Use Determination For Pollution Control Property

Guidelines For Implementing House Bill 1920 and November 1993 Constitutional Amendment Proposition 2

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USE DETERMINATION FOR POLLUTION CONTROL PROPERTY GUIDELINES FOR IMPLEMENTING HOUSE BILL 1920 73 LEGISLATURE AND NOVEMBER 1993 CONSTITUTIONAL AMENDMENT PROPOSITION 2

DISCLAIMER

This guidelines manual is intended to assist persons in applying for a use determination, pursuant to Title 30 Texas Administrative Code Chapter 277 (30 TAC 277). Conformance with this guidance is expected to result in applications that meet the regulatory standards required by the Texas Natural Resource Conservation Commission (TNRCC). However, the TNRCC will not in all cases limit its approval of applications to those that correspond with the guidance in this manual. This guidance is not regulation and should not be used as such. Personnel should exercise discretion in using this guidance document. This guidance manual should be used along with other relevant information when developing an application.

INTRODUCTION

This manual accompanies the rules included in 30 TAC 277. These rules address the TNRCC process for determining that property is used for pollution control purposes. The purpose of this manual is to clarify questions relating to property that is eligible for a positive use determination from the agency, and the procedures to be used in obtaining a determination.

A constitutional amendment providing an exemption from property taxation for pollution control property was approved by the voters of Texas on November 2, 1993. Implementing legislation was approved in House Bill 1920 during the regular session of the 73rd Legislature. The intent of the constitutional amendment was to ensure that compliance with environmental mandates, through capital investments, did not result in an increase in a facility's property taxes.

The legislation established a two-step process for securing an exemption from property taxes for pollution control property. A facility must first receive a determination from the TNRCC that the property is used for pollution control purposes. The applicant then uses this positive determination to apply to the local appraisal district for a property tax exemption.

An additional component to the legislation included the authority for political subdivisions to apply to the TNRCC for a positive use determination for property that has been purchased, installed, constructed, re-constructed or replaced for pollution control purposes. The legislation authorizes a political subdivision to increase its rollback tax rate by the amount that generates the funds equal to the amount spent out of its maintenance and operation funds to pay for the property that the TNRCC determines to be used for pollution control. The TNRCC is not involved in the calculation of the rollback tax rate. Once a political subdivision has received a positive use determination from the TNRCC, then instructions provided by the Comptroller in its "Truth in Taxation" publication should be followed to calculate the rollback tax rate.

Political subdivisions applying for a use determination use the same application procedure as everyone else. When applying, political subdivisions should be reminded that the statute governing

this program states that eligibility is for money spent out of the maintenance and operations funds for pollution control property as defined in section 23.045(b) of the statute. This definition includes land, structure, building, installation, excavation, machinery, equipment, and device. It does not include costs associated with personnel as pollution control property.

Many companies, facilities and political subdivisions operate systems that are constructed or installed for pollution control purposes. Components of those systems could be eligible for a positive use determination. In determining what an application should be filed for, an applicant should consider the type of systems or processes that are part of the facility and the equipment that makes up those systems or processes. These systems or processes could involve, but are not necessarily limited to, the equipment listed on the Pre-determined Equipment List which is located in Appendix A of this manual. Additional examples of capital expenditures which could qualify as pollution control property are provided in Appendix E of this manual. Examples of capital expenditures which do not qualify as pollution control property are included in Appendix F of this manual.

For long-term projects spanning more than one tax year, a facility may submit an application for a use determination anytime during the project. The application would be for property that will be purchased, constructed, or installed throughout the development of the project and which the applicant believes is eligible as pollution control property. This will allow an applicant to file only one use determination application for the project rather than one each year that property is purchased, constructed, or installed while the project is being completed.

WHAT PROPERTY IS EXCLUDED FROM THE EXEMPTION?

The law specifies that the following classifications of property **may not** receive the exemption:

- motor vehicles;
- residential property;
- property used for recreational, park, or scenic uses; and
- property subject to a tax abatement agreement executed before January 1, 1994, except for property that is acquired, constructed or installed after the abatement agreement has expired.

Also, property **may not** receive the exemption solely because the facility:

- manufactures or produces a product used in pollution control; or
- provides a service that monitors, controls, or reduces pollution.

THE TNRCC REGULATIONS

The TNRCC's use determination for pollution control property program, including submittal deadlines, is guided by the regulations included in 30 TAC 277. A copy of 30 TAC 277 is provided in Appendix H of this manual. In addition to the rule, the following information should assist you in your efforts to submit an application to the TNRCC.

- Though the rule includes a post-marked by January 31 filing deadline applications will be accepted after that date. Applications will be processed in the order in which they are received. Because of the necessity to file with the appraisal district in a timely manner, the agency will make every effort to issue a determination prior to May 1 for all applications received in accordance with the post-marked by January 31 filing deadline.

- If all of the property listed on an application is located in more than one appraisal district each appraisal district must be listed on the application. Separate applications are not required.

- In making an application, it is the decision of the applicant to apply for the use determination for either specific equipment or an entire project or system. The Executive Director is authorized to grant a positive use determination for some or all of the equipment included in the application.

- A single application may be filed by a company which installs the same or similar equipment at more than one location within a single appraisal district.

ELIGIBILITY REQUIREMENTS

To be eligible for a positive use determination the property must have been purchased, acquired, constructed, installed, replaced or reconstructed after January 1, 1994 in order to meet or exceed federal, state or local environmental laws, rules or regulations.

VOLUNTARY PROJECTS

The term "exceed" is interpreted to include voluntary projects which go beyond the minimum requirements of environmental laws, rules or regulations, provided that the projects are initiated pursuant to or in compliance with an adopted law, rule or regulation.

COMMERCIAL FACILITIES

Equipment/property which is necessary to further the commercial aspects of a commercial waste management facility is not eligible to receive a positive use determination. Only that

property/equipment which has been installed solely for pollution control purposes will be considered eligible for a positive use determination.

BUFFER ZONES

The language in the statute includes land as eligible for a use determination, however, only that part of the land that actually contains pollution control property will be considered. Property used solely as buffer zones is not eligible.

USED EQUIPMENT

Property purchased from another owner is eligible for a positive use determination if it is acquired, constructed, or installed by the new owner after January 1, 1994, will be used as pollution control property, and was not taxable by any taxing unit in which the property is located on or before that date.

USE DETERMINATION PROCESS

As discussed in the rules, an application that is not accompanied with the proper fee payment will be judged deficient and returned to the applicant. An application form is provided in Appendix B of this manual, however, applicants are allowed to use a copy or similar reproduction of the TNRCC application form. An electronic version of the application form is available to be downloaded from the TNRCC electronic bulletin board - **TNRCC OnLine**. Information on how to access **TNRCC OnLine** is provided later in this manual. Instructions for completing the application form are provided in Appendix C of this manual. Sample submittals are provided in Appendix D of this manual. Sample completed applications are located in Appendix G of this manual. A flowchart detailing the Use Determination application process is located in Appendix I of this manual.

PROJECT-BY-PROJECT

An application must be submitted for each unit of pollution control property or for each facility consisting of a group of integrated units which have been, or will be, installed for a common purpose. The commission considers that applications covering facilities with integrated units should be submitted on a project-by-project basis, such that unrelated aspects of pollution prevention, monitoring, control or reduction would not be included in the same application. It is not appropriate for an applicant to file a single application for a facility consisting of segregated units with no common purpose. If a company installs, constructs, replaces or reconstructs the same or similar equipment at more than one location within an appraisal district it is appropriate for the applicant to file one application listing all of the locations.

FEE STRUCTURE

The fee structure for an application for pollution control property consists of three tiers.

Tier I — This is for property that is on the TNRCC's pre-determined equipment list (PEL) and for which the application seeks no variance from that determination. Tier I requires a payment of $50.00. In order to be considered a Tier I application all items listed on the application must be located on the PEL or must be necessary for the installation or operation of property located on the PEL.

Tier II — This is for property (100% pollution control) that is not on the pre-determined equipment list. Tier II requires a payment of $1,000.00.

Tier III — This is for property that is partially used for pollution control and that is not on the pre-determined equipment list. Tier III requires a payment of $2,500.00.

The fees were developed with the intent of recovering the costs to administer the program. Fees are higher for the second and third tiers because there are greater administrative costs involved in reviewing applications for property that has not already been determined as pollution control.

APPLICATION REVIEW

An application is filed with the TNRCC. Upon its receipt the TNRCC will mail a letter acknowledging the receipt and listing the application tracking number. The TNRCC has thirty days from the receipt of an application to determine if the application is administratively complete. If the application is deemed incomplete, a notice of deficiency letter (NOD), explaining the specific deficiencies, will be sent to the applicant. The applicant has thirty calendar days from receipt of the NOD to complete the application and return it to the TNRCC. If the applicant's response does not result in a complete application, the application will be returned to the applicant. Applications returned to the applicant may be re-filed with the Agency. The re-filed application will be treated as a new application and will require the payment of the appropriate fee.

Once the application is determined to be administratively complete, the technical review will commence. The TNRCC has sixty days from the date that an application has been declared administratively complete to conduct the technical review of an application. If the application is deemed technically incomplete, a technical NOD, explaining the specific deficiencies, will be sent to the applicant. The applicant has thirty calendar days from receipt of the NOD to complete the application and return it to the TNRCC. If the response does not result in a complete application, the application will be returned to the applicant. Applications returned to the applicant may be re-filed with the Agency. The re-filed application will be treated as a new application and will require the payment of the appropriate fee.

Once a determination has been made, the applicant will receive a letter announcing the decision. If a positive use determination is made, the applicant can then submit the TNRCC letter, as an attachment to the appropriate exemption request form, to the appraisal district in order to apply for a tax exemption. Exemption request forms can be obtained from the appropriate appraisal district.

If a negative use determination is made, the applicant will be provided with the reason(s) for the denial.

Fees shall be forfeited for applications which are denied or returned. Fees will be refunded for applications withdrawn by the applicant if a written refund request is filed before the technical review of the application has been completed.

APPEALS PROCESS

The TNRCC has developed an internal appeals process. This process provides three levels of appeal. The appeals process is as follows:

1. The applicant sends a letter to the Proposition 2 Use Determination program manager requesting that the Use Determination be reviewed. The program manager will review the file and the reviewer's justification for making the Use Determination. The program manager will either issue a letter agreeing with the Use Determination or after consultation with the technical reviewer will issue a new Use Determination.

2. If the applicant is not satisfied with the outcome of the program manager's review then a request for review can be filed with the TNRCC Chief Engineer. The Chief Engineer will review the file and discuss the justification for the Use Determination with the technical reviewer and the program manager. The Chief Engineer will issue a written decision either agreeing with or requesting a modification to the Use Determination. The written decision will be mailed to the applicant.

3. If the applicant disagrees with the decision reached by the Chief Engineer a request for review may be filed with the TNRCC Executive Director. The Executive Director will review the file and will issue a written decision.

The review by the Executive Director is the final step in the appeals process.

PRE-DETERMINATIONS

The TNRCC has developed a list of equipment that it has determined to be pollution control property. That list is referred to as the pre-determined equipment list. The pre-determined equipment list is located in Appendix A of this manual. The most current version of this list may be obtained by contacting the TNRCC Proposition 2 Use Determination section or by accessing the TNRCC

electronic bulletin board - **TNRCC OnLine**. Information on accessing **TNRCC OnLine** is provided later in this manual.

An application containing only property that is on the PEL will be eligible to apply under the Tier I fee structure ($50). This list will contain property that is both wholly and partially pollution control, with the TNRCC determining the set percentage. Once a percentage has been established on the pre-determined list, that percentage is fixed for Tier I applications. Anyone wishing to seek a partial determination percentage which differs from the pre-determined list must submit a Tier III application.

The pre-determination list will be continuously updated by the TNRCC. Generally, if property that applied under Tier II or Tier III is approved as pollution control property, then that property, if it is considered by the TNRCC as having general applicability, may be placed on the pre-determined equipment list. The staff of the TNRCC during the course of their work will be allowed to add to the pre-determined equipment list.

Additions to the pre-determined equipment list may be requested by delivering a written request to the Executive Director. The letter must provide a description of the equipment and justification for adding it to the pre-determined equipment list. The Executive Director will provide a written determination after reviewing the request.

The pre-determined equipment list is generic in nature and will not specify brand names.

Before applying for a Tier II or Tier III determination it is in the interest of the applicant to contact the TNRCC Use Determination section and request that the property in question be reviewed for inclusion on the pre-determined equipment list.

PARTIAL DETERMINATIONS

This section addresses property that applies for a use determination under Tier III. This is property that is not on the predetermined equipment list and that is used only partially for pollution control.

If there are one or more parts of the property that both control pollution and are also used in the manufacturing process, the applicant is asked to specify the proportion of the property that they believe is used for pollution control purposes only. The applicant is asked to provide an explanation of the proportion used for the specific equipment. Flow charts and sketches should be provided to assist the agency in making a decision regarding the proportion of the property that is used for pollution control purposes.

The method chosen for determining the pollution control percentage of the property is left to the discretion of the applicant. Sample submittals provided in Appendix D of this manual may provide guidance in this area.

SMALL BUSINESS ASSISTANCE

When applying for a Use Determination owners of small businesses should be aware that the pre-determined equipment list (PEL) includes a section specifically directed at small businesses. While small businesses are not excluded from using the Tier II or Tier III application process it is the intention of the TNRCC to include most small business related pollution control property on the PEL. If while preparing an application the owner of a small business does not see the property in question listed on the PEL the applicant should contact the TNRCC Proposition 2 section and request that the property be considered for inclusion on the PEL.

Owners of small businesses should pay extra attention to the sections in the manual relating to Eligibility Requirements (Page 3) and the Use Determination Process (Page 4).

In addition the TNRCC Proposition 2 section may be contacted at (512)239-6348 for assistance in completing Use Determination applications.

DESIGNATION OF MATERIAL AS CONFIDENTIAL

The Agency suggests that the applicant **NOT** submit confidential information as part of the use determination application. However, if this cannot be avoided, the confidential information should be described in non-confidential terms throughout the application. A separate document containing the confidential information should be submitted as an attachment to the application. This document should be conspicuously marked "CONFIDENTIAL".

Reasons of confidentiality include the concept of trade secrecy and other related legal concepts which give a business the right to preserve confidentiality of business information to obtain or retain advantages from its right in the information.

OBTAINING PUBLICATIONS

The most current versions of the "Use Determination Application", "Use Determination For Pollution Control Property Technical Guidelines Manual", and the "Pre-Determined Equipment List" can be obtained by contacting the TNRCC Proposition 2 Section at (512) 239-6348.

Current copies of these three publications may also be obtained through access to **TNRCC OnLine** the TNRCC's electronic bulletin board system. The phone number for **TNRCC OnLine** is (512) 239-0700. The bulletin board operates on any PC compatible computer. It supports up to 14,400 baud modems and follows the most common communication settings: NO parity; 8 databits; 1 stopbit; FULL duplex (N,8,1,F). Downloaded data is provided in ASCII or WordPerfect format. The Use Determination information is located in the TNRCC General Section of the bulletin board.

Information about the Proposition 2 Use Determination program, including this guidance document, the application form and instructions, and the pre-determined equipment list may also be accessed on the TNRCC web page on the Internet. The URL address is: http//www.tnrcc.state.tx.us/ The Use Determination information may be accessed by clicking the Technical Guidance button located in the Main Function table of the main web page.

INFORMATION ABOUT THE PROGRAM

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

TNRCC - Chief Engineer MC 110
Attention: Proposition 2 Use Determination program
P.O. Box 13087
Austin, Texas 78711-3087

Or can be sent to the TNRCC Proposition 2 Use Determination program through electronic mail at the following address: rhatlett@smtpgate.tnrcc.state.tx.us

Appendix A

PRE-DETERMINED EQUIPMENT LIST

PRE-DETERMINED EQUIPMENT LIST

Items which qualify as "motor vehicles"; items which are not generally taxable within the appraisal district; and items which provide primary containment of fluids (fluids which are not wastes) in vessels, containers or tanks for the sole purpose of storage (except specific pollution control equipment associated with the primary containment vessel) are not eligible for tax exemptions. In addition, commercial waste management facilities are not eligible for a tax exemption for commercial property/equipment used to provide a service that prevents, monitors, controls, or reduces air, water, or land pollution.

A list of equipment used primarily by small business follows the general pre-determined list. Small business owners are encouraged to consult this list first. Small business owners are **NOT** limited to only the equipment included on this list. If a specific piece of equipment is not referenced on the small business list, you may want to consult the general list. It is possible that the specific equipment for which you are seeking a determination is included on the general list. In addition, large businesses are not prohibited from using the small business pre-determined equipment list.

AIR POLLUTION CONTROL EQUIPMENT

No.	Media	Equipment	Description	Percent
A-1	Air	Activated Carbon Systems	Carbon beds, blowers, piping, condensers - used to remove VOC/odors from gas streams	100%
A-2	Air	Baghouses (not used for product collection)	Baghouses, filters, blowers, piping - used to remove particulate matter from air/gas streams	100%
A-3	Air	Demisters	Demister pads - used to remove entrained liquid droplets from gas streams	100%
A-4	Air	Flare/Vapor Combustor	Stack, burner, flare tip, blowers, etc. - used to destroy air contaminants in a vent gas stream	100%
A-5	Air	Molecular Sieve	Used to remove H_2S	100%
A-6	Air	Fugitive Emission Monitors	Organic vapor analyzers - used to discover leaking piping components	100%
A-7	Air	Paint Spray Booth Attached to Final Control Device	Booth, piping, etc. - used to contain and control overspray	100%
A-8	Air	Electrostatic Precipitator	Used for particulate matter control	100%
A-9	Air	Scrubbers (not used for product collection)	Scrubber, circulation pumps, piping, etc. - used to remove contaminants from gas stream	100%
A-10	Air	Cyclone (not used for product collection)	Cyclone, blowers, piping, etc. - used to remove particulate matter from gas streams	100%

No.	Media	Equipment	Description	Percent
A-11	Air	Vapor Recovery Equipment	Piping, blowers, compressors, etc. - used to reroute vapor streams back to process lines	50%
A-12	Air	Thermal Oxidizers	Used to destroy VOCs	100%
A-13	Air	Storage Tank Secondary Seals and Internal Floating Roofs (with or without clear span roofs)	Used to reduce evaporation losses from storage tanks	100%
A-14	Air	Selective Catalytic and Non-catalytic Reduction Systems	Catalyst bed, reducing agent injection & storage, monitors - used to reduce NOx formation from engines/boilers	100%
A-15	Air	Catalytic Converters for Stationary Sources	Used to reduce NOx formation from engines	100%
A-16	Air	Vacuum System Venting to Final Control Device for VOCs	Vacuum pump, blower, piping, etc. - used to eliminate emissions associated with loading tank trucks, rail cars & barges	100%
A-17	Air	Strippers Used in Conjunction with Final Control Device	Stripper, pumps, piping - used to remove contaminants from a gas or liquid stream	100%
A-18	Air	Water/chemical Sprays and Enclosures for Particulate Suppression	Spray nozzles, conveyor and chute covers, wind shields, piping, pumps, etc. - used to reduce PM emissions	100%
A-19	Air	Hoods and Collection Systems for Final Control Devices	Piping, headers, pumps, hoods, ducts, etc. - used to collect air contaminants and route them to a control device	100%
A-20	Air	Air/fuel Ratio Controllers for Internal Combustion Engines	Used to improve engine efficiency and reduce NOx formation	100%
A-21	Air	Flue Gas Recirculation	Piping, blowers, etc. - used to reduce NOx formation	100%
A-22	Air	Water/steam Injection for Turbines	Piping, nozzles, pumps, etc. - used to reduce NOx formation	100%
A-23	Air	Continuous Emission Monitors	NOx, CO, SO2, Opacity, THC, VOC specific	100%
A-24	Air	Monitoring Equipment on Final Control Devices	Temperature monitor or controller, flowmeter, pH meter, etc.	100%
A-25	Air	Catalytic Oxidizer	Used to destroy VOCs in gas streams	100%
A-26	Air	Overfire Air Systems	Advanced overfire air for NOx	100%

No.	Media	Equipment	Description	Percent
A-27	Air	Stage II Vapor Recovery	Piping to final control device, hoses, nozzles, pumps, distribution unit, processing unit, etc.... - used to control gasoline emissions from tank filling	50%
A-28	Air	Ambient Air Monitoring Facilities	Towers, structures, analytical equipment, sample collectors, monitors, power supplies, etc.	100%
A-29	Air	Non-Continuous Emission Monitors	Monitors, analyzers, buildings, air conditioning equipment, etc.	100%
A-30	Air	Automotive Dynamometers	Automotive dynamometers used for in-house fleet maintenance	50%
A-31	Air	Non-Continuous Emission Monitors - Portable	Monitors, analyzers, buildings, air conditioning equipment, etc.	100%
A-32	Air	Sorbent Injection Systems	Multi-pollutant, SOx or NOx	100%
A-33	Air	Predictive Emission Monitors	Monitoring of process and operational parameters which are used to calculate or determine compliance with emission limitations.	100%

WASTEWATER POLLUTION CONTROL EQUIPMENT

No.	Media	Equipment	Description	Percent
Solid Separation and Dewatering				
W-1	Wastewater	API Separator	Mechanical Oil, Water, and Solids separator.	100%
W-2	Wastewater	CPI Separator	Mechanical Oil, Water, and Solids separator.	100%
W-3	Wastewater	Dissolved Air Flotation	Mechanical Oil, Water, and Solids Separator	100%
W-4	Wastewater	Skimmer	Hydrocarbon	100%
W-5	Wastewater	Decanter	Used to decant hydrocarbon from process wastewater.	100%
W-6	Wastewater	Belt Press, Filter Press, Plate and Frame, etc.	Mechanical dewatering devises.	100%
W-7	Wastewater	Centrifuge	Mechanical dewatering devise.	100%
W-8	Wastewater	Settling Basin	Used to settle solids.	100%

No.	Media	Equipment	Description	Percent
W-9	Wastewater	Equalization	Used to settle solids and equilibrate process wastewater streams.	100%
W-10	Wastewater	Clarifier	Used to settle solids.	100%
Disinfection				
W-20	Wastewater	Chlorination	Wastewater disinfection treatment.	100%
W-21	Wastewater	Dechlorination	Chlorine removal equipment.	100%
W-22	Wastewater	Electrolytic Disinfection	Disinfect water without use of chemicals	100%
W-23	Wastewater	Ozonization	Wastewater disinfection treatment.	100%
W-24	Wastewater	Ultraviolet	Wastewater disinfection treatment.	100%
W-25	Wastewater	Mixed Oxident Solution	Solution of chlorine, chlorine dioxide, and ozone to replace chlorine for disinfection.	100%
Biological Systems				
W-30	Wastewater	Activated Sludge	Biological treatment used to remove pollutants.	100%
W-31	Wastewater	Adsorption	Used in conjunction with biological treatment to remove pollutants.	100%
W-32	Wastewater	Aeration	Aeration equipment used in activated sludge treatment.	100%
W-33	Wastewater	Rotary Biological Contractor	Biological treatment used to remove pollutants.	100%
W-35	Wastewater	Trickling Filter	Biological treatment used to remove pollutants.	100%
W-36	Wastewater	Wetlands & Lagoons (artificial)	Biological treatment used to remove pollutants.	100%
W-37	Wastewater	Digester	Biological treatment used in conjunction to solids management and removal of pollutants.	100%
Other Equipment				
W-50	Wastewater	Irrigation	Equipment used to irrigate and disburse treated wastewater.	100%
W-51	Wastewater	Outfall Diffuser	Device used to diffuse effluent discharge from an outfall	100%
W-52	Wastewater	Activated Carbon Treatment (ACT) & Powdered ACT	Treatment used to remove pollutants and polish effluent.	100%
W-53	Wastewater	Oxidation Ditches & Ponds	Technology used to remove pollutants and polish effluent.	100%

No.	Media	Equipment	Description	Percent
W-54	Wastewater	Filters: Sand, Gravel, Microbial	Treatment used to remove pollutants and polish effluent.	100%
W-55	Wastewater	Chemical Precipitation	Process used to remove heavy metals from wastewater	100%
W-56	Wastewater	Ultrafiltration	Mechanical device used remove solids.	100%
W-57	Wastewater	Conveyances, Pumps, Sumps, Tanks, Basins	Used to segregate stormwater from process water, control stormwater run-off, or convey contaminated process water.	100%
W-58	Wastewater	Water Conservation Systems	Systems installed which clean, recycle or reuse wastewater in order to reduce the amount of a facilities discharge.	100%
W-59	Wastewater	Wastewater Treatment Facility/plant	New wastewater treatment facilities constructed to process on-site generated wastewater.	100%
W-60	Wastewater	High Pressure Reverse Osmosis	The passing of a contaminated water stream over a permeable membrane at high pressure to collect contaminants.	100%
W-61	Wastewater	Hydrocyclone Vapor Extraction	An air sparged hydrocyclone for the removal of VOCs from a wastewater stream.	100%
W-62	Wastewater	Recycled Water Cleaning System	A high pressure water system for cleaning equipment and pavement which is able to collect and recycle the cleaning water.	100%
W-63	Wastewater	Chemical Oxidation	Use of hydrogen peroxide or other oxidants for wastewater treatment.	100%
Control/Monitoring Equipment				
W-70	Wastewater	pH Meter, Dissolved Oxygen Meter, Chart Recorder , etc.	Used for operations control and monthly reporting requirements.	100%
W-71	Wastewater	On-line Analyzer	Used for operations control.	100%
W-72	Wastewater	Neutralization	Control equipment used to adjust pH.	100%
W-73	Wastewater	Respirometer	Monitor microbial respiration rates.	100%
W-74	Wastewater	Diversion	Structures used for control of stormwater and process wastewater or emergency diversion of process material.	100%
W-76	Wastewater	Building	Used for housing control and monitoring equipment.	100%

SOLID WASTE MANAGEMENT POLLUTION CONTROL EQUIPMENT

No.	Media	Equipment	Description	Percent
SOLID WASTE MANAGEMENT				
S-1	Land/ Water	Stationary Mixing and Sizing Equipment	Non-mobile equipment used for solidification, stabilization, grinding, etc.	100%
S-2	Land/ Water	Decontamination Equipment	Equipment used to remove waste contamination or residues from mobile sources.	100%
S-3	Land/ Water	Solid Waste Incinerator (not used for energy recovery and export or material recovery)	Solid waste incinerators, feed systems, ash handling systems, controls, etc.	100%
S-4	Land/ Water/ Air	Monitoring and Control Equipment	High-level liquid, pH, temperature, flow, etc. (alarms, indicators, controllers, etc.) (Does not include fire alarms)	100%
S-5	Land/ Water	Solid Waste Treatment Vessels (not used for product recovery)	Any vessel used for waste treatment	100%
S-6	Land/ Water	Secondary Containment	External structure or liner used to collect liquids released from a primary containment device and/or ancillary equipment.	100%
S-7	Land/ Water	Liners	A continuous layer or layers of natural and/or man-made materials which restrict downward or lateral escape of wastes or leachate in an impoundment, landfill, etc.	100%
S-8	Land/ Water	Leachate Collection and Removal Systems	A system capable of collecting leachate or liquids, including suspended solids, generated from percolation through or drainage from a waste. Systems for removal of leachate may include sumps, pumps, piping, etc.	100%
S-9	Land/ Water	Leak Detection Systems	A system capable of detecting the failure of a primary or secondary containment structure or the presence of a liquid or waste in a containment structure.	100%
S-10	Land/ Water	Final Cover Systems for Landfills	A system of liners and materials to provide drainage, erosion prevention, infiltration minimization, gas venting, biotic barrier, etc.	100%

No.	Media	Equipment	Description	Percent
S-11	Land/ Water	Lysimeters	An unsaturated zone monitoring device used to monitor soil-pore liquid quality at a waste management unit (e.g., below the treatment zone of a land treatment unit, etc.).	100%
S-12	Water	Ground-Water Monitoring Well & Systems	A ground-water well or system of wells designed to monitor the quality of ground water at a waste management unit (e.g., detection monitoring systems, compliance monitoring systems).	100%
S-13	Air	Continuous/Non-continuous Emission Monitors	Carbon monoxide monitor, oxygen monitor, total hydrocarbon monitors,etc.	100%
S-14	Air	Fugitive Emission Monitors	A monitoring device used to monitor or detect fugitive emissions from a waste management unit or ancillary equipment.	100%
S-15	Land/ Water	Slurry Walls/Barrier Walls	A pollution control method using a barrier to minimize lateral migration of pollutants in soils and ground water.	100%
S-16	Water	Ground-Water Recovery or Remediation System	A ground water remediation system used to remove or treat pollutants in contaminated ground water or to contain pollutants (e.g., pump and treat systems, etc.).	100%
S-17	Water	Injection Wells (Including Salt Water Disposal Wells) and Ancillary Equipment	Injection well, pumps, collection tanks and piping, pre-treatment equipment, monitoring equipment, etc.	100%
S-18	Land/ Water	Landfills and Ancillary Equipment	Excavation, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, waste hauling equipment, decontamination facilities, security systems, and equipment used to manage the disposal of waste in the landfill	100%
S-19	Land/ Water	RCRA Containment Buildings	Pads, structures, solid waste treatment equipment used to meet the land disposal restrictions	100%
S-20	Land/ Water	Surface Impoundments and Ancillary Equipment (Including Brine Storage Ponds)	Excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, etc.	100%

No.	Media	Equipment	Description	Percent
S-21	Land/ Water	Waste Storage Used to Collect and/or Store Waste Prior to Treatment or Disposal (i.e, RCRA Storage Tanks, 90-Day Storage Facilities, Feed Tanks to Treatment Facilities, etc.)	Tanks, containers and ancillary equipment such as pumps, piping, secondary containment, vent controls, etc.	100%
S-22	Air	Fugitive Emission Containment Structures	Structures or equipment used to contain or reduce fugitive emissions or releases from waste management activities (e.g., coverings for conveyors, chutes, enclosed areas for processing equipment, enclosed areas for loading and unloading activities, etc.)	100%

MISCELLANEOUS POLLUTION CONTROL EQUIPMENT

No.	Media	Equipment	Description	Percent
M-1	Air/ Land/ Water	Spill Response/Clean-Up Equipment Pre-positioned and Stored for Addressing Future Emergencies	Boats, barges, booms, skimmers, trawls, pumps, power units, packaging materials and containers, safety equipment, vacuum trailers, storage sheds, diversion basins, tankage, etc.	100%
M-2	Air/Land	HEPA Vacuum Equipment, Negative Air Pressure Enclosures, Glove Bags, Personal Protection, Disposal	RCF/Asbestos abatement - removal of asbestos contaminated material.	100%
M-3	Air/ Land/ Water	Vacuum Trucks, Street Sweepers and Watering Trucks	Mobile Surface Cleaning Equipment - used exclusively to control particulate matter on plant roads.	100%
M-4	Land	Compactors, Barrel Crushers, Balers, Shredders	Compactors and similar equipment used to change the physical format of waste material for recycling/reuse purposes or onsite disposal of facility generated waste.	100%
M-5	Land/ Air/ Water	Distillation Recycling Systems	Used to remove hazardous content from solvents and paints by heat, vaporization and condensation.	100%
M-6	Land/ Water	Boxes, bins, carts, barrels, storage bunkers	Collection/storage containers for source-separation of materials to be recycled.	100%

SMALL BUSINESS EQUIPMENT LIST

No.	Media	Equipment	Description	Percent
B-1	Air	Thermal and Catalytic Oxidizers	A vapor control devise to lower emissions from a stack.	100%
B-2	Air	Vapor Combustor	A vapor combustion devise to lower emissions from a stack.	100%
B-3	Air	CFC Reclaim/Recycle Equipment	Refrigeration and AC repair services	60%
B-4	Air	Filters	Any filter installed in a series or as a stand alone abatement system that is not used for product collection, *i.e. drum, disc, bio, screen, spin..*	100%
B-5	Air	Flue Gas or Exhaust Recirculation Systems	A circulation system that reburns exhaust flows	100%
B-6	Air	Hoods, Collection, & Control Systems	Vent and hood filtration system	100%
B-7	Air	Carbon Absorber	Preventative abatement equip. absorbs VOCs, Freon & emission streams by using carbons atoms to combine with organic chemicals.	100%
B-8	Air	PM Control Equipment	See Air Equipment.	100%
B-9	Air	Paint Spray Booth Attached to Final Control Device	Booth, piping, etc. - used to contain and control overspray	100%
B-10	Air	Paint Gun Cleaner	A cleaner that uses solvents to clean paint spray guns.	90%
B-11	Air/ Water	Preparation Room	A room designed for mixing paint, cleaning tools, and prep. operations.	90%
B-12	Air	High Velocity /Low Volume Paint Gun	A gun that sprays low volume of paint at a higher pressure.	70%
B-13	Air	Perc. Closed Loop Dry Cleaning Machines	A cleaning unit that eliminates hazardous air pollutants.	60%
B-14	Air	Cartridge and Spin Disc Filtration Systems	A control device used to lessen emissions of VOC for NAPHTHA cleaning systems.	40%
B-15	Air	Petroleum Dry-to-Dry Cleaning Machines	Cleaning system for NAPHTHA cleaners that eliminates VOC emissions to the atmosphere.	60%
B-16	Air	Petroleum Reclaimers	It is a unit used to collect VOC emissions in the drying process...	60%

No.	Media	Equipment	Description	Percent
B-17	Air	Process Equipment Room Enclosure Costs	A closed structure design to control hazardous air pollutants in the dry cleaning industries.	100%
B-18	Air	Refrigerated Vapor Condenser	A device that uses refrigerants to condense vapors to liquids.	90%
B-19	Air	Stage II Vapor Recovery	Piping, hoses, dispensing unit, processing unit, nozzles, pumps, etc... - used to control gasoline emissions from tank filling	50%
B-20	Water	Cathodic or Corrosion Protection Equipment	A system designed to protect underground metallic components, *i.e. tanks and piping* from corrosion	100%
B-21	Air	Burr/Trash Hopper	A storage device used to hold gin trash in an enclosure until removed from the property.	100%
B-22	Air	Auger-type Stacking System	A mechanical system that stacks gin trash in piles until hauled away.	100%
B-23	Water	Stormwater Containment Systems for Agricultural Businesses	Structures or liners used for containment of runoff from rain-fall.	100%
B-24	Water	Wastewater Impoundments for Agricultural Businesses	Ponds used for the collection of water after use and before circulation.	100%
B-25	Water	Stationary Spill Containment Devices	A system installed to prevent spilled materials from seeping into ground water.	100%
B-26	Water	Dry Cleaning Waste-water Processors/Evaporators	Wastewater separation or collection system for Dry Cleaners and Industrial Laundries.	100%
B-27	Air	Blast Cleaning Booth Vented to Control Device	Enclosed cabinet for blast cleaning of metal parts and which includes a particulate control device	50%
B-28	Air	Solvent Recovery Systems	Distillation recycling system which vaporizes and recondenses waste solvents and paints to remove hazardous contaminants	100%

Appendix B

APPLICATION FOR USE DETERMINATION
FOR POLLUTION CONTROL PROPERTY

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
APPLICATION FOR USE DETERMINATION FOR POLLUTION CONTROL PROPERTY

The Texas Natural Resource Conservation Commission (TNRCC) has the responsibility to determine whether a property is pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction.
For assistance in completing this form refer to the "Technical Guidelines Manual for Use Determination for Pollution Control Property" and the "Instructions For Completing Application Form" (Appendix D), as well as 30 TAC §277, rules governing this program. For additional assistance please contact the TNRCC Proposition 2 Section at (512) 239-6348. The application should be completed and mailed, with the appropriate fee, to: TNRCC "Use Determination" MC 214, Texas Natural Resource Conservation Commission, P.O. Box 13088, Austin, Texas 78711-3088

1. GENERAL INFORMATION

A. What is the type of ownership of this facility:

[ ] Corporation [ ] Sole Proprietor
[ ] Partnership [ ] Utility
[ ] Limited Partnership [ ] Other _____

B. Size of company:

	Number of Employees		Annual Sales
[ ]	1 to 99	[ ]	$0 to $250,000
[ ]	100 to 499	[ ]	$250,001 to $500,000
[ ]	500 to 999	[ ]	$500,001 to $1,000,000
[ ]	1,000 to 1,999	[ ]	$1,000,001 to $5,000,000
[ ]	2,000 or more	[ ]	over $5,000,000

C. Standard Industrial Classification Code:

D. Business Description: (Provide a brief description of the nature of the business or activity at this facility)

_____
_____
_____

2. TYPE OF APPLICATION

A. [ ] Tier I $50 Application Fee.

If all property listed in Section 9 of this application is located on the Predetermined Equipment List or is necessary for the installation or operation of equipment on the list, then check this box.

B. [ ] Tier II 1,000 Application Fee.

If any property listed in Section 9 is not on the Predetermined Equipment List, and all of this property is used 100% for pollution control, then check this box.

C. [ ] Tier III $2,500 Application Fee.

If any property listed in Section 9 is not on the Predetermined Equipment List and if a partial use determination is being requested for ANY of the property included in the application, then check this box.

Note: Enclose a check or money order to the TNRCC along with the application to cover the required fee.

3. NAME OF APPLICANT

A. Company Name:
B. Mailing Address (Street or P.O. Box):
C. City, State, ZIP:

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION

A. Name of facility or unit:
B. Type of mfg. process or service:
C. Street Address:
D. City, State, ZIP:
E. County:

5. NAME OF APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY

A. Name of Chief Appraiser:
B. Mailing Address:
C. City, State, ZIP

Note: a separate application must be filed for each different appraisal district where property is located

6. CONTACT NAME (must be provided)

A. Name of Individual to contact:
B. Mailing Address:
C. City, State, ZIP:
D. Telephone number and FAX number:

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

Select media(s) for the property for which you are making an application for a use determination. Cite the specific section of the rule, regulation, or law being met or exceeded by the installation of that property. Do not list permit numbers or registration numbers in this table (This information is requested in section 10 of the application). If the property/equipment was installed/constructed in response to an agreed order do not list the order, list the rule, regulation, or law which requires the installation/construction of the property.

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	

8(a). DESCRIPTION OF PROPERTY (Complete for all applications)

Please provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. Include sketches of the equipment and flow diagrams of the processes where appropriate. (Prepare this information on separate sheets to be attached to the application.)

Land: If a Use Determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

Used Equipment: If the property identified above has been purchased from another owner who previously used the property as pollution control property, attach a copy of the bill of sale or provide other information which demonstrates that the transaction involves a bona fide change of ownership of the property. Also provide information which shows that the property was not taxable by any taxing unit in which the property is located on or before January 1, 1994.

8(b). PARTIAL DETERMINATIONS (Complete only for Tier III applications)

Explain how the partial percentage of the property that is considered to be pollution control property is determined. Include the technical rationale, financial data, cost analysis, or other calculations that are used to determine the qualifying percentage used to calculate the adjusted cost in Table 9 below. (Prepare this information on a separate sheet or sheets to be attached to the application.)

9. PROPERTY CATEGORIES AND COSTS

Identify the category and the estimated purchase cost of the property listed in Section 8. List each piece of property for which a use determination is being sought. If the application is for property which is listed on the Predetermined Equipment List (PEL), list the appropriate item number(s) in the PEL column. List the date that each item of property was purchased, installed, constructed, or placed into service. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control.

Property	PEL Number	Was This Property Taxable Before 1/01/94?	Estimated Purchase Cost	Partial Percentage	Adjusted Cost
Land					
Property:					
Totals					

10. PERMIT, REGISTRATION OR ID NUMBER

Indicate (by listing the permit, registration and/or identification number(s) in the appropriate column below) all existing or pending State, Local, and/or Federal permits or registrations which pertain to the property listed in this application.

Media	Permit/Registration/I.D. #	Issuing Agency
Air		
Water		
Waste		

11. APPLICATION DEFICIENCIES

After an initial review of the application, the TNRCC may determine that the information provided with the application is not sufficient to make a use determination. The TNRCC may send a notice of deficiency, requesting additional information, which must be provided within 30 days of the written notice.

12. FORMAL REQUEST FOR SIGNATURE

By signing this application, you certify that this information is true to the best of your knowledge and belief.

NAME:_____ DATE:_____

TITLE:_____

Under Texas Penal Code, Section 37.10, if you make a false statement on this application you could receive a jail term of up to 1 year and a fine up to $2,000, or a prison term of 2 to 10 years and a fine of up to $5,000.

Appendix C

INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR USE DETERMINATION

INSTRUCTIONS FOR COMPLETING APPLICATION FORM

The following instructions are intended to provide assistance in completing the Texas Natural Resource Conservation Commission's (TNRCC) "Application For Use Determination For Pollution Control Property".

GENERAL INFORMATION

If you have questions or require additional clarification or assistance please contact the Proposition 2 Use Determination program at (512) 239-6348 or by electronic mail at: rhatlett@stmpgate.tnrcc.state.tx.us

The TNRCC may request additional information by mailing a deficiency letter. This information must be provided within 30 days of receipt of the written request or the application will be returned to the applicant.

Applications not accompanied with the proper fee payment will be judged deficient and returned.

The Pre-Determined Equipment List is located in Appendix A of the guidelines manual. The most current version of this list may be obtained by contacting the TNRCC Proposition 2 Use Determination program at the phone number or address listed below or by accessing the TNRCC electronic bulletin board - TNRCC On-Line.

OBTAINING COPIES OF THE APPLICATION

A copy of the official application form is located in Appendix B of the guidelines manual. This manual may be obtained by calling (512) 239-6348 or by mailing a request to TNRCC - Chief Engineer MC 110, Proposition 2 Use Determination program, P.O. Box 13087, Austin, Tx., 78711-3087. An electronic version of the application is available and can be obtained from the agency's electronic bulletin board system - TNRCC On-Line. The phone number is (512) 239-0700. Help in accessing TNRCC On-Line may be obtained by calling the TNRCC Information Resources Help Desk at (512) 239-0911. Reproductions of the official application form may be submitted.

MAILING INFORMATION

Applications - Mail completed applications to: TNRCC - Chief Engineer MC 214, Proposition 2 Use Determination program, P.O. Box 13088, Austin, Texas, 78711-3088.

All other written correspondence should be sent to: TNRCC - Chief Engineer MC 110, Attention: Proposition 2 Use Determination program , P.O. Box 13087, Austin, Texas, 78711-3087.

APPLICATION INSTRUCTIONS

1. INFORMATION ABOUT YOUR COMPANY

This section is used to provide general information about your company. The TNRCC does not use this information as part of the Use Determination review process. This information will be used by the TNRCC to compile a statistical analysis of all Use Determinations received by the agency.

Select the type of ownership of the facility by placing an 'X' in the appropriate space. If 'Other' is selected use the space provided to explain.

Complete the Company Size section by selecting the appropriate spaces for both the Number of Employees and the Annual Sales of the company.

Complete the Standard Industrial Code (SIC) section by providing the facilities primary standard industrial classification code. Information on SIC codes may be obtained in the reference section of most public libraries.

Complete the Business Description section by providing a brief description of the nature of the business or activity which occurs at this facility.

2. TYPE OF APPLICATION

Place an X on the proper line to identify the type of application being filed (Tier I, Tier II, Tier III). Do not combine differing types of applications on one form.

The types of applications for pollution control property are:

Tier I	This is for property that is on the Pre-Determined Equipment List (PEL) and for which the application seeks no variance from that determination. Tier I requires a payment of $50. A Tier I application should only include items that are on the PEL.
Tier II	This is for property that is not on the PEL but is still considered to be 100% pollution control. Tier II requires a payment of $1,000.
Tier III	This is for property that is partially used for pollution control and that is not on the PEL. Tier III requires a payment of $2,500.

3. NAME OF APPLICANT/OWNER

Provide the name, mailing address, and telephone number of the owner of the facility for which this application is being filed.

4. FACILITY NAME

Provide the name of the facility, the type of facility and the physical address of the facility. The facility address should be the address used by the local appraisal district to identify this facility. Provide the name of the county in which the facility is located. If the facility is located in more than one county provide the name of the county in which the proposed pollution control property is located.

5. NAME OF APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY

Provide the name of the tax appraisal district(s) in which the property is located. Provide the name and mailing address of the Chief Appraiser(s) for the listed Appraisal District(s). This information is required

and will be used by the TNRCC to notify the Appraisal District(s) that an application for Use Determination has been filed.

6. APPLICANT'S REPRESENTATIVE/AGENT

Provide the name, mailing address, telephone number, and fax number of the person whom the TNRCC is to contact in case of questions relating to this Use Determination application. All correspondence relating to this application will be directed to this person.

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

For each of the pollution control properties listed on this application, select the type of media (Air, Water, Waste) for which this property/device is required. Use the second column to cite the specific environmental rule, regulation, and/or law which is being met or exceeded by the installation of this property. The citation should be specific and should include the section and/or subsection of the rule, regulation and/or law.

In order to receive a positive Use Determination the application must list a rule, regulation or statutory provision which has been adopted by an environmental protection agency of the United States, the State of Texas, or a local Texas Government. Regulations adopted by health and safety agencies do not meet this criteria.

8(a). DESCRIPTION OF PROPERTY

On a separate sheet(s) of paper provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of pollution that will be realized by the installation of the property. Please attach sketches and/or flow diagrams to assist Agency staff with the review process.

Land: If a Use Determination is being requested for land provide a legal description and an accurate plot plan of the land in question.

Used Property - If the property listed in this application has been purchased from another owner who previously used the property as pollution control property, attach a copy of the bill of sale or provide other information which demonstrates that the transaction involves a bona fide change of ownership of the property. Provide information which shows that the property was not taxable by any taxing unit in which the property is located on or before January 1, 1994.

8.(b)PARTIAL USE DETERMINATION

This section is to be completed only for Tier III applications.

Process changes or construction of new process equipment that results in emission reductions will usually result in a partial determination. The reason for this is that there is almost always some improvement or benefit to the process other than pollution control.

On a separate sheet(s) of paper explain how the partial percentage was determined. Include technical data,

financial data and other information which demonstrates how this percentage was calculated. Provide as detailed information as possible since the information provided will be used by the TNRCC to evaluate the use percentage requested in the application. If more than one alternative for determining the partial percentage was considered please list all methods. Attach sketches and/or flow diagrams showing the property and its function.

9. PROPERTY CATEGORIES AND COSTS

The first column of this table is for categorizing the type of property. There are two category types: Land and Property. Property includes: Structure, Building, Installation, Excavation, Machinery, Equipment, and Device. In the property section list the property/equipment which was described above in section 8 of this application.

The second column is used for property which meets both of the following criteria. The property is listed on the Pre-Determined Equipment List and a Tier I application is being filed. Place the appropriate PEL item numbers in this column.

The third column is used to certify that the property listed in column one was not taxable before January 1, 1994. Place an 'N' in this column to show that the property was not purchased, constructed or installed before January 1, 1994.

The fourth column is used to record the estimated or actual purchase cost of the property listed in column one.

The fifth column is used to list the partial use determination percentage. For property which is not used wholly for pollution control enter the estimated pollution control percentage calculated above in section 8 or listed on the PEL.

10. PERMIT, REGISTRATION OR ID NUMBER

Complete this table by listing the permit, registration and/or identification number(s) of all existing or pending State and/or Federal permits or registrations which pertain to the pollution control property listed in this application. As indicated by the table, this information should be grouped by media type (Air, Water, Waste). List the issuing agency's name in the last column.

11. APPLICATION DEFICIENCIES (provided for informational purposes only)

12. FORMAL REQUEST FOR SIGNATURE

To be considered complete the application must be signed and dated. The application should be signed by either the applicant/owner or by their designated representative. By signing this application, you certify that the information provided is true to the best of your knowledge and belief.

Appendix D

SAMPLE SUBMITTALS

SAMPLE SUBMITTAL EXAMPLES FOR PARTIAL USE DETERMINATIONS
TIER III EXAMPLE APPLICATIONS

SAMPLE SUBMITTAL NO. 1: COMPARATIVE EQUIPMENT COSTS

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	*Texas Water Code - 26.121 - Unauthorized Discharge*
Waste	

8(a). DESCRIPTION OF PROPERTY

All 15 pumps and associated equipment in the chemical process area are due for replacement based on age of equipment and ongoing maintenance problems. The company has decided to use all seal-less pumps and valves to reduce opportunities for seal leaks and ruptures. Material released from these leaks or ruptures could result in water or soil contamination. The project cost is estimated to be $1.5 million.

8(b). PARTIAL DETERMINATIONS

Since replacement of the pumps is needed due to age and maintenance, new pumps would have to be purchased and installed to continue operation of the process area. However, if the company had decided to purchase traditional pumps and valves, the cost of the project would only have been $800,000. Therefore, the additional cost to purchase pumps and valves providing additional pollution control is $700,000. The company requests that the TNRCC determine that 47% (700,000/1,500,000) of the total project cost be considered pollution control.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Seal-less Pumps*	*N/A*	*N*	*$1,500,000*	*47%*

TIER III SAMPLE SUBMITTAL NO. 2: REPLACING A REGULATED CHEMICAL WITH A NON-REGULATED, NON-TOXIC CHEMICAL

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC 335.474*

8(a). DESCRIPTION OF PROPERTY

Waste containing a TRI identified chemical (orthodichlorobenze) is generated at the rate of 2 million pounds per year. It is subsequently disposed of in an injection well regulated under the Safe Drinking Water Act. A process change is instituted that results in a different, non-regulated chemical (ethyl acetate) being present in the waste. The waste is still generated at the same rate, but its toxicity is reduced by the absence of the regulated chemical. This project is part of the site's pollution prevention plan implementation.

In order to be able to make the process change resulting in the less-toxic waste, the following facilities had to be added: new chemical storage tank, two new pumps, piping, unloading station for new raw material. The total cost of the project is $250,000. These new facilities will be used solely for this process.

8(b). PARTIAL DETERMINATIONS

If the sole purpose of the installation was to change the raw material resulting in a less toxic waste stream, then the entire facility would be considered 100% pollution control. In this case, the site was due to replace the pumps/piping for the existing raw material due to routine wear. However, all other existing facilities were not due for replacement--but the metallurgy was not suitable for the new chemical. The portion of the project related to the new pumps/piping is $50,000 (20% of the total project). Therefore, the site requests that the TNRCC assign this project 80% pollution control.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Tank, pumps, piping, unloading station*	*N/A*	*N*	*$250,000*	*80%*

TIER III SAMPLE SUBMITTAL NO. 3: WASTE RECOVERED TO YIELD USABLE PRODUCT

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC Section 335.474 (reuse), 40 CFR 265 Subpart J (waste storage)*

8(a). DESCRIPTION OF PROPERTY

Since no further use was known the site formerly incinerated 1 million pounds of waste annually. An intensive research and marketing effort yielded a use for the waste as an additive to a paint manufacturing process at another company. New facilities are being added to be able to load the waste into tank trailers to ship to the paint site.

Currently, all of the waste is piped directly to the on-site incinerator for disposal. The new loading facility will include two tanks, a concrete pad at the loading area, and loading equipment (arm, pump, etc). The cost of the new project is $450,000.

8(b). PARTIAL DETERMINATIONS

The paint manufacturing plant can only accept about 80% of new raw material for use in its process. The remaining 20% will still need to be burned at the on-site incinerator. All of the material will be diverted to the first new tank for storage prior to shipment to the paint manufacturing plant. If demand declines, the material will then be diverted to the second tank, declared a waste, and shipped to the on-site incinerator.

Both pieces of the project are pollution control: one for the reuse of a material (part of the pollution prevention plan) and the other for the regulated storage of a waste. The waste tank and its ancillary equipment are estimated to cost $200,000 of the total project of $450,000 (44%); the remaining project for reuse of the material is $250,000 of the $450,000 (56%). Since both aspects are pollution control, the TNRCC should consider the entire project (100%) pollution control. However, if necessary, the project could be broken down as indicated into two pieces totaling 100%.

9. PROPERTY CATEGORIES AND COSTS

REUSE OF MATERIAL PROJECT:

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land	NA			
Property: *2 tanks* *Pad* *loading equipment*	*N/A*	*N*	*$250,000*	

REGULATED STORAGE PROJECT:

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land	*NA*			
Property: *Tank*	*S-21*	*N*	*$200,000*	

TIER III SAMPLE SUBMITTAL NO. 4: WASTE THAT IS COLLECTED/PREPARED FOR OFF-SITE RECYCLING (GOOD OPERATING PRACTICES)

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC Section 335.474*

8(a). DESCRIPTION OF PROPERTY

The site has traditionally stored a waste in roll-off boxes which are routinely picked up and hauled to the local landfill. The site will now be able to send the material (off-spec polymer globs and sheets) to a recycler. To prepare the material for recycling, the site must shred the polymer globs and sheets; package the shredded material in special tote bins fitted with lids (to prevent the shredded material from blowing away); provide a storage area until enough bins are accumulated for the recycler; and then provide a loading dock for efficient loading. The facility includes: a shredder, a pneumatic loading system; a fleet of tote bins with lids; a concrete pad to park tote bins; and a ramped loading dock for the loading of bins into the recycler's truck. Total cost of the investment is $350,000. If the site had installed all of the equipment to meet the requirements for recycling, the site might receive compensation from the recycler ($5/ton) for the product (as opposed to having to pay $50/ton for disposal at a local landfill in the past). However, the money received from the recycler will never justify the investment in physical facilities or the people and utilities necessary to prepare and collect the material. So, if the facilities are strictly used for this purpose, 100% of the facilities should be counted for pollution control.

8(b). PARTIAL DETERMINATIONS

In this particular case, the site uses the loading dock to unload some raw material drums and other miscellaneous product related activities. The portion of the total project cost attributed to the loading dock is $100,000. The plan for use of the dock will be broken down by days: 2 days per week loading for polymer for recycling; 5 days per week loading/unloading for products and raw materials. Therefore, 5/7 of the $100,000 is product-related ($71,000) Of the total project cost, $71,000 is NOT pollution control.

9. PROPERTY CATEGORIES AND COSTS

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Property: *Shredder,* *loading system,* *tote bins,* *pad ,* *loading dock*	*M-4*	*N* *N*	*$250,000* *$100,000*	 29%

TIER III SAMPLE SUBMITTAL NO. 5: WASTE SOURCE REDUCTION

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC 335.474*

8(a). DESCRIPTION OF PROPERTY

The site is building a new manufacturing unit to replace an existing unit which is 30+ years old. The process chemistry has NOT changed so the basic process concepts and similar equipment will still be utilized in the new unit. However, an additional process step will be added which will totally eliminate a major waste stream at the source. The capacity of the facility will not increase due to this additional process step. The total project to build the new unit is $50 million.

8(b). PARTIAL DETERMINATIONS

A definitive cost estimate of $41 million was prepared on the identical process WITHOUT the additional step resulting in waste source reduction. Therefore, the cost of the project associated with source reduction is $9 million (22%)--and this should be the amount determined as pollution control. While the company may see some yield improvement as a result of the source reduction, it was not enough to justify the additional expenditure of $9 million. The elimination of waste stream at the source (as part of the site's pollution prevention plan) was the driving force behind including the additional process step in the building of the replacement unit. (Process flow diagrams would be provided. The sub-process does not contain any recognizable stand-alone pollution prevention equipment--but rather is an enhancement to the chemical process equipment.)

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Stripper Columns, Recycle Tanks, Distributive Control System*	*N/A*	*N*	*$50,000,000*	*22%*

TIER III SAMPLE SUBMITTAL NO. 6: ENVIRONMENTAL CONTROL LABORATORY

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	*30 TAC Section 305.125*
Waste	

8(a). DESCRIPTION OF PROPERTY

The company is building an additional wing to the existing process control lab. The company will then establish an environmental lab to perform analyses to maintain compliance with the site's NPDES permit. The environmental laboratory will only be used to run NPDES permit samples, such as BOD, TOC, pH, metals, separations, volatiles, semi-volatiles, etc. The lab will include instrumentation, hoods, safety equipment, laboratory benches, etc. The new wing is 4500 square feet and will cost approximately $800,000.

The new wing will include the following:

Room:	*Space:*
4 chemist offices	*700 SF*
main lab	*3800 SF*
Total	*4500 SF*

8(b). PARTIAL DETERMINATIONS

All of the new facilities are devoted to the environmental lab except for three of the four chemist offices which will house people working on projects in the process control laboratory. These people have been housed in temporary trailers for two years, and the site would like to house the people in a safer, more professional manner. Therefore, 3/4 of the 700 SF (525 SF) assigned to the offices will NOT be devoted to pollution monitoring. The total area to be considered is 4500 SF minus 525 SF = 3975 SF. The total which should be considered pollution control property is 3975/4500 = 88% of the total project.

9. PROPERTY CATEGORIES AND COSTS

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land	NA			
Property: *Lab*	*N*	*N*	*$800,000*	*88%*

TIER III SAMPLE SUBMITTAL NO. 7: RAILCAR CLEANING FACILITY

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	*30 TAC 335.4*
Waste	

8(a). DESCRIPTION OF PROPERTY

The site manages raw materials, products, and wastes in railcars. In order to have better control over the degree of cleanliness of the railcars, and to insure that any residues removed from railcars are properly recycled or disposed of, the site is installing a railcar cleaning facility consisting of: 4 tanks (1 detergent, 1 solvent, 1 waste water, 1 variable), secondary containment around the tanks and railcar parking area, subsurface access below railcar for bottom opening cars, steel structure for overhead access for top opening cars, nozzles/hoses/pumps, baghouse, and drumming area for materials removed from railcars. This railcar cleaning facility is not a commercial facility. The total cost of the project is $5.0 million.

8(b). PARTIAL DETERMINATIONS

The company plans to wash railcars under these circumstances: Raw materials/products--if changing product (20% of total cars). Raw materials/products-- if materials build up in car causing contamination or management problems (40% of total cars). Raw materials/products--if the car is scheduled for maintenance or inspection (20% of total cars). Waste--after use to insure complete removal of the heel (20% of total cars). While any of the washing (and washwater/residue collection) activities could be viewed as pollution control, items 2 and 4 are blatantly pollution control since the site does not have the option to simply leave the material in the railcar. Items 1 and 3 may be considered pollution control--but are activities that are more focused on product management and equipment maintenance. The company asks the TNRCC to consider that items 2 and 4a (40% plus 20%) are pollution control, and assign a 60% determination to this project.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial %
Land:				
Property: *Tanks, secondary containment, access, nozzles, hoses, pumps, baghouse, drumming area*	*N/A*	*N*	*$5,000,000*	*60%*

TIER II SAMPLE SUBMITTAL EXAMPLE FOR USE DETERMINATION FOR COMMERCIAL FACILITIES: COMMERCIAL RAILCAR CLEANING FACILITY

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	*30 TAC 115(F)*
Water	*Texas Water Code 26.121*
Waste	*40 CFR 265 Subpart I*

8(a). DESCRIPTION OF PROPERTY

A site has installed a commercial railcar cleaning facility which will handle 300 different compounds. The railcars will be degassed prior to cleaning and the waste gas routed to a control appropriate to the compound. The railcar is then deheeled to remove any residue in the bottom of the car. Sandblasting will be used if necessary to remove solid residue. The heel will be stored in drums for off-site disposal. Filled drums are stored on a concrete pad with curbing for less than 90 days. The railcars are then cleaned and any waste gas generated during the cleaning operation is routed to the appropriate control device. All wastewater generated during cleaning is sent to the wastewater treatment facility. The cleaning rack and supporting equipment are used to provide the cleaning service and are not eligible for a use determination. However, the company considers the various waste handling systems to be pollution control property. The waste handling systems contain the following equipment:

Degassing: *Waste gas collection system - piping to control devices, blowers and headers*
Flare system
Caustic scrubber including piping, caustic tank and circulation pump
Deheeling: *Baghouse to control particulate matter during sand blasting*
Waste (heel or residue) storage: Secondary containment (concrete pad with curbing) for drum storage area
Wastewater Systems: *Separator*
Dissolved air floatation
Clarifier
Neutralization

These systems will reduce contaminates to the air and water, in addition to, reducing possible soil and groundwater contamination in the residue storage area.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Property: *Secondary containment, baghouse, flare, scrubber, waste gas collection system, wastewater treatment*	*N/A*	*N*	*$650,000*	*100%*

TIER II SAMPLE SUBMITTAL EXAMPLES

SAMPLE SUBMITTAL NO. 1: REPLACEMENT OF UNDERGROUND PROCESS SEWER

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	*Texas Water Code Section 26.121*
Waste	

8(a). DESCRIPTION OF PROPERTY

The site is replacing an underground process sewer line with overhead closed piping. While no evidence exists that the piping is leaking, the site is concerned that if the underground piping were to leak or break, then contaminated process material would be released to the soil and underlying groundwater. The cost to replace the pipe with an overhead line with leak detection/protection on steel stanchions (and some pumps to pressurize the line to make the lift to the stanchions) will be $4.2 million.

Even though the piping carries process material (and not waste), this project should be considered 100% pollution control since the site has chosen to be proactive and replace an existing, functional piping system with no known defects. The entire project is driven by the need to protect the groundwater/soil contamination.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Piping, equipment, and installation*	*N/A*	*N*	*$4,200,000*	*100%*

TIER II SAMPLE SUBMITTAL NO. 2 - INNOVATIVE WASTE TREATMENT TECHNOLOGY

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC 335.474*

8(a). DESCRIPTION OF PROPERTY

The site generates 2.0 million pounds of a hazardous waste stream each year. The stream is a metal bearing organic sludge which must be mixed with a solvent to make the material pumpable to its disposal location for incineration. As part of the site's pollution prevention plan, a catalytic extraction process will be installed that will dissolve the waste in a molten metal/high temperature bath (i.e. not a conventional flame unit) and will generate metal (for recycling), inorganics, and gases. The project cost will be $6.5 million. The technology has been reviewed by the Innovative Technology group at the TNRCC and is supported by that group as an innovative treatment/recycling process. The resulting metal will be sold (when the international market allows); the resulting inorganics/gases may not have markets. However, the inorganics/gases will not be hazardous wastes and any disposal volumes and costs will be significantly less than the original hazardous waste stream management. The driving forces to pursue this project were: commitment to reduce hazardous waste at the source; policy to reduce wastes combusted (alignment with EPA combustion strategy); and to recover any valuable resources. While operating costs are reduced, the gain from the metal recovery is not sufficient to offset the new unit's operating costs--such that the treatment/recycle facility cannot operate as a profit center generating a product. The reduced operating costs do not contribute enough to reduce the manufacturing process unit's overall costs (and allow for any gain on the sale of the manufactured products). Therefore, based on these items: (TNRCC supported technology; source reduction/material recovery; and no significant profit for company) this project should be considered 100% pollution control.

9. PROPERTY CATEGORIES AND COSTS

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Feed tanks, & reactor residual collection system*	*N/A*	*N*	*$6,500,000*	*100%*

TIER II SAMPLE SUBMITTAL NO. 3: WASTE RECOVERY/SALE AS PRODUCT

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	
Waste	*30 TAC 335.474*

8(a). DESCRIPTION OF PROPERTY

A site generates a waste at the rate of 2 million pounds per year. The waste is sent off-site for disposal. As part of the site's pollution prevention plan, a new waste processing unit will be installed to convert the waste to a by-product. The by-product will be sold as a chemical intermediate to other companies. The by-product sales will not generate significant revenue. Rather, the material will essentially be sold at cost (which is market value). Therefore, the new waste processing unit (cost is $900,000) is 100% pollution control. The waste processing unit consists of 2 tanks with mixers, an automatic pressure filter, a dryer,and a tote-bin loading device.

9. PROPERTY CATEGORIES AND COSTS

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Property: *2 tanks w/ mixers, pressure filter, dryer, tote-bin loading* device	*N*/A	*N*	*$900,000*	

TIER II SAMPLE SUBMITTAL NO. 4: EMERGENCY DELUGE/CONTAINMENT EQUIPMENT

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

MEDIA	RULE/REGULATION/LAW
Air	
Water	*Texas Water Code Section 26.121*
Waste	

8(a). DESCRIPTION OF PROPERTY

An emergency deluge system is being installed in the process area at a cost of $4.5 million. When a severe process upset takes place, accelerated or incomplete reactions could take place in the process which could lead to explosions/fires and other major threats to human health and the environment. If a fire or explosion occurs, the deluge system is tripped and pre-directed high pressure nozzles cover the process area with water and other fire fighting chemicals. All of this water or chemical, combined with released process materials, are fed via a trench system to a remote large concrete basin to prevent process materials from continuing to feed the fire. The mixture of process chemicals, fire-fighting chemicals, and water remains in the basin until the process upset and fire are under control. Then the resulting material is evaluated for the potential of being re-worked into the system. If it can not be re-worked the mixture is removed for waste disposal. The basin has leak detection and underbasin "leachate" collection. The emergency deluge system includes the following: deluge system (pumps, nozzles, piping, instrumentation, structural steel); concrete trench systems; and concrete basin (100' x 100' x 10' deep); leak detection/leachate collection. In the event that chemicals are released which are harmful to human health or the environment, the deluge system is activated and steps are taken to control the emergency. The entire system is pollution control when this occurs since the system keeps the harmful chemicals from reaching the soil, groundwater, or surface water.

9. PROPERTY CATEGORIES AND COSTS

Type of Property	PEL (Y/N)	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Property: *deluge system, trench system, basin, leak detection*	*N/A*	*N*	*$4,500,000*	

Appendix E

EXAMPLES OF CAPITAL EXPENDITURES WHICH MIGHT QUALIFY FOR A POSITIVE USE DETERMINATION

EXAMPLES OF CAPITAL EXPENDITURES WHICH COULD QUALIFY AS POLLUTION CONTROL PROPERTY 100% OR PARTIAL

1. An air pollution regulation (generic; could be any specific air quality regulation) imposes a reduced emission limit on a specific chemical.

   a. A company installs the required equipment to meet the reduced limit on-time, as required by the regulation. This qualifies as pollution control property because the installation meets the requirements of the regulation.

   b. A company decides to install the necessary equipment prior to the compliance date required by the regulation. This qualifies because the company is exceeding the timing requirements of the regulation.

   c. A company decides to install the necessary equipment prior to the final rule. This qualifies if the installation exceeds the requirements of the current regulation. It would not qualify simply because the installation is completed prior to the final rule.

   d. The company decides to spend more money for enhanced equipment to achieve an emission limit lower than that required by the regulation. This qualifies because the company is exceeding the requirements of the regulation.

2. Federal and state regulations place limits on the discharge of industrial wastewater and stormwater.

   a. A company installs a polishing sand filter downstream of its existing wastewater treatment plant to give added assurance of meeting the limits in its wastewater discharge permit. This qualifies because the filter is part of the equipment which is in place to meet the requirements of the company's wastewater discharge permit.

   b. A company is building a new chemical plant which will produce wastewater. The wastewater will be treated in an existing wastewater treatment plant prior to discharge into the river. The company decides to spend extra money to build pre-treatment technology into the manufacturing operation to reduce the volume and toxicity load on the wastewater treatment plant. The additional pre-treatment investment qualifies because it is integral to the operation of the wastewater treatment plant and is essential to meet the limits in the wastewater discharge permit for the facility.

   c. A company decides to build a wastewater bio-treatment facility to replace its existing underground injection wells. This qualifies because the new facility must be built and operated to meet the limits of the site's new wastewater discharge

permit.

d. A company builds a large basin for the diversion of wastewater or process materials in event of an emergency release to prevent pollution of adjacent surface water. This qualifies because the basin is for the specific purpose of preventing violations of the site's wastewater discharge permit as a result of an emergency release.

e. A company installs basins, lined ditches and trenches, and pumping systems to collect stormwater before discharging it to surface water. This qualifies because the purpose of these facilities is to meet the requirements of the site's stormwater permit.

3. Federal and state regulations require companies to prevent and respond to spills into surface waters.

a. A company decides to safeguard against the potential release of chemical spills through its water discharge by installing a recirculating cooling tower system to replace the existing once-through water system. This qualifies because the system is installed for the specific purpose of keeping any spills onsite and out of the water discharge.

b. A company purchases a boat or barge equipped with spill control and recovery equipment for the sole purpose of keeping any spills from entering or spreading in the river. This qualifies because the purpose of the vessel is to provide response to spills into surface waters.

4. Federal and state regulations require companies to have waste minimization and pollution prevention plans in place. Items in those plans deal with activities that currently meet or exceed laws, rules, or regulations.

a. A company installs or modifies equipment in a manufacturing process to reduce the amount of hazardous waste produced by the process. This qualifies because the company is implementing a project which further meets or exceeds hazardous waste pollution prevention and management rules.

b. A company decides to add a processing unit to convert a formerly-landfilled waste (from either onsite or offsite) into a feedstock for its manufacturing process. This new unit qualifies as pollution control property because the company is implementing a project which further meets or exceeds industrial solid waste management laws and rules. The percentage of the investment that would qualify would be dependent on its economic value to the company.

c. A company agrees to participate in an agency initiative to reduce hazardous waste production and TRI emissions. The projects to accomplish the reductions are included in the company's pollution prevention plan required by Texas regulations. The facilities installed to accomplish this initiative qualify as pollution control property since the company is implementing a project which further meets or exceeds hazardous waste management laws and rules.

d. Texas regulations specify management standards for industrial nonhazardous waste. An industrial site installs a shredder for metal and/or wood which makes the resulting materials suitable for sale or putting into a recycling program, rather than being managed under the state industrial nonhazardous waste regulations. This qualifies since the project further meets or exceeds current requirements in laws and rules for industrial solid waste management.

5. The prevention of contamination to soil and groundwater and the remediation of such contamination is required under federal and state hazardous waste regulations.

a. A company installs secondary containment around chemical storage tanks to prevent pollution of the environment due to release of chemicals. This qualifies because the purpose of the containment is to prevent soil and groundwater contamination.

b. A company installs a system for pumping contaminated groundwater, removing and treating the organic contaminants, and discharging the clean groundwater to surface water. This qualifies because the system is installed to meet the remediation requirements of the federal and state regulations.

Appendix F

EXAMPLES OF CAPITAL EXPENDITURES WHICH DO NOT QUALIFY FOR A POSITIVE USE DETERMINATION

EXAMPLES OF CAPITAL EXPENDITURES WHICH DO NOT QUALIFY AS POLLUTION CONTROL EQUIPMENT

1. A company installs a compactor which is used to compact the non-hazardous waste generated by the manufacturing facility. This compacted material is sent to a landfill for disposal. Previously this material was sent to the landfill for disposal. Since there is no reduction in the amount of waste being generated and disposed of by the facility this equipment does not qualify as pollution control equipment. If the compactor were installed to compact and bale materials for the purpose of recycling, thereby reducing the amount of material being sent to the landfill, then the equipment would qualify as pollution control. 30 TAC 277.4.(a)

2. A company operates a large chemical manufacturing facility. As part of the process of renewing the plants liability insurance, the company's insurance broker tours the facility. The company is informed that in order to have its coverage renewed it must install a fire alarm system. The company installs a manual fire alarm system. The purpose of this fire alarm system is to help reduce or limit the amount of damage which occurs to company's assets in case of a fire. Since this equipment was not installed in order to meet or exceed an environmental rule or regulation it is not eligible to receive a positive use determination. 30 TAC 277.4.(a)

3. During the inspection of plant production equipment personnel discover that pieces of the equipment have become corroded and stress fractured. This production equipment is replaced. Since this equipment is production equipment and not pollution control equipment it is not eligible for a positive use determination. 30 TAC 277.4.(a)

4. During August of 1993 a service station installs Stage II Vapor Recovery equipment. This equipment does not qualify for a positive use determination since it was installed before January 1, 1994. 30 TAC 277.4.(a)(1)

5. A company which manufactures digital circuits installs a test facility designed to test for electromagnetic waves. This equipment is installed in order to meet a Federal Communications Commission regulation. This equipment does not qualify for a positive use determination since it was not installed in order to meet or exceed an adopted environmental rule or regulation. 30 TAC 277.4.(a)

6. A new process tank with secondary containment is installed at a production facility. The process tank is not eligible for a positive use determination since it is part of the production process and not part of a pollution control system. The secondary containment is pollution control property and is eligible for a positive use determination. 30 TAC 277.4.(a)

7. A company operates a wastewater treatment facility. The company purchases one acre of land adjacent to the treatment facility. Some time in the future this land will be used for expansion of the facility and the construction of a new laboratory which will be used to conduct environmental tests related to the facility. Under the statute land is eligible for a positive use determination. But, only that land which is actually used for pollution control or on which a piece of pollution control property is located is eligible for a positive use determination. Land which has been purchased to meet future needs does not qualify for a positive use determination. 30 TAC 277.4.(a)(2)

Appendix G

SAMPLE COMPLETED APPLICATIONS

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
APPLICATION FOR USE DETERMINATION FOR POLLUTION CONTROL PROPERTY

The Texas Natural Resource Conservation Commission (TNRCC) has the responsibility to determine whether a property is pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the "Use Determination for Pollution Control Property guidelines manual" and the "Instructions For Completing Application Form" (Appendix C), as well as 30 TAC §277, the rules governing this program. For additional assistance please contact the TNRCC Proposition 2 Use Determination program at (512) 239-6348. The application should be completed and mailed, with the appropriate fee, to: TNRCC "Use Determination" MC 214, Texas Natural Resource Conservation Commission, P.O. Box 13088, Austin, Texas 78711-3088

1. GENERAL INFORMATION

A. What is the type of ownership of this facility:

[ ] Corporation	[*X*] Sole Proprietor
[ ] Partnership	[ ] Utility
[ ] Limited Partnership	[ ]Other _____

B. Size of company:

Number of Employees		Annual Sales	
[*X*]	1 to 99	[ ]	$0 to $250,000
[ ]	100 to 499	[ ]	$250,001 to $500,000
[ ]	500 to 999	[*X*]	$500,001 to $1,000,000
[ ]	1,000 to 1,999	[ ]	$1,000,001 to $5,000,000
[ ]	over 2,000	[ ]	> $5,000,001

C. Standard Industrial Classification Code: *1311*

D. Business Description: (Provide a brief description of the nature of the business or activity at this facility)
Service station and convenience store.

2. TYPE OF APPLICATION:

[*X*] **Tier I** $50 Application Fee If all property listed in Section 9 of this application is located on the Predetermined Equipment List or is necessary for the installation or operation of equipment on the list, then check this box.
[ ] Tier II $1,000 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List, and all of this property is used 100% for pollution control, then check this box.
[ ] Tier III $2,500 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List and if a partial use determination is being requested for ANY of the property included in the application, then check this box.

3. NAME OF APPLICANT:

A. Company Name: *Joe Smith*
B. Mailing Address (Street or P.O. Box): *321 Main Street*
C. City, State, ZIP: *Small Town, Tx. XXXXX*
D. Telephone Number: *(XXX) XXX-XXXX*

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION:

A. Name of facility or unit: *Smith Food Mart*
B. Type of mfg. process or service: *Service Station*
C. Street Address: *321 Main Street*
D. City, State, ZIP: *Small Town, Tx. XXXXX*
E. County: *Non-attainment County*

5. NAME OF APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY:

A. Name of Chief Appraiser: *Chief Appraiser Non-attainment County*
B. Mailing Address: *3232 Main Street*
C. City, State, ZIP: *County Seat, Tx. XXXXX*

6. CONTACT NAME (mandatory):

A. Name of Individual to contact: *Joe Smith*
B. Mailing Address: *321 Main Street*
C. City, State, ZIP: *Small Town, Tx. XXXXX*
D. Telephone number and FAX number: *(XXX)XXX-XXXX (XXX)XXX-XXXX Fax*

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

Select the media(s) for the property for which you are making an application for a use determination. Cite the specific section of the rule, regulation, or law being met or exceeded by the installation of that property. Do not list permit numbers or registration numbers in this table (This information is requested in section 10 of the application). If the property/equipment was installed/constructed in response to an agreed order do not list the order, list the rule, regulation, or law which requires the installation/construction of the property.

MEDIA	RULE/REGULATION/LAW
Air	*30 TAC 115.242*
Water	
Waste	

8(a). DESCRIPTION OF PROPERTY (Complete for all applications)

Please provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. Include sketches of the equipment and flow diagrams of the processes where appropriate. (Prepare this information on separate sheets to be attached to the application.)

Land: If a Use Determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

Used Equipment: If the property identified above has been purchased from another owner who previously used the property as pollution control property, attach a copy of the bill of sale or provide other information which demonstrates that the transaction involves a bona fide change of ownership of the property. Also provide information which shows that the property was not taxable by any taxing unit in which the property is located on or before January 1, 1994.

8(b). PARTIAL DETERMINATIONS (Complete only for Tier III applications)

Explain how the partial percentage of the property that is considered to be pollution control property is determined. Include the technical rationale, financial data, cost analysis, or other calculations that are used to determine the qualifying percentage used to calculate the adjusted cost in Table 9 below. (Prepare this information on a separate sheet or sheets to be attached to the application.)

9. PROPERTY CATEGORIES AND COSTS

Identify the category and the estimated purchase cost of the property listed in section 8. List each piece of property for which a use determination is being sought. If the application is for property which is listed on the Predetermined Equipment List (PEL), list the appropriate item number(s) in the PEL column. List the date that each item of property was purchased, installed, constructed, or placed into service. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control.

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Piping, dispensers, hoses, nozzles*	*B-19*	*N*	*$15,525*	*50%*

10. PERMIT, REGISTRATION OR ID NUMBER

Indicate (by listing the permit, registration and/or identification number(s) in the appropriate column below) all existing or pending State, Local, and/or Federal permits or registrations which pertain to the property listed in this application.

Media	Permit/Registration/I.D. #	Issuing Agency
Air		
Water		
Waste	*UST #XXXXXXXXXX*	*TNRCC*

11. APPLICATION DEFICIENCIES

After an initial review of the application, the TNRCC may determine that the information provided with the application is not sufficient to make a use determination. The TNRCC may send a notice of deficiency, requesting additional information, which must be provided within 30 days of the written notice.

12. FORMAL REQUEST FOR SIGNATURE

By signing this application, you certify that this information is true to the best of your knowledge and belief.

_____ *November 12, 1995*

NAME DATE

Owner

TITLE

Under Texas Penal Code, Section 37.10, if you make a false statement on this application you could receive a jail term of up to 1 year and a fine up to $2,000, or a prison term of 2 to 10 years and a fine of up to $5,000.

Smith Food Mart - Use Determination Application
Section 8(a).

To meet new regulations station equipment is being upgraded. The following equipment is being replaced: piping, dispensers, hoses, and nozzles. This equipment will bring the station into compliance with the Stage II Vapor Recovery regulations. The installation of this equipment will reduce air emissions.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
APPLICATION FOR USE DETERMINATION FOR POLLUTION CONTROL PROPERTY

The Texas Natural Resource Conservation Commission (TNRCC) has the responsibility to determine whether a property is pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the "Use Determination for Pollution Control Property guidelines manual" and the "Instructions For Completing Application Form" (Appendix C), as well as 30 TAC §277, the rules governing this program. For additional assistance please contact the TNRCC Proposition 2 Use Determination program at (512) 239-6348. The application should be completed and mailed, with the appropriate fee, to: TNRCC "Use Determination" MC 214, P.O. Box 13088, Austin, Texas 78711-3088

1. GENERAL INFORMATION

A. What is the type of ownership of this facility:

[X] Corporation
[ ] Partnership
[ ] Limited Partnership
[ ] Sole Proprietor
[ ] Utility
[ ] Other _____

B. Size of company:

	Number of Employees		Annual Sales
[ ]	1 to 99	[ ]	$0 to $250,000
[X]	100 to 499	[ ]	$250,001 to $500,000
[ ]	500 to 999	[X]	$500,001 to $1,000,000
[ ]	1,000 to 1,999	[ ]	$1,000,001 to $5,000,000
[ ]	over 2,000	[ ]	> $5,000,001

C. Standard Industrial Classification Code: *2656*

D. Business Description: (Provide a brief description of the nature of the business or activity at this facility)
Construct and print cardboard cartons.

2. TYPE OF APPLICATION:

[ ] Tier I $50 Application Fee If all property listed in Section 9 of this application is located on the Predetermined Equipment List or is necessary for the installation or operation of equipment on the list, then check this box.

[X] Tier II $1,000 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List, and all of this property is used 100% for pollution control, then check this box.

[ ] Tier III $2,500 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List and if a partial use determination is being requested for ANY of the property included in the application, then check this box.

3. NAME OF APPLICANT:

A. Company Name: *Cardboard Company*
B. Mailing Address (Street or P.O. Box): *123 Paper Lane*
C. City, State, ZIP: *Any Town, Tx. XXXXX*
D. Telephone Number: *(XXX)XXX-XXXX*

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION:

A. Name of facility or unit: *Cardboard Production*
B. Type of mfg. process or service: *Carton Maker*
C. Street Address: *123 Paper Lane*
D. City, State, ZIP: *Any Town, Tx. XXXXX*
E. County: *County*

5. NAME OF APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY:

A. Name of Chief Appraiser: *Chief Appraiser County*
B. Mailing Address: *123 Main Street*
C. City, State, ZIP: *County Seat, Tx. XXXXX*

6. CONTACT NAME (mandatory):

A. Name of Individual to contact: *Jane Smith*
B. Mailing Address: *123 Paper Lane*
C. City, State, ZIP: *Any Town, Tx. XXXXX*
D. Telephone number and FAX number: *(XXX)XXX-XXXX (XXX)XXX-XXXX fax*

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

Select the media(s) for the property for which you are making an application for a use determination. Cite the specific section of the rule, regulation, or law being met or exceeded by the installation of that property. Do not list permit numbers or registration numbers in this table (This information is requested in section 10 of the application). If the property/equipment was installed/constructed in response to an agreed order do not list the order, list the rule, regulation, or law which requires the installation/construction of the property.

MEDIA	RULE/REGULATION/LAW
Air	*30 TAC 115.432 (A)(2)*
Water	
Waste	

8(a). DESCRIPTION OF PROPERTY (Complete for all applications)

Please provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. Include sketches of the equipment and flow diagrams of the processes where appropriate. (Prepare this information on separate sheets to be attached to the application.)

Land: If a Use Determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

Used Equipment: If the property identified above has been purchased from another owner who previously used the property as pollution control property, attach a copy of the bill of sale or provide other information which demonstrates that the transaction involves a bona fide change of ownership of the property. Also provide information which shows that the property was not taxable by any taxing unit in which the property is located on or before January 1, 1994.

8(b). PARTIAL DETERMINATIONS (Complete only for Tier III applications)

Explain how the partial percentage of the property that is considered to be pollution control property is determined. Include the technical rationale, financial data, cost analysis, or other calculations that are used to determine the qualifying percentage used to calculate the adjusted cost in Table 9 below. (Prepare this information on a separate sheet or sheets to be attached to the application.)

9. PROPERTY CATEGORIES AND COSTS

Identify the category and the estimated purchase cost of the property listed in section 8. List each piece of property for which a use determination is being sought. If the application is for property which is listed on the Predetermined Equipment List (PEL), list the appropriate item number(s) in the PEL column. List the date that each item of property was purchased, installed, constructed, or placed into service. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control.

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Carton Sealer Conversion*	*N/A*	*N*	*155,000*	*100%*

10. PERMIT, REGISTRATION OR ID NUMBER

Indicate (by listing the permit, registration and/or identification number(s) in the appropriate column below) all existing or pending State, Local, and/or Federal permits or registrations which pertain to the property listed in this application.

Media	Permit/Registration/I.D. #	Issuing Agency
Air	*#XXXX*	*TNRCC*
Water		
Waste		

11. APPLICATION DEFICIENCIES

After an initial review of the application, the TNRCC may determine that the information provided with the application is not sufficient to make a use determination. The TNRCC may send a notice of deficiency, requesting additional information, which must be provided within 30 days of the written notice.

12. FORMAL REQUEST FOR SIGNATURE

By signing this application, you certify that this information is true to the best of your knowledge and belief.

_____ *November 12, 1995*

NAME DATE

Property Tax Manager

TITLE

Under Texas Penal Code, Section 37.10, if you make a false statement on this application you could receive a jail term of up to 1 year and a fine up to $2,000, or a prison term of 2 to 10 years and a fine of up to $5,000.

Cardboard Company - Use Determination Application
Section 8(a):

Cartons were sealed using an easy to open solvent based adhesive. Company switched to a water based adhesive and eliminated the VOC emissions associated with adhesive application. This project was undertaken solely for environmental compliance purposes. Productivity and quality have not improved. Equipment installed includes: drying lamps, adhesive pots, wheels and rings.

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
APPLICATION FOR USE DETERMINATION FOR POLLUTION CONTROL PROPERTY

The Texas Natural Resource Conservation Commission (TNRCC) has the responsibility to determine whether a property is pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the "Use Determination for Pollution Control Property guidelines manual" and the "Instructions For Completing Application Form" (Appendix C), as well as 30 TAC §277, the rules governing this program. For additional assistance please contact the TNRCC Proposition 2 Use Determination program at (512) 239-6348. The application should be completed and mailed, with the appropriate fee, to: TNRCC "Use Determination" MC 214, P.O. Box 13088, Austin, Texas 78711-3088

1. GENERAL INFORMATION

A. What is the type of ownership of this facility:

[X] Corporation
[ ] Partnership
[ ] Limited Partnership
[ ] Sole Proprietor
[ ] Utility
[ ] Other _____

B. Size of company:

Number of Employees		Annual Sales	
[ ]	1 to 99	[ ]	$0 to $250,000
[ ]	100 to 499	[ ]	$250,001 to $500,000
[ ]	500 to 999	[ ]	$500,001 to $1,000,000
[X]	1,000 to 1,999	[ ]	$1,000,001 to $5,000,000
[ ]	over 2,000	[X]	> $5,000,001

C. Standard Industrial Classification Code: *1311*

D. Business Description: (Provide a brief description of the nature of the business or activity at this facility)
Refine crude oil into transportation fuels and various other products.

2. TYPE OF APPLICATION:

[ ] Tier I $50 Application Fee If all property listed in Section 9 of this application is located on the Predetermined Equipment List or is necessary for the installation or operation of equipment on the list, then check this box.

[ ] Tier II $1,000 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List, and all of this property is used 100% for pollution control, then check this box.

[X] Tier III $2,500 Application Fee If any property listed in Section 9 is not on the Predetermined Equipment List and if a partial use determination is being requested for ANY of the property included in the application, then check this box.

3. NAME OF APPLICANT:

A. Company Name: *Big Oil Company*
B. Mailing Address (Street or P.O. Box): *Big Oil Street*
C. City, State, ZIP: *Refinery Town, Tx. XXXXX*
D. Telephone Number: *(XXX) XXX-XXXX*

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION:

A. Name of facility or unit: *Big Oil Refinery*
B. Type of mfg. process or service: *Oil Refinery*
C. Street Address: Big Oil Street
D. City, State, ZIP: *Refinery Town, Tx. XXXXX*
E. County: *County*

5. NAME OF APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY:

A. Name of Chief Appraiser: *Chief Appraiser County*
B. Mailing Address: *3232 Main Street*
C. City, State, ZIP: *County Seat, Tx. XXXXX*

6. CONTACT NAME (mandatory):

A. Name of Individual to contact: *Joe Smith*
B. Mailing Address: *Big Oil Street*
C. City, State, ZIP: *Refinery Town, Tx. XXXXX*
D. Telephone number and FAX number: *(XXX)XXX-XXXX (XXX)XXX-XXXX Fax*

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

Select the media(s) for the property for which you are making an application for a use determination. Cite the specific section of the rule, regulation, or law being met or exceeded by the installation of that property. Do not list permit numbers or registration numbers in this table (This information is requested in section 10 of the application). If the property/equipment was installed/constructed in response to an agreed order do not list the order, list the rule, regulation, or law which requires the installation/construction of the property.

MEDIA	RULE/REGULATION/LAW
Air	*30 TAC 116.111*
Water	
Waste	

8(a). DESCRIPTION OF PROPERTY (Complete for all applications)

Please provide a description and purpose of the property for which this application is being filed. This description must include the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. Include sketches of the equipment and flow diagrams of the processes where appropriate. (Prepare this information on separate sheets to be attached to the application.)

Land: If a Use Determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

Used Equipment: If the property identified above has been purchased from another owner who previously used the property as pollution control property, attach a copy of the bill of sale or provide other information which demonstrates that the transaction involves a bona fide change of ownership of the property. Also provide information which shows that the property was not taxable by any taxing unit in which the property is located on or before January 1, 1994.

8(b). PARTIAL DETERMINATIONS (Complete only for Tier III applications)

Explain how the partial percentage of the property that is considered to be pollution control property is determined. Include the technical rationale, financial data, cost analysis, or other calculations that are used to determine the qualifying percentage used to calculate the adjusted cost in Table 9 below. (Prepare this information on a separate sheet or sheets to be attached to the application.)

9. PROPERTY CATEGORIES AND COSTS

Identify the category and the estimated purchase cost of the property listed in section 8. List each piece of property for which a use determination is being sought. If the application is for property which is listed on the Predetermined Equipment List (PEL), list the appropriate item number(s) in the PEL column. List the date that each item of property was purchased, installed, constructed, or placed into service. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control.

Property	PEL Number	Was This Property Taxable Before 1/1/94 (Y/N)	Estimated Purchase Cost	Partial Exemption Percentages
Land:				
Property: *Amine Regenerators (2)* *Sulfur Recovery Unit Upgrade* *Sulfur Recovery Unit New Tail Gas Treating Units (2), Fuel Gas Absorber, Sour Water Stripper Tank* *Off Sites & Utilities*	*N/A*	*N*	*7,985,000* *2,600,000* *8,285,000* *11,370,000* *15,060,000*	*53.7%* *53.7%* *100%* *100%* *83.8%*

10. PERMIT, REGISTRATION OR ID NUMBER

Indicate (by listing the permit, registration and/or identification number(s) in the appropriate column below) all existing or pending State, Local, and/or Federal permits or registrations which pertain to the property listed in this application.

Media	Permit/Registration/I.D. #	Issuing Agency
Air	*#XXXXXX*	*TNRCC*
Water		
Waste		

11. APPLICATION DEFICIENCIES

After an initial review of the application, the TNRCC may determine that the information provided with the application is not sufficient to make a use determination. The TNRCC may send a notice of deficiency, requesting additional information, which must be provided within 30 days of the written notice.

12. FORMAL REQUEST FOR SIGNATURE

By signing this application, you certify that this information is true to the best of your knowledge and belief.

_____ *November 12, 1995*

NAME DATE

Refinery Manager

TITLE.

Big Oil Company - SRU Tier III Use Determination Application
Section 8(a):

Under provisions of TNRCC permit, Big Oil Company is committed to construct and operate various units and backup units at its refinery in order to meet the requirements of the Clean Air Act. The following equipment was constructed or modified:

1. *Amine Regenerator #2 - New*
2. *Sulfur Recovery Unit #2 - New*
3. *Tail Gas Treating Unit #2 - New*
4. *Amine Regenerator #1 - Modify and upgrade*
5. *Fuel Gas Absorber - New*
6. *Sulfur Recovery Unit #1 - Modify and upgrade*
7. *Tail Gas Treating Unit #1 - Modify and upgrade*
8. *Sour Water Stripper Surge Tank - New*
9. *Off sites and utilities (electrical, steam, water, piping, storage, vapor recovery, loading facilities, etc.)*

Section 8(b):

Determination of Pollution Control Property

Amine Units #1 & #2

Amine Unit #1 is being upgraded. The following table shows the circulation rates and the mols of the H2S recovered as follows:

Absorber	*GPM Lean Amine*	*Mols H2S Recv'd*
Existing Fuel Gas	*690*	*254*
New Absorber	*(690)*	*(254)*
Deprop rel gas	*90*	*33*
Kerosene HDS	*34*	*19*
Distillate HDS	*85*	*47*
G. O. HDS	*448*	*207*
Visbreaker	*10*	*6*
Hydeal	*86*	*8*
FCCU Intrstg	*42*	*3*
FCCU Dry Gas	*15*	*8*
Totals	*1500*	*583*

Amine circulation id 805 gpm (53.67%) of total and Mols H2S recovered is 299 (51.29%) of total. Big Oil requests a partial use determination on the Amine Unit #1 upgrade of 53.67%. Amine Unit #2 is 100% backup equipment and should receive a 53.67% use determination.

Fuel Gas Absorber

The new fuel absorber, K. O. Pot, and gas/liquid coalescer are being installed as backup equipment and should receive a 100% use determination.

Sulfur Recovery Units #1 & #2

Sulfur Recovery Unit #1 will be expanded and used to recover sulfur from the H2S gas recovered in the amine systems. Unit #1 should receive the same partial determination as the amine units - 53.67%. Sulfur Recovery Unit #2 is a redundant unit installed for backup purposes. It should be eligible for a 100% use determination.

Tail Gas Treater Units #1 & #2

The tail gas treaters should be considered to be 100% pollution control.

Sour Water Stripper Tank

The sour water stripper tank with three days holding capacity is required by the TNRCC and should be considered to be 100% pollution control property.

Off Sites

Off Sites include electrical wire, transformers and switch-gear, piping instrumentation, etc. which are needed to make the Sulfur Recovery Unit operational. Big Oil believes that the same percentages used for the above equipment should apply to the off sites. Based on this belief Big Oil is requesting a partial use determination of 83.8%.

Appendix H

USE DETERMINATION FOR TAX EXEMPTIONS FOR POLLUTION CONTROL PROPERTY 30 TAC 277

CHAPTER 277: USE DETERMINATIONS FOR TAX EXEMPTIONS FOR POLLUTION CONTROL EQUIPMENT

§277.1. Scope and Purpose. The purpose of this chapter is to establish the procedure and mechanism for an owner, including political subdivisions, of pollution control property, to apply to the Texas Natural Resource Conservation Commission for a determination of pollution control use (use determination).

§277.2. Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA), the Texas Solid Waste Disposal Act (TSWDA), the Texas Water Code (TWC), and the Texas Health and Safety Code (THSC), or in the rules of the Commission, the terms used by the Commission have the meanings commonly ascribed to them in the field of pollution control. In addition to the terms which are defined by the TCAA, the TSWDA, TWC, and THSC, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Installation - The act of establishing, in a designated place, something that is put into place for use or service.

Pollution control property - A facility, device, or method for control of air, water, or land pollution as defined by the Property Tax Code, §11.31(b).

Pre-Determination - A list of property, either 100% or partial, that the Executive Director has determined is pollution control property. An application for property that is on the predetermined equipment list, will be considered a Tier I application under the rule's fee structure. The predetermined equipment list will be updated by the staff as required.

Use determination - A finding, either positive or negative, by the Texas Natural Resource Conservation Commission that the property is used wholly or partly for pollution control purposes.

§277.4. Applicability.

(a) To obtain a positive use determination, the pollution control property must be used, constructed, acquired, or installed wholly or partly to meet or exceed laws, rules, or regulations adopted by any environmental protection agency of the United States, Texas, or a political subdivision of Texas, for the prevention, monitoring, control, or reduction of air, water, or land pollution. In addition, pollution control property must meet the following conditions.

(1) Property must have been constructed, acquired, or installed after January 1, 1994.

(2) Land must include only the portion of the land acquired after January 1, 1994 that actually contains pollution control property.

(3) Equipment, structures, buildings, or devices must not have been taxable by any taxing unit in Texas on or before January 1, 1994, except if construction of pollution control property is in progress on January 1, 1994, that portion of the property constructed, acquired, or installed after January 1, 1994, is eligible for a positive use determination.

(4) Property purchased from another owner is eligible for a positive use determination if it is acquired, constructed, or installed by the new owner after January 1, 1994, will be used as pollution control property, and was not taxable by any taxing unit in which the property is located on or before that date.

(b) The Executive Director shall determine the portion of the pollution control property eligible for a positive use determination.

§277.6. Exceptions. The following are not entitled to a positive use determination under this chapter:

(1) property for which a use determination is requested solely on the basis that the property is used to manufacture or produce a product or provide a service that prevents, monitors, controls, or reduces air, water, or land pollution;

(2) property that is used for residential purposes, or for recreational, park, or scenic uses as defined by the Texas Health and Safety Code, §23.81;

(3) motor vehicles; and

(4) property that was subject to a tax abatement agreement executed before January 1, 1994. However, property acquired, constructed, or installed after expiration of a tax abatement agreement could be eligible for a positive use determination.

§277.10. Application for Use Determination. In applying for a use determination under this chapter, a person or political subdivision shall present an official Texas Natural Resource Conservation Commission (TNRCC) application form or a similar reproduction, accompanied by the appropriate fee, pursuant to §277.20 of this title (relating to Application Fees) to the executive director of the TNRCC. An application must be submitted for each unit of pollution control property or for each facility consisting of a group of integrated units which have been, or will be, installed for a common purpose. Delivery of the application by the United States Postal Service, Certified Mail Receipt, is acceptable. If the applicant, other than a political subdivision, desires to apply for a use determination for a specific tax year, the application must be postmarked no later than January 31 of the following year. Applications postmarked after this date will not be processed until after review of all applications postmarked by the due date is completed and without regard for any appraisal district deadlines. The application form shall contain at least the following:

(1) the anticipated environmental benefits from the installation of the facility, device, or method for the control of air, water, or land pollution;

(2) the estimated cost of the pollution control facility, device, or method;

(3) the purpose of the installation of such facility, device, or method, and the proportion of the installation that is pollution control property;

(4) the specific law, rules, or regulations that are being met or exceeded by the use, installation, construction, or acquisition of the pollution control property;

(5) if the installation includes property that is not used wholly for the control of air, water, or land pollution, sufficient cost or other information, presented by the person seeking the use determination, that demonstrates to the satisfaction of the Executive Director the proportion of the installation that is pollution control property;

(6) any information that the Executive Director deems reasonably necessary to determine the eligibility of the application;

(7) if the property for which a determination is sought has been purchased from another owner who previously used the property as pollution control property, a copy of the bill of sale or other information submitted by the applicant that demonstrates, to the satisfaction of the Executive Director, that the transaction involves a bona fide change in ownership of the property and is not a sham transaction for the purpose of avoiding tax liability; and

(8) the name and address of the chief appraiser of the appraisal district for the County in which the property is located.

§277.12. Application Review Schedule. Following submission of the information required by §277.1-0 of this title (relating to Application for Use Determination), the executive director of the Texas Natural Resource Conservation Commission (TNRCC) shall determine whether the pollution control property is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution. If the determination is that the property is used partly for pollution control then the executive director shall determine the proportion of the property used for pollution control.

(1) As soon as practicable, the Executive Director shall send notice by regular mail to the chief appraiser of the appraisal district for the county in which the property is located that the person has applied for a use determination under this chapter.

(2) Unless the application is not timely received as discussed in §227.10 of this title, within 30 days of receipt of an application for use determination, the executive director shall mail written notification informing the applicant that the application is administratively complete or that it is deficient. If the application is deficient, the notification shall specify the deficiencies, and allow the applicant 30 days to provide the requested information. If the applicant does not submit an adequate response, then the application will be returned. Additional technical information may be requested within 60 days of issuance of an administrative completeness letter. If the applicant does not provide the requested technical information within 30 days, the application will be returned. The applicant may refile the application.

(3) The Executive Director shall determine whether the property is used wholly or partly to control pollution. The Executive Director is authorized to grant positive use determinations for some or all of the equipment included in the application that is deemed pollution control property.

(A) If a positive determination is made, the Executive Director shall issue a use determination letter to the applicant stating that determination and the proportion of the property that is pollution control property.

(B) If a negative determination is made, the Executive Director shall issue a denial letter explaining the reason for the denial.

§277.20. Application Fees.

(a) Fees shall be remitted with each application for use determination in an amount based on the following.

(1) Tier I--The fee for an application for property that has been granted a predetermination as pollution control, either partial or 100%, and the application seeks no variance from that determination, shall be $50.

(2) Tier II--The fee for an application for property that is used wholly (100%) for the control of air, water, and/or land pollution, but not designated as eligible for predetermination, shall be $1,000.

(3) Tier III--The fee for an application for property used partially (<100%) for the control of air, water, and/or land pollution, but not designated as eligible for predetermination, shall be $2,500.

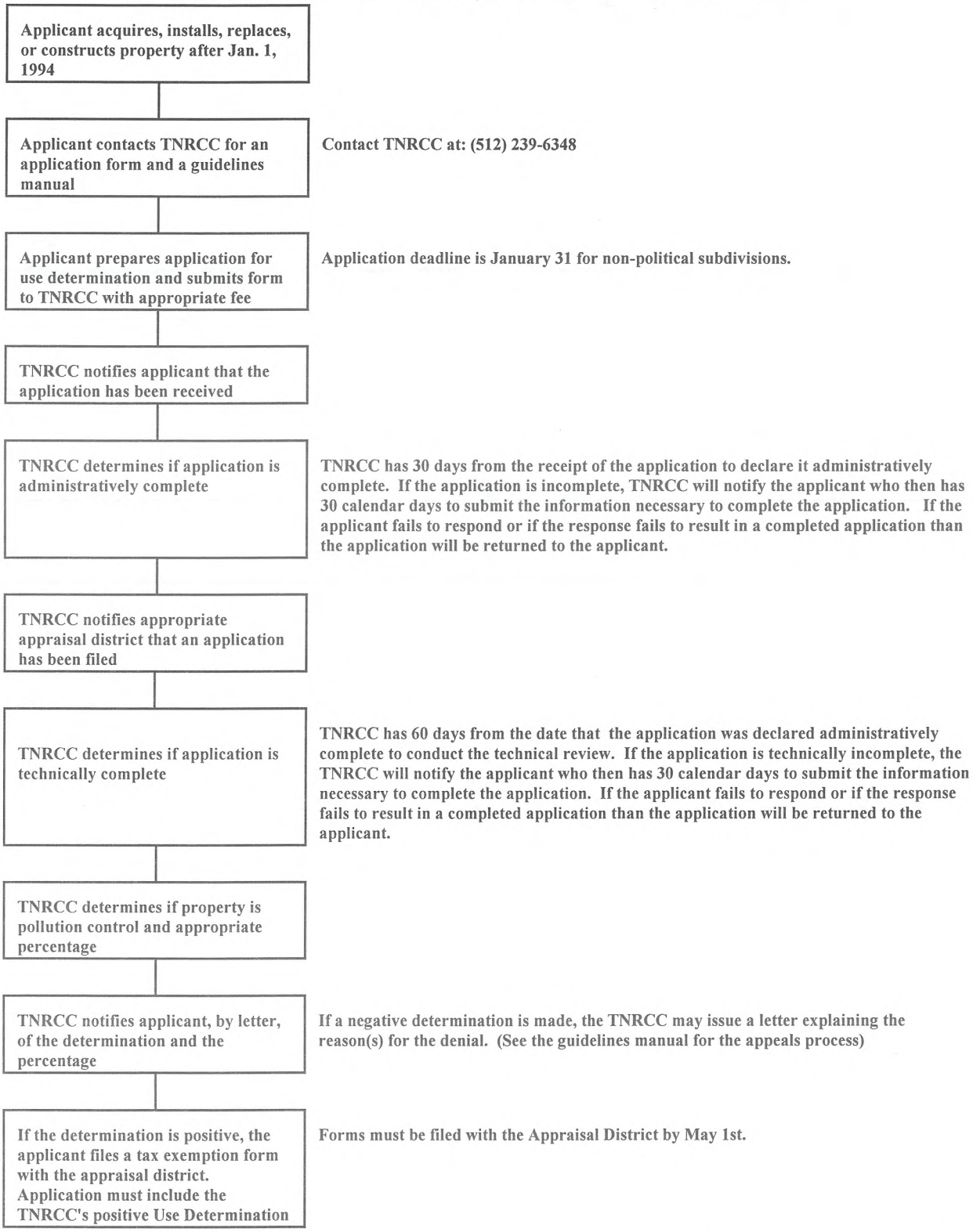
(b) Fees shall be forfeited for applications for use determination which are denied or returned. An applicant who submits an insufficient fee will receive a deficiency notice in accordance with the procedures in §277.12(2) of this title (relating to Application Review Schedule). The fee deficiency must be remitted with the response to the deficiency notice before the application will be deemed complete.

(c) All fees shall be remitted in the form of a check or money order made payable to the TNRCC "Proposition 2" and delivered with the application to the TNRCC Proposition 2 Section, at the address listed on the application form.

Appendix I

FLOW CHART AND TIME LINE

FLOWCHART FOR OBTAINING A USE DETERMINATION



Note: If you have any questions about the determination process and/or why a use defemination was denied, please contact the TNRCC for clarification. Voice (512) 239-6348 Fax (512) 239-3939 electronic mail rhatlett@stmpgate.tnrcc.state.tx.us