



New Mexico Environment Department
Air Quality Bureau
Compliance and Enforcement Section
1301 Siler Road Building B
Santa Fe, NM 87507
Phone (505) 476-4300
Fax (505) 476-4375



VERSION 04.16.08

20.2.7 NMAC – EXCESS EMISSIONS

INSTRUCTIONS FOR AFFIRMATIVE DEFENSE DEMONSTRATION FORM

PLEASE NOTE:

- 1. A reporting submittal form used for routine submittals required by permits and/or regulations (such as Title V Annual Compliance Certification reports and NSPS Subpart KKK semi-annual reports) is NOT required for submitting an affirmative defense demonstration form.**
- 2. The affirmative defense demonstration form will expand automatically to accommodate text as needed.**

SECTION I - GENERAL INFORMATION (Note 1)

- AI Number* – Identification number for the facility assigned by the Department database. If you do not know the AI number for your facility, contact the AQB.
- Activity Number* – Identification number for the excess emission event assigned by the Department database. If you do not know the activity number for the excess emission event you are claiming an affirmative defense for, contact the AQB.
- Company Name* – Identify the owner or operator of the facility.
- Facility Name* – Self explanatory.
- TV Permit No.* – Permit number of current title V permit (i.e.; P456-R2-M1).
- NSR Permit No.* - Permit number of current state construction permit (i.e.; 9456-M1, GCP-XXX, PSD-NM- 4343).
- Startup* – Check if you are claiming an affirmative defense for startup (i.e.; the setting into operation of any air pollution control equipment or process equipment [20.2.7.7.I NMAC]).
- Shutdown* - Check if you are claiming an affirmative defense for shutdown (i.e.; the cessation of operation of any air pollution control equipment or process equipment [20.2.7.7.H NMAC]).
- Malfunction* – Check if you are claiming an affirmative defense for malfunction (i.e., a sudden and unavoidable failure of air pollution control equipment or process equipment beyond the control of the owner or operator, including malfunction during startup or shutdown [20.2.7.7.E NMAC]).
PLEASE NOTE - A failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable equipment breakdown shall not be considered a malfunction.
- Failure Point No.* – Permit-based emission unit designation from permit for the specific piece of equipment that failed and caused the excess emission (i.e.; EU-25, ES-01, Unit No. 007).
- Failure Point Description* – Description of the specific piece of equipment that failed and caused the excess emission (i.e.; Inlet Turbine, Baghouse, Catalytic Converter).
- Release Point No.* - Permit-based emission unit designation from the permit for the specific piece of equipment from which the excess emission was released (i.e.; FL-25, ES-01, Unit No. 007).
- Release Point Description* – Description of the specific piece of equipment from which the excess emission was released (i.e.; Emergency Flare, Turbine Stack, Baghouse Stack).

- N. *Discovery Date*, O. *Discovery Time* - Date (mm/dd/yyyy) and time (hh:mm, military format) the excess emission was discovered. This information is available on your EER form you submitted for this event.
- P. *1st Bus. Day After Discovery* – First business day after the excess emission was discovered. This information is available on the EER form you submitted for this event.
- Q. *Initial Report Submittal Date* – Date (mm/dd/yyyy) you submitted the initial EER for this event.
- R. *Final Report Submittal Date* – Date (mm/dd/yyyy) you submitted the final EER for this event.
- S. *Submittal Date* – Date (mm/dd/yyyy) you are submitting Affirmative Defense Demonstration Form.
- T. *Person Reporting* - Self explanatory
- U. *Office Phone*, V. *Cell Phone* - Office and cell phone numbers of person reporting.
- W. *Email Address* – Email address of person reporting.

SECTION II. – DETAILED INFORMATION REQUIRED FOR AFFIRMATIVE DEFENSE (Note 2)

- A. *Describe in detail the direct cause and all contributing causes of the excess emission.* – You must determine the direct cause of the event (i.e.; keep asking why until the cause of the excess emission is determined). The statement, “compressor down on high discharge pressure” is not a determination of the direct cause. The following definitions are provided for clarification.
- Direct Cause* - The cause that directly resulted in the occurrence. For example, in the case of a leak, the direct cause could have been the problem in the component or equipment that leaked. In the case of a system misalignment, the direct cause could have been operator error in the alignment.
- Contributing Cause* - A cause that contributed to an occurrence but, by itself, would not have caused the occurrence. For example, in the case of a leak, a contributing cause could be lack of adequate operator training in leak detection and response, resulting in a more severe event than would have otherwise occurred. In the case of a system misalignment, a contributing cause could be excessive distractions to the operators during shift change, resulting in less-than-adequate attention to important details during system alignment.
- B. *Could this event have been foreseen and avoided or planned for? Why or why not?* – Please explain why you could not have foreseen, avoided, or planned to prevent the excess emission.
- C. *Why were your operation and maintenance practices unable to prevent this event? Include documentation of the facility maintenance program and the manufacturer’s recommended maintenance for each emission unit involved in this event (if applicable).* - If the excess emission is due to the failure of equipment, you must demonstrate that the equipment had been maintained in accordance with the manufacturer’s specifications.
- D. *For the duration of the event, explain how the air pollution control equipment or process equipment were maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions.* - In accordance with EPA guidance, good air pollution control practices for minimizing emissions require that a facility must be brought back into compliance with permit and/or regulatory requirements as soon as possible.
- E. *Explain how the quantity and duration of the excess emissions (including any bypass) were minimized during this event? Why was this quantity and duration the minimum possible for this event?* - Explain why the quantity and duration of the excess emission were the minimum possible for this event.

- F. *Explain all steps taken to minimize the impact of the excess emissions on ambient air quality. Please provide documentation.* - Indicate why you believe this event does not result in an exceedance of the ambient air quality standards.
- G. *Were emission monitoring systems (if applicable) kept in operation during this event? If not, please explain why.* - If monitoring systems were kept in operation, yes is sufficient. If not, please explain (not applicable would also be sufficient).
- H. *Was the owner or operator's actions during this event documented by properly signed, contemporaneous operating logs, or other relevant evidence? Attach the documentation.* - The certification required by Section V will satisfy the requirement for properly signed documents. Each document does not need to be individually signed.

SECTION III. – DETAILED INFORMATION REQUIRED FOR MALFUNCTION ONLY (Note 3)

- A. *Provide a chronology including when the event was discovered and when the repairs were commenced and completed. Explain how this chronology indicates that repairs were made as expeditiously as possible* - Summarize the chronology (mm/dd/yyyy and hh:mm) of the discovery of the event, and the commencement and conclusion of each repair. Explain why the repair was commenced and completed as expeditiously as possible.
- B. *Was off-shift labor and overtime required during this event? Why or why not?* - Explain why off shift labor and overtime were or were not used to commence and complete the repairs as expeditiously as possible.
- C. *Identify each excess emission event in the preceding 12 months (including date and activity number) that involved the same emissions unit(s) identified in this excess emission event.* – List the date and activity number for each related event.
- D. *For each excess emission event described in item C, state whether it involved the same or similar direct or contributing cause for this excess emission event, and explain why the cause was not resolved.* – If the same cause occurred in a preceding event, identify the date and activity number for the event, and explain why the cause was not resolved.

SECTION IV. – DETAILED INFORMATION REQUIRED FOR STARTUP OR SHUTDOWN ONLY (Note 4)

- A. *Was this excess emission caused by an intentional bypass of air pollution control equipment? If so, please explain why an intentional bypass was required.* - If the excess emission was caused by an intentional bypass of air pollution control equipment during a startup or shutdown, please explain why an intentional bypass was necessary.
- B. *Identify each excess emission event due to non-permitted startup or shutdown in the preceding 12 months (including date and activity number) that involved the same emission unit(s) identified in this excess emission event.* – List the date and activity number for each related event.
- C. *For each excess emission event described in item B, state whether it involved the same or similar direct or contributing cause for this excess emission event, and explain why the cause was not resolved or the excess emission was not permitted.* - If the cause occurred in a preceding event, identify the date and activity number for the event, and explain why the cause was not resolved or why this event is not permitted.
- D. *Have you submitted or do you intend to submit an application to include this excess emission in your permit? Indicate the date of actual or intended application. If you have not submitted or do not intend to submit an application, explain why.* – Events that involve an emission during a

recurring startup or shutdown should be permitted. You must submit an application upon discovering an emission during a recurring startup or shutdown.

SECTION V - CERTIFICATION: (Note 5)

The form must be signed by the company representative submitting the affirmative defense claim. This signature constitutes a certification of the truth, accuracy and completeness of the contents of the form and supporting documentation regardless of submittal date.