

~~WAC 173-401-645 Emergency provision. (1) Definition. An~~

~~"emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.~~

~~(2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of subsection (3) of this section are met.~~

~~(3) Criteria. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:~~

~~(a) An emergency occurred and that the permittee can identify the cause(s) of the emergency;~~

~~(b) The permitted facility was at the time being properly operated;~~

~~(c) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and~~

~~(d) The permittee submitted notice of the emergency to the permitting authority within two working days of the time when emission limitations were exceeded due to the emergency or shorter periods of time specified in an applicable requirement. This notice fulfills the requirement of WAC 173-401-615 (3) (b) unless the excess emissions represent a potential threat to human health or safety. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

~~(4) Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~

~~(5) Relationship to other rules. This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~

~~[Statutory Authority: Chapter 70.94 RCW. WSR 93-20-075 (Order 91-68), § 173-401-645, filed 10/4/93, effective 11/4/93.]~~

**WAC 173-401-925 Source data statements and petition for review of statements—Ecology and delegated local authorities.**

(1) Preliminary source data statements. Ecology shall provide to the permit program sources under its jurisdiction and to those persons on the mailing list, maintained in accordance with WAC 173-401-920 (1) (c), or to those requesting receipt of source data statements under this subsection a preliminary statement of emissions and other data from that source upon which ecology intends to base its allocation determination under WAC 173-401-900(5) as well as a preliminary statement of emissions and other data from each of the permit program sources under ecology's jurisdiction upon which ecology intends to base its allocation determination. Such preliminary statement shall be provided to the permit program sources and to other persons on the mailing

list on or before July 31 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under subsection (2) of this section regarding the accuracy of the data contained therein.

(2) Petition for review of statement. A permit program source or other individual may petition ecology to review for accuracy the data contained in any preliminary source data statement provided for under subsection (1) of this section. Such petition shall be lodged on or before August 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom ecology may direct inquiries regarding

the request. Upon receipt of such a petition, ecology must issue its written response to the petitioner and any other affected party on or before September 30 of each year. Such response shall state the observations of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by ecology's response.

(3) Final source data statement. Ecology shall provide to the permit program sources under its jurisdiction and to those persons on the mailing list, maintained in accordance with WAC 173-~~491~~401-920 (1) (c), or to those requesting receipt of source data statements under this subsection a final statement of emissions and other data from that source upon which ecology will base its allocation determination under WAC 173-401-900 on or before October 31 of each year. In addition, the final source data statements shall include a final statement of emissions and other data upon which ecology intends to base its allocation determination from each of the permit program sources under its jurisdiction. The final source data statement will be accompanied by a fee schedule reflecting the fee to be paid by

each source. Ecology may include with the fee schedule an invoice, or a notice stating that fees listed in the fee schedule must be paid by February 28th of the following year.

(4) Delegated local authorities. Delegated local authorities shall establish procedures for administrative dispute resolution for disputes pertaining to fees.

[Statutory Authority: RCW 70.94.011, 70.94.161, 70.94.162, 70.94.331, and 70.94.510. WSR 16-05-003 (Order 13-12), § 173-401-925, filed 2/3/16, effective 3/5/16. Statutory Authority: Chapter 70.94 RCW. WSR 94-02-041 (Order 93-19), § 173-401-925, filed 12/30/93, effective 1/30/94.]