

Railroad Commission of Texas

Voluntary Cleanup Program

Frequently Asked Questions

1. Who is allowed to participate in the program?

Any person who is not a responsible person, as defined in [16 Texas Administrative Code \(TAC\) § 4.405\(10, 13\)](#), is an eligible applicant and may participate in the Voluntary Cleanup Program (VCP). Responsibility does not extend to third parties or landowners who did not cause or contribute to contamination. The property must not be subject to a Commission or Federal order to control or clean up contaminants. Eligibility applies to all wastes, pollutants, and other substances regulated by the Railroad Commission (RRC), see Texas Natural Resources Code [Chapter 91](#) and [Chapter 141](#), or [Chapter 27](#) of the Texas Water Code, as well as [16 TAC § 3.30](#).

2. I am not an operator, but I own a property that is enrolled in the RRC's Operator Cleanup Program. Can I participate in VCP and receive a COC for the remediation performed by the OCP operator?

Yes. However, please note that the RRC does not hold landowners liable if they do not engage in the management of oil and gas wastes. Therefore, a release of liability for the property owner in such a case is not necessary. But the RRC does recognize that a VCP Certificate of Completion with release of liability is a useful tool to maintain property value and therefore will not deny acceptance into the program for such sites.

The RRC can issue a Certificate of Completion with a release of liability to the VCP applicant for just the affected area being investigated by the operator enrolled in the OCP or for the entire deed recorded property. However, please note that if you wish to receive a release of liability for the entire deed recorded property, a Phase I Environmental Site Assessment is required and all identified recognized environmental conditions (RECs) under the RRC's jurisdiction must be investigated. The RRC cannot require an operator, enrolled in OCP, to investigate RECs that are currently in compliance with the applicable [RRC Rules](#) or RECs that are not associated with their current or past operations on the property.

3. How much does the program cost?

At time of application, a \$1,000 application fee and a \$1,500 non-refundable surcharge is due. The application fee is credited to your account upon acceptance. RRC VCP staff perform oversight review at a rate of \$80/hour. Oversight fees are deducted from the initial account balance of \$1,000 until that amount is exhausted. At that time, RRC VCP staff will send invoices for any additional oversight costs on a quarterly basis (generally in January, April, July, and October).

4. Are paper copies of all documents/reports required?

No. Please only submit a paper copy of the VCP Application and Agreement forms along with the \$2,500 check for entering the program. Submit electronic copies of all other documents/reports via email to the VCP technical coordinator assigned to the site or to SR-VCP-BRP@rrc.texas.gov.

5. What documents are required for the program?

In addition to the VCP [Application](#) and [Agreement](#) forms, the following reports/documents are required for each site:

- a. Phase I Environmental Site Assessment (or its equivalent)
- b. Phase II Environmental Site Assessment (or its equivalent)
- c. A property metes and bounds survey and plat map sealed by a professional land surveyor
- d. A property deed or Access Agreement
- e. An Affidavit of Completion
- f. Additional documents and/or reports may be required based on the specifics of contamination found at the site. Examples include:
 - i. Groundwater Monitoring Reports
 - ii. Remedial Action Plan
 - iii. Response Action Completion Report
 - iv. Restrictive Covenant
 - v. Well Plugging Reports

6. What assessment and remediation standards are required?

The RRC's Site Remediation Section implements [Rule 91](#) for crude oil releases in non-sensitive areas and risk-based assessment standards for all other activities under the RRC's jurisdiction. For risk-based assessment standards, the RRC recommends the [Texas Commission on Environmental Quality's Texas Risk Reduction Program's guidelines](#) to establish benchmarks and protocols that, when met and followed, will demonstrate that the site meets applicable closure standards that comply with Statewide [Rule 8](#), [Rule 20](#) and [Rule 91](#). Site Remediation staff also use other applicable RRC standards (e.g., NORM, chloride, permitting requirements), as applicable.

7. What are delineation requirements – does the applicant have to delineate off-site?

Delineation of contamination is necessary, but delineation off-site can be impeded by the absence of cooperation from adjacent landowners. Delineation can also be complicated by the occurrence of widespread contamination that interferes with the ability to distinguish contamination sourced from the application site from other off-site sources. Based on case-specific circumstances, RRC staff may recommend off-site delineation to ensure that contamination is properly assessed, cleaned up, or controlled. However, the RRC cannot require a VCP applicant to delineate off site. In circumstances where the VCP applicant cannot obtain access to adjacent properties or the VCP applicant does not wish to delineate off-site, notification to the potentially affected adjacent property owners has been sufficient for Commission staff to issue a COC.

8. If the applicant delineates off-site, can they incorporate that property into the final COC?

An application can be amended to include additional properties, if the properties are eligible and consent from the surface owner is given.

9. What if contamination from another property is migrating onto the property entered into the VCP? Will it hinder the applicant's ability to receive a COC? Is the applicant responsible for it?

An applicant that has been accepted into the VCP is not a responsible party as defined by [16 TAC § 4.405\(10, 13\)](#). However, to the extent that the contamination is migrating onto the site in such a manner that impedes successful assessment, cleanup or control of contamination on the application site, it could

hinder the issuance of a COC. In such circumstances, the RRC would recommend that the VCP applicant engage with adjacent property owners to determine the source of contamination. Alternatively, if adjacent property owners decline to cooperate, the RRC has the authority to enter such properties (see [Texas Natural Resources Code §§ 88.091 and 88.092](#)) to address the contamination using State Managed Cleanup Funds.

10. Does the COC release the applicant from future liability?

The COC releases the applicant, as well as future landowners, lenders, developers, and operators from liability to the state for the contamination that was assessed and remediated through the VCP. The COC does not release liability for contamination that may occur in the future. Please note that landowners will not be held liable for any future contamination that may occur on the site from activities under the RRC's jurisdiction, as long as the landowner did not cause or contribute to such contamination.

11. When is the applicant required to amend or re-submit an application and agreement?

If any of the following information for the site changes, an amended application and agreement should be submitted:

- a. Changes in applicant information
- b. Changes to the site metes and bounds (either addition or removal of acreage)
- c. Site closure remedy
- d. Change in surface ownership

12. Can the applicant withdrawal from the program at any time? For any reason?

Yes.

13. If the applicant withdrawals from the program, are they still required to pay any outstanding invoices?

Yes, the applicant is responsible for any oversight worked performed on the site prior to their request to withdraw.

14. Am I required to report any contamination discovered during an assessment to the RRC prior to enrollment in the VCP?

If an assessment reveals that your actions have caused a release related to activities under the RRC's jurisdiction, you are required to report it (see [16 TAC § 3.20](#)). However, if you did not cause the contamination or release, you are not obligated to report the findings to the RRC. But the RRC highly recommends that the contamination/release is reported to your local [RRC District Office](#).

15. There is known contamination on my property, but I do not wish to participate in VCP. Do I have other options to remediate the site?

You may choose to remediate the site yourself without participating in VCP. However, you assume liability by doing so. If you have the financial means to remediate the site, the RRC highly recommends participating in the program so that you can receive the release of liability from the state upon site closure. If you do not have the financial means to remediate the site, you can notify your [RRC District Office](#) of the contamination. The district offices will then determine if the operator responsible for the contamination is still active. If the operator is active, the RRC will engage with the operator to remediate the site and bring the lease into compliance. If the operator is no longer active or refuses to remediate the site, the

site will be placed on the RRC's State Managed Cleanup Site Candidate list. Sites on this list are ranked based on several criteria, such as risk to public health, safety, and the environment.