



## US CUSTOMS AND BORDER PROTECTION

### CSMS# 18-000727 - Requirements for Importing Regulated Composite Wood Products

12/11/2018 03:32 PM EST

#### Partner Government Agencies

The U.S. Environmental Protection Agency (EPA) published the Formaldehyde Emission Standards for Composite Wood Products final rule on December 12, 2016, available here:

<https://www.federalregister.gov/documents/2016/12/12/2016-27987/formaldehyde-emission-standards-for-composite-wood-products>. This final rule established national formaldehyde emission standards and a third-party certification system for regulated composite wood products (i.e., panels) including hardwood plywood, particleboard, and medium-density fiberboard to ensure those panels are compliant in panel form before being sold to end users or fabricated into component parts or finished goods (e.g., furniture, cabinets, picture frames, toys, and many other goods). These requirements apply to regulated products imported into the United States.

General Requirements: Beginning June 1, 2018, regulated composite wood products and component parts or finished goods containing such panels that are manufactured (in the United States) or imported (into the United States) must be certified as compliant with either the Toxic Substances Control Act (TSCA) Title VI or the California Air Resources Board (CARB) Airborne Toxic Control Measures (ATCM) Phase II emission standards, by a Third-Party Certifier (TPC) approved by CARB and recognized by EPA. This TSCA Title VI third-party certification is different than the import certification under Section 13 of TSCA (see below). Additionally, beginning June 1, 2018 and until March 22, 2019, regulated products certified as compliant with the emission standards must be labeled as compliant with either the TSCA Title VI or the CARB ATCM Phase II emission standards.

After March 22, 2019, regulated composite products and finished goods manufactured in or imported into the United States must be certified as TSCA Title VI compliant by an EPA TSCA Title VI TPC and labeled as such; in other words, after March 22, 2019, a CARB ATCM Phase II-only label is not sufficient.

Importer Specific Requirements: Upon request from EPA, importers must make available to EPA within 30 calendar days certain records that document compliance, as outlined in 40 CFR section 770.30(b). Note that U.S. Customs and Border Protection (CBP) requires a five-year record retention cycle for importers (see 19 C.F.R. § 163.4(a)), while the TSCA Title VI regulation requires a three-year retention cycle.

Also, beginning March 22, 2019, importers are responsible for providing a TSCA Section 13 import certification for articles containing regulated composite wood products, component parts, or finished goods imported into the U.S. customs territory in accordance with 40 CFR section 770.30(d). **Although June 1, 2018 is the emission standard compliance date, as noted above, importers are not required to complete import certification under TSCA Section 13 until March 22, 2019.**

The TSCA Section 13 Import certification will be in the form of a positive certification for applicable shipments through the U.S. CBP's Automated Commercial Environment (ACE) electronic reporting system. The TSCA Title VI import certification requirement is to certify compliance with TSCA Title VI for regulated composite wood products that are imported articles or contained in imported articles; the TSCA Title VI import certification requirement does not apply to chemicals otherwise regulated under TSCA which may be present in those imported composite wood product articles. Additional guidance on the requirements for importing regulated composite wood products will be made available via CSMS prior to March 22, 2019.

Additionally, the EPA recently published a proposed rule in the Federal Register to address several technical and implementation issues in the TSCA Title VI regulation. For one of the issues, EPA is proposing to clarify in 40 CFR section 770.45 that regulated composite wood products and finished goods containing composite wood products must be labeled at the point of manufacture or fabrication, and if imported into the United States, the label must be affixed to the product by the date of importation. You can read more about the proposed rule to address certain technical issues here: <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2018-0174-0026>.

Background on the EPA TSCA Title VI regulation, including webinars, compliance guides, and frequently asked questions can be accessed on the EPA formaldehyde webpage here: <https://www.epa.gov/formaldehyde>.