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October 5, 2006

**VIA HAND DELIVERY**

Mr. Glenn Shankle  
Executive Director – MC 109  
Texas Commission on Environmental Quality  
12100 Park 35 Circle  
Austin, Texas 78753

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 OCT - 5 PM 2:13  
CHIEF CLERKS OFFICE

**Re: Petition for Rulemaking by General Motors Corporation (to create exemption from Stage II Rules for automobile manufacturing plants)**

Dear Mr. Shankle:

Pursuant to TCEQ Rules at 30 TAC §20.15, General Motors Corporation is filing the enclosed Petition for Rulemaking to exempt automobile plants which manufacture vehicles equipped with onboard refueling vapor recovery (“ORVR”) systems from the Stage II vapor recovery rules. As explained in more detail in the Petition for Rulemaking, the Stage II rule requirements are wholly duplicative of the function performed by ORVR. Therefore, the Stage II rules provide no discernible environmental benefits, yet result in significant added costs borne by the manufacturer, the car-buying public, and TCEQ.

We have previously discussed the issues raised in this Petition for Rulemaking with various members of your staff and these staff members have been copied on this filing. We would welcome the opportunity to meet with you and your staff to discuss this matter in more detail and to answer any questions. Thank you for your consideration of this important matter.

Very truly yours,



Robert T. Stewart  
Attorney for General Motors Corporation

Enclosure

Mr. Glenn Shankle

October 5, 2006

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cc: Derek Seal, TCEQ General Counsel (*via hand delivery*)(*w/encl.*)  
Koy Howard, TCEQ Air Quality Planning and Implementation Div. (*via hand delivery* (*w/encl.*)  
Frank Espino, TCEQ Regional Director, Region 4 (*via U.S. Postal Service*) (*w/encl.*)  
Doug Reske, TCEQ Region 4 Office, Stage II /PST Program Leader (*via U.S. Postal  
service*) (*w/encl.*)  
TCEQ Chief Clerk's Office (*via hand delivery*) (*w/encl.*)  
Stephen Dickman

TCEQ DOCKET NO. \_\_\_\_\_

**PETITIONER:**

**GENERAL MOTORS  
CORPORATION**

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§  
§  
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§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**PETITION FOR RULEMAKING  
TO CREATE EXEMPTION FROM STAGE II RULES  
FOR AUTOMOBILE MANUFACTURING PLANTS**

Pursuant to 30 T.A.C. §20.15, General Motors Corporation ("GM") submits this Petition for Rulemaking to the Texas Commission on Environmental Quality ("TCEQ") to create an exemption from the 30 T.A.C. Chapter 115 Stage II vapor recovery system ("Stage II VRS") rules for fueling and refueling activities at automobile and light duty truck assembly plants. In support of this Petition, GM respectfully provides the following information required by 30 T.A.C. §20.15:

**I. Petitioner Name and Address:**

General Motors Arlington Assembly Plant  
c/o John H. Dansby II, Plant Manager  
2525 E. Abram  
Arlington, Texas 76010-1346  
Tel: (817) 652-2222  
Fax: (817) 652-2223  
Email: john.dansby@gm.com

CHIEF CLERKS OFFICE

2006 OCT -5 PM 2:14

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**II. Brief Explanation of Proposed Rule:**

The proposed rule would exempt fueling and refueling of automobiles and light duty trucks equipped with on-board refueling vapor recovery ("ORVR") systems at auto assembly plants. Because ORVR is required by law for automobiles and light duty trucks starting with the 1998 model year, and because ORVR is as fully effective as TCEQ's Stage II VRS rules in controlling VOC emissions from vehicle fueling, the application of Stage II VRS rules produces no significant environmental benefits in the context of fueling of vehicles at auto assembly plants. There are no discernible environmental benefits in requiring Stage II controls for facilities used to fuel only ORVR vehicles – in fact, Stage II controls on such facilities produce more air contaminants than they capture. Moreover, there are significant costs to the auto assembly plants, to TCEQ, and to new car buyers of complying with the Stage II VRS rules. Because Stage II VRS equipment is completely redundant and duplicative of ORVR equipment installed on all newly manufactured automobiles and light duty trucks, there is no environmental

or regulatory justification for making new vehicle assembly plants subject to the Stage II VRS rules.

The following facts briefly describe the justification and need for the proposed rule change:

Federal law requires ORVR on all newly manufactured automobiles and light duty trucks. Section 202(a)(6) of the Federal Clean Air Act<sup>1</sup> ("CAA"), requires that emissions of VOCs and hazardous air pollutants from fueling of new automobiles and light duty trucks be captured and destroyed by ORVR canisters. Pursuant to this legal mandate, EPA implemented ORVR on a phased-in schedule beginning in 1998 and now requires ORVR for all model year 2006 automobiles and light-duty trucks.<sup>2</sup>

ORVR is wholly duplicative of Stage II VRS in achieving reductions of VOC emissions from refueling activities. An ORVR system collects vapors that accumulate in the fuel tank as well as fuel vapors generated during fueling and releases them into the vehicle's engine for combustion. Current ORVR technology generally consists of activated carbon canisters which absorb the hydrocarbons contained in the vapors before they can be released to the atmosphere. A Stage II VRS is required to achieve 95% vapor control efficiency and EPA requires ORVR to achieve the same 95% vapor control efficiency as Stage II controls. In fact, the ORVR systems required for newly manufactured vehicles have the capacity to effectively capture over 99% of the vapors resulting from the initial filling of vehicles coming off the assembly line. In the context of ORVR-equipped vehicles at auto assembly plants, Stage II controls are completely redundant and duplicative of the function being performed by ORVR. In fact, the redundant Stage II controls can be incompatible when used to fuel vehicles with ORVR.<sup>3</sup> Accordingly, there is no need for Stage II controls for fuel dispensing activities at auto assembly plants since all air contaminants targeted by Stage II controls are being captured and destroyed by the ORVR systems.

Congress and EPA have recognized that ORVR-equipped vehicles should be exempt from Stage II VRS requirements. After establishing the requirement for ORVR on newly manufactured vehicles, Section 202(a)(6) of the Federal CAA then waives Stage II requirements in moderate ozone non-attainment areas once EPA's rules implementing ORVR rules have been promulgated. That section further authorizes EPA to waive the Stage II requirements for serious, severe, and extreme ozone nonattainment areas when EPA determines that ORVR is in "widespread use."<sup>4</sup> These Stage II waiver provisions for ORVR in the Federal CAA constitute

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<sup>1</sup> 42 U.S.C. § 7521(a)(6).

<sup>2</sup> 59 Fed. Reg. 16262 (4-6-1994). 100% of all newly-manufactured automobiles were required to have ORVR starting with the 2000 year models. 100% of light duty trucks (< 6,000 lbs.) were required to have ORVR starting with the 2003 year models. 100% of heavier light duty trucks (> 6,000 lbs.) were required to have ORVR starting with the 2006 year models.

<sup>3</sup> See Stage II Vapor Recovery Systems Issues Paper, U.S. EPA Office of Air Quality Planning and Standards Emissions Monitoring and Analysis Division, Emissions Factors and Policy Applications Group (D243-02), August 12, 2004. See also, 30 Tex. Reg. 2069 (April 8, 2005) [TCEQ rulemaking preamble for the Chapter 115 Stage II rules requiring compatibility of ORVR with Stage II controls].

<sup>4</sup> EPA is currently evaluating comments solicited from the public on criteria to be used to determine when ORVR is in widespread use.

an express recognition by Congress that there is no need for Stage II controls on vehicles that have ORVR.

Similarly, EPA has expressly recognized that Stage II controls are not needed for ORVR-equipped vehicles. For example, the State of Georgia revised its Stage II rules to exempt fueling stations used solely for ORVR vehicles. U.S. EPA approved the Georgia State Implementation Plan ("SIP") revision incorporating the following Stage II exemption:

Rule 391-3-1-.02(2)(zz) - "Gasoline Dispensing Facilities – Stage II" is being revised to provide an exemption for Stage II requirements for all dispensers used exclusively for the fueling or refueling of vehicles equipped with onboard vapor recovery (ORVR) equipment, as ORVR fully displaces the need for Stage II vapor recovery.<sup>5</sup>

EPA approved this Georgia Stage II exemption in a direct, final rulemaking with no prior proposal because "the Agency views this as a noncontroversial submittal and anticipates no adverse comments."<sup>6</sup>

Moreover, in February of 2006 EPA issued a draft "Stage II Vapor Recovery Systems – Options Paper"<sup>7</sup> in which EPA supported the Alliance of Automobile Manufacturers' (AAM) request that automobile manufacturing facilities be exempt from the Stage II requirements by stating: "although we [EPA] cannot provide a direct waiver from Stage II VRS requirements to automobile manufacturers, we have discussed providing a memorandum to States and Regions that would support the granting of a waiver by a State."<sup>8</sup> After reviewing data presented by AAM, EPA concluded that it should release a memorandum indicating its acceptance of waivers for rental car facilities and automobile manufacturers.<sup>9</sup>

The explicit recognition by federal law and EPA that Stage II requirements are duplicative of ORVR and therefore may be waived for vehicles equipped with ORVR shows that there is no legal or policy basis for continuing to impose Stage II controls on newly manufactured ORVR-equipped vehicles. Furthermore, given EPA's approval of the Georgia SIP as a non-controversial matter, it is highly likely that EPA would approve and support any necessary Texas SIP amendment to incorporate the proposed rule change.

TCEQ would save resources by avoiding compliance and monitoring costs of Stage II controls at auto assembly plants. The personnel and operational costs incurred by TCEQ in inspecting Stage II equipment at auto assembly plants and in Stage II compliance oversight of auto assembly plants would be saved under the proposed rule change. Given the severe budgetary constraints under which TCEQ operates, it does not make sense to continue to allocate scarce agency resources to enforce the Stage II program at auto assembly plants when there are no environmental benefits of doing so.

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<sup>5</sup> 67 Fed. Reg. 45909, 45910 (July 11, 2002).

<sup>6</sup> 67 Fed. Reg. 45912 (July 11, 2002).

<sup>7</sup> U.S. EPA Office of Air Quality Planning and Standards Emissions Monitoring and Analysis Division, Emissions Factors and Policy Applications Group (C339-02)(February 7, 2006).

<sup>8</sup> EPA Stage II VRS Options Paper (Feb. 2006), page 21.

<sup>9</sup> EPA Stage II VRS Options Paper (Feb. 2006), page 105.

The proposed rule change would only apply to auto-assembly plants in the State. The scope of the proposed Stage II exemption would be narrowly limited only to automobile and light duty truck assembly plants within the State. At the present time, there is only one such plant (the GM Arlington plant) and one plant proposed for construction (the Toyota plant proposed to be constructed in San Antonio). Therefore, this rule change would not apply to or affect any other regulated entities in the State.

Operation of Stage II controls at the GM Arlington plant actually results in the emission of more air contaminants than if the Stage II equipment were not utilized. The GM Arlington assembly plant utilizes a CARB-certified Stage II VRS that is powered by natural gas and which itself emits NOx and particulates. If the proposed rule change were adopted, the GM Arlington plant could cease utilizing its Stage II controls and thereby realize reduced emissions of NOx and particulates. (The amount of NOx and particulate emissions from the Stage II VRS at the GM Arlington plant which could be avoided under the proposed rule will be provided upon request.) Thus the additional emissions of NOx and particulates associated with the Stage II controls are being generated for the purpose of achieving environmental benefits which do not exist since the Stage II controls are redundant of the ORVR capability of new vehicles.

The car-buying public should not have to bear the costs of Stage II controls since they are already paying for ORVR. In addition to the costs of complying with unnecessary Stage II VRS requirements incurred by automobile manufacturers, the car-buying public also pays for the unnecessary Stage II controls to a certain extent as some of these manufacturer costs are passed on to the consumer in the form of higher car prices. Since the car-buying public is already paying for ORVR, it makes no sense for the car-buying public to bear even higher car prices for Stage II controls which do not produce any additional environmental benefits.

### **III. Text of the Proposed Rule:**

30 TAC §115.247. Exemptions

The following are exempt from the requirements of this division (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities):

(1) [no change]

(2) [no change]

(3) an automobile or light-duty truck assembly plant that exclusively fuels or refuels vehicles having on-board refueling vapor recovery (ORVR) equipment meeting all applicable EPA requirements for ORVR.

### **IV. Statement of Legal Authority for Proposed Rule:**

The TCEQ's Stage II rules and SIP narrative were adopted on October 16, 1992 and revised on November 10, 1993 and November 22, 2002 to satisfy the requirement of §182(b)(3) of the Federal CAA. The proposed rule change would be adopted as an amendment of TCEQ's Stage

II rules set forth in 30 T.A.C. Chapter 115, Division 4. The proposed amendment of 30 T.A.C. §115.247 would be adopted under the authority of the following statutes:

- Texas Water Code §§5.103 and 5.105 which authorize TCEQ to adopt rules necessary to carry out its powers and duties under the Texas Water Code;
- Texas Health & Safety Code §382.017 which authorizes TCEQ to adopt rules consistent with the policy and purposes of the Texas Clean Air Act;
- Texas Health & Safety Code §382.002 which establishes the TCEQ's purpose to safeguard the State's air resources, consistent with the protection of public health, general welfare, and physical property;
- Texas Health & Safety Code §382.011 which authorizes TCEQ to control the quality of the State's air;
- Texas Health & Safety Code §382.012 which authorizes TCEQ to prepare and develop a general comprehensive plan for the control of the State's air; and
- Texas Health & Safety Code §382.208 which authorizes TCEQ to develop and implement transportation programs and other measures necessary to demonstrate attainment and protect the public from exposure to hazardous air contaminants from motor vehicles.

**V. Injury or Inequity Resulting From Failure to Adopt Proposed Rule:**

The injury or inequity of failing to adopt the proposed rule consists of the costs of Stage II VRS compliance incurred by auto assembly plants which costs are wholly unnecessary since fueling of ORVR-equipped vehicles do not generate any VOC emissions for treatment in the Stage II VRS.

With respect to the GM's Arlington plant in particular, GM's annual average costs of operating and maintaining its Stage II controls is \$45,140. This consists of the following cost elements:

- parts and service calls/yr: \$7,600
- maintenance costs (520 hours/yr @ \$50/hr.): \$26,000
- 1.2 million cu. ft. of natural gas/yr: \$11,540

In addition, GM's average annual costs of monitoring, recordkeeping, reporting and compliance with Stage II rules is estimated at \$9,375 (250 man-hours @ \$37.50 per man-hour).

GM is already incurring substantial costs of installing ORVR to minimize VOC emissions from fueling activities. It is not fair to have GM also pay the total costs of Stage II VRS and regulatory compliance when such emissions control activities result in no additional emissions reductions over that already produced through use of ORVR.

Respectfully submitted,



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