in Property _____

To receive copies of TCEQ correspondence? Yes _____ No _____

Applicant C

Applicant _____
Contact Person _____ Title _____
Customer Reference No. (if issued): CN- _____
Organization _____ Phone () _____ Fax () _____
Interest in Property _____
To receive copies of TCEQ correspondence? Yes _____ No _____

If more than three applicants, list others under "Additional Applicants" on page 8 of this form.

Current Site Owner (if different from an applicant)

Owner(s) _____
Contact Person _____ Title _____
Organization _____ Phone () _____ Fax () _____

IMPORTANT - Please attach a completed form TCEQ-10400 for each applicant and the current site owner.

Other Contacts (Consultant/Attorney)

Name(s) _____ Title _____
Organization _____ Phone () _____ Fax () _____
Address _____
City _____ State _____ Zip Code _____

Name(s) _____ Title _____
Organization _____ Phone () _____ Fax () _____
Address _____
City _____ State _____ Zip Code _____

Billing Information

If billing should be directed to a person other than Applicant A, please enter the required information below and include their signature consenting to the obligation for payment of TCEQ oversight costs.

Name(s) _____ Title _____
Organization _____ Phone () _____ Fax () _____
Address _____
City _____ State _____ Zip Code _____
Signature of Consent: _____ Date: _____

Current Property Use (Use percentage if site is divided into different use categories.)

Residential _____ Other (e.g., agricultural, recreational) _____
Non-residential _____ If non-residential, **type of business** _____

Is a real estate transaction imminent for this site? Yes _____ No _____
If yes, what is the planned closing date? _____

Latitude/Longitude

Latitude (degrees, min., sec. N or decimal degrees) _____
Longitude (degrees, min., sec. W or decimal degrees) _____

Date of collection _____ Organization providing collection data _____

Check the method used to determine latitude and longitude:

- _____ GPS - Real Time Differentially Corrected _____
- _____ GPS - Post Processed Differentially Corrected _____
- _____ Map Interpolation - Manual _____
- _____ Map Interpolation - Digital _____
- _____ DOQQ _____

If using GPS, please state professional unit brand name, model number and accuracy tolerances.
If using Map Interpolation, please state which USGS quad map was used for interpolation.
If using DOQQ Interpolation, please state which DOQQ was used for interpolation.
Does the latitude and longitude listed above refer to the

- _____ Center of the property?
- _____ Main entrance to the property?
- _____ Other, please describe _____

VCP Eligibility and Involvement With Other Regulatory Programs

Is the site subject to a TCEQ permit or administrative order? Yes _____ No _____
Have response actions been initiated at the site after April 1996? Yes _____ No _____ Note: Response actions initiated after April 1996 may cause the applicant to become ineligible for the VCP.
Has a state or federal Notice of Violation or any other notice of enforcement action been issued relating to contamination at the site? Yes _____ No _____
Has there been any prior contact with any state or federal environmental regulatory programs or agencies relating to environmental issues at this site? Yes _____ No _____

If yes, please describe all prior contact with any state or federal environmental regulatory programs or agencies which relate to each of these questions. Attach additional sheets as necessary. _____

Is a request for reimbursement pre-approval currently under review by the Petroleum Storage Tank (PST) Program? Yes _____ No _____

If yes, then please describe the site's status in the PST Program _____

Please provide any and all state and federal identification numbers related to the property in question, including any solid waste registration, leaking petroleum storage tank, CERCLIS, RCRIS, UIC, etc. registration numbers which have been assigned. _____

Contaminated Media and Contaminants Present

Have contaminants been detected in on-site media? Yes _____ No _____

Please check the chemicals of concern within each contaminant category and the media which have been affected:

Contaminant Category	Soil	Groundwater	Surface Water	Sediment
*VOCs				
*SVOCs				
*Heavy Metals				
*Chlorinated Solvents				
Pesticides				
TPH				
PCBs				
Other _____				

*Please describe _____

Applicant's Intended Response Action Objectives (Cleanup Levels)

___ Not known at this time. Applicant wishes to receive guidance from the VCP prior to the signing of a VCP agreement.

Texas Risk Reduction Program Rules (30 TAC Chapter 350) - Check Appropriate Standard and Tier Level:

___ Self-Implemented Cleanup to Remedy Standard A, Tier 1 ___ Tier 2 ___ Tier 3 ___

___ Non Self-Implemented Cleanup to Remedy Standard A, Tier 1 ___ Tier 2 ___ Tier 3 ___

___ Cleanup to Remedy Standard B, Tier 1 ___ Tier 2 ___ Tier 3 ___

PST Rules (30 TAC Chapter 334) - Check Appropriate Standard:

___ Cleanup to generic risk-based levels (following PST Plan A requirements).

___ Cleanup to site specific risk-based levels not relying on engineering or institutional controls (following PST Plan B requirements).

___ Cleanup to site specific risk-based levels which rely on engineering or institutional controls (following PST Plan B requirements).

___ Other (explain) _____

Federal Brownfields Tax Deduction

Are you requesting TCEQ certification that the site is eligible for a federal tax deduction under the Taxpayer Relief Act of 1997 (HR 2014)? Yes ___ No ___

If yes, please submit a Brownfields Tax Deduction Pre-Certification Form. This form may be downloaded from <http://www.tceq.state.tx.us/permitting/remed/vcp/vcp/html>.

State Property Tax Abatements for Brownfields

Are you interested in signing an agreement with the local taxing authority to receive a property tax abatement after issuance of the VCP Certificate of Completion, as allowed under Section 312.211 of the Texas Tax Code? Yes ___ No ___

If yes, please read the application instructions for more information about this tax abatement.

Environmental Assessment

An environmental assessment that includes the following information must be attached to this application:

1. a legal description of the site, including a site map drawn to scale;
2. the physical characteristics of the site;
3. the operational history of the site, to the extent the history is known by the applicant;
4. information that the applicant is aware of concerning the nature and extent of any contamination and/or release at the site and in areas contiguous to the site; and
5. relevant information the applicant is aware of concerning the potential for human and environmental exposure to contamination at or emanating from the site.

Intent to Participate

The undersigned requests oversight by the TCEQ of investigation and cleanup activities of possible contamination at the property described above and intends to negotiate in good faith, a written agreement with the TCEQ to provide technical and regulatory oversight. This Intent to Participate does not constitute such an agreement and neither TCEQ nor the undersigned will be bound to proceed with VCP oversight unless such an agreement is executed. Applicants should be aware that in order for the TCEQ to issue a VCP Certificate of Completion for an entire site, the applicant must provide adequate information to document that the entire site meets the applicable standards. As an alternative, the applicant may pursue a VCP Certificate of Completion for only a portion of the site, as a partial response action area. The agreement will describe the project activities of each party and will require Applicant A (unless indicated otherwise on page 2 of this form) to reimburse the TCEQ for all of its oversight costs. By completing and signing this Intent to Participate and that excepting areal limitations with partial response actions, all environmental media which exceed the critical Protective Concentration Levels shall be addressed through appropriate response actions. The undersigned affirms the applicant's financial capability to perform the voluntary cleanup. The Executive Director may also request additional information to support this affirmation.

With this Intent to Participate, the undersigned does not admit or assume liability for investigation or cleanup of the site. In addition, the undersigned may terminate the Intent to Participate at any time. If the TCEQ rejects the application, it will notify the applicant and explain the reasons for rejection and will refund half of the application deposit, unless the applicant indicates a desire to resubmit a corrected application. An applicant can resubmit an application once without submitting an additional application fee, if the applicant resubmits within 45 days after the rejection notice date.

Deposit of Oversight Costs

The applicant must submit with this application, a deposit in the amount of one thousand dollars (\$1,000), made payable to the Texas Commission on Environmental Quality. Deposits may be made in the form of company or personal checks. If a deposit check is returned due to insufficient funds, the application will be considered incomplete and will be rejected. Cash deposits will not be accepted.

Please execute this Intent to Participate in the space below and return it and all associated documents (e.g., environmental assessment reports) to:

**Attention: Cashier
Texas Commission on Environmental Quality
MC- 214
P.O. Box 13088
Austin, Texas 78711-3088**

For overnight or express mail please use the following street address:

**Attention: Cashier
Texas Commission on Environmental Quality
MC-214
12100 Park 35 Circle
Austin, Texas 78753**

Note: Please do not send the application and associated documents directly to the VCP. This will only result in a delay in processing your application.

Correctness of Information

The undersigned affirm that the information contained in this application is true and accurate to the best of their knowledge.

Applicant's Signatures

Applicant A

By: _____
(signature)

Name: _____
(print or type)

Date: _____

Title: _____

Company: _____

Phone: () _____

Applicant B

By: _____
(signature)

Name: _____
(print or type)

Date: _____

Title: _____

Company: _____ Phone: () _____

Applicant C

By: _____
(signature)

Name: _____
(print or type)

Date: _____

Title: _____

Company: _____ Phone: () _____

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
VOLUNTARY CLEANUP PROGRAM**

Program Application - Additional Applicants Form

Applicant D

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Company: _____ Phone: (____) _____

Applicant E

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Company: _____ Phone: (____) _____

Applicant F

By: _____ Name: _____
(signature) (print or type)

Date: _____ Title: _____

Company: _____ Phone: (____) _____