



DEPT. OF WATER, ENERGY, AND ENVIRONMENT

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

02-128

September 2022

Deviations

What is the definition of a deviation?

Deviation is defined as a departure from an indicator range or work practice for monitoring, consistent with any averaging period specified for averaging the results of the monitoring.

What are the requirements if a deviation occurs?

According to Nebraska's air quality regulations, [Title 129, Chapter 6](#) specifies that each Class I source submit deviation reports to the Department of Water, Energy, and Environment (DWEE) at least every six months unless a more frequent schedule is specified in the source's permit. The reports are due September 30th for all deviations that occurred during the first six calendar months, and March 31st for the last six calendar months.

Class II sources submit deviation information annually with their certification of compliance reports as required by their operating permits and Title 129, Chapter 6, Section [003.13](#). The certification of compliance reports are due March 31st. More information related to the certification of compliance and deviation reports can be found on the DWEE website under Air Quality Publications.

Any deviation resulting from emergency or upset conditions as defined in Title 129 Chapter 6, Section [005](#) shall be reported within two working days of the date on which the permittee first becomes aware of the deviation. Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable.

What constitutes a deviation?

In order for a deviation to occur, there must be a permit requirement that identifies an indicator range or work practice that must be complied with. Deviations from permit terms occur when any permit term is not met, including terms that establish emission limitations, emission standards, control equipment requirements, work practices, and parameter ranges, and those terms designed to assure compliance with such requirements, such as monitoring, recordkeeping, and reporting requirements.

Included in the meaning of deviation are all of the following: (1) a condition where emissions exceed an emission limitation or standard; (2) a situation where process or emission control device parameter values indicate that an emission limitation or standard has not been met; (3) a situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit (including indicators of noncompliance revealed through parameter monitoring); (4) a situation in which required monitoring of emissions or parameters is not performed; and (5) failure to comply with a permit term that requires records to be

kept or submittal of a report. A deviation is not necessarily a violation. DWEE or the U.S. Environmental Protection Agency will determine which deviations are violations.

What are some practical examples of deviations?

Example 1: Your permit condition states the pressure drop on your baghouse will be maintained between two and six inches water column (in. W.C.) and you will record the pressure drop daily. A review of your records indicates that all readings taken were between two and six in. W.C. but there were three days when the pressure drop was not recorded. Those three days would be deviations from a work practice consistent with an averaging period specified in your permit and should be included in your report.

Example 2: Your permit condition states you will perform daily observations for opacity from your boiler exhaust, and the opacity must not exceed 20%. A review of your records indicates there were two days where the opacity exceeded 20% and there were three days during the six month reporting period in which daily observations were not performed. Your deviation report would include the two days where the opacity was over 20% and the three days the opacity observations were not taken.

Produced by: Nebraska Department of Water, Energy, and Environment, 245 Fallbrook Blvd, Ste 100., Lincoln, NE 68521; phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at <http://dwee.ne.gov>