

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
AIR POLLUTION CONTROL DIVISION
MALFUNCTION EVENT REPORTING FORM**

Date Reported

Time Reported

Name of Person Filing Report

Phone Number

Company/Source Name

Plant Name

Unit No.

Unit AIRS ID No.

Applicable Permit No.

Malfunction Started: Date

Time

Malfunction Ended: Date

Time

Total time of malfunction hours

Pollutants which exceeded emission standards:

Pollutant (SO₂, NO_x, opacity, etc.)	Emission Rate During Malfunction (Lbs./hr, % Opacity)	Total Emissions During Malfunction (Tons)

Detailed explanation of malfunction event, cause of the malfunction, and corrective actions taken to prevent a reoccurrence:

Please check all that apply:

- The excess emissions were caused by a sudden, unavoidable breakdown of equipment, or a sudden, unavoidable failure of a process to operate in the normal or usual manner, beyond the reasonable control of the owner or operator;
- The excess emissions did not stem from any activity or event that could have reasonably been foreseen and avoided, or planned for, and could not have been avoided by better operation and maintenance practices;
- Repairs were made as expeditiously as possible.
- The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable.
- All Reasonably possible steps were taken to minimize the impact of the excess emissions on ambient air quality.

- All emissions monitoring systems were kept in operation (if at all possible);
- The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence.

Signature: _____

Title:

Date:

The Air Pollution Control Division has established two ways to notify the Division of an Malfunction Event:

1. Fax the form to the Division at 303-782-0278 by noon of the start of the Division's next working day. This will account for both the verbal and written notifications in the regulations,

OR

2. Notify the Division by noon of the start of the Division's next working day by phone at 303-692-3155, followed by mailing this form (or letter with the required information) to:
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
APCD-SS-B1
Denver, Colorado 80246-1530
Attention: Malfunction Coordinator

Written follow-up reports must be received by the Division within 30 days of the occurrence of the malfunction or the end of the source's next reporting period, whichever is later.

Attachment A

The Colorado **Common Provisions Regulation** defines Malfunction Condition as:

Any sudden and unavoidable failure of air pollution control equipment or process equipment or unintended failure of a process to operate in a normal or usual manner. Failures that are primarily caused by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

The key words are unpredictable failure, and violation of regulations. A valid upset/malfunction must have both of these aspects.

An affirmative defense is available for valid upset/malfunction conditions according to the Common Provision Regulations as follows:

II.E. Affirmative Defense Provision for Excess Emissions During Malfunctions

II.E.1. An affirmative defense to a claim of violation under these regulations is provided to owners and operators for civil penalty actions for excess emissions during periods of malfunction. To establish the affirmative defense and to be relieved of a civil penalty in any action to enforce an applicable requirement, the owner or operator of the facility must meet the notification requirements of Section II.E.2. in a timely manner and prove by a preponderance of evidence that:

II.E.1.a. The excess emissions were caused by a sudden, unavoidable breakdown of equipment, or a sudden, unavoidable failure of a process to operate in the normal or usual manner, beyond the reasonable control of the owner or operator;

II.E.1.b. The excess emissions did not stem from any activity or event that could have reasonably been foreseen and avoided, or planned for, and could not have been avoided by better operation and maintenance practices;

II.E.1.c. Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded.

II.E.1.d. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

II.E.1.e. All Reasonably possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

II.E.1.f. All emissions monitoring systems were kept in operation (if at all possible);

II.E.1.g. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence;

II.E.1.h. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

II.E.1.i. At all times, the facility was operated in a manner consistent with good practices for minimizing emissions. This Section II.E.1.i. is intended solely to be a factor in

determining whether an affirmative defense is available to an owner or operator, and shall not constitute an additional applicable requirement; and

II.E.1.j. During the period of excess emissions, there were no exceedances of the relevant ambient air quality standards established in the Commissions' Regulations that could be attributed to the emitting source.

II.E.2. Notification

The owner or operator of the facility experiencing excess emissions during a malfunction shall notify the division verbally as soon as possible, but no later than noon of the Division's next working day, and shall submit written notification following the initial occurrence of the excess emissions by the end of the source's next reporting period. The notification shall address the criteria set forth in Section II.E.1., above.

II.E.3. The Affirmative Defense Provision contained in this Section II.E. shall not be available to claims for injunctive relief.

II.E.4. The Affirmative Defense Provision does not apply to failures to meet federally promulgated performance standards or emission limits, including, but not limited to, new source performance standards and national emission standards for hazardous air pollutants. The affirmative defense provision does not apply to state implementation plan (sip) limits or permit limits that have been set taking into account potential emissions during malfunctions, including, but not necessarily limited to, certain limits with 30-day or longer averaging times, limits that indicate they apply during malfunctions, and limits that indicate they apply at all times or without exception.

The Air Pollution Control Division has established two ways to notify the Division of an Upset/malfunction Condition:

1. Fax the form to the Division at 303-782-0278 by noon of the start of the Division's next working day. This will account for both the verbal and written notifications in the regulations,

OR

2. Notify the Division by noon of the start of the Division's next working day by phone at 303-692-3155, followed up by the written confirmation described above.