

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** June 12, 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 Rulemaking Adoption
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 Requirements. These rules 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 would continue to be 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 adopted 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 §101.10 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 §101.10 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 adopted 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 were held.

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Public comment:

The commission scheduled a public hearing on March 17, 2015 in Austin. The comment period closed on March 23, 2015. The commission received no oral comments at the public hearing and no written comments were received on this rulemaking.

Significant changes from proposal:

There were no changes in the rule language from the proposal.

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 foregoing collection of data that could be used for air quality planning purposes. There is no known legislative interest.

Does 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 adoption rulemaking schedule:

***Texas Register* proposal publication date:** February 20, 2015

Anticipated *Texas Register* adoption publication date: July 17, 2015

Anticipated effective date: July 23, 2015

Six-month *Texas Register* filing deadline: August 20, 2015

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Attachments

None.

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