

ATTACHMENT A-3

Air

The following violations are High Priority Violator (HPV) violations for which TCEQ has agreed with EPA to take formal enforcement action upon discovery of the violation (Category A8).

c. Air

Note: The HPV criteria should be applied to violations discovered on or after September 1, 1999 that occur at a major source and are related to a pollutant for which the source is considered a major. Also, the HPV criteria apply to violations that affect a minor source status at a synthetic minor source. A source only needs to have one HPV to be placed on the HPVL (High Priority Violation List); therefore, it is not necessary to determine if every violation at a particular facility qualifies as an HPV.

(1) High Priority Violations - General Criteria

- (A) Failure to obtain a PSD permit (and/or to install BACT), an NSR permit (and/or to install LAER or obtain offsets) and/or a permit for a major modification of either
- (B) Violation of an air toxics requirement (i.e., NESHAP, MACT) that either results in excess emissions or violates operating parameter restrictions
- (C) Violation by a synthetic minor of an emission limit or permit condition that affects the source's PSD, NSR or Title V status (i.e., failure to comply with permit restrictions that limit the source's potential emissions below the appropriate thresholds; refers only to pollutants for which the source is a synthetic minor; not necessary for a source's actual emissions to exceed the NSR/PSD/Title V thresholds)
- (D) Violation of any substantive term of any local, state or federal order, consent decree or administrative order
- (E) Substantial violation of the source's Title V certification obligations (e.g., submitting an annual compliance certification 30 days after it was due.) (See Annual Compliance Certification timeline below)
- (F) Substantial violation of the source's obligation to submit a Title V permit application (i.e., failure to submit a permit application within 60 days of the applicable deadline)
- (G) Violations that involve testing, monitoring, record keeping or reporting that substantially interfere with enforcement or determining the source's compliance with applicable emission limits
- (H) Violation of an allowable emission limit detected during a reference method stack test

- (I) Clean Air Act (CAA) violations by chronic or recalcitrant violator
Note: Chronic or recalcitrant violators are addressed by the application of the criteria in this document.
- (J) Substantial violation of CAA Section 112(r) requirements (for permitting authorities that are not implementing agencies under Section 112(r) program, limited to source's failure to submit Section 112(r) risk management plan)

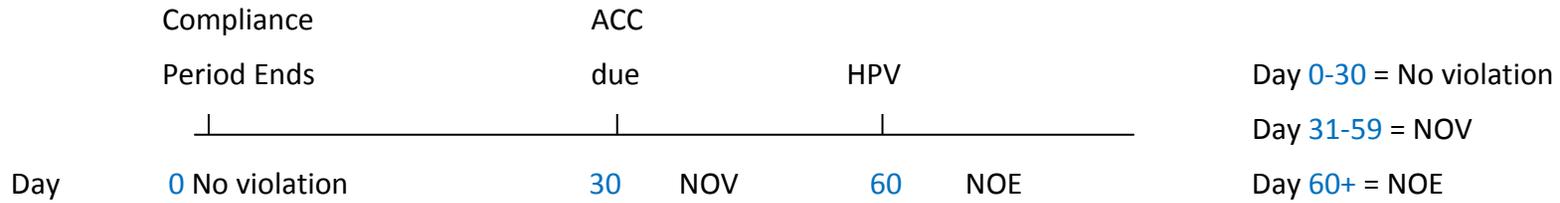
(2) High Priority Violation - Matrix Criteria - See Table 1.1

- (A) Violation of allowable emissions limitations
 - (i) Reference method stack testing, or
 - (ii) Coatings analysis, fuel samples or other process material sampling
- (B) Violation of parameter emissions limitations
 - (i) Continuous/periodic parameter monitoring
- (C) Violation of applicable standards (non-opacity)
 - (i) Continuous emissions monitoring (where the CEM is certified under federal performance specifications)
 - (ii) Violation of applicable standards (opacity)

(3) High Priority Violation – Discretionary

Violation of regulations not taken into account by the HPV policy that warrants high enforcement priority (This should be a mutual agreement between TCEQ and EPA)

ANNUAL COMPLIANCE CERTIFICATION TIMELINE



DEVIATION REPORT TIMELINE



TABLE 1.1

VIOLATION	METHOD OF DETECTION	STANDARD	SUPPLEMENTAL SIGNIFICANT THRESHOLD ¹	% IN EXCESS OF REFERENCE LIMIT/PARAMETER		% OF TIME IN EXCESS OF REFERENCE LIMIT
Violation of Allowable Emissions Limitations	Stack Testing	Any applicable requirement		Any violation of the applicable standard		N/A
	Coatings analysis, fuel samples, other process materials sampling or raw/process materials usage reports	Any applicable requirement	CO 23 lb/hr NOx 9 lb/hr SO2 9 lb/hr VOC 9 lb/hr PM 6 lb/hr PM10 3 lb/hr	>15% of the applicable emission limitation or the supplemental significant threshold (whichever is more stringent)		N/A
Violation of parameter limits where the parameter is a direct surrogate for an emissions limitation	Continuous/Periodic Parameter Monitoring (includes indicators of control device performance)	Any applicable requirement		>5% of the applicable parameter limit	FOR	>3% of the operating time during the reporting period
					OR	any exceedance of the parameter limit for >50% of the operating time during the reporting period ³
Violation of applicable non-opacity standard	Continuous Emissions Monitoring (where the CEM is certified under federal performance specifications)	≤24 hour averaging period (for example, one hour or three hour blocks)	CO 23 lb/hr NOx 9 lb/hr SO2 9 lb/hr VOC 9 lb/hr	15% of the applicable standard or, the supplemental significant threshold, (whichever is more stringent)	FOR	>5% of the operating time during the reporting period ^{4,6}
					OR	any exceedance of the reference limit for >50% of the operating time during the reporting period ³
	Continuous Emissions Monitoring (where the CEM is certified under federal performance specifications)	> 24 hour averaging period		Any violation of the applicable standard		N/A
Violation of applicable opacity standard ²	Continuous Opacity Monitoring	0-20% opacity >20% opacity		>5% opacity over the limit >10% opacity over the limit	FOR	>5% of the operating time during the reporting period ^{4,6}
	Method 9 VE Readings	0-20% opacity		>50% over limit	AND	Any violation of SIP/NSPS limits ⁵
		>20% opacity		>25% over limit		

Table Footnotes:

1. Supplemental Significant Threshold (SST) is based on PSD significant levels. The SST value is the lb/hr emission rate at 8760 hours which would result in PSD review.
2. Based on the applicable averaging period (e.g. 6-minute block averages).
3. For the first reporting period. If exceedances occur for more than 25% of the operating time during the first reporting period evaluated, and if such exceedances continue during the subsequent consecutive reporting period, the exceedances will be considered high priority violations for both reporting periods if the percent of time in excess exceeds 25% of the operating time during the second reporting period.
4. For the first reporting period. If exceedances occur for more than 3% of the operating time during the first reporting period evaluated, and if such exceedances continue during the subsequent consecutive reporting period, the exceedances will be considered high priority violations for both reporting periods if the percent of time in excess exceeds 3% of the operating time during the second reporting period.
5. Unless the state or local agency concludes that 1) the cause of the violation has been corrected within 30 days and the source has returned to compliance, or 2) the source was in compliance with an applicable mass limit at the time the Method 9 visual reading was taken.
6. This would not include any federally approved exempt period (e.g., startup/shutdown/malfunction 40 CFR §60.11), since these would not be violations.

NOTE: Emission Events (EEs) & Matrix Criterion 2 – while EEs are not authorized by air permits, using a permitted limit to determine the significance of emissions released during an EE is the basis for HPV determinations (when an affirmative defense has not been met). Specifically, EEs that exceed 15% of a permit limit (for a contaminant that the entity is a major source) is an HPV. For flexible permits that do not have short-term limits, use the permit application representations that are a relevant comparison to the EE under review.