

## 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).

## § 770.30

(1) Such panels must not be sold, offered for sale or supplied to any entity other than a TPC laboratory before testing in accordance with § 770.17, § 770.18, or § 770.20.

(2) If test results for such products demonstrate compliance with the emission standards in this subpart, the panels may be relabeled in accordance with § 770.45 and sold, offered for sale, or supplied.

(b) [Reserved]

## § 770.30 Importers, fabricators, distributors, and retailers.

(a) Importers, fabricators, distributors, and retailers must take reasonable precautions to ensure that the composite wood products they sell, supply, offer for sale, or hold for sale, whether in the form of panels, component parts, or finished goods, comply with the emission standards and other requirements of this subpart.

(b) Importers must demonstrate that they have taken reasonable precautions by maintaining, for three years, bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood products, component parts, or finished goods are TSCA Title VI compliant or were produced before June 1, 2018 and by ensuring the following records are made available to EPA within 30 calendar days of request:

(1) Records identifying the panel producer and the date the composite wood products were produced; and

(2) Records identifying the supplier, if different, and the date the composite wood products, component parts, or finished goods were purchased.

(c) Fabricators, distributors, and retailers must demonstrate that they have taken reasonable precautions by obtaining bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood products, component parts, or finished goods are TSCA Title VI compliant or that the composite wood products were produced before June 1, 2018.

(d) Beginning March 22, 2019, importers of articles that are regulated composite wood products, or articles that contain regulated composite wood

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products, must comply with the import certification regulations for “Chemical Substances in Bulk and As Part of Mixtures and Articles,” as found at 19 CFR 12.118 through 12.127.

(e) Records required by this section must be maintained in accordance with § 770.40(d).

[81 FR 89724, Dec. 12, 2016, as amended at 82 FR 44537, Sept. 25, 2017; 84 FR 43525, Aug. 21, 2019]

## § 770.40 Reporting and recordkeeping.

(a) Panel producers must maintain the following records for a period of three years, except that records demonstrating initial eligibility for reduced testing or third-party certification exemption under § 770.17 or § 770.18 must be kept for as long as the panel producer is producing composite wood products with reduced testing or under a third-party certification exemption. The following records must also be made available to the panel producers’ EPA TSCA Title VI TPCs. Panel producers must make the records described in paragraph (a)(1) of this section available to direct purchasers of their composite wood products. This information may not be withheld from direct purchasers as confidential business information.

(1) Records of all quarterly emissions testing. These records must identify the EPA TSCA Title VI TPC conducting or overseeing the testing. These records must also include the date, the product type tested, the lot number that the tested material represents, the test method used, and the test results.

(2) Records of all ongoing quality control testing. These records must identify the EPA TSCA Title VI TPC conducting or overseeing the testing and the facility actually performing the testing. These records must also include the date, the product type tested, the lot number that the tested material represents, the test method used, and the test results.

(3) Production records, including a description of the composite wood product(s), the date of manufacture, lot numbers, and tracking information allowing each product to be traced to a specific lot produced.