

**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED MAINTENANCE,
STARTUP, AND SHUTDOWN ACTIVITIES
DIVISION 1: EMISSIONS EVENTS
§101.201
Effective July 30, 2015**

§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 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.

(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 section 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 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), 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 subject to reporting under §101.10 of this title shall provide the information required by this subsection as part of their reporting under §101.10 of this title.

Adopted July 1, 2015

Effective July 30, 2015

**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED MAINTENANCE,
STARTUP, AND SHUTDOWN ACTIVITIES**
DIVISION 2: MAINTENANCE, STARTUP, AND SHUTDOWN ACTIVITIES
§101.211
Effective July 30, 2015

§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 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), 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 subject to reporting under §101.10 of this title shall provide the information required by this subsection as part of their reporting under §101.10 of this title.

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**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED MAINTENANCE,
STARTUP, AND SHUTDOWN ACTIVITIES
DIVISION 3: OPERATIONAL REQUIREMENTS, DEMONSTRATIONS, AND
ACTIONS TO REDUCE EXCESSIVE EMISSIONS
§§101.221 - 101.224
Effective November 24, 2016**

§101.221. Operational Requirements.

(a) All pollution emission capture equipment and abatement equipment must be maintained in good working order and operated properly during facility operations. Emission capture and abatement equipment must be considered to be in good working order and operated properly when operated in a manner such that each facility is operating within authorized emission limitations.

(b) Smoke generators and other devices used for training inspectors in the evaluation of visible emissions at a training school approved by the commission are not required to meet the allowable emission levels set by the rules, but must be located and operated such that a nuisance is not created at any time.

(c) Equipment, machines, devices, flues, and/or contrivances built or installed to be used at a domestic residence for domestic use are not required to meet the allowable emission levels set by the rules unless specifically required by a particular rule.

(d) Sources emitting air contaminants that cannot be controlled or reduced due to a lack of technological knowledge may be exempt from the applicable rules when so determined and ordered by the commission. The commission may specify limitations and conditions as to the operation of such exempt sources. The commission will not exempt sources from complying with any federal requirements, including New Source Performance Standards (40 Code of Federal Regulations Part 60) and National Emission Standards for Hazardous Air Pollutants (40 Code of Federal Regulations Parts 61 and 63).

(e) The owner or operator of a facility has the burden of proof to demonstrate that the applicable criteria identified in §101.222(relating to Demonstrations) are satisfied.

(f) This section does not limit the commission's power to require corrective action as necessary to minimize emissions, or to order any action indicated by the circumstances to control a condition of air pollution.

§101.222. Demonstrations.

(a) Excessive emissions event determinations. The executive director shall determine when emissions events are excessive. To determine whether an emissions event or emissions events are excessive, the executive director will evaluate emissions events using the following criteria:

- (1) the frequency of the facility's emissions events;
- (2) the cause of the emissions event;
- (3) the quantity and impact on human health or the environment of the emissions event;
- (4) the duration of the emissions event;
- (5) the percentage of a facility's total annual operating hours during which emissions events occur; and
- (6) the need for startup, shutdown, and maintenance activities.

(b) Non-excessive upset events. Upset events that are determined not to be excessive emissions events are subject to an affirmative defense to all claims in enforcement actions brought for these events, other than claims for administrative technical orders and actions for injunctive relief, for which the owner or operator proves all of the following:

- (1) the owner or operator complies with the requirements of §101.201 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements). In the event the owner or operator fails to report as required by §101.201(a)(2) or (3), (b), or (e) of this title, the commission will initiate enforcement for such failure to report and for the underlying emissions event itself. This subsection does not apply when there are minor omissions or inaccuracies that do not impair the commission's ability to review the event according to this rule, unless the owner or operator knowingly or intentionally falsified the information in the report;
- (2) the unauthorized emissions were caused by a sudden, unavoidable breakdown of equipment or process, beyond the control of the owner or operator;
- (3) the unauthorized emissions did not stem from any activity or event that could have been foreseen and avoided or planned for, and could not have been

avoided by better operation and maintenance practices or technically feasible design consistent with good engineering practice;

(4) the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions and reducing the number of emissions events;

(5) prompt action was taken to achieve compliance once the operator knew or should have known that applicable emission limitations were being exceeded, and any necessary repairs were made as expeditiously as practicable;

(6) the amount and duration of the unauthorized emissions and any bypass of pollution control equipment were minimized and all possible steps were taken to minimize the impact of the unauthorized emissions on ambient air quality;

(7) all emission monitoring systems were kept in operation if possible;

(8) the owner or operator actions in response to the unauthorized emissions were documented by contemporaneous operation logs or other relevant evidence;

(9) the unauthorized emissions were not part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance;

(10) the percentage of a facility's total annual operating hours during which unauthorized emissions occurred was not unreasonably high; and

(11) the unauthorized emissions did not cause or contribute to an exceedance of the national ambient air quality standards (NAAQS), prevention of significant deterioration (PSD) increments, or to a condition of air pollution.

(c) Unplanned maintenance, startup, or shutdown activity. Emissions from an unplanned maintenance, startup, or shutdown activity that are determined not to be excessive are subject to an affirmative defense to all claims in enforcement actions brought for these activities, other than claims for administrative technical orders and actions for injunctive relief, for which the owner or operator proves the emissions were from an unplanned maintenance, startup, or shutdown activity, as defined in §101.1 of this title (relating to Definitions), and all of the following:

(1) for a scheduled maintenance, startup, or shutdown activity, the owner or operator complies with the requirements of §101.211 of this title (relating to Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements). For an unscheduled maintenance, startup, and shutdown activity, the owner or operator complies with the requirements of §101.201 of this title and

demonstrates that reporting under §101.211(a) of this title was not reasonably possible. Failure to report information that does not impair the commission's ability to review the activity, such as minor omissions or inaccuracies, will not result in enforcement action and loss of opportunity to claim the affirmative defense, unless the owner or operator knowingly or intentionally falsified the information in the report;

(2) the periods of unauthorized emissions from any unplanned maintenance, startup, or shutdown activity could not have been prevented through planning and design;

(3) the unauthorized emissions from any unplanned maintenance, startup, or shutdown activity were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(4) if the unauthorized emissions from any unplanned maintenance, startup, or shutdown activity were caused by a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(5) the facility and air pollution control equipment were operated in a manner consistent with good practices for minimizing emissions;

(6) the frequency and duration of operation in an unplanned maintenance, startup, or shutdown mode resulting in unauthorized emissions were minimized and all possible steps were taken to minimize the impact of the unauthorized emissions on ambient air quality;

(7) all emissions monitoring systems were kept in operation if possible;

(8) the owner or operator actions during the period of unauthorized emissions from any unplanned maintenance, startup, or shutdown activity were documented by contemporaneous operating logs or other relevant evidence; and

(9) unauthorized emissions did not cause or contribute to an exceedance of the NAAQS, PSD increments, or a condition of air pollution.

(d) Excess opacity events. Excess opacity events due to an upset that are subject to §101.201(e) of this title, or for other opacity events where there was no emissions event, are subject to an affirmative defense to all claims in enforcement actions for these events, other than claims for administrative technical orders and actions for injunctive relief, for which the owner or operator proves all of the following:

(1) the owner or operator complies with the requirements of §101.201 of this title. Failure to report information that does not impair the commission's ability to review the event, such as minor omissions or inaccuracies, will not result in enforcement action and loss of opportunity to claim the affirmative defense, unless the owner or operator knowingly or intentionally falsified the information in the report;

(2) the opacity was caused by a sudden, unavoidable breakdown of equipment or process beyond the control of the owner or operator;

(3) the opacity did not stem from any activity or event that could have been foreseen and avoided or planned for, and could not have been avoided by better operation and maintenance practices or by technically feasible design consistent with good engineering practice;

(4) the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing opacity;

(5) prompt action was taken to achieve compliance once the operator knew or should have known that applicable opacity limitations were being exceeded and any necessary repairs were made as expeditiously as practicable;

(6) the amount and duration of the opacity event and any bypass of pollution control equipment were minimized and all possible steps were taken to minimize the impact of the opacity on ambient air quality;

(7) all emission monitoring systems were kept in operation if possible;

(8) the owner or operator actions in response to the opacity event were documented by contemporaneous operation logs or other relevant evidence;

(9) the opacity event was not part of a frequent or recurring pattern indicative of inadequate design, operation, or maintenance; and

(10) the opacity event did not cause or contribute to a condition of air pollution.

(e) Opacity events resulting from unplanned maintenance, startup, or shutdown activity. Excess opacity events, or other opacity events where there was no emissions event, that result from an unplanned maintenance, startup, or shutdown activity that are determined not to be excessive are subject to an affirmative defense to all claims in enforcement actions brought for these activities, other than claims for administrative technical orders and actions for injunctive

relief, for which the owner or operator proves the opacity resulted from an unplanned maintenance, startup, or shutdown activity, as defined in §101.1 of this title, and all of the following:

(1) for excess opacity events that result from a scheduled maintenance, startup, or shutdown activity, the owner or operator complies with the requirements of §101.211 of this title. For excess opacity events that result from an unscheduled maintenance, startup, and shutdown activity, the owner or operator complies with the requirements of §101.201 of this title and demonstrates that reporting pursuant to §101.211(a) of this title was not reasonably possible. Failure to report information that does not impair the commission's ability to review the event, such as minor omissions or inaccuracies, will not result in enforcement action and loss of opportunity to claim the affirmative defense, unless the owner or operator knowingly or intentionally falsified the information in the report;

(2) the opacity was caused by a sudden, unavoidable breakdown of equipment or process beyond the control of the owner or operator;

(3) the periods of opacity could not have been prevented through planning and design;

(4) the opacity was not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(5) if the opacity event was caused by a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(6) the facility and air pollution control equipment were operated in a manner consistent with good practices for minimizing opacity;

(7) the frequency and duration of operation in a startup or shutdown mode resulting in opacity were minimized;

(8) all emissions monitoring systems were kept in operation if possible;

(9) the owner or operator actions during the opacity event were documented by contemporaneous operating logs or other relevant evidence; and

(10) the opacity event did not cause or contribute to a condition of air pollution.

(f) Obligations. Subsections (b) - (e) and (h) of this section do not remove any obligations to comply with any other existing permit, rule, or order provisions that are applicable to an emissions event or a maintenance, startup, or shutdown activity. Any affirmative defense provided by subsections (b) - (e) and (h) applies only to violations of state implementation plan requirements. An affirmative defense cannot apply to violations of federally promulgated performance or technology based standards, such as those found in 40 Code of Federal Regulations Parts 60, 61, and 63. The affirmative defense is available only for emissions that have been reported or recorded.

(g) Frequent or recurring pattern. Evidence of any past event subject to subsections (b) - (e) of this section is admissible and relevant to demonstrate a frequent or recurring pattern of events, even if all of the criteria in that subsection are proven.

(h) Planned maintenance, startup, or shutdown activity. Unauthorized emissions or opacity events from a maintenance, startup, or shutdown activity that are not unplanned that have been reported or recorded in compliance with §101.211 of this title are subject to an affirmative defense to all claims in enforcement actions brought for these activities, other than claims for administrative technical orders and actions for injunctive relief, for which the owner or operator proves all of the criteria listed in subsection (c)(1) - (9) of this section for emissions, or subsection (e)(1) - (9) of this section for opacity events and the following:

(1) the owner or operator has filed an application to authorize the emissions or opacity by the following dates:

(A) for facilities in Standard Industrial Classification (SIC) code 2911 (Petroleum Refining), one year after the effective date of this section;

(B) for facilities in major group SIC code 28 (Chemicals and Allied Products), except SIC code 2895, two years after the effective date of this section;

(C) for facilities in SIC code 2895 (Carbon Black), four years after the effective date of this section;

(D) for facilities in SIC code 4911 (Electric Services), five years after the effective date of this section;

(E) for facilities in SIC codes 1311 (Crude Petroleum and Natural Gas), 1321 (Natural Gas Liquids), 4612 (Crude Petroleum Pipelines), 4613 (Refined Petroleum Pipelines), 4922 (Natural Gas Transmission), 4923 (Natural Gas

Transmission and Distribution), six years after the effective date of this section;
and

(F) for all other facilities, seven years after the effective date of
this section.

(2) an owner or operator who filed an application listed in paragraph
(1) of this subsection has provided prompt response for any requests by the
executive director for information regarding that application.

(i) The affirmative defense in subsection (h) of this section will expire upon
the earlier of one year after the application deadlines in subsection (h)(1)(A) and
(C) - (F) of this section, or the issuance or denial of a permit applied for under
subsection (h)(1)(A) and (C) - (F) of this section, or voidance of an application filed
under subsection (h)(1)(A) and (C) - (F) of this section. The affirmative defense in
subsection (h) of this section will expire upon the earlier of two years after the
application deadline in subsection (h)(1)(B) of this section or the issuance or denial
of a permit applied for under subsection (h)(1)(B) of this section, or voidance of an
application filed under subsection (h)(1)(B) of this section. If the permit application
remains pending after the affirmative defense expires, the commission will use
enforcement discretion for all claims in enforcement actions brought for excess
emissions from planned maintenance, startup, or shutdown activities, other than
claims for administrative technical orders and actions for injunctive relief for which
the owner or operator proves the criteria in subsections (c) and (e) of this section,
until the issuance or denial of a permit applied for under subsection (h)(1) of this
section, or voidance of an application filed under subsection (h)(1) of this section.

(j) The executive director shall process permit applications referenced in
subsection (h) of this section in accordance with the schedule set out in §116.114
of this title (relating to Application Review Schedule).

(k) Federal court jurisdiction. Subsections (b) - (e) of this section are not
intended to limit a federal court's jurisdiction or discretion to determine the
appropriate remedy in an enforcement action.

(l) Delayed applicability. Subsection (k) of this section does not apply until all
appeals regarding the United States Environmental Protection Agency's rulemaking
entitled "State Implementation Plans: Response to Petition for Rulemaking;
Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of
Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess
Emissions During Periods of Startup, Shutdown and Malfunction," published in the
Federal Register on June 12, 2015, (SIP Call) as it applies to subsections (b) - (e)
of this section, have ended, and there is a final and nonappealable court decision
that upholds the SIP Call.

Adopted November 2, 2016

Effective November 24, 2016

§101.223. Actions to Reduce Excessive Emissions.

(a) The executive director will provide written notification to an owner or operator of a facility upon determination that a facility has had one or more excessive emissions events. The written notification must contain, at a minimum, a description of the emissions events that were determined to be excessive and the time period when those excessive emissions events were evaluated. Upon receipt of this notice, the owner or operator of the facility must take action to reduce emissions and shall either file a corrective action plan (CAP) or, if the emissions are sufficiently frequent, quantifiable, and predictable, in which case the owner or operator may file a letter of intent to obtain authorization from the commission for emissions from such events, in lieu of a CAP.

(1) When a CAP is required, the owner or operator must submit a CAP to the commission office for the region and local air pollution agency with jurisdiction in which the facility is located within 60 days after receiving notification from the executive director that a facility has had one or more excessive emissions events. The 60-day period may be extended once for up to 15 days by the executive director. The CAP must, at a minimum:

(A) identify the cause or causes of each excessive emissions event, including all contributing factors that led to each emissions event;

(B) specify the control devices or other measures that are reasonably designed to prevent or minimize similar emissions events in the future;

(C) identify operational changes the owner or operator will take to prevent or minimize similar emissions events in the future; and

(D) specify time frames within which the owner or operator will implement the components of the CAP.

(2) An owner or operator must obtain commission approval of a CAP no later than 120 days after the commission receives the first CAP submission from an owner or operator. If not disapproved within 45 days after initial filing, the CAP must be deemed approved. The owner or operator of a facility must respond completely and adequately, as determined by the executive director, to all written requests for information concerning its CAP within 15 days after the date of such requests, or by any other deadline specified in writing. An owner or operator of a facility may request written approval of a CAP, in which case the commission shall take final written action to approve or disapprove the plan within 120 days from the receipt of such request. Once approved, the owner or operator must implement the

CAP in accordance with the approved schedule. The implementation schedule is enforceable by the commission. The commission may require the owner or operator to revise a CAP if the commission finds the plan, after implementation begins, to be inadequate to prevent or minimize emissions or emissions events. If the CAP is disapproved, or determined to be inadequate to prevent or minimize excessive emissions events, the executive director shall identify deficiencies in the CAP and state the reasons for disapproval of the CAP in a letter to the owner or operator. If the commission finds a CAP inadequate to prevent or minimize excessive emissions events after implementation begins, an owner or operator must file an amended CAP within 60 days after written notification by the executive director.

(3) If the emissions from excessive emissions events are sufficiently frequent, quantifiable, and predictable, and an owner or operator of a facility elects to file a letter of intent to obtain authorization from the commission for the emissions from excessive emissions events, the owner or operator must file such letter within 30 days of the notification that a facility has had one or more excessive emissions events. If the commission denies the requested authorization, the owner or operator of a facility shall file a CAP in accordance with paragraph (1) of this subsection within 45 days after receiving notice of the commission denial.

(A) If the intended authorization is a permit, the owner or operator must file a permit application with the executive director within 120 days after the filing of the letter of intent. The owner or operator of a facility must respond completely and adequately, as determined by the executive director, to all written requests for information concerning its permit application within 15 days after the date of such requests, or by any other deadline specified in writing.

(B) If the intended authorization is a permit by rule or standard permit, the owner or operator must obtain authorization within 120 days after filing of the letter of intent.

(b) The executive director, after a review of the excessive emissions events determinations made at a regulated entity as defined in §101.1 of this title (relating to Definitions), may forward these determinations to the commission requesting that it issue an order finding that the regulated entity has chronic excessive emissions events. Orders issued by the commission under this section will be part of the entity's compliance history as provided in Chapter 60 of this title (relating to Compliance History). The commission may issue an order finding that a regulated entity has chronic excessive emissions events after considering the following factors:

(1) the size, nature, and complexity of the regulated entity operations;

(2) the frequency of emissions events at the regulated entity; and

(3) the reason or reasons for excessive emissions event determinations at that regulated entity.

(c) If an emissions event recurs because an owner or operator fails to take corrective action as required and within the time specified by a CAP approved by the commission, the emissions event is excessive and the affirmative defenses in §101.222 of this title (relating to Demonstrations) do not apply.

(d) Nothing in this section will limit the commission's ability to bring enforcement actions for violations of the Texas Clean Air Act or rules promulgated thereunder, including enforcement actions to require actions to reduce emissions from excessive emissions events.

Adopted December 14, 2005

Effective January 5, 2006

§101.224. Temporary Exemptions During Drought Conditions.

Owners and operators of sources located in an area or region which has been classified by the National Weather Service as being in a severe or extreme drought condition under the Palmer Drought Severity Index for at least 30 days that are required to control emissions through the application or use of water may request a temporary exemption from any commission air quality rule, permit condition, permit representation, standard exemption condition, or commission order. This section does not allow for an exemption from any federal requirement.

(1) The request must be submitted in writing to the Office of Permitting, Remediation, and Registration, Air Permits Division, and include at a minimum the following information:

(A) the site-specific circumstances that prevent the continued or limited use of water;

(B) the specific rule, permit condition, permit representation, standard exemption condition, or commission order from which an exemption is being requested; and

(C) the reasonably available alternative control measures which will be undertaken to minimize emissions.

(2) The executive director may authorize, by written permission, a temporary exemption of up to 120 days upon finding that:

(A) the source or facility is located in an area or region which has been classified as severe or extreme for at least 30 days under the Palmer Drought Severity Index;

(B) such an exemption is necessary to aid in the conservation of the area's water resources;

(C) any additional emissions which may result from the exemption will not cause a significant health concern in the opinion of the executive director; and

(D) the requesting owner and operator of the source will use reasonably available alternative control measures to minimize emissions during this time.

(3) The executive director may specify alternative procedures or methods for controlling emissions when an exemption is granted under this section.

(4) The executive director may issue one 60-day extension of an exemption authorized under this section. A commission order is required for any exemption which would extend beyond a total of 180 days and approval shall be based on the criteria contained in this section. The executive director shall notify the EPA of exemptions which will be considered for extension beyond 180 days. The executive director shall notify the EPA at least 30 days prior to commission consideration of such an extension.

Adopted August 21, 2002

Effective September 12, 2002

**SUBCHAPTER F: EMISSIONS EVENTS AND SCHEDULED MAINTENANCE,
STARTUP, AND SHUTDOWN ACTIVITIES
DIVISION 4: VARIANCES
§§101.231 - 101.233
Effective September 12, 2002**

§101.231. Petition for Variance.

Any person seeking a variance, amendment of a variance, or extension of a variance issued to that person shall file a petition on a form prepared by the commission. The form shall be furnished by the commission without charge upon request. In order to obtain a variance past the date by which compliance is to be achieved, a person must have demonstrated continuous and substantial progress toward compliance before the date of petition.

Adopted August 21, 2002

Effective September 12, 2002

§101.232. Effect of Acceptance of Variance or Permit.

Acceptance of a variance or a permit constitutes an acknowledgment and agreement that the holder will comply with its terms, and with the rules, regulations, and orders of the commission adopted under the TCAA.

Adopted August 21, 2002

Effective September 12, 2002

§101.233. Variance Transfers.

A variance or a permit is granted in person, and does not attach to the realty to which it relates. A variance cannot be transferred without prior notification to the commission. If a transfer of ownership of a source covered by a variance is contemplated by the holder of the variance, and the source and characteristics of the emissions will remain unchanged, upon notification, the executive director shall issue an endorsement to the variance reflecting the name of the new owner. Continuation of emissions by the new owner without prior notification to the commission makes the variance subject to forfeiture.

Adopted August 21, 2002

Effective September 12, 2002