



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION *Air Compliance & Enforcement*

The Department provides the following outline as guidance to persons asserting affirmative defense in accordance with P.L. 1993 c. 89. The following information, if available, should be included in the written documentation submitted to the Department within 30 days of the occurrence.

I. Company Information

- A. Facility Name, address, PI Identification #, location of occurrence (if different than the address).
- B. Permit/Certificate # and Emission Unit # of equipment in question.

II Incident Information

- A. Date and time of occurrence.
- B. Comm. Center Case # from DEP hotline (Note, initial notification to the Department must be made by the end of the second day after the occurrence, the DEP hotline telephone # is 1-877-927-6337)
- C. Describe in detail the cause of the malfunction which resulted in the references violation. (Provide a detailed technical explanation.
- D. Explain in detail the cause of the violation resulting from equipment startup, shutdown, or necessary maintenance:
 1. Provide the duration of each incident as applicable (examples; State the duration between initial startup to actual production/on-line operation, or demonstrate the time from which shutdown procedures begin or until they are complete.)
 2. Describe the steps or procedures taken to accomplish startup, shutdown, or necessary maintenance.
 3. If startup, shutdown, or necessary maintenance resulted from a malfunction, please note this and follow II.C. above.
- E. Demonstrate that the facility was operated with due care:
 1. Explain standard operating procedures for the equipment directly related to the violation, were these followed?
 2. What are the manufacturer's specifications and/or instructions for proper equipment operation? Were these followed?
 3. Were personnel operating the equipment trained in its correct operation? What training is involved? Is any certification involved? How often are operators retrained/re-certified?
 4. Provide any other records of operating procedures for support of affirmative defense.
- F. Provide demonstration that the violation was not the result of the failure to maintain the equipment with due care:
 1. Provide the most current maintenance records for the equipment.
 2. Provide the date of installation and any modifications to the equipment.
 3. Provide the manufacturer's suggested equipment life expectancy.
- G. Provide demonstration that reasonable steps were taken to minimize emissions:
 1. Describe in detail what steps were taken.
 2. If no steps were possible, note and explain.
 3. What was the production rate at time of incident? Was production decreased in response to the violation?
 4. If possible, estimate specific quantity of air contaminants released and/or the duration of the release.
- H. Provide demonstration that the violation is not part of a recurrent pattern:
 1. If similar malfunctions have occurred (with the same piece or similar type of equipment) explain in detail how the malfunction differ. Give technical, mechanical reasons, etc.
 2. How many times in the past five years has this equipment or equipment of the same type failed?
 3. What precautions have been taken in order to prevent this occurrence from happening again?

Other information:

Any report, notice or record submitted to the Department shall include, as an integral part of the report, notice or record, certifications complying with N.J.A.C. 7:27-1.39: "I certify under penalty of law that I believe the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fine or imprisonment or both, for submitting false, inaccurate or incomplete information."