

# Use Determination for Pollution Control Property Application

## Instructions for Form TCEQ-00611

### INTRODUCTION

*These instructions along with the referenced form are provided as summary information only. Always refer to the most current version of the applicable rules when preparing and submitting an application.*

Always comply with all applicable legal provisions, including the rules relating to Tax Relief for Property Used for Environmental Protection at 30 Texas Administrative Code Chapter 17.

These rules are available for download from the Secretary of State's Web page as follows:  
<http://www.sos.state.tx.us/tac/index.shtml>

### WHEN, HOW, AND WHERE TO FILE AN APPLICATION

#### *When to submit*

If a company has installed equipment or made process changes that control, reduce, or prevent air, water, or land pollution, and that either met or exceeded an adopted environmental law, rule, or regulation, then such equipment or process changes may be eligible for a full or partial use determination. Pollution control property that became taxable after January 1, 1994, but for which no positive use determination has been issued, may be eligible for a positive use determination. However, the tax exemption is not retroactive and previously paid taxes will not be refunded.

#### *How to submit*

Applicants must use the current version of the application form. Attachments containing additional information may be submitted with the application. Flow diagrams, site plans and other documents must be no larger than 11-inches by 17-inches.

#### *Where to submit*

The completed application form and two copies of Form TCEQ RG-461—Application Instructions (revised December 1, 2010)

the necessary attachments, along with the appropriate payment or payment receipt must be submitted to the TCEQ Cashier's Office at the following address:

Cashier's Office (MC-214)  
P. O. Box 13088  
Austin Texas 78711-3088

### Obtaining the Tax Exemption

If the use determination is positive, the applicant must submit the use determination, along with an exemption request form (obtained from the appraisal district), to the appropriate appraisal district to receive the tax exemption. If the use determination is negative, the applicant and the chief appraiser will receive a denial letter explaining the reason(s) for the denial.

See 30 TAC § 17.25 for information about the appeals process.

### Confidential Material

The agency recommends that applicants **not** submit confidential information as part of the application. If doing so cannot be avoided, a general description in non-confidential terms should be included in the application, along with a separate document containing the confidential information as an attachment. Each page of the confidential information should be conspicuously marked **CONFIDENTIAL**. The TCEQ will mail a copy of the confidential information along with the copy of the application to the Chief Appraiser. The TCEQ will maintain the information marked as confidential in accordance with the TCEQ's record policy.

## Obtaining Program Documents

Current copies of this document and the application form may be downloaded from the TCEQ Web site: <http://www.tceq.state.tx.us/implementation/air/tax/relief>

## Contacting the Program

Questions relating to this program can be sent by U.S. mail to:

Tax Relief Program (MC-110)  
P.O. Box 13087  
Austin TX 78711-3087

E-mail: [txrelief@tceq.state.tx.us](mailto:txrelief@tceq.state.tx.us)  
Telephone: 512-239-4900

## Delinquent Fee Protocol

In accordance with the TCEQ's Delinquent Fee Protocol, the agency will not consider applications administratively complete until all delinquent fees owed to the TCEQ are paid in full.

Information about the Delinquent Fee Protocol can be found at:

[www.tceq.state.tx.us/agency/delin/index.html](http://www.tceq.state.tx.us/agency/delin/index.html)

## Requirements for Submission

How much equipment can be included on a single application? A separate application must be submitted for each unit of pollution control property or each group of integrated pollution control property units installed for a common purpose at a facility. To be integrated the equipment must be physically connected and used to control, monitor, or prevent pollution generated by the same source.

*Example 1: A company installs a new dust collector, secondary containment around storage tanks, and replaces wastewater treatment equipment. This equipment is not integrated; therefore, three separate applications would be required.*

*Example 2: A company installs a new scrubber and a flare. A vent stream is first sent to the scrubber where a pollutant is removed. The vent stream is then sent to the flare. This is integrated equipment, and one application would be required.*

What if a single facility is located in two counties? If a property is located in more than one county, a separate application (with fee) for each county is required.

When does equipment become eligible for a positive use determination? A positive use determination will

not be issued prospectively. In order to receive a positive use determination, an applicant must have incurred a capital expenditure to acquire, construct, or upgrade the subject property.

## Eligibility and Exclusions

### Ineligible Property

A listing of equipment that is not eligible for a positive determination is located in 30 TAC § 17.6.

### Types of Applications

There are three tiers, or levels, of applications: If tax relief is sought for pollution control equipment located in different tiers, separate applications must be submitted for each tier. Additional tier information is located in 30 TAC § 17.2(8)-(10).

### Tier I—Tier I Table Applications

Tier I is for property listed on the Tier I Table located at 30 TAC § 17.14(a). The Table lists specific equipment that the TCEQ has determined to be pollution control property. Tier I applications require a \$150 fee. To be considered Tier I, **all** items listed on the application must be located on the Table.

The Table contains property that is used wholly for pollution control. If a piece of equipment listed on the Table is used for a purpose other than that listed on the table or if the use of the equipment generates a marketable product, a Tier III application must be filed.

### Tier II—100 % Non-Tier I Table Applications

Tier II is for property that an applicant believes is used wholly for pollution control, but is not on the Tier I Table. Tier II applications require a \$1,000 fee. The applicant bears the responsibility of demonstrating that the property is used wholly for pollution control, and does not produce a marketable product.

### Tier III—Partial-Determination Applications

A Tier III application is required when the subject property is used partially for pollution control. Tier III applications require a \$2,500 fee. Tier III properties offer environmental benefits and improvements to production, safety, or other processes. Tier III includes new or modified equipment that has both environmental and

production elements.

*Example: A company replaces a reactor vessel with a new reactor that improves mixing and reduces waste. Since the reactor is essential to production but also has environmental benefits, the equipment may qualify as partial pollution control property.*

## Cost Analysis Procedure

Partial use determinations must be calculated for property that is not used wholly for pollution control. To calculate a partial use determination, the applicant must use the cost analysis procedure (CAP) located at 30 TAC § 17.17. The purpose of the calculation is to determine the percentage of the property which is being used for pollution control. An attachment showing the CAP analysis, including an explanation of how each variable was calculated must be provided with the application. An example CAP analysis is located at <http://www.tceq.state.tx.us/implementation/air/tax/relief>.

## Field Specific Instructions

Each field on the TCEQ-00611 application form is described to identify the appropriate information needed for each field. Please note all fields must be completed appropriately.

## Property Owner Information

**Company Name, Mailing Address, CN#, Facility Name, Mailing Address, RN#, SIC Code, NAICS Code, Appraisal District Name, County Name, and Small Business Information.**

Provide the name of the company, the mailing address, and the corresponding customer number (CN). To determine if the company has an assigned customer number, search the TCEQ Central Registry at:

<http://www12.tceq.state.tx.us/crpub/index.cfm?fuseaction=cust.CustSearch>. If the company has not been assigned a customer number, see [http://www.tceq.state.tx.us/permitting/central\\_registry/guidance.html](http://www.tceq.state.tx.us/permitting/central_registry/guidance.html) for directions on obtaining one.

If you are applying for a CN submit a copy of the Core Data Form with your application. **Important: In order to submit an application, you must have a TCEQ issued CN.**

Provide the name of the facility, the physical address and the regulated entity number (RN). The designated RN must identically match and correspond with the information provided in the TCEQ Central Registry.

The facility name is the name or identifier commonly used to describe the facility or the portion of the facility where the equipment is located. The physical location is intended to provide the best description of a physical address or geographic location where the equipment is located. The physical location should be sufficiently descriptive so that the appraisal district can locate the equipment.

Provide the primary Standard Industrial Classification (SIC) code for the facility.

SIC codes are located at:

<http://www.osha.gov/pls/imis/sicsearch.html>

Provide the North American Industry Classification System (NAICS) code for the facility.

NAICS codes are located at:

<http://www.census.gov/eos/www/naics/>

If the company owning and operating the equipment has 100 employees or less, then the company is considered a small business.

Provide the name of the appraisal district responsible for appraising the equipment listed on the application. *Please note if the property is appraised by more than one appraisal district a separate application must be filed for each appraisal district.*

Provide the name of the county where the equipment is located. If the equipment is located in more than one county a separate application, listing the portion of the equipment located in that county, must be filed for each county.

## Application Type

Place a check in the appropriate box for the tier level of the application. All equipment contained on an application must meet the requirements of this tier level. See 30 TAC § 17.2(8)-(10) for additional information.

## Property Information

If more than one piece of equipment is being applied for in a single application, then use the attached *Property Information Worksheet* for the additional equipment.

*Example: If an applicant installed XYZ Baghouse, consisting of the baghouse structure, filters, a blower, and ductwork, a Property Information Worksheet would need to be used to indicate each piece equipment separately.*

## Quantity

Enter the quantity of the equipment.

*Example: If four filters were installed as part of XYZ Baghouse you would enter 4.*

## Item #

For Tier I applications list the number from the Tier I Table (Figure 30 TAC § 17.14(a)). For applications containing an item listed on the Expedited Review List, (Figure 30 TAC § 17.17(b)) list the appropriate number. For Tier II and Tier III applications that do not contain equipment listed on the Expedited Review List enter "N/A."

*Example for Tier I: If the equipment installed is XYZ Baghouse, you would enter A-1.*

## Table/List Description

For items located on the Tier I Table or on the Expedited Review List enter the description of the piece of equipment as described on the Table or List. For Tier II and Tier III applications not containing equipment listed on the Expedited Review List please list the common name for the piece of equipment.

*Example: For baghouse filters enter "filters"*

## Name of Equipment

Enter the name that the facility uses to describe the equipment.

*Example: XYZ Baghouse Filters*

## Brief Description

Provide a brief description of the equipment including what it is, how it is used, and where it is located at the facility. Attach a detailed property description, including a process flow diagram of the production unit controlled by the property and a site plan for the facility showing the location of the property.

*Example: Constructed XYZ Baghouse will be used to control fugitive particulate emissions released during the operation of new Kiln 10.*

## Rule Citation

Please provide a citation to the subsection of the adopted environmental law, rule, or regulation requiring the use, installation, construction, or acquisition of the equipment.

Federal environmental regulations can be found at: <http://www.epa.gov/lawsregs/search/40cfr.html>.

Texas environmental regulations can be found at: <http://www.sos.state.tx.us/tac/index.shtml>

*Example: 40 CFR § 50(6): National primary and secondary ambient air quality standards for PM<sub>10</sub>.*

## TCEQ Permit/Registration #

If the equipment was installed in response to a requirement in a permit or registration, provide the number and a copy of the permit or registration as an attachment.

## Anticipated Environmental Benefit

Explain the anticipated environmental benefit related to the use, installation, construction, or acquisition of the equipment.

*Example: The use of XYZ Baghouse will reduce the amount of particulate matter being released into the air.*

## Estimated Equipment Cost

Provide the estimated cost of the equipment.

## Incremental Cost Difference

For applications with equipment listed on the Tier I Table where the description limits the use determination to the incremental cost difference, the cost of the property or device with the pollution control feature is compared to a similar device or property without the pollution control feature. Provide the estimated cost of the comparable equipment without the pollution control feature. Enter "N/A" for all other applications. An attachment showing the cost difference analysis must be provided.

*Example: A company replaces a Low NO<sub>x</sub> Burner with a new Low NO<sub>x</sub> Burner. The cost of the new burner would be entered into the Estimated Equipment Cost field and the cost of the existing burner would be entered into the Incremental Cost Field.*

***Partial Percentage***

Applicants must calculate partial use determination percentages using the Cost Analysis Procedure (CAP). Provide an attachment showing the CAP analysis, including an explanation of how each variable was calculated. See 30 TAC 17.17(c) for additional information.

**Certification of Truth,  
Accuracy, and Completeness**

By signing this document you certify that the information provided is true, accurate, and complete. Print your name in the blank space, and sign and date the application.

Provide the contact information for the person signing the application. All correspondence regarding the application will be sent to this person.

