

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION I – GENERAL PROVISIONS**

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**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS  
REGULATION I – GENERAL PROVISIONS**

**RULE 140  
EXCESS EMISSIONS**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To establish affirmative defenses and associated administrative requirements for certain emissions in excess of an emission standard or limitation.
- 102 APPLICABILITY:** Rule 140 applies to all emission standards or limitations, except for standards or limitations described in Section 103 (Exemptions) of this rule.
- 103 EXEMPTIONS:** Rule 140 does not apply to standards and limitations:
- 103.1** Promulgated pursuant to Section 111 (Standards of Performance for New Stationary Sources) of the Clean Air Act (Act) or Section 112 (National Emission Standards for Hazardous Air Pollutants) of the Act;
  - 103.2** Promulgated pursuant to Title IV (Acid Deposition Control) of the Act or the regulations promulgated thereunder and incorporated under Rule 371 (Acid Rain) of these rules or Title VI (Stratospheric Ozone Protection) of the Act;
  - 103.3** Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the Environmental Protection Agency (EPA);
  - 103.4** Included in a permit to meet the requirements of Rule 240 (Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources), Subsection 308.1(e) (Permit Requirements for Sources Located in Attainment and Unclassified Areas) of these rules.

**SECTION 200 – DEFINITIONS (NOT APPLICABLE)**

See Rule 100 (General Provisions and Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule.

**SECTION 300 – STANDARDS (NOT APPLICABLE)**

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 Affirmative Defense for Malfunctions:** Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner and/or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation,

other than a judicial action seeking injunctive relief, if the owner and/or operator of the source has complied with the reporting requirements of Section 500 of this rule and has demonstrated all of the following:

- 401.1 The excess emissions resulted from a sudden and unavoidable breakdown of the process equipment or the air pollution control equipment beyond the reasonable control of the operator;
- 401.2 The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
- 401.3 If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, then the owner and/or operator satisfactorily demonstrated that such measures were impractical;
- 401.4 The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
- 401.5 All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
- 401.6 The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
- 401.7 During the period of excess emissions, there were no exceedances of the relevant ambient air quality standards established in Rule 510 of these rules that could be attributed to the emitting source;
- 401.8 The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;
- 401.9 All emissions monitoring systems were kept in operation, if at all practicable; and
- 401.10 The owner's and/or operator's actions in response to the excess emissions were documented by contemporaneous records.

**402 Affirmative Defense for Startup and Shutdown:**

- 402.1 Except as provided in subsection 402.2 of this rule, and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner and/or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner and/or operator of the source has

complied with the reporting requirements of Section 500 of this rule and has demonstrated all of the following:

- a. The excess emissions could not have been prevented through careful and prudent planning and design;
- b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
- c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
- d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable, during periods of such emissions;
- e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
- f. During the period of excess emissions, there were no exceedances of the relevant ambient air quality standards established in Rule 510 (Air Quality Standards) of these rules that could be attributed to the emitting source;
- g. All emissions monitoring systems were kept in operation, if at all practicable; and
- h. The owner's and/or operator's actions in response to the excess emissions were documented by contemporaneous records.

**402.2** If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to Section 401 of this rule.

**403 Affirmative Defense for Malfunctions During Scheduled Maintenance:** If excess emissions occur due to malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to Section 401 of this rule.

**404 Demonstration of Reasonable and Practicable Measures:** For an affirmative defense under Sections 401 and 402 of this rule, the owner and/or operator of the source shall demonstrate, through submission of the data and information required by Sections 400 and 500 of this rule, that all reasonable and practicable measures within the owner's and/or operator's control were implemented to prevent the occurrence of the excess emissions.

## **SECTION 500 – MONITORING AND RECORDS**

**501** The owner and/or operator of any source shall report to the Control Officer any emissions in excess of the limits established by these rules or by the applicable permit. The report shall be in two parts as specified below:

- 501.1** Notification by telephone or facsimile within 24 hours of the time when the owner and/or operator first learned of the occurrence of excess emissions that includes all available information from Section 502 of this rule.
- 501.2** Detailed written notification by submission of an excess emissions report within 72 hours of the notification required by subsection 501.1 of this rule.
- 502** The excess emissions report shall contain the following information:
- 502.1** The identity of each stack or other emission point where the excess emissions occurred;
- 502.2** The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
- 502.3** The time and duration or expected duration of the excess emissions;
- 502.4** The identity of the equipment from which the excess emissions emanated;
- 502.5** The nature and cause of such emissions;
- 502.6** The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunctions;
- 502.7** The steps that were or are being taken to limit the excess emissions; and
- 502.8** If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.
- 503** In the case of continuous or recurring excess emissions, the notification requirements of this rule shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to Section 501 and Section 502 of this rule.