

## TSCA Title VI FAQs<sup>1</sup>

### What is Title VI to the Toxic Substances Control Act (TSCA Title VI)?

TSCA Title VI establishes mandatory formaldehyde emission standards identical to those established by the California Air Resources Board (CARB) and applies to hardwood plywood, medium-density fiberboard, and particleboard, and finished goods containing these products, that are sold, supplied, offered for sale, or manufactured (including imported) in the United States (Covered Products).

### What are composite wood products and what types are covered by the final rule?

Composite wood products are wood products created by binding strands, particles, fibers, veneers, or boards of wood together with adhesives (i.e., glues). There are three composite wood products that are regulated under TSCA Title VI: hardwood plywood, medium-density fiberboard (includes thin-MDF), and particleboard. These composite wood products are commonly used in the manufacture of furniture, kitchen cabinets, flooring, picture frames and wooden children's toys, among other products.

### What is required by Lowe's to comply with TSCA Title VI?

- Take all measures necessary to ensure that any Covered Products and/or finished goods purchased by Lowe's for resale are in compliance with all applicable laws and regulations, including TSCA Title VI and the Final Rule. **For Import Vendors (where Lowe's is the Importer of Record), such requirements will be reflected in Lowe's Quality Assurance Department's testing protocol.**
- Products must meet the formaldehyde emission standards before shipments to Lowe's or Lowe's millwork facilities.
- Effective December 12, 2018, place a statement verifying compliance with TSCA Title VI on all bills of lading, invoices and comparable documents required by Lowe's relating to the purchase of any products and/or finished goods containing Covered Products.
- Effective December 12, 2018, place an appropriate label on Covered Products in accordance with the Final Rule.
- Effective December 12, 2018, do not ship any products that are not compliant or do not have the appropriate label on Covered Products in accordance with the Final Rule.
- Maintain proper recordkeeping and documentation in accordance with the Final Rule, and ensure sufficient traceability of a lot or batch of products.

### Where can I find additional information?

- <https://www.epa.gov/formaldehyde>
- <https://www.epa.gov/formaldehyde/resources-and-guidance-materials-translations-formaldehyde-emission-standards-composite>

### How is this different from CARB?

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<sup>1</sup> There is an ongoing case that may change the application of TSCA Title VI. You should consult your legal personnel if you have questions concerning the applicability of requirements necessary for adherence with The Final Rule for your products. Lowe's will not provide legal guidance or recommendations.

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The formaldehyde emission standards for composite wood products under the EPA final rule, and set by Congress, are identical to the California “Phase 2” formaldehyde emission standards. However, there are a few differences. Unlike the California requirements, among other things, the EPA rule will:

- Require records be kept for 3 years versus 2 years, require importers to provide import certification under TSCA 2 years after rule finalization;
- Require manufacturers to disclose upon request formaldehyde testing results to their direct purchasers; and
- Require laminated products not exempted from the definition of hardwood plywood to meet the hardwood plywood formaldehyde emissions standard seven years after the final rule is issued.

### **When is the deadline to comply?**

Other than certain exempt laminated products, Covered Products must meet the emission standard certification, testing, labeling and recordkeeping requirements on or after December 12, 2018. For specific compliance deadlines, please refer to EPA’s website.

### **What will happen if my products do not meet requirements by the deadline?**

Failure to comply with these requirements, TSCA Title VI and the Final Rule may result in nonpayment and rejection of products.

### **Must compliant wood products be labeled?**

The labels on finished goods must include the fabricator’s (e.g. furniture maker’s) name, the date the finished good was produced and a statement that the finished goods are TSCA Title VI compliant.

Raw composite wood panels (e.g. panels sold in Lowe’s Building Materials Section) must include the panel producer’s (i.e., manufacturer’s) name, lot number, the assigned EPA-Recognized TSCA Title VI Third-Party Certifier number and a statement that the products are TSCA Title VI compliant.

For products that are both subject to EPA and CARB requirements, products can be labeled as CARB and TSCA Title VI-Compliant. For avoidance of doubt, there is no requirement that products be labeled as both CARB and TSCA Title VI-Compliant, and a TSCA Title VI-only label will be sufficient.

Products sold separately to end users that contain no more than 144 square inches of composite wood products, based on the surface area of its largest face are exempt from the labeling requirements. Note that this exception only applies to labeling—the Covered Product must still pass emissions testing, follow documentation compliance and record keeping. Please note, however, for products that contain no more than 144 square inches of composite wood products sold in California, the CARB labeling requirement still applies.

### **Can I label my products prior to the December 12<sup>th</sup> deadline?**

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Yes, you may label the products prior to the December 12<sup>th</sup> Deadline in accordance with EPA's direct final rule published on July 11, 2017.

**Should my products have a TSCA and CARB compliant label?**

CARB will consider TSCA VI compliant labels to be sufficient in lieu of the CARB label. After December 12, 2018, products with TSCA compliant labels do not need separate CARB labels. However, CARB labels cannot be used in lieu of TSCA labels.

**Will there be any additional updates or clarifications from the EPA?**

EPA may issue additional updates or clarifications, and Lowe's requires vendors to stay informed of any updates related to the Final Rule. Lowe's may change our requirements as appropriate in response to these updates or clarifications, and may update our vendor partners on the new Lowe's requirements.

**Who should I contact if I have any questions?**

- Questions about this letter should be directed to [LowesMerchandisingOps@lowes.com](mailto:LowesMerchandisingOps@lowes.com).
- You should consult your product compliance or quality assurance staff or legal personnel if you have questions concerning the applicability of requirements necessary for adherence with The Final Rule for your products. Lowe's will not provide legal guidance or recommendations.