

Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations

SOURCE: 60 FR 62936, Dec. 7, 1995, unless otherwise noted.

§ 63.800 Applicability.

(a) The affected source to which this subpart applies is each facility that is engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components and that is located at a plant site that is a major source as defined in 40 CFR part 63, subpart A, § 63.2. The owner or operator of a source that meets the definition for an incidental wood furniture manufacturer shall maintain purchase or usage records demonstrating that the source meets the definition in § 63.801 of this subpart, but the source shall not be subject to any other provisions of this subpart.

(b) A source that complies with the limits and criteria specified in paragraphs (b)(1), (b)(2), or (b)(3) of this section is an area source for the purposes of this subpart and is not subject to any other provision of this rule, provided that: In the case of paragraphs (b)(1) and (b)(2), finishing materials, adhesives, cleaning solvents and washoff solvents used for wood furniture or wood furniture component manufacturing operations account for at least 90 percent of annual HAP emissions at the plant site, and if the plant site has HAP emissions that do not originate from the listed materials, the owner or operator shall keep any records necessary to demonstrate that the 90 percent criterion is being met. A source that initially relies on the limits and criteria specified in paragraphs (b)(1), (b)(2), and (b)(3) to become an area source, but subsequently exceeds the relevant limit (without first obtaining and complying with other limits that keep its potential to emit hazardous air pollutants below major source levels), becomes a major source and must comply thereafter with all applicable provisions of this subpart starting on the applicable compliance date in § 63.800. Nothing in this paragraph (b) is intended to preclude a source from limiting its potential to emit through other appropriate mecha-

nisms that may be available through the permitting authority.

(1) The owner or operator of the source uses no more than 250 gallons per month, for every month, of coating, gluing, cleaning, and washoff materials at the source, including materials used for source categories other than wood furniture (surface coating), but excluding materials used in routine janitorial or facility grounds maintenance, personal uses by employees or other persons, the use of products for the purpose of maintaining motor vehicles operated by the facility, or the use of toxic chemicals contained in intake water (used for processing or noncontact cooling) or intake air (used either as compressed air or for combustion). The owner or operator shall maintain records of the total gallons of coating, gluing, cleaning, and washoff materials used each month, and upon request submit such records to the Administrator. These records shall be maintained for five years.

(2) The owner or operator of the source uses no more than 3,000 gallons per rolling 12-month period, for every 12-month period, of coating, gluing, cleaning, and washoff materials at the source, including materials used for source categories other than wood furniture (surface coating), but excluding materials used in routine janitorial or facility grounds maintenance, personal uses by employees or other persons, the use of products for the purpose of maintaining motor vehicles operated by the facility, or the use of toxic chemicals contained in intake water (used for processing or noncontact cooling) or intake air (used either as compressed air or for combustion). A rolling 12-month period includes the previous 12 months of operation. The owner or operator of the source shall maintain records of the total gallons of coating, gluing, cleaning, and washoff materials used each month and the total gallons used each previous month, and upon request submit such records to the Administrator. Because records are needed over the previous set of 12 months, the owner or operator shall keep monthly records beginning no less than one year before the compliance date specified in § 63.800(e).

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Records shall be maintained for five years.

(3) The source emits no more than 4.5 Mg (5 tons) of any one HAP per rolling 12-month period and no more than 11.4 Mg (12.5 tons) of any combination of HAP per rolling 12-month period, and at least 90 percent of the plantwide emissions per rolling 12-month period are associated with the manufacture of wood furniture or wood furniture components.

(c) This subpart does not apply to research or laboratory facilities as defined in § 63.801.

(d) This subpart does not apply to any surface coating or coating operation that meets any of the criteria of paragraphs (d)(1) through (4) of this section.

(1) Surface coating of metal parts and products other than metal components of wood furniture that meets the applicability criteria for miscellaneous metal parts and products surface coating (subpart MMMM of this part).

(2) Surface coating of plastic parts and products other than plastic components of wood furniture that meets the applicability criteria for plastic parts and products surface coating (subpart PPPP of this part).

(3) Surface coating of wood building products that meets the applicability criteria for wood building products surface coating (subpart QQQQ of this part). The surface coating of millwork and trim associated with cabinet manufacturing are subject to subpart JJ.

(4) Surface coating of metal furniture that meets the applicability criteria for metal furniture surface coating (subpart RRRR of this part). Surface coating of metal components of wood furniture performed at a wood furniture or wood furniture component manufacturing facility are subject to subpart JJ.

(e) Owners or operators of affected sources shall also comply with the requirements of subpart A of this part (General Provisions), according to the applicability of subpart A to such sources, as identified in Table 1 of this subpart.

(f) The compliance date for existing affected sources that emit less than 50 tons per year of HAP in 1996 is December 7, 1998. The compliance date for ex-

isting affected sources that emit 50 tons or more of hazardous air pollutants in 1996 is November 21, 1997. The owner or operator of an existing area source that increases its emissions of (or its potential to emit) HAP such that the source becomes a major source that is subject to this subpart shall comply with this subpart one year after becoming a major source.

(g) Existing affected sources shall be in compliance with § 63.802(a)(4) and § 63.803(h) no later than November 21, 2014. The owner or operator of an existing area source that increases its emissions of (or its potential to emit) hazardous air pollutants (HAP) such that the source becomes a major source that is subject to this subpart shall comply with this subpart 1 year after becoming a major source.

(h) New affected sources must comply with the provisions of this standard immediately upon startup or by December 7, 1995, whichever is later. New area sources that become major sources shall comply with the provisions of this standard immediately upon becoming a major source.

(i) Reconstructed affected sources are subject to the requirements for new affected sources. The costs associated with the purchase and installation of air pollution control equipment (e.g., incinerators, carbon adsorbers, etc.) are not considered in determining whether the facility has been reconstructed, unless the control equipment is required as part of the process (e.g., product recovery). Additionally, the costs of retrofitting and replacement of equipment that is installed specifically to comply with this subpart are not considered reconstruction costs. For example, an affected source may convert to waterborne coatings to meet the requirements of this subpart. At most facilities, this conversion will require the replacement of existing storage tanks, mix equipment, and transfer lines. The cost of replacing the equipment is not considered in determining whether the facility has been reconstructed.

(j) If the owner or operator, in accordance with 40 CFR 63.804, uses a control system as a means of limiting emissions, in response to an action to enforce the standards set forth in this

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subpart, you may assert an affirmative defense to a claim for civil penalties for exceedances of such standards that are caused by malfunction, as defined in 40 CFR 63.2. Appropriate penalties may be assessed, however, if the respondent fails to meet its burden of proving all the requirements in the affirmative defense. The affirmative defense shall not be available for claims for injunctive relief.

(1) To establish the affirmative defense in any action to enforce such a limit, the owner or operator must timely meet the notification requirements in paragraph (j)(2) of this section, and must prove by a preponderance of evidence that:

(i) The excess emissions:

(A) Were caused by a sudden, infrequent, and unavoidable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner; and

(B) Could not have been prevented through careful planning, proper design or better operation and maintenance practices; and

(C) Did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(D) Were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(ii) Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded. Off-shift and overtime labor were used, to the extent practicable to make these repairs; and

(iii) The frequency, amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; and

(iv) If the excess emissions resulted from a bypass of control equipment or a process, then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and

(v) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality, the environment, and human health; and

(vi) All emissions monitoring and control systems were kept in operation if at all possible, consistent with safety

and good air pollution control practices; and

(vii) All of the actions in response to the excess emissions were documented by properly signed, contemporaneous operating logs; and

(viii) At all times, the facility was operated in a manner consistent with good practices for minimizing emissions; and

(ix) A written root cause analysis has been prepared, the purpose of which is to determine, correct and eliminate the primary causes of the malfunction and the excess emissions resulting from the malfunction event at issue. The analysis shall also specify, using best monitoring methods and engineering judgment, the amount of excess emissions that were the result of the malfunction.

(2) *Notification.* The owner or operator of the facility experiencing an exceedance of its emission limit(s) during a malfunction shall notify the Administrator by telephone or facsimile (FAX) transmission as soon as possible, but no later than 2 business days after the initial occurrence of the malfunction, if it wishes to avail itself of an affirmative defense to civil penalties for that malfunction. The owner or operator seeking to assert an affirmative defense shall also submit a written report to the Administrator within 45 days of the initial occurrence of the exceedance of the standard in this subpart to demonstrate, with all necessary supporting documentation, that it has met the requirements set forth in paragraph (h)(1) of this section. The owner or operator may seek an extension of this deadline for up to 30 additional days by submitting a written request to the Administrator before the expiration of the 45 day period. Until a request for an extension has been approved by the Administrator, the owner or operator is subject to the requirement to submit such report within 45 days of the initial occurrence of the exceedance.

[60 FR 62936, Dec. 7, 1995, as amended at 62 FR 30259, June 3, 1997; 76 FR 72071, Nov. 21, 2011]

§ 63.801 Definitions.

(a) All terms used in this subpart that are not defined below have the