

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
Stage II Vapor Recovery Program

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INFORMATION & INSTRUCTIONS FOR DECLARING  
STAGE II VAPOR RECOVERY EXEMPTIONS

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**Exemption Qualifications.** Most gasoline dispensing facilities at service stations, convenience stores, and fleet fueling stations in the four ozone nonattainment areas in Texas are required to be timely equipped with acceptable Stage II vapor recovery equipment. However, under the federal Clean Air Act and applicable TCEQ regulations (30 TAC §§115.241-115.249), and individual facility in one of these areas may be exempt from Stage II equipment installation requirements if the facility continues to meet one or both of the following conditions:

- 1) The facility has never dispensed gasoline from stationary storage tanks (USTs or ASTs) into the fuel tanks of on-road motor vehicles on and after the facility's prescribed Stage II compliance date (in 30 TAC §115.249); **OR**
  - 2) Original construction of permanent gasoline dispensing equipment at the facility began before November 15, 1992; **AND** the facility never dispensed an average of 10,000 gallons or more of gasoline per month between January 1, 1991, and November 15, 1992, **AND** never dispensed 10,000 gallons or more of gasoline during **any one** calendar month since November 15, 1992, except during documented emergencies or natural disasters.
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**INSTRUCTIONS FOR COMPLETING  
"STAGE II VAPOR RECOVERY EXEMPTION CONFIRMATION FORM"**

The "*Stage II Vapor Recovery Exemption Confirmation Form*" is intended to allow facility owners to officially notify the TCEQ of any facilities that qualify for Stage II exemption. If a facility owner has one or more gasoline dispensing facilities in Texas' ozone nonattainment areas that are exempt from the Stage II equipment installation requirements, the owner should confirm such exemption by completing and filing a separate form for each exempt facility. This will assist the TCEQ in identifying those facilities which are legitimately exempt from the Stage II equipment installation requirements, and will allow the TCEQ to concentrate its regulatory oversight activities on those other facilities where Stage II equipment is actually required. However, facility owners should also be aware of the following limitations and conditions to this exemption procedure:

- **Exemption vs. ISBMG Extension.** Facility owners should not confuse this "*Exemption Form*" with the "*ISBMG Extension Application*" for qualified "independent small business marketers of gasoline". **These are two separate and distinct processes.** Under applicable TCEQ rules, some "independent small business marketers of gasoline" (ISBMGs) [i.e. those with no significant refiner-affiliation who received at least 50% of their gross income from gasoline sales] **may** have qualified for a **temporary** extension of their compliance date for Stage II equipment installation until as late as December 22, 1998. However, this extension was available only for ISBMG-owned systems originally constructed before November 15, 1990, which had dispensed less than 50,000 gallons of gasoline per month, **AND** only if the owner(s) had submitted an acceptable application to the TCEQ.

- **Exemption is Conditional.** Any claimed Stage II equipment exemption is **conditional**, and is authorized only so long as the reasons for exemption remain valid for the facility. When and if the reasons for exemption are no longer valid, a facility owner must assure that acceptable Stage II vapor recovery equipment is installed within 120 days after the facility first ceased to meet exemption qualifications.

- **Example 1:** A convenience store had sold less than 10,000 gallons/month of gasoline from January 1991-June 1995, but sold 12,000 gallons during July 1995. The deadline for Stage II equipment installation at this facility was November 28, 1995.
- **Example 2:** A marina had dispensed gasoline only for fueling boats from January 1991-November 1995, but then also began fueling automobiles on December 15, 1995. The deadline for Stage II installation at this marina was April 13, 1996.

- **Exemption is for Equipment Only.** This "*Exemption Form*" is for the identification of those gasoline dispensing facilities in ozone nonattainment areas which are exempt from the Stage II vapor recovery **equipment installation** requirements only. Even if a facility is exempt from Stage II equipment requirements, the facility owner is still required to maintain appropriate on-site records to verify exemption qualifications (e.g. monthly gasoline throughput data) in the event of inspections or complaint investigations by authorized TCEQ or city/county regulatory personnel.

- **Some New Facilities are Not Eligible.** Facility owners should be aware that applicable TCEQ rules do **NOT** provide across-the-board exemptions for all gasoline dispensing facilities which dispense less than 10,000 gallons/month of gasoline. This exemption applies **ONLY** for existing facilities where the original construction of permanent gasoline dispensing equipment began **before November 15, 1992**. Any facility in a Texas ozone nonattainment area where the original construction of permanent gasoline dispensing equipment began on or after November 15, 1992, must be equipped with acceptable Stage II vapor recovery equipment at the start-up of the facility's gasoline dispensing operations, even if the gasoline throughput is less than 10,000 gallons per month.

- **Throughput (Sales) Data Required.** If a claimed Stage II equipment exemption is based on historical gasoline throughputs (or sales) of less than 10,000 gallons/month, a facility owner must provide the following information to verify the exemption qualifications:

- a) date when the original construction of permanent gasoline dispensing equipment began at the facility; and
- b) accounting of the gasoline **throughput or sales** volumes for every month since January 1, 1991.

## INFORMATION AND INSTRUCTIONS FOR STAGE II EXEMPTIONS

**NOTE:** TCEQ rules require actual monthly gasoline throughput data for this purpose. Normally, an accounting of gasoline purchases or deliveries will NOT be acceptable for Stage II exemption purposes, since the quantity of purchases or deliveries is not necessarily indicative of the throughput/sales quantity for the same period. Facility owners or operators who are not currently maintaining an accurate inventory of their facility's gasoline throughputs/sales should be aware that, in addition to TCEQ requirements for Stage II exemption, the maintenance of accurate throughput records is also required by the following other regulations: (a) Federal Environmental Protection Agency (EPA) Rule 40 CFR §80.7(b), applicable to facilities that dispense unleaded gasoline; (b) TCEQ Rule 30 TAC §334.48(c), applicable to retail facilities with underground storage tanks (USTs) in Texas; (c) TCEQ Rule 30 TAC §334.50(e)(2)(D), applicable to UST facilities in Texas where tank leak detection is by tightness testing & inventory control (until 12-22-98); and (d) §2-1.5 in NFPA (National Fire Protection Assoc.) Code 30A-1990 & §2-11 in NFPA Code 30-1990, as adopted by reference in State Dept. of Insurance (State Fire Marshal) Rule 37 TAC §501.5, applicable to retail service stations handling flammable liquids in Texas.

- **Documentation Required for Emergency Exceedances.** If a claimed exemption includes one or more exceedances of the 10,000-gallons/month gasoline throughput threshold, and if the reported cause of such exceedances was an "emergency condition or natural disaster", the facility owner must provide a signed statement which explains in detail the nature and scope of the emergency or natural disaster, and how it contributed to the gasoline throughput exceedances. The TCEQ reserves the authority to reject any exemption request where the claim of "emergency condition or natural disaster" is determined to be unreasonable, unjustified, or inaccurate.

- **Annual Information Update & Exemption Re-Confirmation.** As a condition for continuing the "Stage II exempt" classification for a regulated gasoline dispensing facility, an annual update and re-confirmation of the facility's exemption qualifications must be filed with the TCEQ by January 31 of each year. If a previous "*Stage II Vapor Recovery Exemption Confirmation Form*" has been submitted, then subsequent annual updates may also be accomplished using the attached form. The facility owner should mark "AMENDED FORM", complete all applicable sections, and sign and date the form. When the exemption is based on gasoline throughputs less than 10,000 gallons/month, the owner must also include an updated accounting of the facility's monthly gasoline throughputs **from the last month previously reported through the end of the last calendar year**. For TCEQ records to be as complete and accurate as possible, it is important that the owner indicate any changes in the owner information, facility information, and/or reasons for exemption, since the last filing.

- **Filing & Recordkeeping.** After completing and signing the original or amended "Stage II Exemption Confirmation Form", the facility owner should keep a legible copy of the form(s) with the permanent records **AT THE FACILITY**. Such records should be available for inspection upon request by authorized TCEQ or local city/county personnel. The owner should submit the original form to the TCEQ at the following address:

**Texas Commission on Environmental Quality (TCEQ)  
Air Quality Planning Section (MAIL CODE 206)  
Attn: Stage II/Mobile Source Programs  
P. O. BOX 13087, AUSTIN, TEXAS 78711-3087**

- **For Assistance.** If you have any questions about the TCEQ's Stage II requirements, please contact the Stage II Vapor Recovery Program at TCEQ's State Headquarters at the above address, or **by telephone at 512/239-4484** (FAX: 512/239-5687). You may also contact a TCEQ Stage II program representative at the appropriate TCEQ regional office shown below for the ozone nonattainment area where your facility is located.

<p><b>DALLAS/FORT WORTH OZONE NONATTAINMENT AREA</b> <i>(includes Collin, Dallas, Denton, &amp; Tarrant Counties)</i></p> <p><b>TCEQ REGION 4 (ARLINGTON)</b> - Waste Program Office 1101 East Arkansas Lane; Arlington, Texas 76010-6499</p> <p>Telephone: (817) 469-6750 FAX No.: (817) 795-2519</p>	<p><b>BEAUMONT/PORT ARTHUR OZONE NONATTAINMENT AREA</b> <i>(includes Hardin, Jefferson, &amp; Orange Counties)</i></p> <p><b>TCEQ REGION 10 (BEAUMONT)</b> - Waste Program Office 3870 Easttex Freeway, Suite 110; Beaumont, Texas 77703-1892</p> <p>Telephone: (409) 898-3838 FAX No.: (409) 892-2119</p>
<p><b>EL PASO OZONE NONATTAINMENT AREA</b> <i>(includes El Paso County, only)</i></p> <p><b>TCEQ REGION 6 (EL PASO)</b> - Waste Program Office 7500 Viscount Boulevard, Suite 147; El Paso, Texas 79925</p> <p>Telephone: (915) 778-9634 FAX NO.: (915) 778-4576</p>	<p><b>HOUSTON/GALVESTON OZONE NONATTAINMENT AREA</b> <i>(includes Brazoria, Chambers, Fort Bend, Galveston, harris, Liberty, Montgomery, &amp; Waller Counties)</i></p> <p><b>TCEQ REGION 12 (HOUSTON)</b> - Waste Program Office 5425 Polk Avenue, Suite H; Houston, Texas 77023-1486</p> <p>Telephone: (713) 767-3600 FAX NO.: (713) 767-3646</p>