RE: 40 CFR 770 FORMALDEHYDE EMISSION STANDARDS FOR COMPOSITE WOOD PRODUCTS

Everyone who makes, handles, fabricates and sells composite wood products has been waiting for the EPA to release their final regulations related to implementation of the federal regulation of formaldehyde emissions of composite wood products. On July 28, 2016 the EPA released a Pre-Publication version of the document which is very likely to be the final version.

The EPA program looks a lot like the CARB program and this is by design. The criteria are the same and the test methods used for measuring emissions are the same. From the outset they have tried to make the program reciprocate. The EPA program builds on a lot of the experience gained through implementation of the CARB program back in 2008.

Implementation date:
For Accreditation Bodies (AB) and Third Party Certifiers (TPC) the crucial timeframe is 60 days after publication of the final regulation in the federal register. After 60 days, they may begin applying to the EPA for recognition.

For the composite woods industry (manufacturers, importers, distributors, fabricators and retailers) the crucial timeframe is 1 year after publication of the final regulation in the federal register.

Manufacturers, importers, distributors, fabricators and retailers must comply with the program after 1 year. Because there is reciprocity between CARB and the EPA program, CARB approved products will be considered certified until 2 years after publication of the final regulation in the federal register.

Laminators are considered fabricators until 7 years after publication of the final regulation in the federal register. After 7 years, laminators will be considered HWPW panel producers. However, see the details below about how the EPA has defined a Laminator.

The regulation makes it clear that materials do not need to comply if they were manufactured before the critical dates. That being said, the regulation also restricts stockpiling materials before that date and provides criteria the EPA will use to determine if a manufacturer is stockpiling material. The criteria is a 20% increase in production from 2009. 20% throws up the red flag at which point you may need to demonstrate to the EPA that the production rate increase shown is reasonable based on actual sales and market forces.

Materials Affected and Exempted:
The standard is applicable to any composite wood product and component parts or finished goods sold in the United States. Primarily this includes Particleboard (PB), Medium Density Fiberboard (MDF), and Hardwood Plywood subdivided into Veneer Core (HWPW-VC) and Composite Core (HWPW-CC). Some specific materials were exempted from the rule. These include:

- Any finished good that has been previously sold or supplied (antiques or second hand furniture)
- Hardboard
- Structural Plywood (PS-1), Structural Panels (PS-2)
- Structural Composite Lumber (ASTM D5456)
- Oriented Strand Board
- Glue Laminated Lumber (ANSI A190.1) Glued Laminated Timber
- Prefab wood I-Joists (ASTM D5055)
- Finger jointed lumber
- Wood packaging, including pallets, crates, spools and dunnage
• Composite wood products used inside; new vehicles (other than RV), New Rail Cars, New Boats, New Aerospace craft, New aircraft
• Windows if there is less than 5% content by volume
• Exterior Doors and garage doors if there is less than 3% content by volume or if made with NAF or ULEF resins

It should be noted that Hardboard has been defined more clearly to distinguish it from MDF. The definition of hardboard within the standard states a presumption that products emitting more than 0.06 ppm formaldehyde are not hardboard. Additionally, the regulation clearly defines a process to establish an exemption for No Added Formaldehyde (NAF) and Ultra Low Emitting Formaldehyde (ULEF) resin systems.

What is a Laminator?
A laminated product producer is a sub category of a fabricator. They make laminated products on their premises. A laminated product is defined as a product in which a wood or woody grass veneer is affixed to a composite (particleboard or medium density fiberboard) or a veneer core. Woody grass is also defined in the standard as a plant of the family Poaceae, with hard lignified tissues or woody parts. Based on these definitions and the commentary attached with the pre-publication document, companies who laminate paper or vinyl to the surface of composite woods are only fabricators, not laminators. Those fabricators will only need to meet the requirements of a fabricator for the program even after the 7 years when laminators will need to implement a certification program.

One last note on laminators; laminated products made using NAF or ULEF resin systems are eligible for the same exemption a manufacture panel using those resin systems would be.

Quality Systems
The regulation contains many quality system requirements including internal QC test frequency, guidelines for establishing Quality Control Limits (QCL), controls for materials and processes which might affect formaldehyde emissions, reporting requirements, documentation requirements and labeling requirements among others. Like the CARB program, the quality system will be monitored by the TPC on a quarterly basis. This will include quarterly testing.

TPCs may approve grouping of products with similar formaldehyde emission characteristics, based on correlation data.

Manufacturer labs must show equivalency between the test methods they perform in house and the TPC lab test method. Secondary test methods used in the program must have correlation data back to the primary method.

The manufacturer must have trained quality control personnel. Their proficiency will be evaluated by the TPC.

Product Labeling
Panels or bundles of panels that are sold, supplied, or offered for sale in the United States must be labeled with the panel producer’s name, the lot number, the number of the EPA TSCA Title VI TPC, and a statement that the products are TSCA Title VI certified. If a composite wood panel is not individually labeled, the panel producer, importer, distributor, fabricator, or retailer must have a method sufficient to identify the supplier of the panel and linking the information on the label to the products.

Fabricators of finished goods containing composite wood products must label every finished good they produce or every box or bundle containing finished goods. If a finished good is not individually labeled, the importer, distributor, or retailer must retain a copy of the label, be able to identify the products associated with that label, and make the label information available to potential customers upon request. The label must include, at a minimum, in legible English text, the fabricator’s name, the date the finished good was produced, and a statement that the finished goods are TSCA Title VI compliant.

24 CFR 3280.308 and 3280.406
Under the EPA regulations, materials used in manufactured housing under 24 CFR 3280 must comply. 24 CFR 3280.308 and 3280.406 address finished product while 40 CFR 770 addresses unfinished raw
materials. Additionally, 40 CFR 770 allows secondary test methods for monitoring products which is not allowed under 24 CFR 3280.308 and 3280.406. The housing manufacturer will be responsible for the labeling, documentation and traceability requirements found in 40 CFR 770.

**Other Important Parts of 40 CFR 770**

A large portion of 40 CFR 770 is dedicated to approval of accreditation bodies and third party certifiers. This document focuses on the requirements of manufacturers, importers, distributors, fabricators and retailer of composite wood products. It is important to note that there is reciprocity for CARB TPCs to obtain EPA approval. Additionally, there are provisions where if a TPC’s approval is revoked, manufacturers have a grace period to get certified by another TPC.

More current versions of test methods are referenced from this standard that the CARB standard references. In this case the changes in the standards have a minimal effect on the testing. There are subtle differences in how equivalency and correlation are performed and how often. There is some definition on how a Quality Control Limit (QCL) is established.

Reporting to the EPA will all be performed through their CDX website at [http://cdx.epa.gov](http://cdx.epa.gov). Due to the freedom of information act, much of the information, including test results and failed test results will not be confidential information. Aspects of production which are proprietary to a manufacturer may be protected.

**Fabricators, importers, distributors and retailers who do not require a TPC program**

Fabricators, importers, distributors and retailers are not required to obtain a TPC for CARB or this EPA program, but they do need to meet the documentation requirements so that a finished good can be traced back to the mill source of the material. NTA can help you to verify that your quality system is meeting the requirements of 40 CFR 770 and we can help you set up a verification testing program to monitor the materials you receive. We are monitoring the changes occurring in the HUD 24 CFR 3280 industry and will keep you informed of changes as they occur. If you have additional questions about the EPA regulation or how NTA can help you, please, contact us.

Office: 574.773.7975  
Web: www.ntainc.com  
Email: dberger@ntainc.com