

10 CSR 10-6.050 Start-Up, Shutdown and Malfunction Conditions

(1) Applicability. This regulation applies to all installations in the state of Missouri.

(2) Definitions.

(A) Excess emissions-The emissions which exceed the requirements of any applicable emission control regulation.

(B) Malfunction-A sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal and usual manner. Excess emissions caused by improper design is not a malfunction.

(C) Shutdown-The cessation of operation of any air pollution control equipment or process equipment, except the routine phasing out of process equipment.

(D) Start-up-The setting into operation of any air pollution control equipment or process equipment, except the routine phasing in of process equipment.

(E) Definitions of certain terms in this rule, other than those specified in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) In the event of a malfunction, which results in excess emissions that exceeds one (1) hour, the owner or operator of such facility shall notify the Missouri Department of Natural Resources' Air Pollution Control Program in the form of a written report submitted within two (2) business days. The written report shall include, at a minimum, the following:

1. Name and location of installation;

2. Name and telephone number of person responsible for the installation;

3. Name of the person who first discovered the malfunction and precise time and date that the malfunction was discovered;

4. Identity of the equipment causing the excess emissions;

5. Time and duration of the period of excess emissions;

6. Cause of the excess emissions;

7. Air pollutants involved;

8. Estimate of the magnitude of the excess emissions expressed in the units of the applicable requirement and the operating data and calculations used in estimating the magnitude;

9. Measures taken to mitigate the extent and duration of the excess emissions; and

10. Measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of these situations.

(B) The owner or operator shall notify the Missouri Department of Natural Resources' Air Pollution Control Program at least ten (10) days prior to any maintenance, start-up, or shutdown activity, which is expected to cause an excess release of emissions that exceeds one (1) hour. If notification cannot be given ten (10) days prior to any maintenance, start-up, or shutdown activity, which is expected to cause an excess release of emissions that exceeds one (1) hour, notification shall be given as soon as practicable prior to the maintenance, start-up, or shutdown activity. If prior notification is not given for any maintenance, start-up, or shutdown activity which resulted in an excess release of emissions that exceeded one (1) hour, notification be given within two (2) business days of the release. In all cases, the notification shall be a written report and shall include, at a minimum, the following:

1. Name and location of installation;

2. Name and telephone number of person responsible for the installation;

3. Identity of the equipment involved in the maintenance, start-up, or shutdown activity;

4. Time and duration of the period of excess emissions;

5. Type of activity and the reason for the maintenance, start-up, or shutdown;

6. Type of air contaminant involved;

7. Estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude;

8. Measures taken to mitigate the extent and duration of the excess emissions; and

9. Measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of these situations.

(C) Upon receipt of a notice of excess emissions issued by the Missouri Department of Natural Resources or an agency holding a certificate of authority under section 643.140, RSMo, the source to which the notice is issued may provide information showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown. Based upon any information submitted by the source operator and any other pertinent information available, the director or the commission shall make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown and whether the nature, extent, and duration of the excess emissions warrant enforcement action under section 643.080 or 643.151, RSMo.

1. In determining whether enforcement action is warranted, the director or commission shall consider the following factors:

A. Whether the excess emissions during start-up, shutdown, or malfunction occurred as a result of safety, technological, or operating constraints of the control equipment, process equipment, or process;

B. Whether the air pollution control equipment, process equipment, or processes were, at all times, maintained and operated to the maximum extent practical, in a manner consistent with good practice for minimizing emissions;

C. Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring;

D. Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of this emission;

E. Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality;

F. Whether all emission monitoring systems were kept in operation if at all possible;

G. Whether the owner or operator's actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence;

H. Whether the excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

I. Whether the owner or operator properly and promptly notified the appropriate regulatory authority.

2. The information provided by the source operator under subsection (3)(C) of this rule shall include, at a minimum, the following:

A. Written notification per subsection (3)(A) of this rule for malfunctions which resulted in excess emissions that exceeded one (1) hour; or

B. Written notification per subsection (3)(B) of this rule for maintenance, start-up, or shutdown activities which resulted in excess emissions that exceeded one (1) hour.

(D) Nothing in this rule shall be construed to limit the authority of the director or the commission to take appropriate action, under sections 643.080, 643.090, and 643.151, RSMo, to enforce the provisions of the Air Conservation Law and the corresponding rule.

(E) Compliance with this rule does not automatically absolve the owner or operator of such facility of liability for the excess emissions reported.

(4) Reporting and Record Keeping.

(A) The information specified in paragraph (3)(C)2. of this rule shall be submitted to the director not later than fifteen (15) days after receipt of the notice of excess emissions. Information regarding the type and amount of emissions and time of the episode shall be recorded and kept on file. This data shall be included in emissions reported on any required Emissions Inventory Questionnaire.

(B) The information submitted according to subsections (3)(A) and (3)(B) of this rule and paragraph (3)(C)2. of this rule shall be kept on file at the installation for a period of five (5) years. This data shall be included in emissions reported on any required Emissions Inventory Questionnaire. The information shall be available to the director upon request.

(5) Test Methods *(Not Applicable)*

10 CSR 10-6.050

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c)
FRM: 87 FR 37752 (06/24/2022)
PRM: 87 FR 20367 (04/07/2022)
State Submission: 02/11/2020
State Final: 10 C.S.R. 10-6 (12/31/19); eff. 01/30/20
APDB File: MO-432 EPA-R07-OAR-2022-0329
Description: The revisions to this rule include adding incorporations by reference to other state rules, including definitions specific to the rule and making administrative wording changes.

CFR: 40 C.F.R. 52.1320(c)
FRM: 79 FR 12394 (3/5/2014)
PRM: 78 FR 72608 (12/3/2013)
State Submission: 7/8/2010
State Final: 10 C.S.R. 10-6 (3/30/2010); section 643.050, RSMo 2000; eff. 7/30/10
APDB File: MO-294 EPA-R07-OAR-2013-0698 effective 4/4/14
Description: This revision removes the option for verbal notification in subsection 3(B); removes (3)(B)(3); and includes administrative changes which revise the rule to be consistent with the state's standard rule format and makes other minor clarifying changes.

CFR: 40 C.F.R. 52.1320(c)
FRM: 67 FR 54965 (08/27/2002)
PRM: 67 FR 54993 (08/27/2002)
State Submission: 04/16/2002
State Final: 10 C.S.R. 10-6 (01/29/2002)
APDB File: MO-196
Description: EPA approved affirmative defense provisions in subsection (3)(C) and added additional information requirements in subsection (3)(A) and paragraph (3)(C)2. Language was added in subsections (3)(A) and (3)(B) to set a threshold of one hour for excess emissions which require a written report. The definitions section was removed. The format of the rule was revised to be consistent with the state's new standard rule format. Other minor clarifying changes were made.

CFR: 40 C.F.R. 52.1320(c) (27)
FRM: 46 FR 27932 (3/22/81) and 49 FR 38103 (9/27/84) (correction)
PRM: 46 FR 7007 (1/22/81)
State Submission: 9/2/80
State Proposal: 4 MR 309 (4/2/79)
State Final: 4 MR 1303 (11/1/79)
APDB File: MO-18
Description: The EPA approved a new regulation governing start-up, shutdown, and malfunction conditions. Provisions in existing regulations 10 C.S.R. 10-2.030, 3.050, 3.080, 4.030, 4.040, and 5.050 were deleted.

Difference Between the State and EPA-Approved Regulation

None.