Small Entity Compliance for Formaldehyde Standards in Composite Wood Products

Importers, Distributors, and Retailers
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.

  o Becomes effective on March 21, 2017.
  o After December 12, 2017, emission standards, certification, testing, recordkeeping and labeling provisions begin.
  o After December 12, 2018, import certification begins.
  o After December 12, 2023, non-exempt laminated products become hardwood plywood and must comply with panel producer requirements.
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.

• 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)
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 of 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
Regulated products must meet the emission standards after December 12, 2017:

<table>
<thead>
<tr>
<th>Product</th>
<th>Emission Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hardwood Plywood – Veneer Core</td>
<td>0.05 ppm of formaldehyde</td>
</tr>
<tr>
<td>Hardwood Plywood – Composite Core</td>
<td>0.05 ppm of formaldehyde</td>
</tr>
<tr>
<td>Medium-Density Fiberboard</td>
<td>0.11 ppm of formaldehyde</td>
</tr>
<tr>
<td>Thin Medium-Density Fiberboard</td>
<td>0.13 ppm of formaldehyde</td>
</tr>
<tr>
<td>Particleboard</td>
<td>0.09 ppm of formaldehyde</td>
</tr>
</tbody>
</table>
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:

<table>
<thead>
<tr>
<th>Panel producers</th>
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<tbody>
<tr>
<td>Fabricators</td>
</tr>
<tr>
<td>Third-Party Certifiers and Accreditation Bodies</td>
</tr>
<tr>
<td>Importers, distributors, and retailers</td>
</tr>
</tbody>
</table>

## 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

Importers, Distributors, and Retailers

Rule published. Rule becomes effective.

- ABs and TPCs may apply to EPA for recognition.
- ABs must be recognized and enter into a mutual agreement with EPA before accrediting TPCs under the EPA program.
- TPCs must be recognized by EPA before certifying composite wood products under TSCA Title VI, beginning 1 year after rule promulgation.

Formaldehyde emission standards/measures ensure that compliance takes effect. Covered composite wood products must be labeled.

Imports must have TSCA § 13 import certification.

Laminated products not-exempted from classification as hardwood plywood must meet emission standards.

All TPCs must have the proper accreditations required under the rule.

Panel producers, importers, fabricators, distributors and retailers must now comply with the rule requirements.

March 21, 2017 December 12, 2017 December 12, 2018 December 12, 2023
**Importers**
Demonstrate that you've taken reasonable precautions by obtaining (and maintaining for 3 years) bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood product is compliant with TSCA Title VI. In addition, must have the ability to make records identifying the panel producer, the date the products were produced, the supplier (if different) and the date the products were purchased available to EPA within 30 calendar days of request. (40 CFR §§ 770.30, 770.40)

**Importers**
Import certification under TSCA §13 is required. (40 CFR §§ 770.30, 770.40)

**Distributors and Retailers**
Demonstrate that you've taken reasonable precautions by obtaining (and maintaining for 3 years) bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood product is compliant with TSCA Title VI. (40 CFR §§ 770.30, 770.40)
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, repackage, 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 two years after the final rule is issued.
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 its largest face).
• 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.
**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.
Importer-specific provisions

• After December 12, 2018, 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 entry document or invoice for composite wood products after December 12, 2018.
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.