

PROPOSED RULE 140

Excess Emissions

Adopted 07/26/2000

Revised 09/05/2001

Stakeholder Workshop I
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Maricopa County

Air Quality Department

ENVIRONMENTAL PROTECTION AGENCY

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Final Action

- On May 22, 2015, the U.S. Environmental Protection Agency (EPA) issued a final action to ensure states have plans in place that are fully consistent with the Clean Air Act and recent court decisions concerning startup, shutdown and malfunction (SSM) operations. Air pollution emitted during these periods may adversely affect the health of people in neighboring and downwind communities.
- This action responds to a petition for rulemaking filed by the Sierra Club by addressing outdated provisions in State Implementation Plans (SIPs), improving national consistency and providing clarity for the treatment of emissions that occur during startup, shutdown and malfunction (SSM).

- Sierra Club Petition Specific to Maricopa County:
 - Analysis
 - “The provisions of the Maricopa County regulations have the same problems as the Arizona state regulations. Affirmative defenses should not be allowed in any SIP, as discussed above in section I of the Argument. Alternatively, if the affirmative defenses are to remain in the SIP, the elements related to exceedances of the ambient standards are inappropriately permissive and do not comply with EPA guidance. See Rule 140, §§ 401.7, 402.1(f). The affirmative defense for startup and shutdown omits the second element from the 1999 Memorandum, Attachment at 6, that “[t]he excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.”

- Sierra Club Petition Specific to Maricopa County:
 - Remedy
 - “Petitioner requests EPA to require Arizona and/or Maricopa County to remove the affirmative defenses from the SIP as inconsistent with the Clean Air Act. In the alternative, EPA should require revision of the affirmative defenses so that they are not available to a single source or one of a small group of sources who have the potential to cause an exceedance of the NAAQS. The Maricopa County affirmative defense for excess emissions during startup and shutdown should also include the second element from the 1999 Memorandum, Attachment at 6: that “[t]he excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance.””

- EPA 1999 Memorandum
 - Purpose
 - “...clarify the types of excess emissions provisions states may incorporate into SIPs so that they can in turn provide greater certainty to the regulated community.”
 - Lets see the Memorandum...

II. AFFIRMATIVE DEFENSES FOR MALFUNCTIONS

1. The excess emissions were caused by a sudden, unavoidable breakdown of technology, beyond the control of the owner or operator;
2. The excess emissions (a) did not stem from any activity or event that could have been foreseen and avoided, or planned for, and (b) could not have been avoided by better operation and maintenance practices;
3. To the maximum extent practicable the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions;
4. Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off-shift labor and overtime must have been utilized, to the extent practicable, to ensure that such repairs were made as expeditiously as practicable;
5. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;
6. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;
7. All emission monitoring systems were kept in operation if at all possible;
8. The owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence;
9. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and
10. The owner or operator properly and promptly notified the appropriate regulatory authority.

GENERAL AFFIRMATIVE DEFENSE PROVISIONS RELATING TO STARTUP AND SHUTDOWN

1. The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;
2. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
3. If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
4. At all times, the facility was operated in a manner consistent with good practice for minimizing emissions;
5. The frequency and duration of operation in startup or shutdown mode was minimized to the maximum extent practicable;
6. All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;
7. All emission monitoring systems were kept in operation if at all possible;
8. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence; and
9. The owner or operator properly and promptly notified the appropriate regulatory authority.

If excess emissions occur during routine startup or shutdown periods due to a malfunction, then those instances should be treated as other malfunctions that are subject to the malfunction provisions of this policy.

- Applicability to Draft Rule 140 Revisions
- Lets look at the Rule...
 - [Draft Rule 140](#)



MARICOPA COUNTY ENHANCED REGULATORY OUTREACH PROGRAM



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