TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: February 4, 2015

DATE OF REQUEST: January 16, 2015

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Patricia Duron, (512) 239-6087

CAPTION: Docket No. 2014-1685-RUL. Consideration for publication of, and hearing on, proposed amended sections of 30 Texas Administrative Code (TAC) Chapter 101, General Air Quality Rules, Subchapter F, General Rules, Section 101.201(h), Emissions Event Reporting and Recordkeeping Requirements, and Section 101.211(f), Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements.

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 Requirements. (Kathy Pendleton, Janis Hudson) (Rule Project No. 2014-023-101-AI)

Steve Hagle, P.E.
Deputy Director

David Brymer
Division Director

Patricia L. Duron
Agenda Coordinator

Copy to CCC Secretary? NO X YES

Texas Commission on Environmental Quality
Interoffice Memorandum

To: Commissioners **Date:** January 16, 2015

Thru: Bridget Bohac, Chief Clerk
Richard A. Hyde, P.E., Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2014-1685-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 101, General Air Quality Rules
Removal of Language Requiring Small Source Reporting of Certain Emissions
Rule Project No. 2014-023-101-AI

Background and reason(s) for the rulemaking:
Parts of 30 Texas Administrative Code (TAC) §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 emissions and the number of events from emissions events (EE) or maintenance, startup, or shutdown (MSS) activities. The reporting required by these subsections applies to sources that are experiencing at least one EE 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 activities and the amount of reportable and non-reportable emissions by mixture or compound.

The number of sources annually reporting because of these subsections has remained small since 2006, and emissions quantities collected for the seven-year period (2006 through 2013) have not exceeded 150 tons of combined EE and MSS for the ozone precursors of volatile organic compounds (VOC) or nitrogen oxides (NO_X) 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 statewide under this requirement have remained less than 150 tons per year for either VOC or NO_X and the reportable data are available in STEERS, the data are not significant for air quality planning activities. Staff time is used to review and enter this data and costs are incurred annually for database maintenance.

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. Further, because this specific reporting is not a requirement of the Federal Clean Air Act, no SIP revision is needed for this rulemaking.

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Scope of the rulemaking:
A.) Summary of what the rulemaking will do:
The proposed rulemaking would remove parts of §101.201(h) and §101.211(f) that require certain small emitting sources that are not subject to the annual reporting requirements of §101.1o in select areas to report annual emissions and the number of events 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 §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 §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 between 2006 and 2011. In 2012 and 2013, one company submitted over 200 reports. However, the statewide emissions reported under this requirement for 2012 and 2013 remained low; for 2012, less than 50 tons of VOC and less than 2.0 tons NO_X for combined EE and MSS were reported. In 2013, less than 18 tons of VOC were reported and less than 1 ton of NO_X for combined EE and MSS were reported. 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.

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Potential controversial concerns and legislative interest:
The amount of data and magnitude of emissions collected from these smaller sources per parts of §101.201(h) and §101.211(f) has remained less than 150 tons of combined EE and MSS for either VOC or NO_X. 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 and the number of activities from EE and MSS activities to the TCEQ.

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 insignificant for air quality planning purposes.

Key points in the proposal rulemaking schedule:
Anticipated proposal date: February 4, 2015
Anticipated *Texas Register* publication date: February 20, 2015
Public comment period: February 20 – March 23, 2015
Anticipated adoption date: July 2015

Agency contacts:
Kathy Pendleton, P.E., Rule Project Manager, (512) 239-1936, Air Quality Division
Janis Hudson, Staff Attorney, (512) 239-0466
Patricia Durón, Texas Register Coordinator, (512) 239-6087

cc: Chief Clerk, 2 copies
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Patricia Durón

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

Background and Summary of the Factual Basis for the Proposed Rules

The commission proposes amendments to §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 event (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 Requirements, 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.

Total statewide volatile organic compound (VOC) emissions from EE and MSS collected under this requirement from all sites is less than 150 tons in any year but is usually less than 50 tons. Total nitrogen oxide (NO_X) emissions collected statewide from EE and

MSS is also less than 150 tons but is usually less than 50 tons. Because of the quantities of emissions reported and the availability of reportable EE and MSS through State of Texas Environmental Electronic Reporting System (STEERS), the data are of limited use 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 requirements 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 EE 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 EEs.

§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. 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 MSS activities.

Fiscal Note: Costs to State and Local Government

Jeff Horvath, Analyst in the Chief Financial Officer's Division, has determined that for the first five-year period the proposed rules are in effect, no significant fiscal implications are anticipated for the agency and no fiscal implications are anticipated for other units of state or local government as a result of administration or enforcement of the proposed rules. The proposed rules are expected to result in minimal cost savings for some regulated entities located in specific areas of the state.

The proposed rules would remove certain requirements for emission sources not otherwise required to report an annual emissions inventory in certain areas of the state. The proposed rules would affect sources that experience at least one EE or maintenance, MSS activity and are located in nonattainment areas, maintenance areas, early action compact areas, Nueces County, or San Patricio County. These sources are currently required to report the number of EE and MSS events to the agency as well as the amount of reportable and non-reportable emissions by mixture or compound for each event. The proposed rulemaking would remove these reporting requirements that are currently under §101.201(h), and §101.211(f) for these small sources.

Collection of EE and MSS data from these sources is not specifically required under other federal or state statutes. Sources that report these emissions do not meet annual emissions inventory reporting requirements as specified in agency rules regarding the more detailed reporting for the emissions inventory. The annual emissions and number of events for EE and MSS are currently being recorded in the Small Source EE and MSS database.

The number of sources reporting under these requirements has remained small since 2006 and annual emissions quantities reported since 2006 have not exceeded 150 tons of VOC or NO_X statewide in any year. Because of the small quantities of emissions reported under this requirement and reportable data are available in STEERS, the data

collected do not impact air quality planning activities.

The proposed rules would affect the agency in that the need to annually inventory emissions data from small sources (fewer than 150 sources statewide, typically oil and gas production facilities, compressor stations, or pipeline segments) that do not meet the reporting requirements of §101.10 would be eliminated. In addition, the requirement to maintain a database and provide program support for these sources would also be eliminated. The elimination of these functions would result in minimal cost savings for the agency (estimated to be on the order of $5,000 per year).

The proposed rules are not expected to have fiscal implications for other state agencies or local governments as they have not owned or operated sources that have been required to report these small emissions.

Public Benefits and Costs

Mr. Horvath has also determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated from the changes seen in the proposed rules will be the elimination of unnecessary reporting requirements and the potential for cost savings for the agency and regulated entities.

The proposed rules are not expected to have fiscal implications for individuals but may

have minimal cost savings for a few businesses in certain areas of the state with small EE and MSS emissions.

The reporting of annual EE and MSS emissions and number of activities from small sources is not specifically required by federal or other state law. Between 2006 and 2011, there have been fewer than 70 sources statewide that have reported annually. In 2012 and 2013, one company submitted over 200 reports. However, the statewide emissions for 2012 and 2013 remained low; for 2012, less than 50 tons of VOC and less than 2 tons of NO_X for combined EE and MSS were reported. In 2013, less than 18 tons of VOC were reported and less than 1 ton of NO_X for combined EE and MSS were reported. Typically these sources are oil and gas production facilities, compressor stations, or pipeline segments. Under current rules, a one page form is completed by the applicable company and submitted to the agency. The form contains contact information, number of events, and estimated emissions by compound for EE or maintenance activity. The proposed rules will eliminate the need for these sources to gather and report this type of emissions data. 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 annual small source emissions reporting, a regulated entity could save a small amount 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 Texas Government Code, §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).

Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated the proposed rulemaking and performed an analysis 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 rule 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 rule 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 Advisory Committee 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(1)). The proposed rule 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. Therefore, in accordance with 31 TAC §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 17, 2015, 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 Patricia Durón, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-6087. Electronic comments may be submitted at: *http://www1.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 2014-023-101-AI. The comment period closes March 23, 2015. Copies of the proposed rulemaking can be obtained from the commission's website at *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, TWC, §5.103, concerning Rules, and TWC, §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; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state air; THSC, §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; THSC, §382.014, concerning Emissions Inventory, which authorizes the commission to require submittal of emissions data; THSC, §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; THSC, §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 THSC, §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, <u>or</u> [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. Any emissions of greenhouse gases, individually or collectively, are not required to be submitted under

this subsection, except for specific individual air contaminant compounds listed in the definition of RQ in §101.1 of this title [reportable quantity].

(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.]

<u>(3)</u> [(4)] owners and operators of regulated entities that are subject to reporting under §101.10 of this title <u>shall</u> [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, TWC, §5.103, concerning Rules, and TWC, §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; THSC, §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state air; THSC, §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; THSC, §382.014, concerning Emissions Inventory, which authorizes the commission to require submittal of emissions data; THSC, §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; THSC, §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 THSC, §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 (relating to Emissions Event Reporting and Recordkeeping Requirements), 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 Requirements [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.