

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
**AGENDA ITEM REQUEST**  
for Proposed Rulemaking

**AGENDA REQUESTED:** February 22, 2012

**DATE OF REQUEST:** February 03, 2012

**INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:** Bruce McAnally, (512) 239-2141

**CAPTION: Docket No. 2011-1745-RUL.** Consideration for publication of and hearing on, proposed amended sections of 30 Texas Administrative Code (TAC) Chapter 101, Section 101.201(h), Emissions Event Reporting and Recordkeeping Requirements, and Section 101.211(f), Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements, Subchapter F, General Rules.

The proposed rulemaking would remove language from these sections requiring small emitting sources to collect and report annual emissions event and maintenance, startup, and shutdown data to the Texas Commission on Environmental Quality for emissions inventory purposes. These requirements are limited to small sources located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County that are not required to report this data annually in an emissions inventory per 30 TAC Section 101.10, Emissions Inventory. (Kathy Pendleton, Janis Hudson) (Rule Project No. 2011-043-101-EN)

Susana M. Hildebrand, P.E.  
\_\_\_\_\_  
**Chief Engineer**

David Brymer  
\_\_\_\_\_  
**Division Director**

Bruce McAnally  
\_\_\_\_\_  
**Agenda Coordinator**

**Copy to CCC Secretary? NO X YES**

# Texas Commission on Environmental Quality

## Interoffice Memorandum

**To:** Commissioners **Date:** February 3, 2012

**Thru:** Bridget Bohac, Chief Clerk  
Mark R. Vickery, P.G., Executive Director

**From:** Susana M. Hildebrand, P.E., Chief Engineer  
2011-1745-RUL

**Docket No.:**

**Subject:** Commission Approval for Proposed Rulemaking  
30 Texas Administrative Code (TAC) §101.201(h), Emissions  
Event Reporting and Recordkeeping Requirements, and  
§101.211(f), Scheduled Maintenance, Startup, and Shutdown  
Reporting and Recordkeeping Requirements,  
Small Source Reporting of Certain Emissions  
Rule Project No. 2011-043-101-EN

### **Background and reason(s) for the rulemaking:**

Parts of 30 TAC §101.201(h) and §101.211(f) apply to sources not otherwise required to report an annual emissions inventory per 30 TAC §101.10, Emissions Inventory, and require these sources to annually report emissions from and the number of total emissions events (EE) or maintenance, startup, or shutdown (MSS) activities. The reporting under these subsections applies to sources that are experiencing at least one emission events or MSS activity and are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. Sources are required to report the number of EE and MSS and the amount of reportable and nonreportable emissions by mixture or compound.

On July 28, 2010, the commission voted to withdraw §101.201(h) and §101.211(f), as adopted by the commission on December 14, 2005, from consideration as revisions to the state implementation plan (SIP) because the executive director's staff was evaluating whether there was still a need to collect the data required by parts of these subsections of the rules. The number of sources annually reporting because of these subsections has remained small since 2006, and emissions quantities collected between 2006 and 2010 have not exceeded 100 tons of the ozone precursors of volatile organic compounds (VOC) or nitrogen oxides (NO<sub>x</sub>) statewide. Reportable amounts of emissions are also collected and available in the State of Texas Environmental Electronic Reporting System (STEERS). Because of the quantities of emissions reported have remained less than 100 tons per year for either VOC or NO<sub>x</sub>, the data are not statistically significant and have not been used for air quality planning activities. Staff time is used to review and enter this data and costs are incurred annually for database maintenance.

### **Scope of the rulemaking:**

**A.) Summary of what the rulemaking will do:** The proposed rulemaking would remove parts of 30 TAC §101.201(h) and §101.211(f) that require certain small emitting

Re: Docket No. 2011-1745-RUL

sources that are not subject to the annual reporting requirements of 30 TAC §101.1o in select areas to report annual emissions from EE and MSS activities emissions annually to the Texas Commission on Environmental Quality (TCEQ).

**B.) Scope required by federal regulations or state statutes:** Collection of EE and MSS activities data from these sources as required by the parts of existing 30 TAC §101.201(h), and §101.211(f) are not specifically required under federal or state statutes. Other provisions in TCEQ rules to collect EE and MSS activities data of reportable quantities within 24 hours or total EE and MSS activities as part of the annual emissions inventory from sources that are required to submit an emissions inventory per 30 TAC §101.1o as required under these statutes remain unchanged.

**C.) Additional staff recommendations that are not required by federal rule or state statute:** None.

**Statutory authority:**

Texas Water Code, §§5.102, 5.103, and 5.105, and Texas Health and Safety Code, §§382.002, 382.011, 382.012, 382.014, 382.017, 382.0215, 382.0216, and 382.085.

**Effect on the:**

**A) Regulated community:** The total number of sites reported has remained fewer than 70 annually since 2006. These proposed amendments would remove a reporting burden for these sites.

**B) Public:** This rulemaking would not affect the general public.

**C) Agency programs:** After adoption, staff time and resources would not be required to review and enter this data, and maintain the database.

**Stakeholder meetings:**

No stakeholder meetings are planned.

**Potential controversial concerns and legislative interest:**

The amount of data and magnitude of emissions collected from these smaller sources per parts of 30 TAC §101.201(h) and §101.211(f) has remained less than 100 tons for either VOC or NO<sub>x</sub>. The data are not statistically significant and have not been used in air quality planning activities. However, removing the parts of the subsections from the rule could have the appearance that the TCEQ is neglecting collection of data that could be used for air quality planning purposes. There is no known legislative interest.

**Will this rulemaking affect any current policies or require development of new policies?**

Certain small sources would no longer be required to report annual emissions from EE and MSS activities to the TCEQ.

Commissioners  
Page 3  
February 3, 2012

Re: Docket No. 2011-1745-RUL

**What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?**

Data would continue to be collected annually and entered into a database. Staff and maintenance costs would be incurred for the collection, entry, and storage of data that are not being used and are of no consequence to air quality planning purposes.

**Key points in the proposal rulemaking schedule:**

**Anticipated proposal date:** February 22, 2012

**Anticipated *Texas Register* publication date:** March 9, 2012

**Public comment period:** March 9, 2012 – April 9, 2012

**Anticipated adoption date:** July 27, 2012

**Agency contacts:**

Kathy Pendleton, P.E., Rule Project Manager, 239-1936, Air Quality Division

Janis Hudson, Staff Attorney, 239-0466

Bruce McAnally, Texas Register Coordinator, 239-2141

**Attachments**

None

cc: Chief Clerk, 2 copies  
Executive Director's Office  
Susana M. Hildebrand, P.E.  
Anne Idsal  
Curtis Seaton  
Ashley Morgan  
Office of General Counsel  
Kathy Pendleton, P.E.  
Bruce McAnally

The Texas Commission on Environmental Quality (TCEQ or Commission) proposes amendments to §101.201 and §101.211.

### **Background and Summary of the Factual Basis for the Proposed Rules**

The commission proposes §101.201 and §101.211, to remove parts of §101.201(h) and §101.211(f), that require certain small emitting sources in select areas to report emissions events (EE) and maintenance, startup, and shutdown (MSS) activities and emissions annually to the TCEQ.

Parts of §101.201(h) and §101.211(f) apply to sources not otherwise required to report an annual emissions inventory per §101.10, Emissions Inventory, and require these sources to annually report EE or MSS activities and emissions. The reporting required by parts of these subsections applies to sources experiencing at least one EE or MSS activity and that are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. Sources are required to report the number of EE and MSS activities and the amount of reportable and non-reportable emissions by mixture or compound.

On July 28, 2010, the commission voted to withdraw §101.201(h) and §101.211(f), as adopted by the commission on December 14, 2005, from consideration as a revision to the state implementation plan (SIP) because the executive director's staff was evaluating

whether there was still a need to collect the data required by parts of the subsections of these rules. The number of sites reporting has remained less than 70 annually since 2006, and total emissions quantities collected each year from all sites between 2006 through 2010 have not exceeded 100 tons of either volatile organic compounds (VOC) or nitrogen oxides (NO<sub>x</sub>) statewide. Because of the quantities of emissions reported, the data are not statistically significant and have not been used in any current air quality planning activities.

Collection of annual EE and MSS data from sources that are not required to submit an annual emissions inventory per §101.10 as required by the existing parts of §101.201(h) and §101.211(f), are not specifically required under federal or state statutes. Other provisions in TCEQ rules to collect EE and MSS activities data of reportable quantities within 24 hours and total annual emissions and activities as part of the annual emissions inventory from sources that are required to submit an annual emissions inventory would remain unchanged.

### **Section by Section Discussion**

#### *§101.201, Emissions Event Reporting and Recordkeeping Requirements*

The commission proposes to amend §101.201(h) to remove the annual reporting requirement for certain sources not subject to the emissions reporting requirements of §101.10, experiencing at least one emissions event and that are located in nonattainment

areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. Sources subject to the reporting requirements of §101.10 will continue to be required to annually report in their emissions inventory the total number of and emissions from reportable and non-reportable emissions events.

Data for fewer than 70 sites has been reported annually. The emissions reported statewide have remained less than 100 tons per year for the ozone precursors of VOC and NO<sub>x</sub>. Compressor stations have reported carbon monoxide (CO) emissions in excess of 100 tons. However, reported levels of the other pollutants have remained less than 100 tons per year statewide. Because of the small number of sources submitting these annual reports and the low total amount of emissions being reported, these data were not used in air quality planning activities.

*§101.211, Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements*

The commission proposes to amend §101.211(f) to remove annual reporting requirements for certain sources, not subject to the emissions reporting requirements of §101.10 that experience at least one MSS activity and that are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County under the requirements of §101.211(f).

Data for fewer than 70 sites has been reported annually. The emissions reported statewide have remained less than 100 tons per year for the ozone precursors of VOC and NO<sub>x</sub>. CO emissions in excess of 500 tons, has been reported from a compressor station. Reported levels of the other pollutants have remained less than 50 tons per year statewide. Because of the small number of sources submitting these annual reports and the low total amount of emissions being reported, these data were not used in air quality planning activities.

**Fiscal Note: Costs to State and Local Government**

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that, for the first five-year period the proposed amendments are in effect, no significant fiscal implications are anticipated for the agency or other units of state or local government as a result of administration or enforcement of the proposed amendments. The proposed amendments are expected to reduce costs for the agency, but any resulting reduction is not expected to be significant.

The proposed amendments will remove parts of §101.201(h) and §101.211 (f) that require sources, not subject to the annual emissions reporting per §101.10, that experience at least one EE or MSS to annually report such emissions to the agency if they are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. The reporting of these emissions is not

specifically required by federal or state law, has not exceeded 100 tons of VOC or NO<sub>x</sub> per year statewide, has not produced statistically significant data for air quality planning, and has never been used in revising the SIP or other air quality planning activities. The proposed amendments of §101.201(h) and §101.211(f) would eliminate required annual reports of emissions activities for small sources but would not impact reporting specified in agency rules regarding the more detailed annual emissions reporting in §101.10 for the Emissions Inventory. These emissions were recorded in the Small Source Emissions Event and Maintenance, Startup, and Shutdown database. The proposed rules will eliminate the need to gather emissions data from small sources, eliminate the need to maintain a database, and reduce the amount of customer support and outreach needed. Since the agency will no longer need to perform these functions, staff estimates that the proposed rules could reduce the agency's workload by as much as 14 staff days per year and possibly save as much as \$5,000 per year. Such savings, although minimal, will allow the agency to reallocate resources to tasks that have more statistical impact and higher risk when performing air quality planning tasks.

The proposed amendments are not expected to have a significant fiscal impact on other state agencies or local government since these entities do not typically own or operate sources that have reported emissions per these subsections. If a state agency or local government does own or operate this type of source in the areas where reporting has been required, they could experience the same cost savings as those experienced by a

business. However, any cost savings is expected to be minimal, and the amount of savings will depend on the cost structure of each governmental entity.

### **Public Benefits and Costs**

Nina Chamness also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes in the proposed rules will be increased efficiency and decreased costs for the agency and regulated entities.

The proposed rules would eliminate a reporting requirement that is currently more stringent than federal law and, for air quality planning purposes, has never been used and has been shown to not be statistically significant.

The proposed rules are not expected to have a significant fiscal impact on individuals since they do not typically own or operate the types of sources that produce these types of small EE and MSS emissions. If an individual does own or operate these types of sources, then they could experience the same reduction in costs and increase in efficiency as those experienced by a business.

The reporting of these emissions is not specifically required by federal or other state law, has not exceeded 100 tons of VOC or NO<sub>x</sub> per year statewide, and has never been used in revising the SIP or other air planning activities. The proposed rules will eliminate the need to gather and report emissions data below reportable quantities from small sources

that are not subject to the annual reporting requirements of §101.10. Owners or operators of these small sources are expected to experience greater reporting efficiency and lower reporting costs, although the amount of cost savings is not expected to be significant. Staff estimates that by eliminating this type of small source emissions reporting, a regulated entity could save as much as four hours of staff time per year. The exact amount of cost savings will depend on the cost structure of each business and will vary among regulated entities.

#### **Small Business and Micro-Business Assessment**

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. If a small business owns or operates the types of sources affected by the proposed rules, it should experience the same reporting efficiencies and cost savings as a large business. The amount of cost savings will vary among small businesses and will depend on their cost structures. Any amount of cost savings is not expected to be significant.

#### **Small Business Regulatory Flexibility Analysis**

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years that the proposed rules are in effect.

### **Local Employment Impact Statement**

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rules do not adversely affect a local economy in a material way for the first five years that the proposed rules are in effect.

### **Draft Regulatory Impact Analysis Determination**

The commission reviewed the rulemaking action in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the action is not subject to §2001.0225 because it does not meet the definition of a "major environmental rule" as defined in that statute. A "major environmental rule" is a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure, and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The proposed amendments to §101.201 and §101.211 are not specifically intended to protect the environment or reduce risks to human health from environmental exposure to air pollutants. Rather, they will remove reporting requirements for data that are not statistically significant and have not been used in any current air quality planning activities.

As defined in the Texas Government Code, §2001.0225 only applies to a major environmental rule, the result of which is to: exceed a standard set by federal law, unless the rule is specifically required by state law; exceed an express requirement of state law, unless the rule is specifically required by federal law; exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking action does not meet any of these four applicability requirements of a "major environmental rule." Specifically, the proposed amendments to §101.201 and §101.211 were developed to remove unnecessary reporting. Finally, this rulemaking was not developed solely under the general powers of the commission but is authorized by specific sections of the Texas Health and Safety Code and Texas Water Code that are cited in the statutory authority section of this preamble. Therefore, this rulemaking is not subject to the regulatory analysis provisions of Texas Government Code, §2001.0225(b).

### **Takings Impact Assessment**

The commission evaluated the proposed rulemaking and performed an assessment of whether Texas Government Code, Chapter 2007, is applicable. The proposed amendments to §101.201 and §101.211 would remove unnecessary reporting

requirements. The discontinuation of this reporting will not burden private real property. The proposed amendments do not affect private property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of a governmental action. Consequently, this rulemaking action does not meet the definition of a taking under Texas Government Code, §2007.002(5). The proposed amendments do not directly prevent a nuisance or prevent an immediate threat to life or property. Therefore, this rulemaking action will not constitute a taking under Texas Government Code, Chapter 2007.

### **Consistency with the Coastal Management Program**

As required by 31 TAC §505.11(b)(2), relating to Actions and Rules Subject to the Coastal Management Program, commission rules governing air pollutant emissions must be consistent with the applicable goals and policies of the Texas Coastal Management Program (CMP). The commission reviewed this action for consistency with the CMP goals and policies in accordance with the rules of the Coastal Coordination Council and determined that the action is consistent with the applicable CMP goals and policies. The CMP goal applicable to this rulemaking action is the goal to protect, preserve, and enhance the diversity, quality, quantity, functions, and values of coastal natural resource areas (31 TAC §501.12(l)). The proposed amendments would remove reporting requirements of certain emissions. The CMP policy applicable to this rulemaking action is the policy that commission rules protect and enhance air quality in the coastal areas

(31 TAC §501.14(q)). Therefore, in accordance with §505.22(e), the commission affirms that this rulemaking action is consistent with CMP goals and policies.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### **Effect on Sites Subject to the Federal Operating Permits Program**

Fewer than 70 sites subject to the Federal Operating Permits Program could be impacted by the proposed amendments to §101.201 and §101.211. These proposed amendments could reduce the annual reporting burden of emissions from EE and MSS activities from these sources that are not subject to the annual reporting requirements of §101.10.

### **Announcement of Hearing**

The commission will hold a public hearing on this proposal in Austin on March 27, 2012, at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes

prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

### **Submittal of Comments**

Written comments may be submitted to Bruce McAnally, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2011-043-101-EN. The comment period closes April 9, 2012. Copies of the proposed rulemaking can be obtained from the commission's Web site at [http://www.tceq.texas.gov/nav/rules/propose\\_adopt.html](http://www.tceq.texas.gov/nav/rules/propose_adopt.html). For further information, please contact Kathy Pendleton, P.E., Air Quality Division at (512) 239-1936.

**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED  
MAINTENANCE, STARTUP, AND SHUTDOWN ACTIVITIES**

**DIVISION 1: EMISSIONS EVENTS**

**§101.201**

**Statutory Authority**

The amendment is proposed under Texas Water Code (TWC), §5.102, concerning General Powers; §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state air; §382.014, concerning Emissions Inventory, which authorizes the commission to require submittal of emissions data; §382.0215, concerning Assessment of Emissions Due to Emissions Events, which authorizes the commission to collect and assess unauthorized

emissions data due to emissions events; §382.0216, concerning Regulation of Emissions Events, which authorizes the commission to establish criteria for determining when emissions events are excessive and to require facilities to take action to reduce emissions from excessive emissions events; and §382.085, concerning Unauthorized Emissions Prohibited, which prohibits emissions of air contaminants except as authorized by commission by rule or order.

The proposed amendment implements TWC, §§5.102, 5.103, and 5.105, and THSC, §§382.002, 382.011, 382.012, 382.014, 382.0215, 382.0216, and 382.085.

**§101.201. Emissions Event Reporting and Recordkeeping Requirements.**

(a) The following requirements for reportable emissions events apply.

(1) As soon as practicable, but not later than 24 hours after the discovery of an emissions event, the owner or operator of a regulated entity shall:

(A) determine if the event is a reportable emissions event; and

(B) notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction, if the emissions event is reportable.

(2) The initial 24-hour notification for reportable emissions events, with the exception of emissions from boilers or combustion turbines referenced in the definition of reportable quantity (RQ) in §101.1 of this title (relating to Definitions) for each regulated entity, must at a minimum, identify for each emissions point with emissions that exceed an RQ:

(A) the name of the owner or operator of the regulated entity experiencing an emissions event;

(B) the commission Regulated Entity Number of the regulated entity experiencing an emissions event, if a Regulated Entity Number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the common name of the process units or areas, the common name of the facilities that incurred the emissions event, and the common name of the

emission points where the unauthorized emissions exceeded an RQ were released to the atmosphere;

(D) the date and time of the discovery of the emissions;

(E) the estimated duration of the emissions;

(F) the compound descriptive type of the individually listed compounds or mixtures of air contaminants released during the emissions event, in the definition of RQ in §101.1 of this title that are known through common process knowledge, past engineering analysis, or testing to have equaled or exceeded the RQ;

(G) the estimated total quantities for those compounds or mixtures described in subparagraph (F) of this paragraph;

(H) the best known cause of the emissions event at the time of the initial 24-hour notification, if known; and

(I) the actions taken, or being taken, to correct the emissions event and minimize the emissions.

(3) The initial 24-hour notification for reportable emissions events for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title must identify for each emission point with excess opacity that exceeds the RQ by more than 15%:

(A) the name of the owner or operator of the regulated entity experiencing an emissions event;

(B) the commission Regulated Entity Number of the regulated entity experiencing an emissions event, if a Regulated Entity Number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the best known cause of the emissions event, if known at the time of notification;

(D) the common name of the process units or areas, the common name of the facilities that experienced the emissions event, and the common name of the emission points where the unauthorized opacity that exceeded the RQ occurred;

(E) the date and time of the discovery of the emissions event;

(F) the estimated duration or expected duration of the emissions;

(G) the estimated opacity; and

(H) the actions taken, or being taken, to correct the emissions event and minimize the emissions.

(4) The owner or operator of a regulated entity experiencing a reportable emissions event that also requires an initial notification under §327.3 of this title (relating to Notification Requirements) may satisfy the initial 24-hour notification requirements of this section by complying with the requirements under §327.3 of this title.

(b) The owner or operator of a regulated entity experiencing an emissions event shall create a final record of all reportable and non-reportable emissions events as soon as practicable, but no later than two weeks after the end of an emissions event. Final records must be maintained on-site for a minimum of five years and be made readily available upon request to commission staff or personnel of any air pollution program with jurisdiction. If a regulated entity is not normally staffed, records of emissions

events may be maintained at the staffed location within Texas that is responsible for the day-to-day operations of the regulated entity.

(1) The final record of a reportable emissions event must identify for all emission points involved in the emissions event:

(A) the name of the owner or operator of the regulated entity experiencing an emissions event;

(B) the commission Regulated Entity Number of the regulated entity experiencing an emissions event, if a Regulated Entity Number and air account number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the physical location of the points at which emissions to the atmosphere occurred;

(D) the common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that experienced the emissions event, and the common name and the agency-established

emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the agency has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report.

(E) the date and time of the discovery of the emissions event;

(F) the estimated duration of the emissions;

(G) the compound descriptive type of all individually listed compounds or mixtures of air contaminants in the definition of RQ in §101.1 of this title, from all emission points involved in the emissions event, that are known through common process knowledge or past engineering analysis or testing to have been released during the emissions event, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in a 24-hour period, are not required to be specifically listed in the report, instead these compounds or mixtures of air contaminants may be identified together as "other";

(H) the estimated total quantities for those compounds or mixtures described in subparagraph (G) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, if any, governing the facilities involved in the emissions event; and the authorized emissions limits, if any, for the facilities involved in the emissions events, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title, which record only the authorized opacity limit and the estimated opacity during the emissions event. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (G) of this paragraph, are not required for each individual compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as "other";

(I) the basis used for determining the quantity of air contaminants emitted, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title;

(J) the best known cause of the emissions event at the time of reporting;

(K) the actions taken, or being taken, to correct the emissions event and minimize the emissions; and

(L) any additional information necessary to evaluate the emissions event.

(2) Records of non-reportable emissions events must identify:

(A) the name of the owner or operator of the regulated entity experiencing an emissions event;

(B) the commission Regulated Entity Number and air account number of the regulated entity experiencing an emissions event, if a Regulated Entity Number and air account number exists, or [of] if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the physical location of the points at which emissions to the atmosphere occurred;

(D) the common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that experienced the emissions event, and the common name and the agency-established emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the commission has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;

(E) the date and time of the discovery of the emissions event;

(F) the estimated duration of the emissions;

(G) the compound descriptive type of the individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, from all emission points involved in the emissions event, that are known through common process knowledge or past engineering analysis, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title and that were unauthorized. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in

a 24-hour period, are not required to be specifically listed in the report, instead these compounds or mixtures of air contaminants may be identified together as "other";

(H) the estimated total quantities and the authorized emissions limits for those compounds or mixtures described in subparagraph (G) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, if any, governing the facilities involved in the emissions event; and the authorized emissions limits, if any, for the facilities involved in the emissions events, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title, which record only the authorized opacity limit and the estimated opacity during the emissions event. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (G) of this paragraph, are not required for each individual compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as "other";

(I) the basis used for determining the quantity of air contaminants emitted, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title;

(J) the best known cause of the emissions event at the time of recording;

(K) the actions taken, or being taken, to correct the emissions event and minimize the emissions; and

(L) any additional information necessary to evaluate the emissions event.

(c) For all reportable emissions events, if the information required in subsection (b) of this section differs from the information provided in the initial 24-hour notification under subsection (a) of this section, the owner or operator of the regulated entity shall submit a copy of the final record to the commission office for the region in which the regulated entity is located and to appropriate local air pollution agencies with jurisdiction no later than two weeks after the end of the emissions event. If the owner or operator does not submit a record under this subsection, the information provided in the initial 24-hour notification under subsection (a) of this section will be the final record of the emissions event, provided the initial 24-hour notification was submitted electronically in accordance with subsection (g) of this section.

(d) The owner or operator of a boiler or combustion turbine, as defined in §101.1 of this title, fueled by natural gas, coal, lignite, wood, or fuel oil containing hazardous air pollutants at a concentration of less than 0.02% by weight, that is equipped with a continuous emission monitoring system that completes a minimum of one operating cycle (sampling, analyzing, and data recording) for each successive 15-minute interval, and is required to submit excess emission reports by other state or federal requirements, is exempt from creating, maintaining, and submitting final records of reportable and non-reportable emissions events of the boiler or combustion turbine under subsections (b) and (c) of this section if the notice submitted under subsection (a) of this section contains the information required under subsection (b) of this section.

(e) As soon as practicable, but not later than 24 hours after the discovery of an excess opacity event, as defined in §101.1 of this title, where the owner or operator was not already required to provide an initial 24-hour notification under subsection (a)(2) or (3) of this section, the owner or operator shall notify the commission office for the region in which the regulated entity is located, and all appropriate local air pollution control agencies with jurisdiction. In the notification, the owner or operator shall identify:

(1) the name of the owner or operator of the regulated entity experiencing the excess opacity event;

(2) the commission Regulated Entity Number and air account number of the regulated entity experiencing an opacity event, if a Regulated Entity Number and air account number exists, or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(3) the physical location of the excess opacity event;

(4) the common name of the process units or areas, the common name of the facilities where the excess opacity event occurred, and the common name of the emission points where the excess opacity event occurred;

(5) the date and time of the discovery of the excess opacity event;

(6) the estimated duration of the excess opacity;

(7) the estimated opacity;

(8) the authorized opacity limit for the facilities having the excess opacity event;

(9) the best known cause of the excess opacity event at the time of the notification; and

(10) the actions taken, or being taken, to correct the excess opacity event.

(f) The owner or operator of any regulated entity subject to the provisions of this section shall perform, upon request by the executive director or any air pollution control agency with jurisdiction, a technical evaluation of each emissions event. The evaluation must include at least an analysis of the probable causes of each emissions event and any necessary actions to prevent or minimize recurrence. The evaluation must be submitted in writing to the executive director and to the appropriate local air pollution agencies with jurisdiction within 60 days from the date of request. The 60-day period may be extended by the executive director. Additionally, the owner or operator of a regulated entity experiencing an emissions event must provide, in writing, additional or more detailed information regarding the emissions event when requested by the executive director or any air pollution control agency with jurisdiction, within the time established in the request.

(g) On and after January 1, 2003, notifications and reports required in subsection (c) of this section must be submitted electronically to the commission using the

electronic forms provided by the commission. On and after January 1, 2004, notifications required in subsections (a) and (e) of this section must be submitted via commission's secure Web server, facsimile, or electronic mail to the commission using electronic forms provided by the commission. Notwithstanding the requirement to report initial 24-hour notifications electronically after January 1, 2004, the owner or operator of a regulated entity experiencing a reportable emissions event that also requires an initial notification under §327.3 of this title, is not required to report the event electronically under this subsection provided the owner or operator complies with the requirements under §327.3 of this title and in subsections (a) and (c) of this section. If the initial notification is not submitted by using an online form on the commission's secure Web server, the owner or operator must submit the identical information on the commission's secure Web server within 48 hours of discovery of the event. In the event the commission's server is unavailable due to technical failures or scheduled maintenance, events may be reported via facsimile to the appropriate regional office. The commission will provide an alternative means of notification in the event that the commission's electronic reporting system is inoperative. Electronic notification and reporting is not required for small businesses that meet the small business definition in Texas Water Code, §5.135(g)(2) and to appropriate local air pollution control agencies with jurisdiction. Small businesses shall provide notifications and reporting by any viable means that meet the time frames required by this section.

(h) Annual emissions event reporting: beginning in calendar [calender] year 2007, on or before March 31 of each calendar year or as directed by the executive director, each owner or operator of a regulated entity, as defined in §101.1 of this title that is subject to reporting under §101.10 of this title (relating to Emissions Inventory Requirements), [and those that are not subject to reporting under §101.10 of this title, but are located in nonattainment, maintenance, early action compact areas, Nueces County, and San Patricio County,] that experienced at least one emissions event during the calendar year shall report to the executive director, and all appropriate local air pollution control agencies with jurisdiction, the following:

(1) the total number of reportable and the total number of non-reportable emissions events experienced at the regulated entity;

(2) the estimated total quantities for all compounds or mixtures of air contaminants, by compound or mixture, in the definition of RQ in §101.1 of this title that, by facility, were emitted during emissions events at the regulated entity.

Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than one pound in a 24-hour period, are not required to be included in the report. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. This paragraph does not apply to boilers and combustion turbines referenced in the

definition of RQ in §101.1 of this title that must report only the estimated opacities during emissions events and duration of unauthorized opacity; and

[(3) owners and operators of regulated entities that are not subject to reporting under §101.10 of this title must provide annual emissions event reporting electronically by using an online form on the commission's secure Web server. The commission will provide an alternative means of reporting in the event that the commission's electronic reporting system is inoperative. If the commission's server is unavailable due to technical failures or scheduled maintenance, the annual reports may be provided through alternative means to the executive director. Annual electronic reporting is not required for small businesses that meet the small business definition in Texas Water Code, §5.135(g)(2) and to appropriate local air pollution control agencies with jurisdiction. Small businesses shall provide annual reporting by any viable means that meet the time frames required by this section.]

(3) [(4)] owners and operators of regulated entities that are subject to reporting under §101.10 of this title shall [must] provide the information required by this subsection as part of their reporting under §101.10 of this title.

**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED  
MAINTENANCE, STARTUP, AND SHUTDOWN ACTIVITIES**

**DIVISION 2: MAINTENANCE, STARTUP, AND  
SHUTDOWN ACTIVITIES**

**§101.211**

**Statutory Authority**

The amendment is proposed under Texas Water Code (TWC), §5.102, concerning General Powers; §5.103, concerning Rules, and §5.105, concerning General Policy, which authorize the commission to adopt rules necessary to carry out its powers and duties under the TWC; and under Texas Health and Safety Code (THSC), §382.017, concerning Rules, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act. The amendment is also proposed under THSC, §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state air; §382.014, concerning Emissions Inventory, which authorizes the commission to require submittal of emissions data; §382.0215, concerning Assessment of Emissions Due to

Emissions Events, which authorizes the commission to collect and assess unauthorized emissions data due to emissions events; §382.0216, concerning Regulation of Emissions Events, which authorizes the commission to establish criteria for determining when emissions events are excessive and to require facilities to take action to reduce emissions from excessive emissions events; and §382.085, concerning Unauthorized Emissions Prohibited, which prohibits emissions of air contaminants except as authorized by commission by rule or order.

The proposed amendment implements TWC, §§5.102, 5.103, and 5.105, and THSC, §§382.002, 382.011, 382.012, 382.014, 382.0215, 382.0216, and 382.085.

**§101.211. Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements.**

(a) The owner or operator of a regulated entity conducting a scheduled maintenance, startup, or shutdown activity shall notify the commission office for the region in which the regulated entity is located and all appropriate local air pollution control agencies with jurisdiction at least ten days prior to any scheduled maintenance, startup, or shutdown activity that is expected to cause an unauthorized emission that equals or exceeds the reportable quantity (RQ) as defined in §101.1 of this title (relating to Definitions), by emissions point in any 24-hour period and/or an activity where the owner or operator expects only an excess opacity event as defined in §101.1 of this title.

If notice cannot be given ten days prior to a scheduled maintenance, startup, or shutdown activity, notification must be given as soon as practicable prior to the scheduled activity. Maintenance, startup, or shutdown activities where the actual emissions exceed the emissions in the notification by more than an RQ or for which a notification was not submitted prior to the activity are either upsets or unplanned maintenance, startup, or shutdown activities, depending upon the reason for exceeding the estimate. Excess opacity events where unauthorized emissions result are emissions events. Owners and operators of a regulated entity with emissions events shall report such events as emissions events in accordance with the requirements in §101.201 of this title, or this section as applicable and §101.222 of this title (relating to Demonstrations).

(1) The notification for a scheduled maintenance, startup, or shutdown activity, except for boilers and combustion turbines referenced in the definition of RQ in §101.1 of this title, must identify:

(A) the name of the owner or operator;

(B) the commission Regulated Entity Number of the regulated entity, if a Regulated Entity Number and air account number exist(s), or if there is not a Regulated Entity Number, the air number of the regulated entity. If a Regulated Entity

Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the physical location of the points at which emissions from the scheduled maintenance, startup, or shutdown activity will occur;

(D) the type of scheduled maintenance, startup, or shutdown activity and the reason for the scheduled activity;

(E) the expected date and time of the scheduled maintenance, startup, or shutdown activity, and expected duration of any maintenance activity;

(F) the common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that will be involved in the emissions activity, and the common name and the agency-established emission point numbers where the unauthorized emissions may be released to the atmosphere. Owners or operators of those facilities and emission points that the agency has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;

(G) the expected duration of the emissions from the scheduled maintenance, startup, or shutdown activity;

(H) the compound descriptive type of the individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, for all emission points involved in the emissions activity, that through common process knowledge or past engineering analysis or testing are expected to equal or exceed the RQ. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in a 24-hour period, are not required to be specifically listed in the report, instead these compounds or mixtures of air contaminants may be identified together as "other";

(I) the estimated total quantities for those compounds or mixtures described in subparagraph (H) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, if any, governing the facilities involved in the activity; authorized emissions limits, if any, for the facilities involved in the emissions activity, and, if applicable, the estimated opacity and the authorized opacity limit. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (H) of this paragraph, are not required for each individual

compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as "other";

(J) the basis used for determining the quantity of air contaminants to be emitted; and

(K) the actions taken to minimize the emissions from the scheduled maintenance, startup, or shutdown activity.

(2) The notification for a scheduled maintenance, startup, or shutdown activity involving a boiler or combustion turbine referenced in the definition of RQ in §101.1 of this title, or where the owner or operator expects only an excess opacity event and the owner or operator was not already required to provide a notification under paragraph (1) of this subsection, must identify:

(A) the name of the owner or operator;

(B) the commission Regulated Entity Number of the regulated entity, if a Regulated Entity Number and air account number exist(s), or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated

Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the physical location of the scheduled maintenance, startup, or shutdown activity;

(D) the type of scheduled maintenance, startup, or shutdown activity and the reason for the scheduled activity;

(E) the common name of the process units or areas, the common name and the agency-established facility identification numbers of the facility that experienced the excess opacity event, and the common name and the agency-established emission point numbers where the excess opacity event occurred. Owners or operators of those facilities and emission points that the agency has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;

(F) the expected date and time of the scheduled maintenance, startup, or shutdown activity, and expected duration of any maintenance activity;

(G) the estimated duration of the emissions from the scheduled maintenance, startup, or shutdown activity;

(H) the estimated opacity and the authorized opacity limit for those emission points that unauthorized opacity is expected; and

(I) the actions taken, or being taken, to minimize the emissions from the scheduled maintenance, startup, or shutdown activity.

(b) The owner or operator of a regulated entity conducting a scheduled maintenance, startup, or shutdown activity shall create a final record of all scheduled maintenance, startup, and shutdown activities with unauthorized emissions, or with opacity exceedances from boilers and combustion turbines referenced in the definition of RQ in §101.1 of this title. The final record must be created as soon as practicable, but no later than two weeks after the end of each scheduled activity. Final records must be maintained on-site for a minimum of five years and be made readily available upon request to commission staff or personnel of any air pollution program with jurisdiction. If a regulated entity is not normally staffed, records of scheduled maintenance, startup, and shutdown activities may be maintained at the staffed location within Texas that is responsible for day-to-day operations of the regulated entity. Such scheduled activity records must identify:

(1) for owners and operators of regulated entities that were required to notify under subsection (a) of this section:

(A) the name of the owner or operator;

(B) the commission Regulated Entity Number of the regulated entity, if a Regulated Entity Number and air account number exist(s), or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the regulated entity and a contact telephone number;

(C) the physical location of the scheduled points at which emissions from the maintenance, startup, or shutdown activity occurred;

(D) the type of scheduled maintenance, startup, or shutdown activity and the reason for the scheduled activity;

(E) the common name of the process units or areas, the common name and the agency-established facility identification number of the facilities that experienced the emissions activity, and the common name and the agency-established

emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the agency has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;

(F) the date and time of the scheduled maintenance, startup, or shutdown activity, and the duration of any maintenance activity;

(G) the duration of the emissions from the scheduled maintenance, startup, or shutdown activity;

(H) the compound descriptive type of all individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, involved in the emissions activity, that are known through common process knowledge or past engineering analysis or testing to have been released during the scheduled maintenance, startup, or shutdown activity, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in a 24-hour period, are not required to be

specifically listed in the report instead these compounds or mixtures of air contaminants may be identified together as "other";

(I) the estimated total quantities and the authorized emissions limits for those compounds or mixtures described in subparagraph (H) of this paragraph; the preconstruction authorization number or rule citation of the standard permit, permit by rule, or rule, any, governing the facilities involved in the scheduled maintenance, startup, or shutdown activity; authorized emissions limits, if any, for the facility involved in the scheduled maintenance, startup, or shutdown activity, and, if applicable, the estimated opacity and authorized opacity limit, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title that record only the authorized opacity limit and the estimated opacity during the emissions event. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (H) of this paragraph are not required for each individual compound or mixture of air contaminants; however, a total estimate of emissions must be provided for the category identified as "other";

(J) the basis used for determining the quantity of air contaminants to be emitted, except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title; and

(K) the actions taken to minimize the emissions from the scheduled maintenance, startup, or shutdown activity.

(2) for owners and operators of regulated entities that were not required to notify under subsection (a) of this section:

(A) the name of the owner or operator;

(B) the commission Regulated Entity Number of the regulated entity if a Regulated Entity Number and air account number exist(s), or if there is not a Regulated Entity Number, the air account number of the regulated entity. If a Regulated Entity Number and air account number do not exist, then identify the location of the release and a contact telephone number;

(C) the physical location of the scheduled points at which emissions from the maintenance, startup, or shutdown activity occurred;

(D) the type of scheduled maintenance, startup, or shutdown activity and the reason for the scheduled activity;

(E) the common name of the process unit or areas, the common name and the agency-established facility identification numbers of the facilities that experienced the emissions activity , and the common name and the agency-established emission point numbers where the unauthorized emissions were released to the atmosphere. Owners or operators of those facilities and emission points that the agency has not established facility identification numbers or emission point numbers for are not required to provide the facility identification numbers and emission point numbers in the report, but are required to provide the common names in the report;

(F) the date and time of the scheduled maintenance, startup, or shutdown activity, and the duration of any maintenance activity;

(G) the duration of the emissions from the scheduled maintenance, startup, or shutdown activity;

(H) the compound descriptive type of the individually listed compounds or mixtures of air contaminants, in the definition of RQ in §101.1 of this title, that are known through common process knowledge, past engineering analysis,

except for boilers or combustion turbines referenced in the definition of RQ in §101.1 of this title and that were unauthorized. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than ten pounds in a 24-hour period, are not required to be specifically listed in the record instead these compounds or mixtures of air contaminants may be identified together as "other"; and

(I) the estimated total quantities and the authorized emissions limits for those compounds or mixtures described in subparagraph (H) of this paragraph. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. Estimated emissions from compounds or mixtures of air contaminants that are identified as "other" under subparagraph (H) of this paragraph are not required for each individual compound or mixture of air contaminants, however, a total estimate of emissions must be provided for the category identified as "other."

(c) For any scheduled maintenance, startup, or shutdown activity for which an initial notification was submitted under subsection (a) of this section, which does not provide all the information required in subsection (b) of this section or if the information has changed from the prior notification, the owner or operator of the regulated entity shall submit a final record as required by subsection (b) of this section

to the commission office for the region in which the regulated entity is located and to appropriate local air pollution agencies with jurisdiction no later than two weeks after the end of the scheduled activity. If the owner or operator does not submit a record under this subsection, the information provided under subsection (a) of this section will be the final record of the scheduled activity.

(d) The owner or operator of a boiler or combustion turbine as defined in §101.1 of this title fueled by natural gas, coal, lignite, wood, or fuel oil containing hazardous air pollutants at a concentration of less than 0.02% by weight, that is equipped with a continuous emission monitoring system that completes a minimum of one operating cycle (sampling, analyzing, and data recording) for each successive 15-minute interval, and is required to submit excess emissions reports by other state or federal rules, is exempt from creating, maintaining, and submitting final records of scheduled maintenance, startup, and shutdown activities with unauthorized emissions under subsections (b) and (c) of this section, if the notice submitted under subsection (a) of this section contains the information required under subsection (b) of this section.

(e) The executive director may specify the amount, time, and duration of emissions that will be allowed during the scheduled maintenance, startup, or shutdown activity. The owner or operator of any source subject to the provisions of this section shall submit a technical plan for any scheduled maintenance, startup, or shutdown

activity when requested by the executive director with a copy to the appropriate local air pollution agencies with jurisdiction. The plan must contain a detailed explanation of the means by which emissions will be minimized during the scheduled maintenance, startup, or shutdown activity. For those emissions that must be released into the atmosphere, the plan must include the reasons such emissions cannot be reduced further.

(f) For annual scheduled maintenance, startup, and shutdown activity reporting on or before March 31 of each calendar year beginning in calendar [calender] year 2007, or as directed by the executive director, each owner or operator of a regulated entity site, as defined in §101.1 of this title that is subject to reporting under §101.10 of this title (relating to Emissions Inventory Reporting), [and those that are not subject to reporting under §101.10 of this title but are located in nonattainment, maintenance, early action compact areas, Nueces County, and San Patricio County,] that experienced at least one scheduled maintenance, startup, and shutdown activity during the calendar year must report to the executive director, and all appropriate local air pollution control agencies with jurisdiction:

(1) the number of reportable and non-reportable scheduled maintenance, startup, and shutdown activities experienced at the regulated entity; and

(2) the estimated total quantities for all compounds or mixtures, by compound or mixture, of air contaminants, in the definition of RQ in §101.1 of this title that, by facility, emitted during scheduled maintenance, startup, and shutdown activities at the regulated entity. Compounds or mixtures of air contaminants, that have an RQ greater than or equal to 100 pounds and the amount released is less than one pound in a 24-hour period, are not required to be included in the report. Good engineering practice and methods must be used to provide reasonably accurate representations for emissions and opacity. This paragraph does not apply to boilers and combustion turbines referenced in the definition of RQ in §101.1 of this title, that must report only the estimated opacities during emissions events and duration of unauthorized opacity; and

[(3) owners and operators of regulated entities that are not subject to reporting under §101.10 of this title must report annual total emissions resulting from all scheduled maintenance, startup, and shutdown activities electronically by using an online form on the commission's secure Web server. The commission will provide an alternative means of reporting in the event that the commission's electronic reporting system is inoperative. If the commission's server is unavailable due to technical failures or scheduled maintenance, the annual reports may be reported to the executive director. Annual electronic reporting is not required for small businesses that meet the small business definition in Texas Water Code, §5.135(g)(2) and to appropriate local air

pollution control agencies with jurisdiction. Small businesses shall provide annual reporting by any viable means that meet the time frames required by this section; and ]

(3) [(4)] owners and operators of regulated entities that are subject to reporting under §101.10 of this title shall [must] provide the information required by this subsection as part of their reporting under §101.10 of this title.