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Overview of Compliance with the Formaldehyde Emission Standards for Composite Wood Products – Wood Flooring Industry-

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Presentation Overview

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Background on TSCA Title VI

- On July 7, 2010, the Formaldehyde Standards for Composite Wood Products Act was signed into law to become Toxic Substances Control Act (TSCA) Title VI.
- TSCA Title VI establishes formaldehyde emission standards identical to the California Air Resources Board (CARB) limits.
- TSCA Title VI directs the implementation of regulations to ensure compliance with formaldehyde emission standards.
- The final rule is available in the Code of Federal Regulations under 40 CFR Part 770 and posted online at https://www.regulations.gov/document?D=EPA-HQ-OPPT-2016-0461-0001.

Regulation Summary

- TSCA Title VI requires that composite wood products be tested and certified, ensuring only compliant products enter the product supply chain.
- Composite wood products must be certified by an EPA-recognized third-party certifier (TPC), also called an EPA TSCA Title VI TPC.
- Composite wood products covered under TSCA Title VI:
  1. Hardwood Plywood;
  2. Medium-Density Fiberboard, including thin-MDF; and
  3. Particleboard.

  * There are limited testing and certification exemptions for no-added formaldehyde (NAF) resins or ultra-low emitting formaldehyde (ULEF) resins.
- The new regulation includes recordkeeping, reporting, and labeling requirements.
- All applications and notifications submitted to EPA under the final rule must be done through the EPA Central Data Exchange (CDX) at: https://cdx.epa.gov

Regulated Product Definitions

Regulated composite wood products under TSCA Title VI include:

1. **Hardwood Plywood (HWPW):** Hardwood or decorative panel that is intended for interior use and composed of an assembly of layers or plies of veneer, joined by adhesive with a lumber core, a particleboard core, a medium-density fiberboard core, a hardboard core, a veneer core (or any other special core or special back).

2. **Medium-Density Fiberboard (MDF):** Panel composed of cellulosic fibers made by dry forming and pressing a resonated fiber mat.

3. **Particleboard (PB):** A panel composed of cellulosic material in the form of discrete particles (as distinguished from fibers, flakes, or strands) that are pressed together with resin.

4. **Laminated Product:** Product with wood, or woody grass veneer affixed to a composite wood platform by a fabricator as a finished product or a component part.

Examples of Regulated and Exempt Flooring

Regulated products must meet the emission standards beginning June 1, 2018

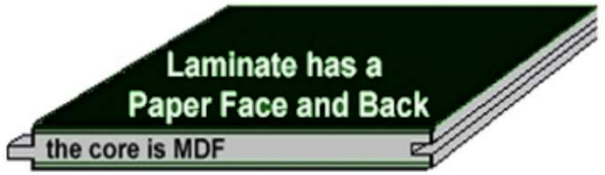
Regulated

Plywood Core

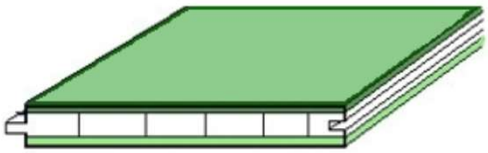
Regulated

MDF Core

Regulated



Exempt



Lumber Core

Emission Standards

Regulated products must meet the emission standards beginning June 1, 2018:

Product	Emission Standard
Hardwood Plywood – Veneer Core	0.05 ppm of formaldehyde
Hardwood Plywood – Composite Core	0.05 ppm of formaldehyde
Medium-Density Fiberboard	0.11 ppm of formaldehyde
Thin Medium-Density Fiberboard	0.13 ppm of formaldehyde
Particleboard	0.09 ppm of formaldehyde

Compliance Timeline/Dates

- May 22, 2017 – final rule became effective.
- August 25, 2017 – early labeling for compliant product became effective.
- June 1, 2018* – beginning this date all regulated products (manufactured in the U.S. or imported) must comply with the emission standards, certification, testing, recordkeeping and labeling provisions.
- March 22, 2019 – reciprocity transition period for CARB approved/EPA-recognized TPCs and products certified by them ends.
- March 22, 2019 – beginning this date importers must comply with import certification provision (will occur as part of CBP import process).
- March 22, 2024 – beginning this date non-exempt laminated products are regulated as hardwood plywood and must comply with panel producer requirements.

*This date is now official due to the March 13, 2018 Order of the U.S. District Court, Northern District of California from the litigation over the compliance date.

Manufactured-by Date

Composite Wood Product Manufactured-by date (compliance date): Begins June 1, 2018*

- Composite wood products and finished goods containing composite wood products that are sold, supplied, offered for sale, or manufactured must comply with the rule starting on the manufactured-by date.
- Imports: under TSCA, the definition of manufacture includes imports. Therefore the manufactured-by date also means the imported-by date for imported composite wood products or finished goods containing them.
- Composite wood products or finished goods manufactured (or imported) before June 1, 2018* are not subject to the rule; in other words, if imported, composite wood products must have entered the customs territory of the U.S. no later than May 31, 2018.
  - Composite wood products can be incorporated into finished goods at any time after June 1 until the stock is depleted. Retailers, fabricators, and distributors are permitted to continue to buy and sell these composite wood products, laminated products, as well as finished goods that incorporate these products.
  - Composite wood products or finished good containing regulated composite wood must have associated records documenting they were in the inventory or imported prior to the manufactured-by date.

*This date is now the required compliance date due to the March 13, 2018 Order of the U.S. District Court, Northern District of California from the litigation.

Manufactured-by Date

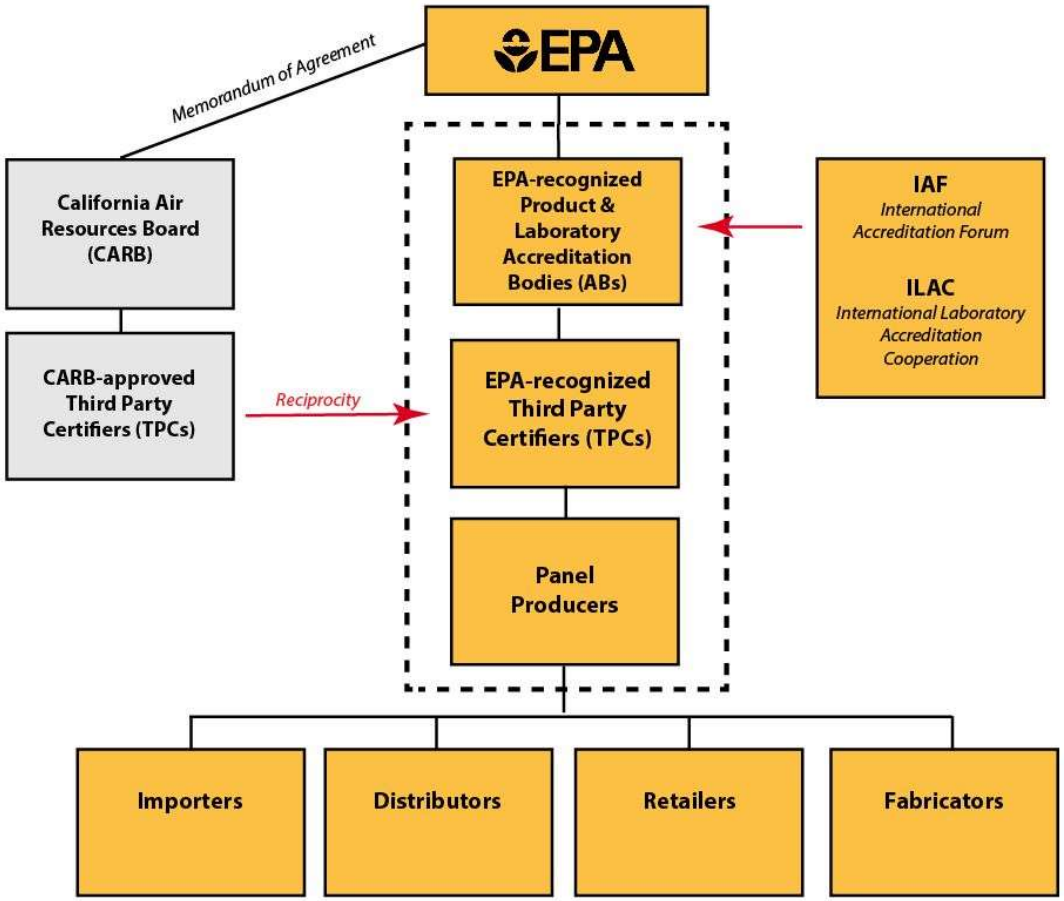
Laminated Product Manufactured-by date:
Beginning March 22, 2024.

- Before this date all laminated product producers must comply with the general requirements for fabricators.
- Beginning on this date, laminated products must either be made using a no-added formaldehyde(NAF), phenol-formaldehyde (PF), or other EPA approved resin through the petition process to attach the wood or woody grass veneer to the compliant platform to be exempt from the definition of HWPW (see 40 CFR 770.4(a) - (b)) or comply with the testing, certification, and recordkeeping requirements for HWPW producer in addition to requirements for fabricators.
- Producers of HWPW exempt laminated products must maintain records that demonstrate eligibility for the exemption in order to claim the exemption.

Rule Framework and Impacted Entities

Each entity must fulfill certain requirements to ensure that only compliant composite wood products enter the supply chain.

The dotted line represents the EPA's third-party certification program.



Responsibilities Under TSCA Title VI

Accreditation Bodies/ Third-Party Certifiers

Accreditation bodies (ABs) - the primary responsibility of ABs is to conduct oversight of third-party certifiers (TPCs) and their laboratories to ensure they are qualified to conduct formaldehyde emission testing and certify products.

- ABs must apply to and be recognized by EPA before they can accredit TPCs and conduct oversight activities.

Third-party certifiers (TPCs) - the primary responsibility of TPCs is to conduct emission testing on composite wood products (panels) and to certify that the products meet the emissions standards.

- TPCs must apply to and be recognized by EPA before they can perform any testing and certification activities.
- After March 22, 2019, CARB TPCs *must be accredited by an EPA-recognized AB and have the required additional ISO accreditations* issued by the EPA-recognized AB, and their scope of accreditation must also include 40 CFR Part 770 (the rule) to retain EPA recognition as a TSCA Title VI TPC under reciprocity.

Responsibilities Under TSCA Title VI

Panel Producers

Panel producers are responsible for the following:

1. Applying for and receiving third-party certification of regulated products by an EPA-recognized TPC;
2. Conducting quality control tests on a regular basis to ensure regulated composite wood products meet emission standards:
   - For particleboard and MDF, at least *once per 8- or 12-hour shift plus or minus one hour for production* for each product line for each production type (unless reduced testing has been approved); and
   - For HWPW, varies (x times per week or month) by square feet of product produced.
3. Meeting reporting and recordkeeping requirements, and ensuring that all quality control requirements are met; and
4. Labeling products they produce either separately or by the bundle/box.

Responsibilities Under TSCA Title VI

Fabricators and Laminated Product Producers

Fabricator: a person or entity who incorporates composite wood products into component parts or into finished goods. Includes laminated product producers but persons or entities in the construction trades are not fabricators by renovating or remodeling buildings.

Fabricators are responsible for the following:

1. Ensuring they purchase only compliant composite wood products, whether unfinished panels or incorporated into component parts or finished goods;

2. Keeping records documenting their supplier's information and that they received compliant products; and

3. Labeling individually any finished goods they produce or every box/bundle containing finished goods they produce.

Responsibilities Under TSCA Title VI

Fabricators and Laminated Product Producers

- Fabricators may also be laminated product producers.
- A laminated product producer is:
  - A manufacturing plant or other facility that manufactures (excluding facilities that solely import products) laminated products on the premises.
- A laminated product is:
  - A product in which a wood or woody-grass veneer affixed to a regulated composite wood product platform under TSCA Title VI; or
  - A component part used in the construction or assembly of a finished good.
- *Non-exempt* laminated products made with formaldehyde-based resins (other than phenol-formaldehyde (PF)) to attach a veneer to composite wood products must be tested and certified to meet the HWPW emission standard beginning March 22, 2024.
- *Exempt* laminated products are those products that are made with PF resin or NAF resin to attach a veneer to an already compliant platform**.**
  - Any person may petition the agency to initiate a rulemaking for additional exemptions for laminated products from the term “hardwood plywood” if using alternative resins.

Additional Laminator Records

Laminated product producers exempt from the hardwood plywood definition beginning March 22, 2024 must keep records for composite wood products and resins, including those they purchase or produce, such as:

	For Products You Purchase	For Products You Produce
Composite Wood Products	• Purchase records. • Panel producer information. • Contact Information.	• Records demonstrating that the panels have been certified by an EPA TSCA Title VI TPC; or • Records showing they were produced under a limited third-party certification exemption for panels made with NAF resins or ULEF resins.
Resins	• Purchase records. • Resin trade name. • Resin manufacturer contact information. • Resin supplier contact information.	• Records demonstrating the production for NAF or PF resins, or eligibility of an additional resin exemption established after petition to EPA.

NOTE: Beginning March 22, 2024, laminated product producers that are not exempt from hardwood plywood are considered to be panel producers and must keep panel producer records.

Responsibilities Under TSCA Title VI

Importers, Distributors, and Retailers

Under TSCA Title VI, **importers**, **distributors**, and **retailers** are responsible for recordkeeping and labeling requirements, including:

1. Ensuring they purchase only compliant composite wood products, whether unfinished panels or incorporated into component parts or finished goods;

2. Ensuring labels stay intact on individual items ***or*** are on file if items were purchased by the box or bundle and sold separately (label information must be made available to potential customers upon request);

3. Using a method sufficient to identify the supplier of the panel or finished good, and linking the information on the label to the product; and

4. Importers must *also* provide an import certification for all imports beginning on March 22, 2019.

Responsibilities Under TSCA Title VI

Importers

Importer-specific provisions

- Importers must take reasonable precautions to ensure the products (panels, finished goods, component parts) they import comply with the emissions standards.
  - Demonstrate reasonable precautions by maintaining for 3-years records that include a written supplier provided statement that the products, finished goods or component parts are TSCA Title VI compliant.
- Importers must be able to provide the following records to EPA within 30 calendar days of request:
  - Identification of the producer of the composite wood product(s) and the date the composite wood product(s) were produced;
  - Identification of the supplier (if different from the producer); the date the composite wood product(s), component part(s), or finished good(s) (as applicable) were purchased.
  - Importers are not required in advance to obtain these records directly from suppliers, but must have a means to obtain them.

Responsibilities Under TSCA Title VI

Importers

Import Certification

- Beginning March 22, 2019, for all imported articles that are regulated composite wood products (or that contain regulated composite wood products), you must sign and file the following certification:

  "I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order under TSCA."

- Signing and filing of this certification statement will occur through the routine CBP import process.

Responsibilities Under TSCA Title VI

Distributors and Retailers

- ***Distributor*** means any person or entity to whom a composite wood product, component part, or finished good is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers and retailers are not distributors.

- ***Retailer*** means any person or entity that sells, offers for sale, or supplies directly to consumers composite wood products, component parts or finished goods that contain composite wood products, except that persons or entities in the construction trades are not considered retailers by selling, renovating, or remodeling buildings.

- Note that importers can also be distributors and retailers.

- **Beginning June 1, 2018**, distributors, and retailers must demonstrate that they have taken reasonable precautions by obtaining bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood products, component parts, or finished goods are TSCA Title VI or CARB Phase II compliant or that the composite wood products were produced **before** June 1, 2018.

Responsibilities Under TSCA Title VI

Importers, Distributors, and Retailers

Records

You must take reasonable precautions to ensure that any composite wood products you sell, supply, offer for sale, or hold for sale (whether in the form of panels, component parts, or finished goods) comply with TSCA Title VI.

- Importer records specifically must include:
  - An identification of the producer of the composite wood product;
  - The date the composite wood product was produced; and
  - An identification of the supplier (if different from the producer).
- Importer, distributor, and retailer records must include:
  - Bills of lading, invoices, or comparable documents that include a written statement that the composite wood product is compliant with TSCA Title VI.
- These records must be kept on file for a period of three years from the import date or the date of the purchases or shipments.

Outreach/Compliance Information

- General Information
  - ✓ http://www.epa.gov/formaldehyde
- Small Entity Compliance guides
  - ✓ https://www.epa.gov/formaldehyde/accreditation-bodies-and-third-party-certifiers-compliance-guide-formaldehyde-emission (English, Spanish, French, Chinese (simple); to come Vietnamese, Portuguese, Indonesian)
- List of EPA-recognized/CARB approved TPCs
  - ✓ https://www.epa.gov/formaldehyde/recognized-third-party-certifiers-under-formaldehyde-emission-standards-composite-wood
- Webinars
  - ✓ https://www.epa.gov/formaldehyde/webinars-small-entity-compliance-formaldehyde-emission-standards-composite-wood
- Frequently Asked Questions (more coming soon)
  - ✓ https://www.epa.gov/formaldehyde/regulated-stakeholder-frequently-asked-questions-implement-formaldehyde-standards

For More Information

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PANELISTS

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