

40 C.F.R. § 60.286a

Affirmative defense for violations of emission standards during malfunction.

In response to an action to enforce the standards set forth in §§ 60.282a and 60.283a, you may assert an affirmative defense to a claim for civil penalties for violations of such standards that are caused by malfunction, as defined at § 60.2. Appropriate penalties may be assessed if you fail to meet your burden of proving all of the requirements in the affirmative defense. The affirmative defense must not be available for claims for injunctive relief.

- (a) *Assertion of affirmative defense.* To establish the affirmative defense in any action to enforce such a standard, you must timely meet the reporting requirements in paragraph (b) of this section, and must prove by a preponderance of evidence that:

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