Importers, retailers, and others that sell goods containing plywood or other composite wood products face significant compliance challenges from EPA’s new Formaldehyde Emission Standards for Composite Wood Products (the Standards). The final rule adopting the standards was signed on July 27, 2016 and finally published in the Federal Register on December 12, 2016.[1] The Standards implement Title VI of the Toxic Substances Control Act (TSCA). They are based on the formaldehyde emission limits of the Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products (ATCM) of the California Air Resources Board (CARB). The Standards differ from the ATCM in several ways, but compliance with the ATCM will help substantially as companies work to meet their obligations under the Standards. The key compliance deadline for the Standards is December 12, 2017.

The Standards affect entities throughout the composite wood product supply chain, including panel producers, importers, fabricators, distributors, and retailers. The Standards include formaldehyde emissions limits as well as requirements for
testing, third-party certification, recordkeeping, reporting, and labeling, with varied compliance deadlines. Those requirements will place particular burdens on importers, who must ensure that their foreign supply chains comply with the Standards.

1. Background

In 2007, CARB approved its ATCM for formaldehyde emissions in composite wood products, including hardwood plywood, particleboard, medium density fiberboard, thin medium density fiberboard and furniture and other finished products made with composite wood products. The ATCM’s “Phase 1” emission limits took effect on January 1, 2009, with stricter “Phase 2” emission limits following thereafter. The ATCM requires manufacturers to demonstrate compliance with these limits through “small scale” quality control tests and quarterly tests conducted under the supervision of a third-party certifier. All compliant products under the ATCM are required to be labeled as such. The ATCM includes special provisions for manufacturers of hardwood plywood, particleboard, and medium density fiberboard who use no-added formaldehyde based resins or ultra-low-emitting formaldehyde resins and meet certain emissions requirements.

In 2010, Congress passed the Formaldehyde Standards for Composite Wood Products Act, which added Title VI to TSCA. Title VI essentially required EPA to promulgate federal regulations implementing the ATCM “Phase 2” emission standards nationally by January 1, 2013, as well as to address related issues.

EPA did not meet its deadline for adoption of the final Standards, as it did not publish proposed Standards until June 2013. More than three and a half years after the statutory deadline, the EPA Administrator signed the final rule adopting the Standards on July 27, 2016. After an extraordinary delay of over four months, the final rule was published in the Federal Register on December 12, 2016. Once effective, the final Standards will appear in 40 C.F.R. Part 770.

2. What Are the Compliance Deadlines for the Standards?

The Standards will become effective on February 10, 2017. They include several compliance deadlines, each applicable to a different compliance obligation. The preamble to the Standards provides a helpful summary of these deadlines, which include the following key dates:

- February 10, 2017:
  - Third-party accreditation bodies, accreditation laboratories and third-party certifiers may apply to EPA for approval beginning on this date.
- June 12, 2017:
  - This date will be a cut-off date for stockpiling determination.
- December 12, 2017:
  - The emissions standards applicable to all composite wood products, other than laminated products, become effective on this date, and all products sold, supplied, offered for sale, or manufactured (including imported) in
the United States must be certified as being in compliance beginning on this date.[12]

- This date will function as the “manufactured-by” date for all regulated composite wood products other than laminated products.[13]
- Fabricators, distributors, retailers, and importers must comply with the recordkeeping obligations for their bills of lading, invoices, or comparable documents beginning on this date.[14]
- Laminated product producers must comply with fabricator requirements under the Standards beginning on this date.[15]
- Labeling requirements become effective on this date. [16]

- December 12, 2018:
  - Importers must comply with the TSCA section 13 import certification requirements beginning on this date.[17]
  - Deadline for CARB third-party certifiers to be approved by EPA.[18]

- December 12, 2023:
  - Producers of laminated products that do not qualify for the exemption from hardwood plywood must comply with all producer obligations for hardwood plywood producers under the Standards by this date.[19]
  - Producers of laminated products that qualify for exemption from hardwood plywood must comply with recordkeeping requirements for their eligibility of exemption by this date.[20]
  - This date will operate as the “manufactured-by” date for laminated products.[21]

3. What Products Are Covered by the Standards?

The Standards apply to nearly all “composite wood products.” These are defined to include hardwood plywood made with a veneer or composite core, medium-density fiberboard, and particleboard. The Standards do not apply to certain kinds of composite wood products, such as second-hand goods, new boats, rail cars, windows that contain less than five percent by volume of composite wood products, among other similarly narrow exceptions.[22] While the Standards will not apply to composite wood products, component parts, and finished goods qualifying for these exemptions, “component parts and finished goods made of a mixture of exempt products and regulated products are not exempt,” and will therefore be subject to compliance with the Standards.[23]

The Standards apply to panels (thin, flat, usually rectangular pieces of particleboard, medium-density fiberboard, or hardwood plywood); component parts (objects other than a panel that contain one or more composite wood products and are used in the construction or assembly of finished goods); and to finished goods (goods or products other than a panel that contain hardwood plywood, particleboard, or medium-density fiberboard).[24]

There is no de minimis exemption for finished goods containing only small amounts of composite wood products, other than with respect to labeling.[25]
4. Who Must Comply With the Standards?

The Standards include provisions applicable to panel producers, fabricators of finished goods from composite wood, laminators, and distributors, importers, and retailers of composite wood products or products containing them.

The Standards also establish a third-party certification program that requires the use of laboratory accreditation bodies and product accreditation bodies, which have the responsibility for accrediting third-party certifiers. These third-party certifiers are then tasked with certifying that composite wood products comply with the Standards (i.e., are Title VI compliant).

The Standards will affect some 990,000 entities, including 922,000 small entities. They include an estimated:

- 4 accreditation bodies
  - All four currently accredit third-party certifiers under the CARB ATCM.
- 11 third-party certifiers
  - All 11 currently certify stock panel mills under the CARB ATCM.
  - Note: CARB claims that it has approved 40 third-party certifiers.
- 54 U.S. panel producers, operating 90 mills
  - Foreign panel producers will also need to comply in order to be able to export to the U.S.
  - EPA estimates that 79 U.S. mills have been certified by CARB for at least one product, but 16 mills make at least one product that is not CARB-certified.
- 7,000 - 14,000 laminators
- 66,000 - 73,000 U.S. fabricators other than laminators
  - EPA estimates that 32,000 in these two groups are subject to CARB ATCM requirements.
- 86,000 U.S. distributors, of which 24,000 are importers
  - EPA estimates that 32,000 distributors are subject to CARB ATCM requirements, of which 9,000 are importers.
- 759,000 U.S. retailers
  - EPA estimates that 195,000 retailers are subject to CARB ATCM requirements.
- 66,000 foreign firms

5. Emission Limits

The Standards’ primary aim is to set forth formaldehyde emission limits applicable to four categories of composite wood product panels: (1) hardwood plywood, (2) medium-density fiberboard, (3) thin medium density fiberboard, and (4) particleboard (collectively referred to as panels) sold, supplied, offered for sale, or manufactured in the United States. The emissions limits vary based on the type of panel:

- 0.05 ppm for hardwood plywood made with a veneer core or a composite core
- 0.11 ppm for medium-density fiberboard
- 0.13 ppm for thin medium-density fiberboard
• 0.09 ppm for particleboard

The emissions limits apply regardless of whether the composite wood product is in the form of a panel, a component part, or incorporated into a finished good.

Compliance with the emission limits is required by December 12, 2017, for all non-exempt composite wood products.[31]

Fortunately, most composite wood products now on the market meet these emission limits, which are the same as those of the CARB ATCM. EPA estimates that 98% to 100% of U.S. production currently is certified as meeting CARB emission limits. It did not provide an estimate of compliance for imported products.[32]


Composite wood products produced prior to December 12, 2017, are not subject to the Standards. Title VI directed EPA to prohibit stockpiling of inventory to evade application of the Standards. The Standards define “stockpiling” as the manufacture or purchase of composite wood products (panels, component parts, or finished goods) between July 7, 2010 and June 12, 2017 at an average rate at least 20% greater than the average rate of manufacture or purchase during 2009 for the purpose of evading application of the Standards.[33] In its Response to Public Comments, EPA clarified that the 20% benchmark is measured in volume, not value.[34] Stockpiled inventory must be sold by December 12, 2017.[35]

The 2009 baseline may be unusually low, since the economy at the time was in recession. Affected companies may be able to convince EPA that their production at a rate greater than 20% of the 2009 baseline was for reasons other than attempted evasion of the Standards. Acceptable explanations may include an immediate increase in customer demand or sales, or a planned business expansion.[36]

In the absence of stockpiling, the sell-through provision under the Standards provides that composite wood products manufactured or imported prior to the manufactured-by dates to be “sold, supplied, offered for sale, or used to fabricate component parts or finished goods at any time.” For most composite wood products, the manufactured-by date is December 12, 2017,[37] for laminated products not exempt from the definition of hardwood plywood (and therefore subject to producer obligations), the manufactured-by date is December 12, 2023.[38] These products manufactured before the manufactured-by date are “considered compliant with TSCA Title VI and its implementing regulations, assuming the absence of stockpiling.”[39]

7. Certifying Compliance With the Emission Limits

Beginning December 12, 2017, only certified non-exempt composite wood products, whether in the form of panels or incorporated into component parts or finished goods, may be sold in the United States, unless the product is subject to an exemption.

Certified wood products must be produced or fabricated in accordance with the
requirements of the Standards.\textsuperscript{40}

No one in the supply chain may certify that composite wood products comply with the Standards. Instead, the panel producer must obtain a certification for its panels from a Title VI-accredited third-party certifier.

Until December 12, 2018, a CARB-approved third-party certifier may certify compliance with the Standards if it applies for and receives EPA recognition during that time. Thereafter it must be accredited by an EPA-approved accrediting body.\textsuperscript{41} Currently, according to EPA, there are 11 CARB-approved third-party certifiers.\textsuperscript{42}

If a product has already been certified by a CARB-approved TPC, it will also be considered to be certified under the Standards until December 12, 2018. After that time the third-party certifier must receive recognition from EPA as a Title VI third-party certifier in order for the product to remain certified.\textsuperscript{43}

To obtain certification by a third-party certifier, the panel producer must submit certain information to the third-party certifier:

- Its name, address, telephone number, and other contact information
- A copy of its quality control manual
- The name and contact information for its quality control manager\textsuperscript{44}
- The identity of the specific products for which certification is requested, and the resin system used in panel production
- The results of at least five emissions tests conducted under the supervision of a third-party certifier
- The results of at least five quality control tests
- A linear regression equation and correlation data
- The results of an initial, on-site inspection by the third-party certifier\textsuperscript{45}

The third-party certifier will grant Title VI certification for a product where the panel producer has demonstrated:

- That the product complies with the applicable emissions standard;
- An adequate correlation or equivalence between the methods used to test the candidate product and the method used to develop the emissions standard; and
- Compliance with the Standards’ quality control requirements.\textsuperscript{46}

Once a product is certified, the panel producer will be required to conduct quality control testing and submit to quarterly testing and inspections by its third-party certifier to maintain certification.\textsuperscript{47} The frequency of quality control testing is determined by product type, and for hardwood plywood panels, the rate of production.\textsuperscript{48} The Standards allow the grouping of multiple products into one single product type for certification. However, test results for these products must show that the products similar formaldehyde emission characteristics and that their emissions fit the same correlation curve or linear regression.\textsuperscript{49}

The Standards do not explicitly state that foreign panel producers must have their products certified by a Title VI third-party certifier or a CARB-approved third-party
8. When Certified Products Do Not Meet the Emission Limits

The Standards contemplate that a product certified by a third-party certifier may sometimes fail a quarterly emissions test. In that case, certification for any product types represented by the sample is suspended until a compliant quarterly report is obtained.[51] Non-complying lots, meaning lots represented by failed quarterly or quality control tests,[52] must be isolated from certified lots and either disposed of or retested and certified using the same test method following a means to reduce formaldehyde emissions, such as use of a scavenger or aging.[53] The panel producer must also notify its third-party certifier of the test failure.[54]

If the product was shipped to a customer prior to receipt of the test result, the panel producer must ensure that the customer does not distribute the product further. The panel producer must notify its customer within 72 hours of learning of the test failure and indicate the steps that the panel producer intends to take. Those steps are either to recall the products belonging to the lot or to treat and retest the products and certify the lot (this may be done at the customer’s location).[55]

Fabricators, importers, distributors, or retailers who are notified of a test failure and who have already further distributed the composite wood products must similarly notify their customers.[56]

9. Requirements for Laminated Product Producers

The Standards define “laminated product” in part to mean “a product in which a wood or woody grass veneer is affixed to a particleboard core or platform, a medium-density fiberboard core or platform, or a veneer core or platform. A laminated product is a component part used in the construction or assembly of a finished good.”[57] Bamboo is an example of a woody grass.

Like the CARB ATCM, the Standards consider laminated product producers to be fabricators, i.e., entities which incorporate composite wood products into component parts or into finished goods. Thus, they must meet the requirements applicable to fabricators, described below, beginning December 12, 2017.[58]

In addition, unless exempt, laminated products will be classified as hardwood plywood, beginning December 12, 2023.[59] This is a departure from the CARB ATCM. At that time, laminated product producers will become subject to all the requirements applicable to producers of hardwood plywood panels. Those requirements include emissions limits, emissions testing, and third-party certification, among others.
Laminated products are exempt from classification as hardwood plywood if the wood or woody grass veneer is attached using a phenol-formaldehyde or no-added formaldehyde resin, to a Title VI-compliant platform that is: (1) certified as compliant with the Standards, (2) manufactured with a no-added formaldehyde resin, or (3) manufactured with an ultra-low-emitting formaldehyde-based resin. The Standards require that producers of exempt laminated product maintain records establishing their eligibility for the exemption.\textsuperscript{[60]}

10. Requirements for Retailers, Distributors, and Fabricators

Beginning December 12, 2017, retailers, distributors, and fabricators are required to take “reasonable precautions” to ensure that the composite wood products, component parts, and finished goods that they sell, supply, offer for sale, or hold for sale are Title VI compliant. To do so, they must obtain and maintain invoices, bills of lading, or other comparable documents that contain a statement from the supplier that its products are Title VI compliant, or that the composite wood products were produced before December 12, 2017.\textsuperscript{[61]} Records must be retained for three years.\textsuperscript{[62]} In practice, certain entities in the supply chain may be subject to multiple “reasonable precautions” requirements with regard to the activities they perform. Under the Standards, such entities must “keep only the records for each product that correspond to the activities the entity undertook with respect to that product.”\textsuperscript{[63]}

Compliance with this obligation will be facilitated if all panel producers, fabricators, distributors, importers, and retailers put that information on their invoices or bills of lading, although the Standards do not require this.\textsuperscript{[64]} Instead, the Standards require this information to appear on labels, as discussed below.

Where the suppliers do not send documents indicating that the products being supplied are Title VI compliant, fabricators, distributors, and retailers will have to work with their suppliers to obtain those documents. However, they may well want to work proactively with their suppliers during the one-year phase-in period to ensure that they will receive those documents in a timely manner.\textsuperscript{[65]}

11. Requirements for Importers

Importers must meet the same recordkeeping requirements as retailers, distributors, and fabricators.\textsuperscript{[66]} For importers, these are very challenging requirements. Since Title VI does not apply to foreign suppliers, importers have the responsibility to ensure that entities in their foreign supply chain supply them only with products that are Title VI compliant and documents with that assurance.\textsuperscript{[67]}

Importers of composite wood products, finished goods, and component parts must also permit EPA to have access to and inspect records identifying the panel producer, the date of production, date of purchase, and identity of the supplier if different from the panel producer. Importers will have 30 days from receipt of an EPA request to provide this information.\textsuperscript{[68]}
This requirement poses another challenge for importers. Often, importers deal directly with a supplier who is a distributor of products made by others in an extended supply chain. Importers may not know the identity of the panel producer or when the panel was produced. Further, such information may be confidential. EPA apparently will allow an entity in the foreign supply chain to submit this information directly to EPA, bypassing the importer, so as to maintain confidentiality. Nevertheless, importers are required to endeavor to make this information available to EPA upon request, directly or indirectly.

EPA has not indicated what level of effort by importers will be sufficient if the foreign supply chain is unwilling to provide the information.

12. Import Certification Requirements

In addition, importers of articles that are regulated as composite wood products or articles that contain such composite wood products must also comply with TSCA’s import certification provisions by December 12, 2018. This will be a significant new requirement for product importers, as previously EPA had not required import certification for shipments of articles such as composite wood products. The requirement applies even to imported products covered by the labeling exemption for de minimis amounts of composite wood.

Every composite wood product (or product containing it) being imported would likely be considered an article, defined as “a manufactured item which (1) is formed to a specific shape or design during manufacture, (2) has end-use functions dependent in whole or in part upon its shape or design during end use, and (3) has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article,” and that results from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles. TSCA’s import certification provisions apply only to those articles containing a chemical substance if so required by EPA in a rulemaking, which it has done in the Standards. EPA will issue guidance on its website.

Thus, beginning December 12, 2018, importers of composite wood products or products containing them will have to ensure that a positive import certification is filed with Customs and Border Protection (CBP) for each shipment of composite wood products or products containing them. The positive certification reads:

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 thereunder.

In this context, that means certification that the products comply with the Standards.

The importer or its broker must either be filed with the director of the port of entry before release of the shipment on an appropriate entry document or commercial
invoice or an attachment thereto, unless part of a blanket certification covering multiple shipments of the same articles.\[75\]

CBP has proposed to amend its TSCA import certification requirements to eliminate the option for blanket certifications and to allow importers to certify electronically using the Automated Commercial Environment (ACE) system.\[76\]

### 13. Product Labeling

Composite wood products and products containing them must be labeled, beginning December 12, 2017, unless exempt.

To be sold in the United States, all panels must either be certified as made with no-added formaldehyde or ultra-low-emitting formaldehyde, or certified as compliant with Title VI. There are different label statements for a panel depending upon the resin used to produce the product, and whether it is intended to be sold in the United States.

- All panels or bundles of panels that are sold, supplied, or offered for sale in the United States must be labeled with information which identifies: (1) the panel producer (by name or, where the name is confidential, by panel producer number); (2) the Title VI third-party certifier; (3) the lot from which the panels came; and (4) a statement that the panels are Title VI certified.\[77\]
- Panels transported through or imported to the United States for quality control or quarterly testing must be labeled “For TSCA Title VI testing only, not for sale in the United States.” Once tested, these panels may then be relabeled if they satisfy applicable emissions standards.\[78\]
- Panels or finished goods made with no-added formaldehyde or ultra-low-emitting formaldehyde resins may be labeled as such if the panels meet the requirements for reduced testing or a certification exemption as applicable to the use of those resins.\[79\]

If a product satisfies conditions under both TSCA Title VI and CARB ATCM, use of a label indicating compliance with both standards is permissible. However, a label indicating only compliance with CARB ATCM is insufficient for complying with the TSCA Title VI labeling requirements.\[80\] Importers of composite wood products must ensure that the products they import are properly labeled by their foreign supply chains.

Panel producers, importers, distributors, fabricators, or retailers must have a system in place to identify the supplier of panels which are not individually labeled and provide identifying information to customers upon request.\[81\]

A fabricator of finished goods incorporating composite wood products must label the finished goods, or box or bundle of finished goods. The label must identify the fabricator, date of production, and state that the goods are Title VI compliant. If the finished goods are not individually labeled, the importer, distributor, fabricator, or retailer must retain a copy of the label, be able to identify the products associated with it, and provide identifying information to a consumer upon request.\[82\]
Importers, distributors, and retailers must leave intact labels on finished goods.\[^{[83]}\]

EPA adopted a de minimis exemption from the labeling requirement. To qualify for the exemption, the surface area of the product must not incorporate more than 144 square inches of regulated composite wood products based on the largest face of the product. This exemption is inapplicable to finished goods and component parts designed to be used with other wood composite products to create larger surfaces, finished goods, or components parts, such as flooring.\[^{[84]}\]

The Standards prohibit labeling composite wood products as Title VI compliant if manufactured before the applicable “manufactured-by” date.\[^{[85]}\] For importers, the “manufactured-by” date would be the date of import.\[^{[86]}\] For composite wood products other than laminated products, the “manufactured-by” date is December 12, 2017. Composite wood products and laminated products manufactured before the applicable manufactured-by date can be incorporated into finished goods at any time, so long as they are not stockpiled.\[^{[87]}\]

14. Next Steps and Implications

Entities doing business in California will have a significant advantage in complying with the Standards, given their similarity to the CARB ATCM, which has similar recordkeeping and reasonable precaution requirements.

Importers are likely to be the most heavily impacted by the Standards, given that imported composite wood products will now be subject to TSCA import certification, and the difficulties that importers may experience when seeking information required by the reasonable precaution provisions from their supply chains.

Panel producers responsible for obtaining certification should carefully monitor the status of their third-party certifiers in the lead-up to the effective date of the Standards’ emissions limits and certification provisions.

Under the Standards, third-party certifiers currently authorized for testing by CARB have two years to obtain Title VI accreditation. Should the third-party certifier fail to obtain accreditation under the Standards, products certified by that third-party certifier will be impacted at the expiration of a short grace period.

All entities in the supply chain should carefully monitor their supply chains and the dates on which the products they produce or purchase are manufactured.

This article was first published on September 23rd, 2016 and has been updated with new information.

---

\[^{[1]}\] EPA, Formaldehyde Emission Standards for Composite Wood Products, 81 Fed. Reg. 89674 (Dec. 12, 2016) (to be codified at 40 C.F.R. Part 770). The published version is available here. Our comparison of the pre-publication and published versions of the Standards indicates no substantive changes. The delay in publication was apparently related to the need for OMB approval of the incorporations by reference of several industry standards in 40 C.F.R. § 770.99. However, our comparison found a number of additional non-
substantive editorial changes in the rules and preamble.

[2] Cal. Code. Regs. tit. 17, § 93120.2(a). CARB has been considering changes to the ATCM.

[3] Id. §§ 93120.3(b), 93120.12 app. 2(f) - (g).

[4] Id. §§ 93120.3(e), 93120.5(c), 93120.7(d).

[5] Id.§§ 93120.3(c) - (d).


[7] For a full description of Title VI and its impact, see Beveridge & Diamond, Congress Enacts “Formaldehyde Standards for Composite Wood Products Act” Amending the Toxic Substances Control Act (June 24, 2010).


[10] 40 C.F.R. §§ 770.2(b) - (c).

[11] Id. § 770.3 (definition of “stockpiling”).

[12] Id. § 770.15(a).


[14] Id. §§ 770.30(b), (c), 770.40.

[15] Id. § 770.2(e)(1).

[16] Id. §§ 770.2(e), 770.45.

[17] Id. § 770.30(d).

[18] Id. § 770.2(d).


[20] Id. §§ 770.2(e)(3), 770.40(c), (d).


[22] Id. § 770.1(c), (d), (e).

[24] Id. §§ 770.1(a), 770.3.

[25] Id. §§ 770.45(e).


[29] Id. at 89,719.


[31] Id. § 770.10(a).


[33] 40 C.F.R. § 770.3.


[37] 40 C.F.R. § 770.2(e)(4).

[38] 40 C.F.R. § 770.2(e)(2).


[40] 40 C.F.R. § 770.15(a).

[41] Id. § 770.7(d).


[44] A panel producer that previously received product certification and is seeking certification of a new product type may omit quality control manager information, but must submit a description and copy of any changes made to its quality control manual.
40 C.F.R. § 770.15(c).

Id. § 770.15(d)(1).

40 C.F.R. § 770.15(f).

Id. § 770.20.

81 Fed. Reg. at 89700.


40 C.F.R. §§ 770.15(g), 770.22(a).

Id. § 770.3.

Id. § 770.22(b), (c).

Id. § 770.22(e).

Id. § 770.22(d).

Id. § 770.22(f).

Id. § 770.3.

Id. § 770.2(e)(1).

40 C.F.R. §§ 770.2(e)(2), 770.4.

Id. § 770.4.

Id. § 770.30(c).

Id. § 770.40(d).

81 Fed. Reg. at 89709.

In contrast, the CARB ATCM requires manufacturers, distributors, and importers to include a statement of compliance on the invoice or bill of lading. Cal. Code. Regs. tit. 17, §§ 93120.3(f), 93120.5(d), 92120.6(d).

The CARB ATCM requires distributors and fabricators to instruct each supplier that the composite wood products and finished goods they supply must comply with the applicable emission limits. Cal. Code. Regs. tit. 17, §§ 93120.5(b), 93120.6(b). The Standards have no comparable provision.

40 C.F.R. §§ 770.30(b), 770.40(d).
[67] The CARB ATCM requires importers to instruct each supplier that the composite wood products and finished goods they supply must comply with the applicable emission limits. Cal. Code. Regs. tit. 17, § 93120.6(b). The Standards have no comparable provision.

[68] 40 C.F.R. § 770.30(b).


[70] 40 C.F.R. § 770.30(d).

[71] 19 C.F.R. § 12.120(a).

[72] Id. §§ 12.119, 12.121(b). EPA contends that all Title VI regulated products are “articles.” Responses to Comments at 183.

[73] Response to Public Comments, p. 183.

[74] 19 C.F.R. § 12.121(a)(1). In theory, an importer could submit a negative certification, “I certify that all chemical substances in this shipment are not subject to TSCA,” but there is no requirement for import certification for articles that do not contain regulated composite wood products or articles that contain them. See Response to Public Comments at 187.


[77] 40 C.F.R. § 770.45(a).

[78] Id. § 770.45(b).

[79] Id. §§ 770.45(a)(3), 770.45(c)(3).

[80] Response to Public Comments, pp. 151, 158, 159.

[81] Id. § 770.45(a).

[82] Id. § 770.45(c).

[83] Id. § 770.45(d).

[84] Id. § 770.45(e).

[85] Id. § 770.45(f).
