

§ 770.22

40 CFR Ch. I (7–1–23 Edition)

quality control manual. The manual must contain, at a minimum, the following:

(i) A description of the organizational structure of the quality control department, including the names of the quality control manager and quality control employees;

(ii) A description of the sampling procedures to be followed;

(iii) A description of the method of handling samples, including a specific maximum time period for analyzing quality control samples;

(iv) A description of the frequency of quality control testing;

(v) A description of the procedures used to identify changes in formaldehyde emissions resulting from production changes (*e.g.*, increase in the percentage of resin, increase in formaldehyde/urea molar ratio in the resin, or decrease in press time);

(vi) A description of provisions for additional testing;

(vii) A description of recordkeeping procedures;

(viii) A description of labeling procedures;

(ix) The average percentage of resin and press time for each product type;

(x) A description of product types, and if applicable, a description of product variables covered under each product type;

(xi) Procedures for reduced quality control testing, if applicable; and

(xii) Procedures for handling non-complying lots, including a description of how the panel producer will ensure compliance with the notification requirements of § 770.22(d)(1).

(2) The quality control manual must be approved by an EPA TSCA Title VI TPC.

(b) *Quality control facilities.* Each panel producer must designate a quality control facility for conducting quality control formaldehyde testing.

(1) The quality control facility must be an EPA TSCA Title VI TPC, a contract laboratory, or a laboratory owned and operated by the panel producer.

(2) Each quality control facility must have quality control employees with adequate experience and/or training to conduct accurate chemical quantitative analytical tests. The quality control manager must identify each

person conducting formaldehyde quality control testing to the EPA TSCA Title VI TPC.

(c) *Quality control manager.* Each panel producer must designate a person as quality control manager with adequate experience and/or training to be responsible for formaldehyde emissions quality control. The quality control manager must:

(1) Have the authority to take actions necessary to ensure that applicable formaldehyde emission standards are being met on an ongoing basis;

(2) Be identified to the EPA TSCA Title VI TPC that will be overseeing the quality control testing. The panel producer must notify the EPA TSCA Title VI TPC in writing within ten calendar days of any change in the identity of the quality control manager and provide the EPA TSCA Title VI TPC with the new quality control manager's qualifications;

(3) Review and approve all reports of quality control testing conducted on the production of the panel producer;

(4) Ensure that the samples are collected, packaged, and shipped according to the procedures specified in the quality control manual; and

(5) Inform the EPA TSCA Title VI TPC in writing of any significant changes in production that could affect formaldehyde emissions within 72 hours of making those changes.

§ 770.22 Non-complying lots.

(a) Non-complying lots are not certified composite wood products and they may not be sold, supplied or offered for sale in the United States except in accordance with this section.

(b) Non-complying lots must be isolated from certified lots.

(c) Non-complying lots must either be disposed of or retested and certified using the same test method, if each panel is treated with a scavenger or handled by other means of reducing formaldehyde emissions, such as aging. Tests must be performed as follows:

(1) *Quality control tests.* (i) At least one test panel must be selected from each of three separate bundles. The panels must be selected so that they are representative of the entire non-complying lot and they are not the top or bottom panel of a bundle. The panels

Environmental Protection Agency

§ 770.24

may be selected from properly stored samples set aside by the panel producer for retest in the event of a failure.

(ii) All samples must test at or below the level that indicates that the product is in compliance with the applicable emission standards in § 770.10.

(2) *Quarterly tests.* (i) At least one test panel must be randomly selected so that it is representative of the entire non-complying lot and is not the top or bottom panel of a bundle. Panel sampling shall be conducted according to the quarterly testing procedure at § 770.20(c)(2)(iv). The panel may be selected from properly stored samples set aside by the panel producer for retest in the event of a failure.

(ii) The average of the three samples or the single chamber value (as described in § 770.20(c)(2)(iv)) must test at or below the level that indicates that the product is in compliance with the applicable emission standards in § 770.10.

(d) If composite wood products belonging to a non-complying lot have been shipped to a fabricator, importer, distributor, or retailer before the test results are received, the panel producer must:

(1) Ensure that the composite wood products are not distributed further by notifying, within 72 hours of the time that the panel producer is made aware of the failing test result, the fabricators, importers, distributors, and retailers that received the composite wood products. The notification must include the following:

(i) Panel producer name, contact information, and date of notice;

(ii) A description of the composite wood products that belong to the non-complying lot that is sufficient to allow the fabricator, importer, distributor, or retailer to identify the products;

(iii) Whether the failed test result was of a quarterly test, a quality control test, or a retest of composite wood products belonging to a non-complying lot;

(iv) A statement that composite wood products belonging to the non-complying lot must be isolated from other composite wood products and cannot be further distributed in commerce; and

(v) A description of the steps the panel producer intends to take to either recall the composite wood products belonging to the non-complying lot or to treat and retest the products and certify the lot.

(2) Do one of the following:

(i) Recall the composite wood products belonging to the non-complying lot and either treat and retest products belonging to the non-complying lot or dispose of them; or

(ii) Treat and retest composite wood products belonging to the non-complying lot while they remain in possession of a fabricator, importer, distributor, or retailer.

(e) Information on the disposition of non-complying lots, including product type and amount of composite wood products affected, lot numbers, mitigation measures used, results of retesting, and final disposition, must be provided to the EPA TSCA Title VI TPC within seven calendar days of final disposition.

(f) Fabricators, importers, distributors, or retailers who are notified that they have received composite wood products belonging to a non-complying lot and who have further distributed the composite wood products are responsible for notifying the purchasers of the composite wood products in accordance with paragraph (d)(1) of this section.

(1) If a fabricator, importer, distributor, or retailer is notified that they have been supplied a non-complying lot after those composite wood products have been fabricated into component parts or finished goods, the notification requirement at paragraph (d)(1) of this section does not apply.

(2) [Reserved]

[81 FR 89724, Dec. 12, 2016, as amended at 84 FR 43525, Aug. 21, 2019]

§ 770.24 Samples for testing.

(a) Composite wood products may be shipped into and transported across the United States for quality control or quarterly tests. TPCs that ship composite panels into or across the United States solely for quality control or quarterly tests are not considered importers or distributors or importers for the purposes of § 770.7(c)(3)(i).