

Environmental Groups Request Probe Into Startup, Shutdown, Malfunction and Maintenance Events

Article By:

Karen M. Hansen

Madeleine Boyer

Laura L. LaValle

In a letter submitted by the Environmental Integrity Project ("EIP"), environmental groups have asked the EPA Inspector General to undertake a probe into startup, shutdown, malfunction and maintenance emissions of 20 companies in Texas that occurred during the period of 2009 to 2012. The groups specifically request that the Inspector General review enforcement taken by USEPA and TCEQ regarding facilities reporting the largest and most frequent events, and, in particular, examine how the affirmative defense has been applied in those cases. (Letter at 2.)

The groups allege that nearly 3,000 "upset" emission events during that time period from these companies has resulted in more than 49,000 tons of NOx, PM, SO₂ and VOCs combined. *Id.* Of particular concern to environmental groups are alleged repeat emissions events, which the groups claim have received little agency oversight. Neither EPA nor TCEQ have yet responded. Both agencies, TCEQ in particular, may well point to the Texas New Source Review program pursuant to which maintenance, shutdown and startup ("MSS") emissions are permitted, and the increasingly limited circumstances in which the affirmative defense can be used for such emissions.

[PDF of the EIP's letter](#)

© 2025 Beveridge & Diamond PC

National Law Review, Volume III, Number 121

Source URL: <https://natlawreview.com/article/environmental-groups-request-probe-startup-shutdown-malfunction-and-maintenance-even>