

WOOD RESIDUE

Bark, sawdust, slabs, chips, shavings, mill trim, and other wood products derived from wood processing and forest management operations

II. GENERAL

II.A. To Control Emissions Leaving Colorado

When emissions generated from sources in Colorado cross the state boundary line, such emissions shall not cause the air quality standards of the receiving state to be exceeded, provided reciprocal action is taken by the receiving state.

II.B. Emission Monitoring Requirements

The Division may require owners or operators of stationary air pollution sources to install, maintain, and use instrumentation to monitor and record emission data as a basis for periodic reports to the Division.

II.C. Performance Testing

II.C.1 The owner or operator of any air pollution source shall, upon request of the Division, conduct performance test(s) and furnish the Division a written report of the results of such test(s) in order to determine compliance with applicable emission control regulations.

II.C.2 Performance test(s) shall be conducted and the data reduced in accordance with the applicable reference test methods unless the Division

II.C.2.a. Specifies or approves, in specific cases, the use of a test method with minor changes in methodology.

II.C.2.b. Approves the use of an equivalent method.

II.C.2.c. Approves the use of an alternative method, the results of which the Division has determined to be adequate for indicating where a specific source is in compliance, or

II.C.2.d. Waives the requirement for performance test(s) because the owner or operator of a source has demonstrated by other means to the Division's satisfaction that the affected facility complies with the standard. Nothing in this paragraph shall be construed to abrogate the Commission or Division's authority to require testing under the Colorado Revised Statutes, Title 25, Article 7, and pursuant to regulations promulgated by the Commission.

II.C.3 Compliance test(s) shall be conducted under such conditions, as the Division shall specify to the plant operator based on representative performance of the affected facility. The owner or operator shall make available to the Division such records as may be necessary to determine the conditions of the performance test(s). Operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions of performance test(s) unless otherwise specified in the applicable standard.

II.C.4 The owner or operator of an affected facility shall provide the Division thirty days prior notice of the performance test to afford the Division the opportunity to have an observer present. The Division may waive the thirty-day notice requirement if arrangements satisfactory to the Division are made for earlier testing.

II.C.5. The owner or operator of an affected facility shall provide, or cause to be provided, performance testing facilities as follows:

II.C.5.a. Sampling ports adequate for test methods applicable to such facility;

II.C.5.b. Safe sampling platform(s);

II.C.5.c. Safe access to sampling platform(s); and

II.C.5.d. Utilities for sampling and testing equipment.

II.C.6. Each performance test shall consist of at least three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For determining compliance with an applicable standard, the arithmetic mean of results of at least three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Division's approval, be determined using the arithmetic mean of the results of the two other runs.

II.C.7. Nothing in this section shall abrogate the Division's authority to conduct its own performance test(s) if so warranted.

II.D. Ambient Air Monitoring Requirements (Reserved)

II.E. Affirmative Defense Provision for Excess Emissions During Malfunctions

II.E.1. An affirmative defense to a claim of violation under these regulations is provided to owners and operators for civil penalty actions for excess emissions during periods of malfunction. To establish the affirmative defense and to be relieved of a civil penalty in any action to enforce an applicable requirement, the owner or operator of the facility must meet the notification requirements of Section II.E.2. in a timely manner and prove by a preponderance of evidence that

II.E.1.a. The excess emissions were caused by a sudden, unavoidable breakdown of equipment, or a sudden, unavoidable failure of a process to operate in the normal or usual manner, beyond the reasonable control of the owner or operator;

II.E.1.b. The excess emissions did not stem from any activity or event that could have reasonably been foreseen and avoided, or planned for, and could not have been avoided by better operation and maintenance practices;

II.E.1.c. Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded.

II.E.1.d. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

II.E.1.e. All Reasonably possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

II.E.1.f. All emissions monitoring systems were kept in operation (if at all possible);

II.E.1.g. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence;

II.E.1.h. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

II.E.1.i. At all times, the facility was operated in a manner consistent with good practices for minimizing emissions. This Section II.E.1.i. is intended solely to be a factor in determining whether an affirmative defense is available to an owner or operator, and shall not constitute an additional applicable requirement; and

II.E.1.j. During the period of excess emissions, there were no exceedances of the relevant ambient air quality standards established in the Commission's Regulations that could be attributed to the emitting source.

II.E.2. Notification

The owner or operator of the facility experiencing excess emissions during a malfunction shall notify the Division verbally as soon as possible, but no later than noon of the Division's next working day, and shall submit written notification following the initial occurrence of the excess emissions by the end of the source's next reporting period. The notification shall address the criteria set forth in Section II.E.1., above.

II.E.3. The Affirmative Defense Provision contained in this Section II.E. shall not be available to claims for injunctive relief.

~~II.E.4. The Affirmative Defense Provision does not apply to failures to meet federally promulgated performance standards or emission limits, including, but not limited to, new source performance standards and national emission standards for hazardous air pollutants. The affirmative defense provision does not apply to state implementation plan (sip) limits or permit limits that have been set taking into account potential emissions during malfunctions, including, but not necessarily limited to, certain limits with 30-day or longer averaging times, limits that indicate they apply during malfunctions, and limits that indicate they apply at all times or without exception. II.F. Circumvention Clause~~

~~A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air pollutants to the atmosphere, reduces or conceals an emission that would otherwise constitute a violation of this regulation. No person shall circumvent this regulation by using more openings than is considered normal practice by the industry or activity in question.~~

~~II.G. Conflicts~~

~~Nothing in these regulations is intended to permit any practice that is a violation of any statute, ordinance or regulation.~~

II.H. Severability Clause

If any regulation, section, clause, phrase, or standard contained in these regulations shall for any reason be held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portions thereof shall not be affected thereby and the Commission does hereby declare that it severally passed and adopted the provisions contained therein separately and apart from the other provisions thereof.

~~II.C.5.c. Safe access to sampling platform(s), and [Eff 03/04/2007]~~

~~II.C.5.d. Utilities for sampling and testing equipment. [Eff 03/04/2007]~~

~~II.C.6. Each performance test shall consist of at least three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For determining compliance with an applicable standard, the arithmetic mean of results of at least three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the division's approval, be determined using the arithmetic mean of the results of the two other runs. [Eff 03/04/2007]~~

~~II.C.7. Nothing in this section shall abrogate the division's authority to conduct its own performance test(s) if so warranted. [Eff 03/04/2007]~~

~~II.D. Ambient Air Monitoring Requirements (Reserved)~~

~~II.E. Affirmative Defense Provision for Excess Emissions During Malfunctions~~

~~II.E.1. An affirmative defense to a claim of violation under these regulations is provided to owners and operators for civil penalty actions for excess emissions during periods of malfunction. To establish the affirmative defense and to be relieved of a civil penalty in any action to enforce an applicable requirement, the owner or operator of the facility must meet the notification requirements of Section II.E.2. in a timely manner and prove by a preponderance of evidence that: [Eff 03/04/2007]~~

~~II.E.1.a. The excess emissions were caused by a sudden, unavoidable breakdown of equipment, or a sudden, unavoidable failure of a process to operate in the normal or usual manner, beyond the reasonable control of the owner or operator; [Eff 03/04/2007]~~

~~II.E.1.b. The excess emissions did not stem from any activity or event that could have reasonably been foreseen and avoided, or planned for, and could not have been avoided by better operation and maintenance practices; [Eff 03/04/2007]~~

~~II.E.1.c. Repairs were made as expeditiously as possible when the applicable emission limitations were being exceeded. [Eff 03/04/2007]~~

~~II.E.1.d. The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions; [Eff 03/04/2007]~~

~~II.E.1.e. All Reasonably possible steps were taken to minimize the impact of the excess emissions on ambient air quality; [Eff 03/04/2007]~~

~~II.E.1.f. All emissions monitoring systems were kept in operation (if at all possible); [Eff 03/04/2007]~~

~~II.E.1.g. The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence; [Eff 03/04/2007]~~

~~II.E.1.h. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; [Eff 03/04/2007]~~

~~II.E.1.i. At all times, the facility was operated in a manner consistent with good practices for minimizing emissions. This Section II.E.1.i. is intended solely to be a factor in determining whether an affirmative defense is available to an owner or operator, and shall not constitute an additional applicable requirement; and [Eff 03/04/2007]~~

~~II.E.1.j. During the period of excess emissions, there were no exceedances of the relevant ambient air quality standards established in the Commissions' Regulations that could be attributed to the emitting source. [Eff 03/04/2007]~~

~~II.E.2. Notification [Eff 03/04/2007]~~

~~The owner or operator of the facility experiencing excess emissions during a malfunction shall notify the division verbally as soon as possible, but no later than noon of the Division's next working day, and shall submit written notification following the initial occurrence of the excess emissions by the end of the source's next reporting period. The notification shall address the criteria set forth in Section II.E.1., above. [Eff 03/04/2007]~~

~~II.E.3. The Affirmative Defense Provision contained in this Section II.E. shall not be available to claims for injunctive relief. [Eff 03/04/2007]~~

~~II.E.4. The Affirmative Defense Provision does not apply to failures to meet federally promulgated performance standards or emission limits, including, but not limited to, new source performance standards and national emission standards for hazardous air pollutants. The affirmative defense provision does not apply to state implementation plan (sip) limits or permit limits that have been set taking into account potential emissions during malfunctions, including, but not necessarily limited to, certain limits with 30-day or longer averaging times, limits that indicate they apply during malfunctions, and limits that indicate they apply at all times or without exception. [Eff 03/04/2007]~~

~~II.F. Circumvention Clause~~

~~A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air pollutants to the atmosphere, reduces or conceals an emission that would otherwise constitute a violation of this regulation. No person shall circumvent this regulation by using more openings than is considered normal practice by the industry or activity in question. [Eff 03/04/2007]~~

~~II.G. Conflicts~~

~~II.D. Ambient Air Monitoring Requirements (Reserved)~~

~~II.E. Upset Conditions and Breakdowns~~

~~Upset conditions, as defined, shall not be deemed to be in violation of these regulations provided that the Air Pollution Control Division is notified as soon as possible, but no later than two (2) hours after the start of the next working day, followed by written notice to the Division explaining the cause of the occurrence and that proper action has been or is being taken to correct the conditions causing said violation and to prevent such excess emission in the future.~~

II.F. Circumvention Clause

A person shall not build, erect, install, or use any article, machine, equipment, condition, or any contrivance, the use of which, without resulting in a reduction in the total release of air pollutants to the atmosphere, reduces or conceals an emission that would otherwise constitute a violation of this regulation. No person shall circumvent this regulation by using more openings than is considered normal practice by the industry or activity in question.

II.G. Conflicts

Nothing in these regulations is intended to permit any practice that is a violation of any statute, ordinance or regulation.

~~II.H. Severability Clause~~

~~If any regulation, section, clause, phrase, or standard contained in these regulations shall for any reason be held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portions thereof shall not be affected thereby and the commission does hereby declare that it severally passed and adopted the provisions contained therein separately and apart from the other provisions thereof.~~

~~II.I. Compliance Certifications~~

~~For the purpose of submitting compliance certifications or establishing whether a person has violated or is in violation of any standard in the Colorado State Implementation Plan, nothing in the Colorado State Implementation Plan shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. Evidence that has the effect of making any relevant standard or permit term more stringent shall not be credible for proving a violation of the standard or permit term.~~

~~When compliance or non-compliance is demonstrated by a test or procedure provided by permit or other applicable requirement, the owner or operator shall be presumed to be in~~

II.G Conflicts

Nothing in these regulations is intended to permit any practice which is a violation of any statute, ordinance or regulation.

II.H Severability Clause

If any regulation, section, clause, phrase, or standard contained in these regulations shall for any reason be held to be inoperative, unconstitutional, void, or invalid, the validity of the remaining portions thereof shall not be affected thereby and the Commission does hereby declare that it severally passed and adopted the provisions contained therein separately and apart from the other provisions thereof.

II.I Compliance Certifications

For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in the Colorado State Implementation Plan (SIP), nothing in the Colorado SIP shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed.

II.J Affirmative Defense Provision for Excess Emissions During Startup and Shutdown

II.J.1 An affirmative defense is provided to owners and operators for civil penalty actions for excess emissions during periods of startup and shutdown. To establish the affirmative defense and to be relieved of a civil penalty in any action to enforce an applicable requirement, the owner or operator of the facility must meet the notification requirements of Paragraph 2 in a timely manner and prove by a preponderance of the evidence that:

II.J.1.a The periods of excess emissions that occurred during startup and shutdown were short and infrequent and could not have been prevented through careful planning and design;

II.J.1.b The excess emissions were not part of a recurring pattern indicative of inadequate design, operation or maintenance;

II.J.1.c If the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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II.J.1.d....The frequency and duration of operation in startup and shutdown periods were minimized to the maximum extent practicable;

II.J.1.e All possible steps were taken to minimize the impact of excess emissions on ambient air quality;

II.J.1.f All emissions monitoring systems were kept in operation (if at all possible);

II.J.1.g The owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs or other relevant evidence; and,

II.J.1.h At all times, the facility was operated in a manner consistent with good practices for minimizing emissions. This subparagraph H is intended solely to be a factor in determining whether an affirmative defense is available to an owner or operator, and shall not constitute an additional applicable requirement.

II.J.2 Notification: The owner or operator of the facility experiencing excess emissions during startup and shutdown shall notify the Division verbally as soon as possible, but no later than two (2) hours after the start of the next working day, and shall submit written quarterly notification following the initial occurrence of the excess emissions. The notification shall address the criteria set forth in paragraph 1 above.

II.J.3 The Affirmative Defense Provision contained in this section shall not be available to claims for injunctive relief.

II.J.4 The Affirmative Defense Provision does not apply to State Implementation Plan provisions or other requirements that derive from new source performance standards (NSPS) or national emissions standards for hazardous air pollutants (NESHAPS), any other federally enforceable performance standard or emission limit with an averaging time greater than twenty-four hours. In addition, an affirmative defense cannot be used by a single source or small group of sources where the excess emissions have the potential to cause an exceedance of the ambient air quality standards or Prevention of Significant Deterioration (PSD) increments.

~~II.J.5 Affirmative Defense Determination: In making any determination whether a source established an affirmative defense, the Division shall consider~~

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~~the information within the notification required in paragraph 2 of this section and any other information the Division deems necessary, which may include, but is not limited to, physical inspection of the facility and review of documentation pertaining to the maintenance and operation of process and air pollution control equipment.~~

~~III. Smoking Gasoline Powered Motor Vehicle Control Region~~

~~Pursuant to Section 18-13-110(1)(a)(ii), C.R.S. 1973 as amended, the Air Quality Control Commission hereby designates the Federal Air Quality Control Region which includes the counties of Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Gilpin, and Jefferson as a "Smoking Gasoline-Powered Motor Vehicle Control Region."~~

~~The Commission makes this designation upon review of ambient air quality data and determinations that on at least thirty-one (31) occasions over a period of one (1) year, carbon monoxide levels within the region exceeded 9 ppm (parts per million) averaged over an eight-hour (8-hr.) non-overlapping period.~~

~~IV. Conflicts of Interest by Commission Members~~

~~If a member of the Air Quality Control Commission perceives he or she has or may have a real, potential, or apparent conflict of interest regarding any matter before the Commission on which he/she serves, he/she shall take one of the following two steps:~~

~~IV.1 Disclose the basis of the real, potential, or apparent conflict of interest to the Commission on which he/she serves and others in attendance before the discussion or hearing begins or as soon thereafter as he/she perceives there is or may be a real, potential, or apparent conflict of interest and disqualify himself/herself from any further participation or voting on the matter at hand; or~~

~~IV.2 Disclose the basis of the real, potential, or apparent conflict of interest to the Commission on which he/she serves and others in attendance before the discussion or hearing begins or as soon thereafter as he/she perceives there is or may be a real, potential, or apparent conflict of interest. If the member so disclosing the conflict of interest or possible conflict of interest does not disqualify himself/herself from further participation on the matter with which there is or may be a conflict of interest, the Chairman will ask for comments from any members, parties, or public present, and the Commission, after appropriate discussions, will vote on whether there is a conflict, or is not a conflict of interest and the member will be bound by their vote. If the Commission determines that there is a conflict, such member shall be disqualified from further participation or voting on the matter at hand.~~