



BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 770**

**[EPA-HQ-OPPT-2016-0244; FRL-9976-22]**

### **Court Order; Compliance Date; Formaldehyde Emission Standards for Composite Wood Products**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Announcement of court order and compliance date.

**SUMMARY:** On March 13, 2018, the United States District Court for the Northern District of California issued an order in the case of *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, which resulted in the compliance date for emission standards, recordkeeping, and labeling (i.e., the manufactured-by date or import-by date) becoming June 1, 2018, rather than December 12, 2018. This case involved the formaldehyde regulations for composite wood products under Title VI of the Toxic Substances Control Act (TSCA) and, specifically, a challenge to EPA's extension to December 12, 2018 of the December 12, 2017 compliance date in a September 25, 2017 rule.

**DATES:** [insert date of publication in the FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Todd Coleman, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-1208; email address: [coleman.todd@epa.gov](mailto:coleman.todd@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address:

*TSCA-Hotline@epa.gov.*

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this Announcement Affect Me?*

You may be interested in this announcement if you manufacture (including import), sell, supply, offer for sale, test, or work with the certification of hardwood plywood, medium-density fiberboard, particleboard, and/or products containing these composite wood materials in the United States. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document is of interest to them. Potentially affected entities may include:

- Veneer, plywood, and engineered wood product manufacturing (NAICS code 3212).
- Manufactured home (mobile home) manufacturing (NAICS code 321991).
- Prefabricated wood building manufacturing (NAICS code 321992).
- Furniture and related product manufacturing (NAICS code 337).
- Furniture merchant wholesalers (NAICS code 42321).
- Lumber, plywood, millwork, and wood panel merchant wholesalers (NAICS code 42331).
- Other construction material merchant wholesalers (NAICS code 423390), *e.g.*, merchant wholesale distributors of manufactured homes (*i.e.*, mobile homes) and/or prefabricated buildings.
- Furniture stores (NAICS code 4421).

- Building material and supplies dealers (NAICS code 4441).
- Manufactured (mobile) home dealers (NAICS code 45393).
- Motor home manufacturing (NAICS code 336213).
- Travel trailer and camper manufacturing (NAICS code 336214).
- Recreational vehicle (RV) dealers (NAICS code 441210).
- Recreational vehicle merchant wholesalers (NAICS code 423110).
- Engineering services (NAICS code 541330).
- Testing laboratories (NAICS code 541380).
- Administrative management and general management consulting services (NAICS code 541611).
- All other professional, scientific, and technical services (NAICS code 541990).
- All other support services (NAICS code 561990).
- Business associations (NAICS code 813910).
- Professional organizations (NAICS code 813920).

If you have any questions regarding this announcement, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of this Document and Other Related Information?*

The docket for this announcement, identified by docket identification (ID) number EPA-HQ-OPPT-2016-0244, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for

the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

## **II. Announcement of Court Order**

On February 16, 2018, the United States District Court for the Northern District of California issued an order granting the plaintiffs' motion for summary judgment and denying EPA's cross-motion for summary judgment in the case of *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, Case No. 4:17-cv-6293-JSW (Ref. 1). However, the Court stayed the February 16, 2018 order until March 9, 2018, so that the parties could work on a joint submission on the compliance issues related to the order. On March 9, 2018, the plaintiffs, EPA, and representatives of several industry groups filed a joint proposed stipulation and proposed order (Refs. 2, 3). After reviewing the joint proposed stipulation and proposed order, on March 13, 2018, the Court issued an order pursuant to the stipulation and good cause shown that lifted the February 16, 2018 stay on the Court's decision as of June 1, 2018, which results in the compliance date for emission standards, recordkeeping, and labeling (i.e., the manufactured-by date or import-by date) being June 1, 2018, rather than December 12, 2018 (Ref. 4). EPA is making available the February 16, 2018 order, the joint proposed stipulation, the proposed order, and the March 13, 2018 order in the supporting documents section of the docket for this announcement.

## **III. Current Status of Compliance Dates**

By June 1, 2018, and until March 22, 2019, regulated composite wood panels and finished products containing such composite wood panels that are manufactured (in the United States) or imported (into the United States) must be certified as compliant with either

the TSCA Title VI or the California Air Resources Board (CARB) Airborne Toxic Control Measures (ATCM) Phase II emission standards, which are set at identical levels, by a third-party certifier (TPC) approved by CARB and recognized by EPA. Previously, these products were required to be TSCA Title VI compliant by December 12, 2018.

Until March 22, 2019, regulated products certified as compliant with the CARB ATCM Phase II 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, CARB-approved TPCs must comply with additional accreditation requirements in order to remain recognized as an EPA TSCA Title VI TPC and to continue certifying products as TSCA Title VI compliant. Regulated products manufactured in or imported into the United States after March 22, 2019 may not rely on the CARB reciprocity of 40 CFR 770.15(e) and must be certified and labeled as TSCA Title VI compliant by an EPA TSCA Title VI TPC with all of the required accreditations.

#### **IV. References**

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, Case No. 4:17-cv-06293-JSW; (United States District Court for the Northern District of California, February 16, 2018). Order Re: Cross-Motions for Summary Judgement.

2. *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, Case No. 4:17-cv-06293-JSW; (United States District Court for the Northern District of California, March 9, 2018) Joint Proposed Stipulation.

3. *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, Case No. 4:17-cv-06293-JSW; (United States District Court for the Northern District of California, March 9, 2018) Proposed Order.

4. *Sierra Club and A Community Voice-Louisiana vs. Scott Pruitt*, Case No. 4:17-cv-06293-JSW; (United States District Court for the Northern District of California, March 9, 2018) Final Order.

**Authority:** 15 U.S.C. 2697 (TSCA section 601),

Dated: March 29, 2018.

Charlotte Bertrand,

*Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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