

Legal Property Descriptions for VCP Certificates of Completion

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Background

In closure of Voluntary Cleanup Program (VCP) sites, project managers have traditionally requested metes and bounds legal property descriptions prepared and sealed by a state of Texas Registered Land Surveyor to be included as Exhibit A of the executed VCP Certificate of Completion (COC). However, in some cases, a metes and bounds description may result in additional cost and work if other acceptable legal property descriptions are available. This document describes the statutory/regulatory authorities regarding legal property descriptions in the VCP and the acceptable legal descriptions which meet these authorities.

Statutory/Regulatory Basis

The VCP law, rule and its preamble describe the following legal property description requirements:

Texas Health and Safety Code §361.609(b):

“The certificate of completion shall: (3) include a legal description of the site and the name of the site's owner.”

30 Texas Administrative Code (TAC) Chapter §333.10(b) clarifies legal descriptions for partial response action areas:

“For partial response actions, the certificate of completion shall pertain only to the partial response action area and shall include a legal description of that area.”

In response to public comment regarding the §333.10(b) language, TCEQ has provided the following explanation in the preamble to 30 TAC Chapter 333 - Subchapter A:

“Regarding TAC §333.10(b), UT wanted clarification that the term “legal description” does not necessarily require a survey, but must only provide adequate detail such that the areal extent and location of the site is obvious. The commission disagrees with this comment. The certificate will be recorded in the county property records. Without an adequate legal description of the property affected, those who rely upon the property records, such as title companies, may be misled. The legal description should consist of a metes and bounds survey completed by a registered professional surveyor.”

Acceptable VCP COC Exhibit A Legal Property Descriptions

The following types of legal property descriptions are acceptable to meet the requirements of Texas Health and Safety Code §361.609(b) and 30 TAC Chapter §333.10(b):

- **Metes and Bounds.** A metes and bounds description lists specific measurements and bounds that specifically describe the perimeter of the property. The language includes a list of step by step directions (e.g., "THENCE North 02E15N250 and East 519 ft to a set of 1 inch iron rods marking the northeast corner;") that ends in the point of beginning.
- **Lot and Block.** A lot and block legal property description lists the lot number and block number followed by a reference to a subdivision tract recorded in the county property records. An adequate legal property description would include the volume and page number of the County Deed record where the lot and block are described (e.g., Lots 9 and 10 in Block 11, of Richey Addition, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 1, Page 550, of the Deed Records of Harris County, Texas).

Based upon the preamble to 30 TAC Chapter §333.10(b), a metes and bounds legal property description conducted by a registered professional survey is required for **partial response action areas only**.

For sites other than partial response action areas, a lot and block legal property description, along with the name of the site owner, meets 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 manager's 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).