

26.11.01.07

.07 Malfunctions and Other Temporary Increases of Emissions.

A. Definitions.

(1) "Excess emissions" means an emission rate which exceeds any applicable emission standard set forth in this subtitle unless the emission rate is in compliance with an approved plan for compliance, departmental order, consent order, or condition of a permit.

(2) "Malfunction" means sudden and unavoidable failure of an installation to operate in a normal and usual manner. Failures that are caused entirely or in part by inadequate design, poor maintenance, careless operation, preventable upset conditions, or preventable equipment breakdown may not be considered malfunctions.

B. Unless otherwise required by law, the Department will consider any period of excess emissions to be a violation of law, regardless of the cause. Information submitted pursuant to §§C and D of this regulation will be considered, however, in determining whether the excess emissions are the result of a malfunction and whether to commence an administrative or judicial proceeding authorized by State and federal law.

C. Report of Excess Emissions.

(1) In the case of any occurrence of excess emissions, expected to last or actually lasting for 1 hour or more, from any installation required by COMAR 26.11.02.13 to obtain a State permit to operate, the owner or operator shall report the onset and shall report the termination of the occurrence to the Department by telephone.

(2) Telephone reports of excess emissions shall include the following information:

- (a) The identity of the installation and the person reporting;
- (b) The nature or characteristics of the emissions (for example, hydrocarbons, fluorides);
- (c) The time of occurrence of the onset of the excess emissions and the actual or expected duration of the occurrence; and
- (d) The actual or probable cause of the excess emissions.

D. Written Report of Excess Emissions.

- (1) When requested by the Department, the owner or operator of any installation from which excess emissions have occurred shall submit a written report to the Department within 10 days of receiving the request.
- (2) The report shall set forth the following information:
 - (a) The identity of the installation;
 - (b) The nature or characteristics of the emissions (for example, hydrocarbon, fluorides);
 - (c) The time of occurrence of the onset of the excess emissions and the duration of the occurrence;
 - (d) The actual or estimated quantity of excess emissions during the occurrence, and operating data and calculations used in determining the quantity;
 - (e) The actual or probable cause of the occurrence and whether the owner or operator contends that the cause is a malfunction;
 - (f) The method of correcting the cause of the excess emissions and minimizing the duration and magnitude of the occurrence, including, if applicable, the use of overtime or contractual assistance to make repairs as expeditiously as possible;
 - (g) A listing of all occurrences of excess emissions from the installation, the duration of each occurrence, and the cause of each occurrence for the last 1-year period or since the effective date of this regulation, whichever is less;
 - (h) A copy of the maintenance plan for the installation and documentation that the plan is appropriate for the installation;
 - (i) Documentation that the maintenance plan was being carried out before the occurrence of excess emissions;
 - (j) The steps taken or planned to prevent the reoccurrence of the excess emissions; and
 - (k) Any other information requested by the Department which is relevant to the occurrence of excess emissions or a claim by the owner or operator that the excess emissions were the result of a malfunction.

E. Notwithstanding any provisions to §§A—D, of this regulation, a decision by the Department not to commence enforcement proceedings for an occurrence of excess emissions is not intended to preclude the Department from considering all past periods of excess emissions in determining whether to revoke or suspend a current operating permit or not to issue an operating permit for a future period of time.

F. The Department may exempt the owner or operator of any installation from the reporting requirements of §C, of this regulation, if it determines that other information submitted to the Department meets the requirements of §C of this regulation, or the information is of insignificant use to the Department.