

Small Entity Compliance for Formaldehyde Standards in Composite Wood Products

Importers, Distributors, and Retailers

National Program Chemicals Division
Office of Pollution Prevention and Toxics
Updated April 2018





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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 Federal Register under 40 CFR Part 770 and posted online at <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2016-0461-0001>.
 - Became effective on May 22, 2017.
 - Beginning June 1, 2018, composite wood products (manufactured in or imported into the U.S.) must be certified as compliant with emission standards by a CARB approved and EPA-recognized Third-Party Certifier (TPC).**
 - Until March 22, 2019, regulated products must be labelled as compliant with the TSCA Title VI or CARB ATCM Phase II emission standards. After March 22, 2019, products must be labeled as TSCA Title VI compliant.**
 - Beginning March 22, 2019, import certification is required.*
 - Beginning March 22, 2024, non-exempt laminated products become hardwood plywood and must comply with panel producer requirements.*

* The final rule extending compliance dates is [available in the Federal Register online](#).

** On March 13, 2018, the U.S. District Court for the Northern District of California, issued an order addressing the litigation over the December 12, 2018 compliance date for the formaldehyde standards for composite wood products. [Read the Federal Register Notice announcing the litigation](#).



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 affected under TSCA Title VI are:
 1. Hardwood Plywood;
 2. Medium-Density Fiberboard (MDF), 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 (see slides 14 and 15 for more information).
- 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>.

Product Exemptions

If you produce any other component parts or finished goods that contain *only* exempt products, you are not subject to the new regulation.

Exemptions include the following products:

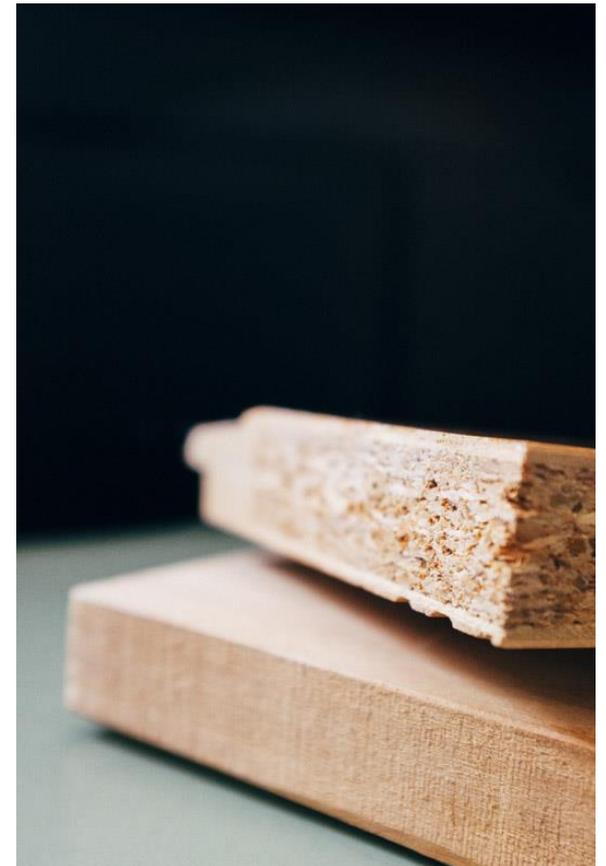
- 1) Hardboard
- 2) Structural plywood
- 3) Structural panels
- 4) Structural composite lumber
- 5) Military-specified plywood
- 6) Curved plywood
- 7) Oriented strand board
- 8) Glued laminated lumber
- 9) Prefabricated wood I-joists
- 10) Finger-jointed lumber
- 11) Wood packaging (e.g., pallets, crates, spools, dunnage)
- 11) Composite wood products used inside a new vehicle other than a recreational vehicle, such as:
 - Rail cars, boats, and aircraft
- 12) Windows that contain composite wood products if the windows contain less than 5% composite wood product by volume
- 13) Exterior doors and garage doors that contain composite wood products, if:
 - The doors are made from composite wood products manufactured with NAF or ULEF resins; or
 - The doors contain less than 3% composite wood product by volume
- 14) Refurbished or antique furniture
- 15) Finished goods previously sold/supplied to an end user who purchased or acquired the finished good in good faith for purposes other than resale are exempt



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

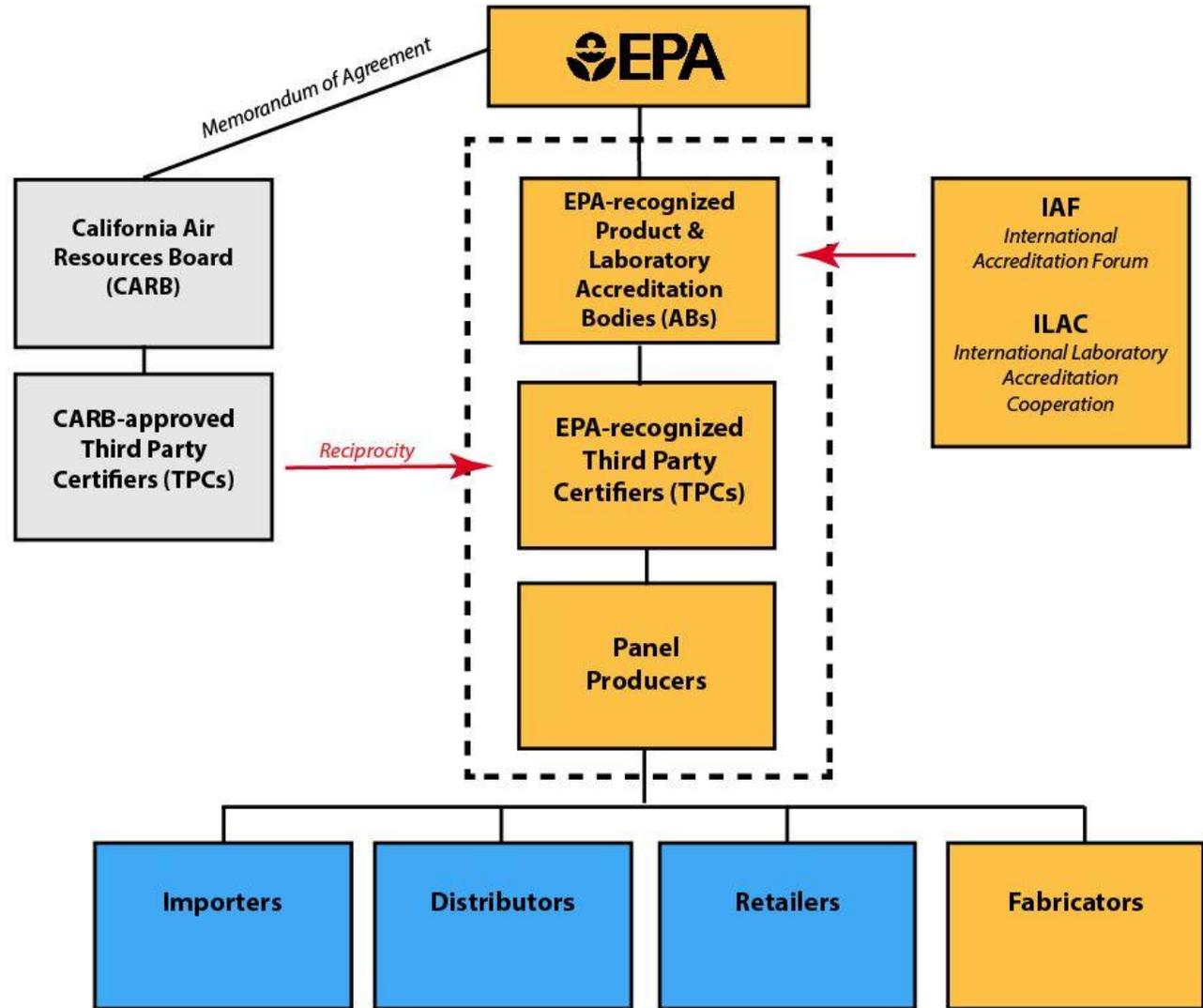


Rule Framework



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

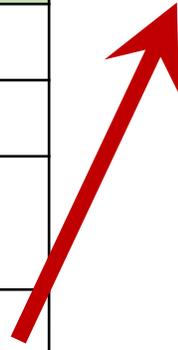
The dotted line represents the EPA's third-party certification program.





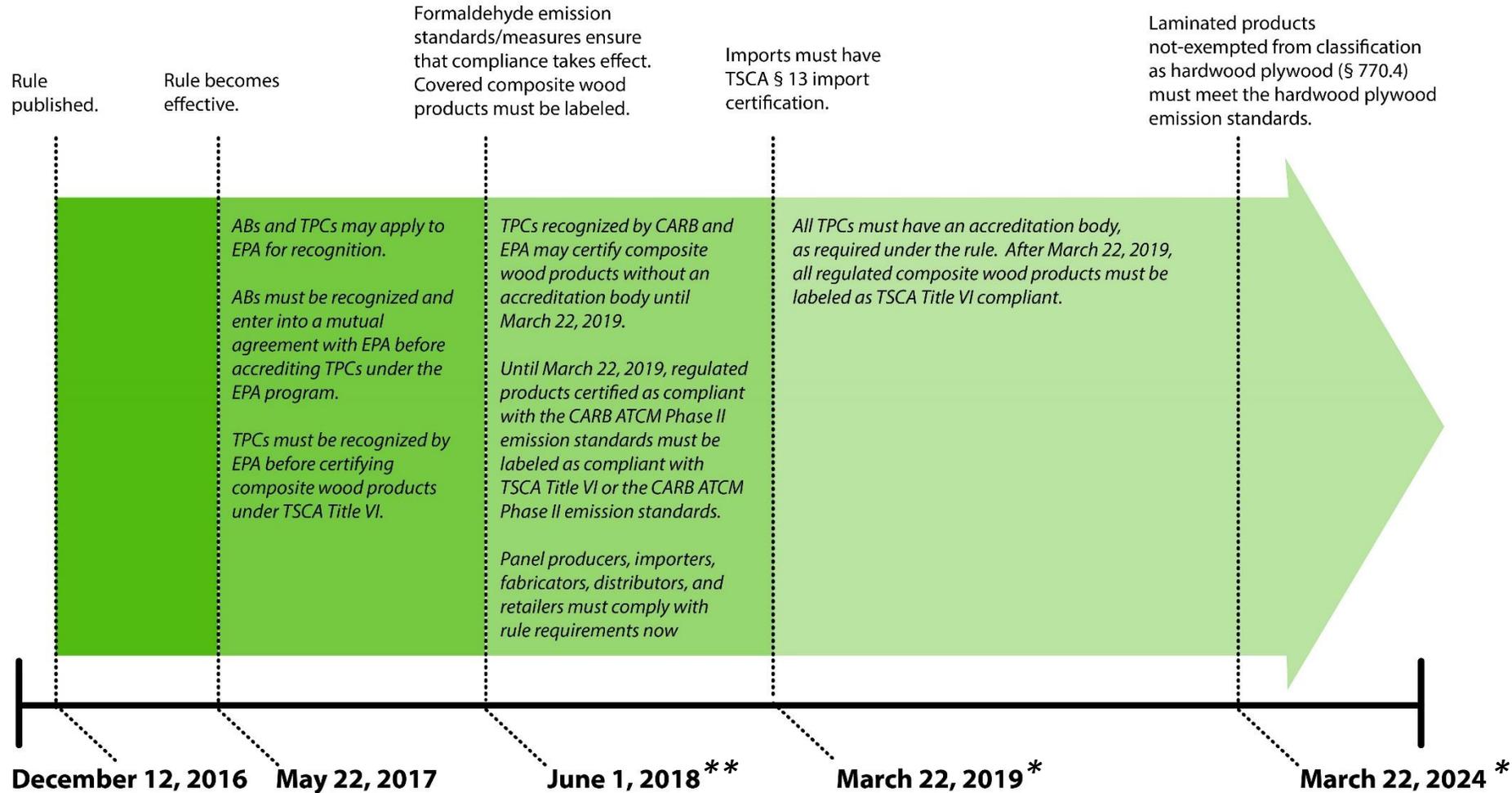
Impacted Entities

Entities in the supply chain:
Panel producers
Fabricators
Third-Party Certifiers and Accreditation Bodies
Importers, distributors, and retailers



Businesses likely to be covered under TSCA Title VI as importers, distributors, and retailers:
Furniture merchant wholesalers
Lumber, plywood, millwork, and wood panel merchant wholesalers
Furniture stores
Building material and supplies dealers
Manufactured (mobile) home dealers
Recreational vehicle (RV) dealers
Recreational vehicle merchant wholesalers
Other construction material merchant wholesalers, wholesale distributors of manufactured homes and/or prefabricated buildings

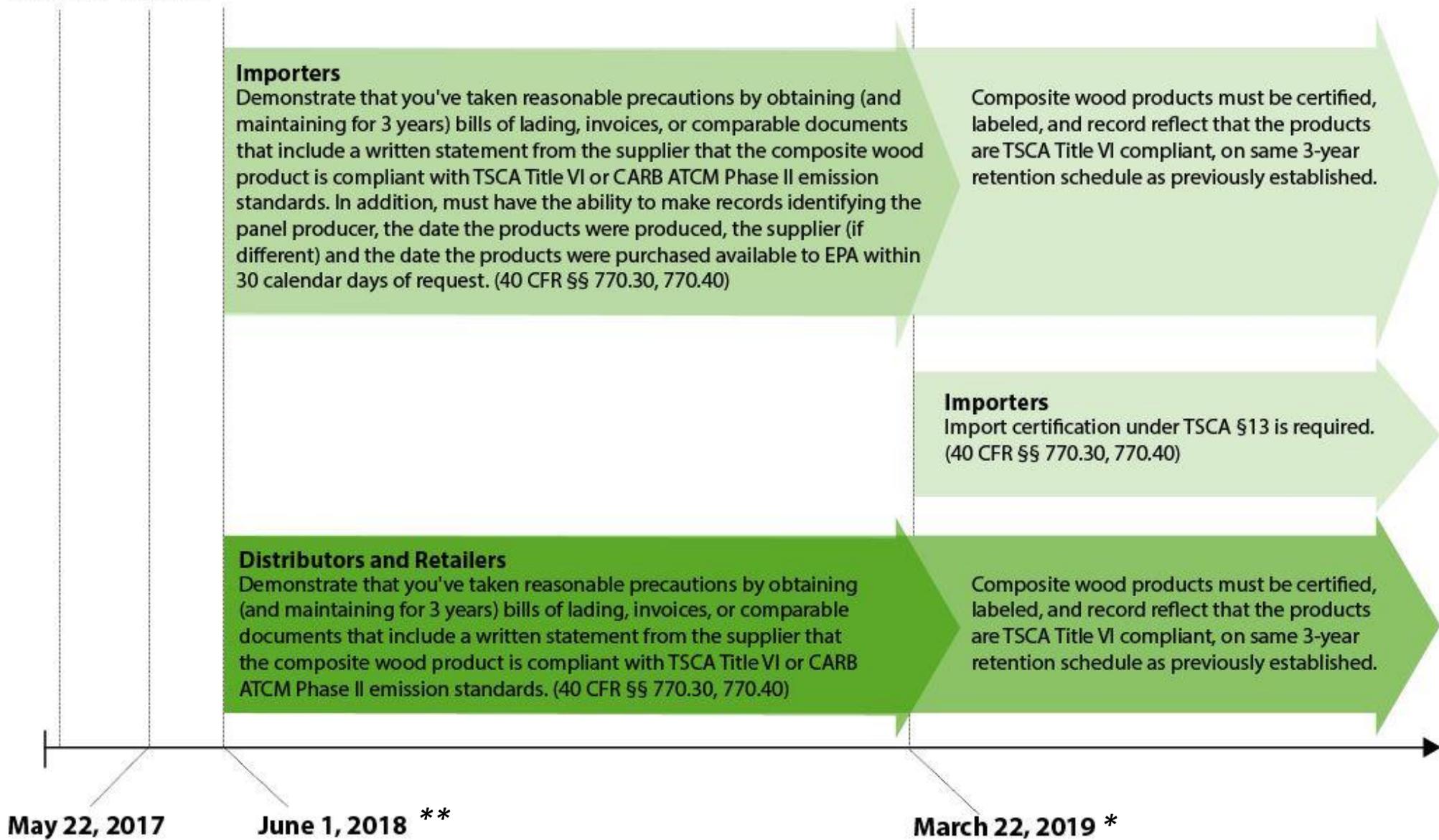
Compliance Timeline



* The final rule extending compliance dates is [available in the Federal Register online](#).

** On March 13, 2018, the U.S. District Court for the Northern District of California, issued an order addressing the litigation over the December 12, 2018 compliance date for the formaldehyde standards for composite wood products. [Read the Federal Register Notice announcing the litigation.](#)

Rule published. Rule becomes effective.



May 22, 2017

June 1, 2018 **

March 22, 2019 *

* The final rule extending compliance dates is [available in the Federal Register online](#).
** On March 13, 2018, the U.S. District Court for the Northern District of California, issued an order addressing the litigation over the December 12, 2018 compliance date for the formaldehyde standards for composite wood products. [Read the Federal Register Notice announcing the litigation](#).

How to Comply





Your Responsibilities Under TSCA Title VI

1. Must ensure you purchase only compliant composite wood products, whether they are unfinished panels or incorporated into component parts or finished goods.
2. You are not responsible for labeling goods, but you must ensure labels stay intact on individual items or on file if you purchase by the bundle and sell separately.
3. If you divide, repack, or purchase composite wood products for resale you must have a system sufficient to identify the supplier of the panel and link the information on the label to the products.
4. Importers must also provide an import certification for all imported articles that are regulated composite wood products (or that contain regulated composite wood products) beginning March 22, 2019.





Stockpiling

- Regulated entities are not permitted to sell any composite wood products or finished goods containing composite wood products if they have been stockpiled.
- Products are stockpiled when:
 - Between July 7, 2010 and June 12, 2017 you have purchased at least 20% greater than your average rate of purchase during the 2009 calendar year; and
 - You purchased the products at a higher rate specifically to circumvent emission standards.
- Products are not stockpiled when:
 - Composite wood products are manufactured or purchased for legitimate business reasons at a higher rate, because of increased demand, natural disaster, planned business expansion, etc.

- You are not required to label products yourself; however, you must:
 - Make sure labels on individually purchased composite wood products remain intact; and
 - If you purchase by the bundle and sell individual products, retain a copy of the label, and be able to identify the products associated with the label.*
- Labels are not required on component parts not sold separately or on finished goods if they contain a de minimis amount of composite wood product (i.e., no more than 144 square inches of composite wood products, based on the surface area of the aggregate of all composite wood products' largest faces in finished goods).

NOTE: Until March 22, 2019, regulated products certified as compliant with the CARB ATCM Phase II emission standards must be labeled as compliant with TSCA Title VI or CARB ATCM Phase II emission standards (which are set at identical levels).

After March 22, 2019, regulated products manufactured in or imported into the U.S. may not rely on CARB reciprocity (40 CFR 770.15(e)) and must be certified and labeled as TSCA Title VI compliant.



- 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.

NOTE: Until March 22, 2019, regulated products certified as compliant with the CARB ATCM Phase II emission standards must be labeled as compliant with TSCA Title VI or CARB ATCM Phase II emission standards (which are set at identical levels).

After March 22, 2019, regulated products manufactured in or imported into the U.S. may not rely on CARB reciprocity (40 CFR 770.15(e)) and must be certified and labeled as TSCA Title VI compliant.



Records

Importer-specific provisions

- Importers must be able to provide the following records to EPA within 30 calendar days of request: an identification of the producer of the composite wood product(s) and the date the composite wood product(s) were produced; and an identification of the supplier (if different from the producer) and the date the composite wood product(s), component part(s), or finished good(s) (as applicable) were purchased.
 - Importers are not required to obtain these records directly from suppliers.
 - Importers may arrange, by contract or some other means, to have their suppliers provide these records directly to EPA within 30 calendar days of request.
- Recordkeeping requirements for imported products are equivalent to the aggregate recordkeeping requirements for domestically produced products.
 - Responsibility for ensuring that pre-importation supply chain records are maintained, however, falls on the importer instead of being spread out amongst different entities in the supply chain.



Import Certification

Importer-specific provisions

- Beginning March 22, 2019, for all imported articles that are regulated composite wood products (or that contain regulated composite wood products), you must sign 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.”

- This certification must appear on the U.S. Customs entry document or invoice for composite wood products after March 22, 2019.

For More Information



Contact your EPA regional office for specific local requirements.



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Visit EPA's website for updates: <http://www.epa.gov/formaldehyde>.

