**Section 205.750 Emergency Conditions**

VOM emissions that are a consequence of an emergency, and are in excess of the technology-based emission rates which are achieved during normal operating conditions, to the extent that such excess emissions are not caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operation error, shall be deducted from the calculation of actual VOM emissions during the seasonal allotment period in which the emergency occurred, subject to the following:

a) The owner or operator of the participating source or new participating source shall submit an initial emergency conditions report to the Agency within two days after the time when such excess emissions occurred due to the emergency. The submittal of this initial emergency conditions report shall be sufficient to fulfill the notice requirements of Section 39.5(7)(k) of the Act [415 ILCS 5/39.5(7)(k)] as it relates to VOM emissions at the source if the report provides a detailed description of the emergency, any steps taken to mitigate emissions and corrective actions taken, to the extent practicable. The final report shall contain the following information:

1) A description of the cause(s) of the emergency and the duration of the episode;

2) Verification that the source was being operated properly at the time of the emergency;

3) A demonstration that the source took all reasonable steps to minimize excess VOM emissions during the emergency period, including but not limited to the following actions, if technically and economically feasible:

A) The level of operation of the affected emission unit(s) was minimized;

B) The level of emissions from the affected emission units(s) was minimized by use of alternative raw materials or alternative control measures;

C) The duration of the excess emissions was minimized; and

D) The amount of VOM emissions from other emission units at the source or other sources located in the Chicago area owned or operated by the person or entity were reduced;

4) A demonstration that appropriate corrective action(s) were taken promptly;

5) A demonstration that the affected emission units were:

A) Being carefully and properly operated at the time of the emergency, including copies of appropriate records and other relevant evidence;

B) Properly designed; and

C) Properly maintained with appropriate preventative maintenance; and

6) An estimate of the amount of VOM emissions that occurred during the emergency in excess of the technology-based emission factor achieved during normal operating conditions, including supporting data, the relevant emissions factor, and calculations.

b) The owner or operator of any such source may supplement its initial emergency conditions report within 10 days after the conclusion of the emergency situation. If an initial emergency conditions report is not supplemented, such report is deemed the final emergency conditions report. If, however, an initial emergency conditions report is supplemented, the combination of such initial report plus the supplemental information is deemed the final emergency conditions report.

c) The Agency must approve, conditionally approve or reject the findings in the final emergency conditions report, submitted by the source, in writing within 45 days after receipt of the initial emergency conditions report, subject to the following:

1) If the Agency concurs with the emergency conditions report, the source is not required to hold ATUs for the excess VOM emissions attributable to the emergency;

2) If the Agency approves with conditions or rejects the emergency conditions report, the source shall be required to hold ATUs by the end of the reconciliation period in an amount not less than the emissions identified as excess in the emergency conditions report or provide emissions excursion compensation in accordance with Section 205.720 of this Subpart, if an emissions excursion occurred;

3) If the Agency approves with conditions an emergency conditions report, the Agency must identify in its written notice the amount of VOM emissions that are not attributable to an emergency; and

4) If the Agency approves with conditions or rejects a source's emergency conditions report, the source may raise the emergency as an affirmative defense pursuant to Section 39.5(7)(k) of the Act [415 ILCS 5/39.5(7)(k)] in any action brought for noncompliance with this Part or an action brought to review the Agency's issuance of an Excursion Compensation Notice, as provided in Section 205.720(d) of this Subpart.

d) Nothing in this Section relieves any source of any obligation to comply with other applicable requirements, permit conditions, or other provisions addressing emergency situations.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)