

CLARK COUNTY

AIR QUALITY REGULATIONS

SECTION 25 - UPSET/BREAKDOWN, MALFUNCTIONS

25.1 Operation of any plant or equipment which causes EMISSIONS of air contaminants in excess of limits set by these Regulations is in violation of these Regulations unless:

25.1.1 Such EMISSIONS resulted from a Malfunction. In determining whether or not a Malfunction has occurred, the CONTROL OFFICER, HEARING OFFICER, or HEARING BOARD may utilize the following guidelines: The burden of proof shall be upon the OPERATOR.

- 1) The air pollution control equipment, process equipment, or processes involved in the incident, were at all times maintained and operated in a manner reasonably consistent with good practice for minimizing emissions;
- 2) Repairs were made in an expeditious fashion when the OPERATOR knew or should have known that applicable emission limitations were being exceeded. The OPERATOR must have employed his best efforts to use off-shift labor and overtime to insure that such repairs were made as expeditiously as possible;
- 3) The amount and duration of the excess EMISSIONS were minimized in a manner reasonably consistent with good practice during periods of such emissions;
- 4) The excess EMISSIONS were not part of an historical pattern indicative of inadequate design;
- 5) No additional course of action other than that actually taken could reasonably have been implemented by the OPERATOR.

25.1.2.1 Exceptions:

25.1.2.2 For those chemical processes specified in Subsection 26.1.2.7 a malfunction under these regulations shall not provide a defense for any EMISSION in excess of the limit established for Subsection 26.1.2.7 (4).

25.1.3 If the EMISSIONS resulted from an UPSET/BREAKDOWN the OPERATOR shall provide to the CONTROL OFFICER a written explanation of the cause of the UPSET/BREAKDOWN. If the OPERATOR demonstrates to the satisfaction of the CONTROL OFFICER that the EMISSIONS were the result of a Malfunction, then no further action shall be taken by the CONTROL OFFICER. If the CONTROL OFFICER is not satisfied that the EMISSION resulted from a Malfunction, he may issue a citation to the OPERATOR to appear before the HEARING OFFICER or HEARING BOARD or he may require corrective action.

25.1.4 UPSET/BREAKDOWN, Scheduled Maintenance, or Malfunction under these Regulations shall not provide a defense for any release of excess air contaminants

(1) which causes or significantly contributes to a violation of any air quality standard listed in Section 11 of these regulations, or

(2) which causes or significantly contributes to

(a) an intense cloud equivalent to a visual range less than five (5) miles as measured by an integrating nephelometer or equivalent instrument; or

(b) a discernible plume emanating from the stationary source and extending horizontally at or near ground level beyond the property line of the stationary source to a publicly accessible area.

25.1.4.1 In the event that the release of excess air contaminants is associated with an intense cloud, the CONTROL OFFICER shall demonstrate with available data that the release itself caused or significantly contributed to the intensity of the cloud.

25.2 Reporting and Consultation:

25.2.1 UPSET/BREAKDOWNS or EMERGENCIES, as defined in Section 0 shall be reported to the CONTROL OFFICER within one (1) hour of the onset of the UPSET/BREAKDOWN.

25.2.2 The OPERATOR shall consult with the CONTROL OFFICER to devise actions designed to minimize the impact of excess EMISSIONS.

History: Amended: March 27, 1980; September 3, 1981; April 21, 1983; July 8, 1985; November 18, 1993; December 19, 1996; April 9, 2001; June 3, 2003; July 1, 2004.