

**D. Submission to Congress and the General Accounting Office**

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by section 804(2).

**E. Petitions for Judicial Review**

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: May 7, 1997.

**Valdas V. Adamkus,**  
*Regional Administrator.*

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

2. Section 52.770 is amended by adding paragraph (c)(120) to read as follows:

**§ 52.770 Identification of Plan.**

\* \* \* \* \*

(c) \* \* \*

(120) On August 26, 1996, Indiana submitted a rule requiring an oxides of nitrogen (NO<sub>x</sub>) reasonably available control technology (RACT) rule for the Clark and Floyd Counties moderate ozone nonattainment area as a revision to the State Implementation Plan.

(i) *Incorporation by reference.* 326 Indiana Administrative Code 10: Nitrogen Oxides Rules. Rule 1: Nitrogen Oxides Control in Clark and Floyd Counties. Section 1: Applicability, Section 2: Definitions, Section 3: Requirements, Section 4: Emission limits, Section 5: Compliance procedures, Section 6: Emissions monitoring, and Section 7: Certification, record keeping, and reports. Adopted by the Indiana Air Pollution Control Board February 7, 1996. Filed with the Secretary of State May 13, 1996. Published at Indiana Register, Volume 19, Number 10, July 1, 1996. Effective June 12, 1996.

3. Section 52.777 is amended by adding paragraph (p) to read as follows:

**§ 52.777 Control strategy: Photochemical oxidants (hydrocarbon).**

\* \* \*

(p) On August 26, 1996, Indiana submitted a rule for the purpose of meeting oxides of nitrogen (NO<sub>x</sub>) reasonably available control technology (RACT) requirements under section 182(f) of the Clean Air Act (Act) for the Clark and Floyd Counties moderate ozone nonattainment area. The rule's NO<sub>x</sub> control requirements meets RACT for major sources of portland cement kilns, electric utility boilers, and industrial, commercial, or institutional boilers. In addition, on April 30, 1997, Indiana certified to the satisfaction of the United States Environmental Protection Agency that, to the best of the State's knowledge, there are no remaining major sources of NO<sub>x</sub> in Clark and Floyd Counties which need RACT rules. Indiana, therefore, has satisfied the NO<sub>x</sub> RACT requirements under section 182(f) of the Act for the Clark and Floyd Counties ozone nonattainment area.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[AD-FRL-5833-6]

**National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction.

**SUMMARY:** This action corrects errors and clarifies regulatory text in the

National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations which was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930).

**EFFECTIVE DATE:** June 3, 1997.

**FOR FURTHER INFORMATION CONTACT:** For information concerning today's notice, contact Mr. Paul Almodovar, Coatings and Consumer Products Group, Emission Standards Division (MD-13), U.S. EPA, Research Triangle Park, NC 27711; telephone (919) 541-0283. For information regarding the applicability of this action to a particular entity, contact Mr. Robert Marshall, Manufacturing Branch, Office of Compliance, (2223A), U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone (202) 564-7021.

**SUPPLEMENTARY INFORMATION:**

*Regulated Entities.* Entities potentially affected by this action are owners or operators of facilities that are engaged, either in part or in whole, in wood furniture manufacturing operations and that are major sources as defined in 40 CFR Part 63, subpart A, section 63.2. Regulated categories include:

Category	Examples of regulated entities
Industry .....	Facilities which are major sources of hazardous air pollutants and manufacture wood furniture or wood furniture components.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that the EPA is now aware potentially could be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility (company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in section 63.800 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations that was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930) and codified at 40 CFR Part 63, subpart JJ. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The information presented below is organized as follows:

- I. Background.
- II. Summary of and Rationale for Rule Corrections.

- A. Applicability.
  - B. Definitions.
  - C. Tables.
- III. Administrative Requirements.
- A. Docket.
  - B. Paperwork Reduction Act.
  - C. Executive Order 12866.
  - D. Regulatory Flexibility Act.
  - E. Regulatory Review.
  - F. Unfunded Mandates Act.
  - G. Submission to Congress and the General Accounting Office.

## I. Background

On December 7, 1995 (60 FR 62930), the EPA promulgated the NESHAP for Wood Furniture Manufacturing Operations. These standards were codified as subpart JJ in 40 CFR Part 63. This action contains corrections to the final standards. These corrections clarify the applicability of the final rule and several definitions, and correct cross-references and table entries.

By issuing these corrections directly as a final rule, the EPA is foregoing the issuance of a Notice of Proposed Rulemaking (NPRM) and the opportunity for public comment. Such a curtailed procedure is permitted by section 553(b) of the Administrative Procedure Act, 5 U.S.C. § 553(b), and section 307(d) of the Clean Air Act (CAA), 42 U.S.C. § 7607(d), when issuance of a proposal and public comments would be impracticable, unnecessary, or contrary to the public interest. The EPA is publishing this action without prior proposal because these are non-controversial changes that clarify and correct the final rule. The EPA finds that this constitutes good cause under 5 U.S.C. § 553(b) for a determination that the issuance of an NPRM is unnecessary. Moreover, since today's action does not create any new regulatory requirements, the EPA finds that good cause exists to provide for an immediate effective date.

## II. Summary of and Rationale for Rule Corrections

### A. Applicability

Paragraph (a) of section 63.800 of 40 CFR Part 63, subpart JJ is revised by replacing the word "criteria" with "definition," and the phrase "incidental furniture manufacturer" with "incidental wood furniture manufacturer." These changes are being made to correct editorial errors in order to clarify the applicability of the final rule.

Paragraph (b) of section 63.800 of 40 CFR Part 63, subpart JJ is revised by replacing the phrase "finishing materials, adhesives, cleaning solvents and washoff solvents" with "finishing materials, adhesives, cleaning solvents and washoff solvents used for wood

furniture and wood furniture component manufacturing operations." This change is being made in response to comments from small metal furniture manufacturers who use many of these same materials to manufacture both metal and wood furniture. The change clarifies the EPA's intent that this provision be used for determining what percentage of a facility's hazardous air pollutant (HAP) emissions are generated by these listed materials used in making wood furniture and wood furniture components. Facilities qualify for an exemption from the requirements of the wood furniture NESHAP if their usage of these materials for wood furniture or wood furniture components manufacturing operations is below the cutoff levels and at least 90 percent of their annual HAP emissions are from materials used in wood furniture or wood furniture components manufacturing.

Paragraph (b)(3) of 40 CFR Part 63, subpart JJ, section 63.800 is revised to replace the phrase "uses materials containing no more than" with "emits no more than." The criterion in this paragraph for area source designation under this subpart is the amount of HAP emitted annually, not the amount used annually.

### B. Definitions

The EPA has determined that several definitions should be revised either to correct errors that were in section 63.801, or to reflect additional information submitted to the EPA after promulgation of the final rule, or to further clarify issues that have been raised since promulgation of the final rule.

The EPA has revised the definition of "certified product data sheet (CPDS)" by adding the concentration levels at which volatile hazardous air pollutants (VHAP) compounds must be reported. This change is in response to concerns raised by industry suppliers. This revision will allow suppliers furnishing CPDS to the industry to easily identify which VHAP compounds must be reported on the CPDS.

The EPA has revised the definition of "coating" by adding a sentence that states, "Aerosol spray paints used for touchup and repair are not considered coatings under this subpart." This change clarifies the EPA's intent not to regulate these types of coatings at this time due to their low usage for touch up and repairs in wood furniture manufacturing operations. In addition, there is concern from industry representatives that it would be difficult to purchase or reformulate aerosol spray

paints that meet the limits specified in the standards.

The reference to Table b in the definition of "VHAP of potential concern" under section 63.801 of this subpart has been corrected. The definition references "Table b of this subpart," but should reference "Table 6 of this subpart."

### C. Tables

Two entries in Table 3 "Summary of Emission Limits" have been revised. Under the Finishing Operations listing, the term VHAP has replaced the term HAP both in item (b) and also in footnote b to Table 3. This change was made because the percent component of VHAP is the component of interest for this NESHAP.

## III. Administrative Requirements

### A. Docket

The docket is an organized and complete file of all of the information submitted to, or otherwise considered by, the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public to readily identify and locate documents to enable them to participate effectively in the rulemaking process. The contents of the docket serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the CAA, 42 U.S.C. § 7607(d)(7)(A)).

### B. Paperwork Reduction Act

There are no additional information collection requirements contained in this correction to the final rule. Therefore, approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is not required.

### C. Executive Order 12866

Under Executive Order 12866, the EPA is required to determine whether a regulation is "significant" and therefore subject to Office of Management and Budget review and the requirements of this Executive Order to prepare a regulatory impact analysis. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may (1) have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or

planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a "significant regulatory action" within the meaning of the Executive Order, because it only provides technical corrections to the existing NESHAP.

#### D. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. This correction notice makes clarifying amendments to the Wood Furniture Manufacturing Operations NESHAP, including applicability, definitions, and summary table corrections. These amendments will not place any additional requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required and has not been prepared.

#### E. Regulatory Review

In accordance with sections 112(d)(6) and 112(f)(2) of the CAA, this regulation will be reviewed within 8 years of the date of promulgation. This review may include an assessment of such factors as evaluation of the residual health risk, any overlap with other programs, the existence of alternative methods of control, enforceability, improvements in emission control technology and health data, and recordkeeping and reporting requirements.

#### F. Unfunded Mandates Act

The economic impact analysis performed for the original rule showed that the economic impacts from implementation of the promulgated standards would not be "significant" as defined in Executive Order 12866. No changes are being made in these amendments that would increase the economic impacts. The EPA prepared the following statement of the impact of the original rule in response to the requirements of the Unfunded Mandates Reform Act.

There are no Federal funds available to assist State, local, and Tribal governments in meeting these costs. There are important benefits from volatile organic compounds and HAP emission reductions because these compounds have significant, adverse impacts on human health and welfare, and on the environment. The rule does not have any disproportionate budgetary effects on any particular region of the nation, State, local, or Tribal government, or urban, rural, or other type of community. On the contrary, the rule will result in only a minimal increase in the average product rates (less than 1 percent). Moreover, the rule will not have a material effect on the national economy.

Throughout the regulatory negotiation process prior to issuing the final rule on December 7, 1995, the EPA provided numerous opportunities for consultations with interested parties (e.g., public comment period; opportunity for a public hearing (none was requested); meetings with industry, trade associations, State and local air pollution control agency representatives, environmental groups, State, local, and Tribal governments, and concerned citizens). Although small governments are not significantly or uniquely affected by this rule, these procedures, as well as additional public conferences and meetings, gave small governments an opportunity to give meaningful and timely input and obtain information, education, and advice on compliance.

Prior to the promulgation of the rule in 1995, the EPA considered several regulatory options. The final rule represents the least costly and least burdensome alternatives currently available for achieving the objectives of section 112 of the CAA. All of the regulatory options selected are based on pollution prevention measures. Finally, after careful consideration of the costs, the environmental impacts, and the comments, the EPA decided that the MACT floor was the appropriate level of control for this regulation.

#### G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. § 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. § 804(2).

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Wood furniture manufacturing.

Dated: May 19, 1997.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

#### Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations

2. Section 63.800 is amended by revising paragraph (a) and the first sentence of paragraphs (b) introductory text and (b)(3) to read as follows:

##### § 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. \* \* \*

\* \* \* \* \*

(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.

3. Section 63.801 is amended by revising the definitions for "certified product data sheet," "coating," and "VHAP of potential concern" to read as follows:

**§ 63.801 Definitions.**

*Certified product data sheet (CPDS)* means documentation furnished by coating or adhesive suppliers or an outside laboratory that provides:

(1) The VHAP content of a finishing material, contact adhesive, or solvent, by percent weight, measured using the EPA Method 311 (as promulgated in this subpart), or an equivalent or alternative method (or formulation data if the coating meets the criteria specified in § 63.805(a));

(2) The solids content of a finishing material or contact adhesive by percent weight, determined using data from the EPA Method 24, or an alternative or equivalent method (or formulation data if the coating meets the criteria specified in § 63.805 (a)); and

(3) The density, measured by EPA Method 24 or an alternative or equivalent method. Therefore, the reportable VHAP content shall represent the maximum aggregate emissions potential of the finishing material, adhesive, or solvent in concentrations greater than or equal to 1.0 percent by weight or 0.1 percent for VHAP that are carcinogens, as defined by the Occupational Safety and Health Administration Hazard Communication Standard (29 CFR part 1910), as formulated. Only VHAP present in concentrations greater than or equal to 1.0 percent by weight, or 0.1 percent for VHAP that are carcinogens, must be reported on the CPDS. The purpose of the CPDS is to assist the affected source in demonstrating compliance with the emission limitations presented in § 63.802.

*Coating* means a protective, decorative, or functional film applied in a thin layer to a surface. Such materials include, but are not limited to, paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, enamels, inks, and temporary protective coatings.

Aerosol spray paints used for touch-up and repair are not considered coatings under this subpart.

*VHAP of potential concern* means any VHAP from the nonthreshold, high concern, or unrankable list in Table 6 of this subpart.

4. Table 3 to subpart JJ is amended by revising the last line under item (b) and footnote b as follows:

TABLE 3—SUMMARY OF EMISSION LIMITS

	*	*	*	*	*
(b)	*	*	*	*	*
—thinners (maximum percent VHAP allowable); or	*	*	*	*	*
	*	*	*	*	*

<sup>b</sup> Washcoats, basecoats, and enamels must comply with the limits presented in this table if they are purchased premade, that is, if they are not formulated on site by thinning other finishing materials. If they are formulated onsite, they must be formulated using compliant finishing materials, i.e., those that meet the limits specified in this table, and thinners containing no more than 3.0 percent VHAP by weight.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[FRL-5834-4]

**Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area**

**AGENCY:** Environmental Protection Agency ("EPA").

**ACTION:** Final rule.

**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, as amended ("Act" or "CAA"), the Administrator of EPA must require the sale of reformulated gasoline ("RFG") in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. As requested by the Governor of Arizona, today's action extends the requirement to sell RFG to the Phoenix, Arizona moderate ozone nonattainment area, effective July 3, 1997 for all persons other than retailers and wholesale purchaser-consumers (i.e., refiners, importers, and distributors), and August 4, 1997 for retailers and wholesale purchaser-consumers. As of the

implementation date for retailers and wholesale purchaser-consumers, the Phoenix ozone nonattainment area will be a covered area for all purposes in the federal RFG program. The federal Phase I RFG program provides reductions in ozone-forming volatile organic compounds ("VOC") emissions and air toxics, and prohibits increase in oxides of nitrogen ("NO<sub>x</sub>") emissions. Reductions in VOCs are environmentally significant because of the associated reductions in ozone formation. Exposure to ground-level ozone (or smog) can cause respiratory problems, chest pain, and coughing and may worsen bronchitis, emphysema, and asthma.

**DATES:** This final rule is effective July 3, 1997.

**ADDRESSES:** Materials relevant to the final rule have been placed in Docket A-97-02. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M-1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material. An identical docket is also located in EPA's Region IX office in Docket A-AZ-97. The docket is located at 75 Hawthorne Street, AIR-2, 17th Floor, San Francisco, California 94105. Documents may be inspected from 9:00 a.m. to noon and from 1:00-4:00 p.m. A reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Janice Raburn at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233-9856.

**SUPPLEMENTARY INFORMATION:**

**Availability on the TTNBBS**

The preamble, regulatory language and regulatory support document are also available electronically from the EPA Internet Web site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of Internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. The official **Federal Register** version is made available on the day of publication on the primary Internet sites listed below. The EPA Office of Mobile Sources also publishes these notices on the