

Small Entity Compliance for Formaldehyde Standards in Composite Wood Products

Third-Party Certifiers

National Program Chemicals Division
Office of Pollution Prevention and Toxics
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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.
- 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

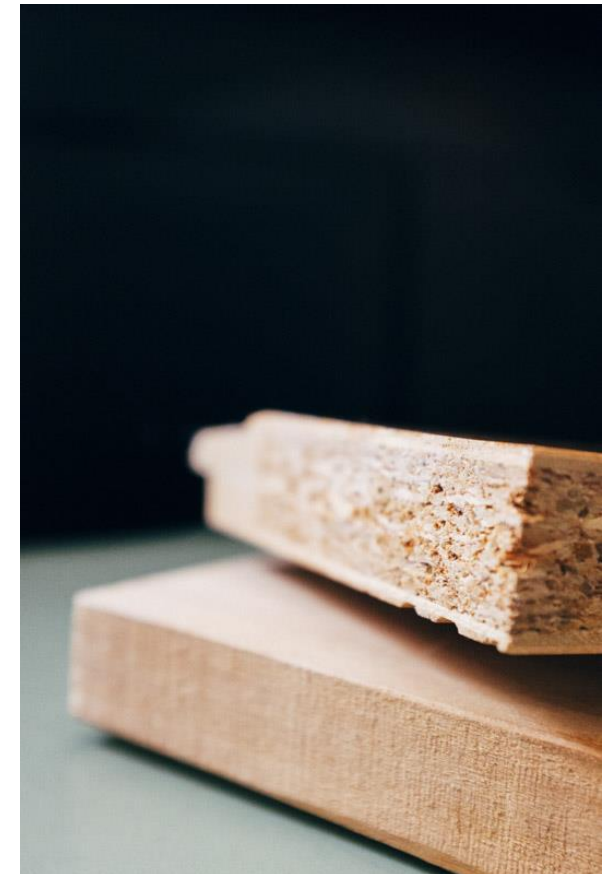
Emission Standards

Third-Party Certifiers



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

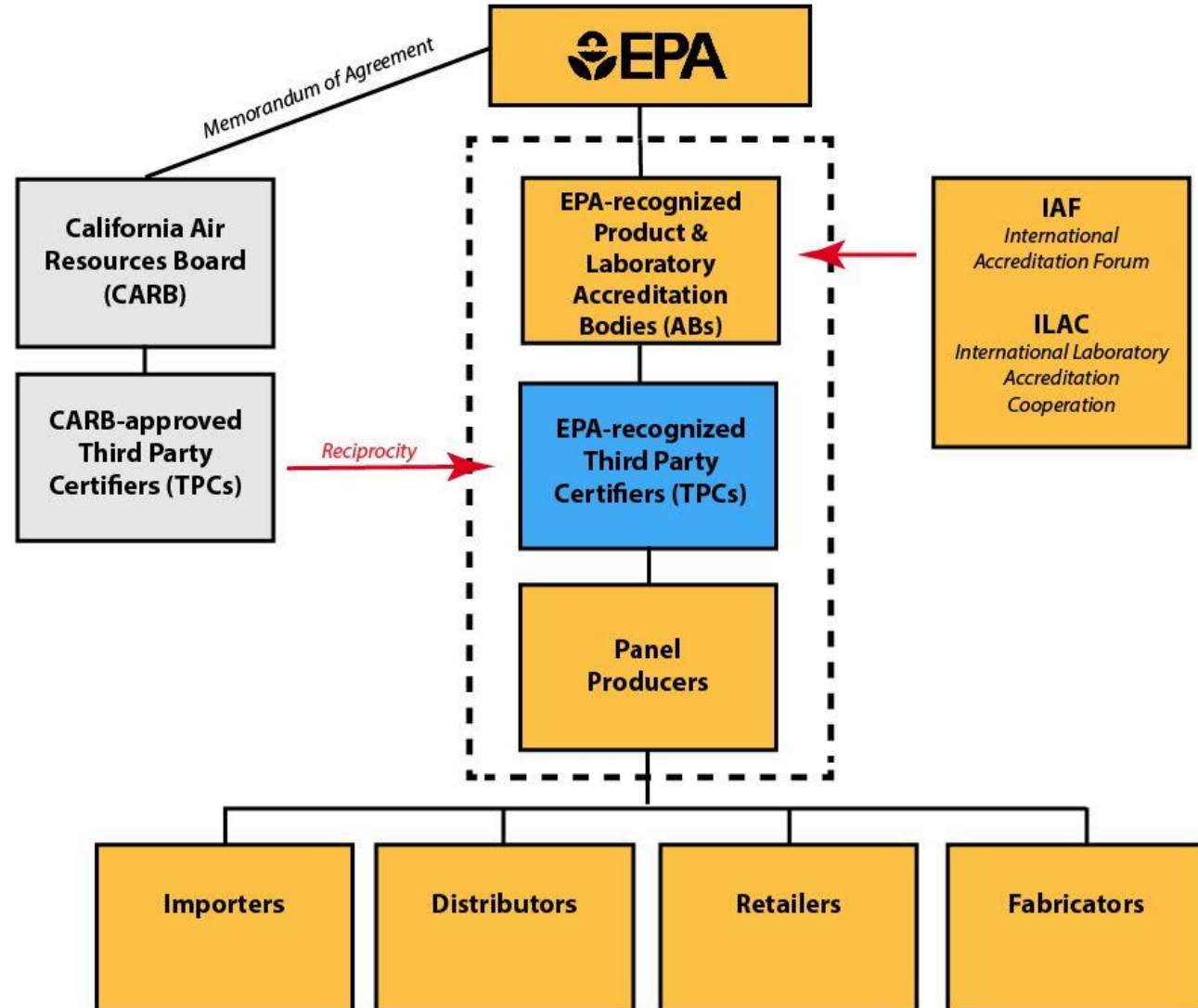




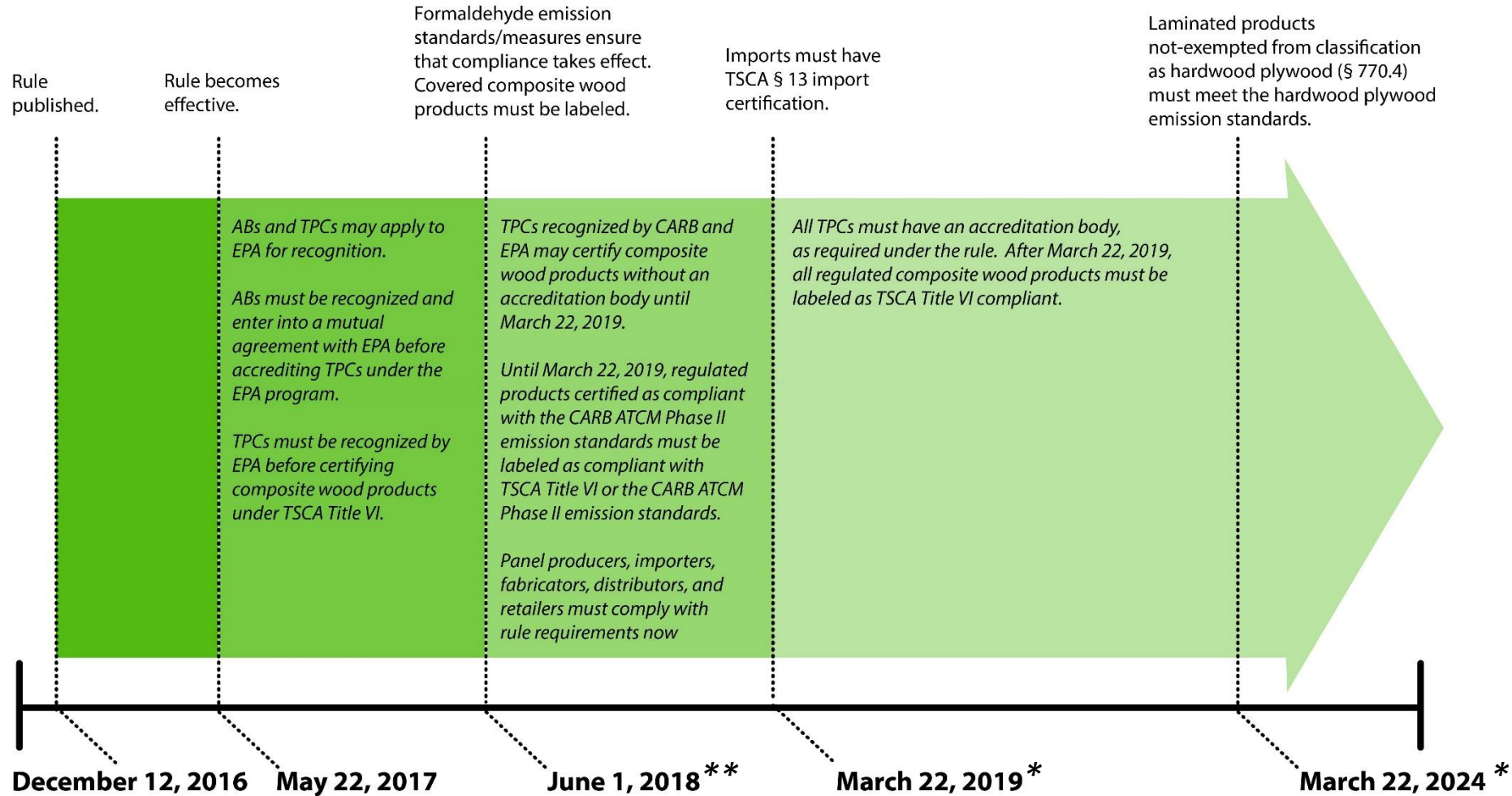
Rule Framework and Impacted Entities

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.

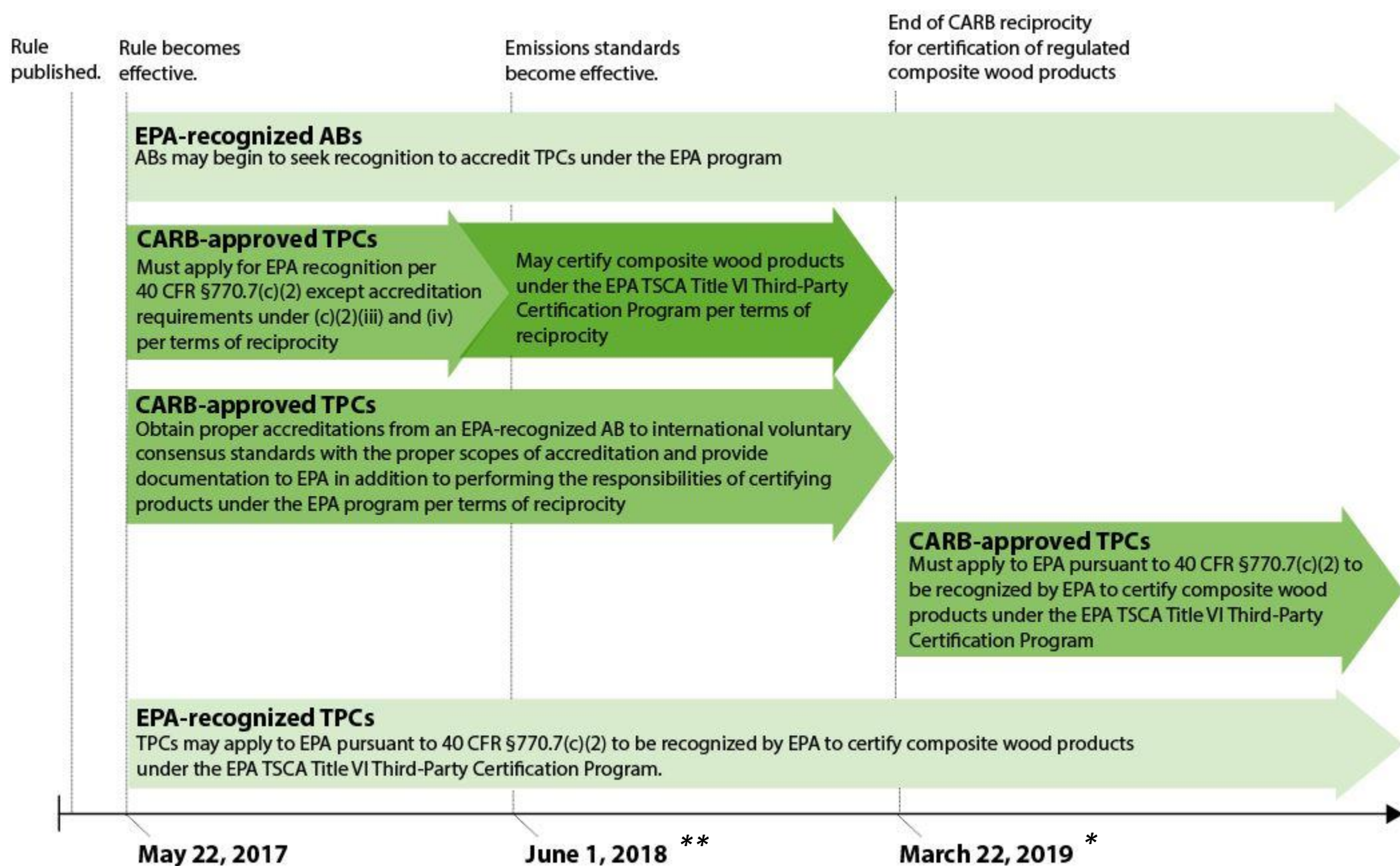


Compliance Timeline



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Becoming an EPA-Recognized Third-Party Certifier





Compliance Requirements

- Applicant TPCs must be recognized under the EPA program in order to certify hardwood plywood, MDF, and/or particleboard and finished goods containing these products that are sold or supplied in the United States.
- CARB-approved TPCs can apply to be recognized by EPA under TSCA Title VI if they maintain their existing CARB approval and adhere to requirements under 40 CFR §770.7 (d)(1).
- To be recognized under the EPA program, TPCs must:
 1. Be accredited by an EPA-Recognized Product Accreditation Body (AB);
 2. Use a laboratory that is accredited by an EPA-Recognized Laboratory AB;
 3. Have other qualifications specified under 40 CFR §770.7 (see next slides);
 4. Submit an application and be recognized by EPA; and
 5. Upon recognition from EPA, impartially perform their responsibilities.



Qualifications for Participation

- In order for TPCs to certify composite wood products, they must qualify for recognition by EPA. To qualify, applicants must:

Accreditation <i>*after the transitional period for CARB TPCs under reciprocity</i>	Be accredited by an EPA TSCA Title VI Product AB to ISO/IEC 17065:2012(E) with a scope of accreditation that includes composite wood products and 40 CFR part 770—Formaldehyde Standards for Composite Wood Products.
	Be accredited, or have a contract with a laboratory that is accredited, by an EPA TSCA Title VI Laboratory AB to ISO/IEC 17025:2005(E) with a scope of accreditation that includes 40 CFR part 770 and the formaldehyde test methods ASTM E1333-14 and ASTM D6007-14 (if used).
Inspection and Training Capability	Have the ability to conduct inspections of composite wood products and properly train and supervise inspectors to inspect composite wood products in conformance with ISO/IEC 17020:2012(E) as required under ISO/IEC 17065:2012(E).
Composite Wood Industry Experience	Have demonstrated experience in the composite wood product industry with at least one type of composite wood product and indicate the specific product(s) the applicant intends to certify.
	<p>Have demonstrated experience in performing or verifying formaldehyde emissions testing on composite wood products, including experience with test method ASTM E1333-14 and ASTM D6007-14 (if used), and experience evaluating correlation between test methods.</p> <ul style="list-style-type: none"> TPCs that have experience only with test method ASTM D6007-14 must contract with a laboratory that has a large chamber and demonstrates its experience with ASTM E1333–14.



Application for Recognition

- All TPCs must submit applications via EPA CDX and obtain EPA recognition to begin certifying products under TSCA Title VI.
- EPA CDX registration guidelines can be found at:
https://cdx.epa.gov/Content/Documents/CDX_Quick_User_Guide.pdf.
- Confidential Business Information (CBI) claims for information submitted to EPA:
 - Due to new requirements in TSCA §14(c)(3), companies are required to substantiate all CBI claims at the time of submission, except for a few categories of claims exempted from substantiation by TSCA §14(c)(2).
 - Additionally, TSCA now requires a supporting statement and certification for all confidentiality claims.
- Recognition as an EPA TSCA Title VI TPC is valid for two years, which can be extended via a renewal application.

How to Comply



Your Responsibilities Under TSCA Title VI

1. You must act impartially and take steps to address any conflicts of interest.
2. You are responsible for certification of composite wood products that are produced in accordance with 40 CFR Part 770 and that comply with ISO/IEC 17065:2012(E).
3. You must provide notifications via the EPA CDX within designated time periods for approved/rejected applications, failed tests, loss of accreditation, changes in personnel qualifications/procedures and laboratories used.
4. You must keep records and submit annual reports documenting panel producer's compliance with quality assurance and quality control standards.
5. You must only use laboratories that have been accredited by an EPA-Recognized Laboratory AB.
6. If not a domestic entity, you must identify an "agent for service" located in the U.S.





Impartiality

- EPA TSCA VI TPCs must act impartially in accordance with their accreditation when performing activities under the EPA program by taking steps to address any conflicts of interest.
- To demonstrate impartiality, TPCs must:
 1. Not have a financial interest in panel producers, fabricators, laminated product producers, importers, designers, distributors, or retailers of composite wood products;
 2. Ensure that TPC management and personnel involved in the review/certification decision-making process for composite wood products are not involved in activities that compromise the impartiality of certification; and
 3. Sign a conflict of interest statement attesting that they will receive no financial gain from the outcome of certification.



Certification

- TPCs recognized under the EPA program must certify composite wood products that are produced in accordance with 40 CFR Part 770 and that comply with ISO/IEC 17065:2012(E).
- For each panel producer making composite wood products certified by the TPC, the TPC must:
 1. Verify that the panel producer has adequate quality assurance and quality control procedures in place and is in compliance with procedures;
 2. Verify panel producer's quality control test results compared with test results from ASTM E1333-14 and ASTM D6007-14, if used, by having the TPC laboratory conduct quarterly tests, and evaluate test method equivalence and correlation under 40 CFR §770.20;
 3. Establish quality control limits (QCLs) for formaldehyde emissions for all product types;
 4. Establish the process to determine if products are exceeding the applicable QCLs;
 5. Provide its CARB or EPA TPC number to each panel producer for labeling and recordkeeping; and
 6. Inspect each panel producer, its products, and its records at least quarterly in conformance with ISO/IEC 17020:2012(E).



Notifications

- Each TPC must provide notifications to EPA via EPA CDX for the following events:
 1. An approved or rejected application for a NAF/ULEF third-party certification exemption or ULEF reduced testing;
 2. An approved or rejected application for reduced testing for medium-density fiberboard or particleboard;
 3. When a panel producer has failed a quarterly test;
 4. When a panel producer exceeds its established QCL for more than two consecutive quality control tests;
 5. A change in a non-domestic TPC's agent for service; and
 6. Loss of accreditation or notification that the TPC has discontinued its participation in the EPA program.
- Other notifications:
 1. Notice to the panel producer for failed quarterly tests;
 2. Notification of a loss of accreditation or notification that the TPC has discontinued its participation in the EPA program to panel producers; and
 3. Notification of any changes in personnel qualifications, procedures, or laboratories used, to the TPC's EPA TSCA Title VI AB.



- Each EPA TSCA Title VI TPC must maintain, in electronic form, the following records for three years and provide them to EPA within 30 calendar days upon request:
 1. A list of panel producers and their respective products and product types, including type of resin systems used;
 2. Results of inspections and formaldehyde emissions tests conducted;
 3. A list of laboratories used by the EPA TSCA Title VI TPC, as well as all test methods used, including test conditions and conditioning time, and quarterly test results;
 4. Methods and results for establishing test method correlations and equivalence;
 5. Documentation for NAF or ULEF third-party certification exemptions or ULEF reduced testing approvals;
 6. Documentation of reduced testing approval for panel producers of medium-density fiberboard or particleboard; and
 7. A copy of the most recent assessment, reassessment, and/or surveillance on-site assessment report provided by its EPA TSCA Title VI AB.



- Each EPA Title VI TPC must provide to EPA an annual report electronically via EPA CDX on or before March 1st of each year for the TPC services performed during the previous calendar year.
- This should include:
 - 1) The composite wood products that the TPC certified;
 - 2) The types of resin systems used;
 - 3) Test results and methods;
 - 4) Any corrective actions taken for failed tests or non-complying lots or other non-conformities;
 - 5) Lists of laboratories used for each panel producer making composite wood products certified by the TPC; and
 - 6) Results of any additional interlaboratory testing other than the CARB interlaboratory comparison.



Laboratories and NAF/ULEF

- *Laboratories*: For quarterly testing, each EPA Title VI TPC must use only laboratories that have been accredited by an EPA-Recognized Laboratory AB and participate in the CARB interlaboratory comparison for formaldehyde emissions.
- *NAF/ULEF*: For panel producers that do not receive approval for NAF or ULEF third-party certification exemptions or ULEF reduced testing from CARB, and instead apply to their TPC, TPCs must review these applications and approve them within 90 calendar days of receipt if the panel producer meets requirements under §§ 770.17 and 770.18.



EPA Inspections

- Upon request, each EPA TSCA Title VI TPC must allow EPA representatives to:
 1. Accompany the TPC's staff during an assessment, reassessment or surveillance on-site assessment of the TPC by its AB(s); and
 2. Inspect the TPC's facilities upon written notice to the TPC.



Suspensions, Revocations, Denials

- EPA reserves the right to suspend, revoke or modify the recognition of a TPC.
- EPA will notify a TPC in writing if a request for recognition is denied.
- If a TPC loses accreditation, is removed or withdraws, panel producers must enlist another EPA TSCA Title VI TPC to certify their products within 90 calendar days.
 - If a particular panel producer is implicated in a violation, the panel producer may not sell, supply, offer for sale, or manufacture for sale composite wood products in the U.S. until composite wood products have been recertified by another EPA TSCA Title VI TPC.



Transitional Period

- There is a transitional period (until March 22, 2019) for all CARB-approved TPCs to comply with TSCA Title VI, during which time they can certify products without meeting TSCA Title VI accreditation requirements (see 40 CFR §770.7(d)(1)).
- During this period, all CARB-approved TPCs who wish to certify products under TSCA Title VI must:
 - 1) Apply to be recognized by EPA through EPA CDX (see 40 CFR §770.7(d)(1));
 - 2) Maintain its CARB approval;
 - 3) Comply with all aspects of rule requirements at 40 CFR part 770 other than those that require accreditation from an EPA TSCA Title VI AB;
 - 4) Provide panel producers with the TPC number issued by CARB;
 - 5) Provide required annual reports to CARB and EPA during the two-year transitional period; and
 - 6) Provide required notifications to EPA.



Transitional Period

- After the transitional period, which ends on March 22, 2019, all CARB-approved TPCs must be accredited by an EPA TSCA Title VI AB to continue to certify products (see 40 CFR §770.7(d)(2)).
- After March 22, 2019, all TPCs approved by CARB may continue to certify composite wood products under TSCA Title VI if the TPC:
 - 1) Maintains its CARB approval;
 - 2) Complies with the requirements of 40 CFR part 770;
 - 3) Submits documentation from CARB that specifies eligibility for reciprocity and a copy of the application submitted to CARB to be recognized as a TPC under CARB ATCM to EPA via EPA CDX; and
 - 4) Receives EPA recognition as an EPA TSCA Title VI TPC.

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>.

