
40 C.F.R. § 770.7

Third-party certification.

(a) *EPA TSCA Title VI Product ABs.* To participate in the EPA TSCA Title VI Third-Party Certification Program as an EPA TSCA Title VI Product AB, a Product AB must have the qualifications described in this section, submit an application and enter into a recognition agreement with EPA as described in this section, and, upon recognition from EPA, impartially perform the responsibilities described in this section.

(1) *Qualifications.* To qualify for recognition by EPA in the EPA TSCA Title VI Third-Party Certification Program as an EPA TSCA Title VI Product AB, an applicant Product AB must:

(i) Be a signatory to the International Accreditation Forum, Inc.'s (IAF) Multilateral Recognition Arrangement (MLA) through level three, or have membership in one of the IAF recognized regional accreditation cooperations, or an equivalent organization as determined by EPA;

(ii) Be in conformance with ISO/IEC 17011:2017(E) (incorporated by reference, see § 770.99); and

(iii) Be competent to perform accreditation activities for product certification according to ISO/IEC 17065:2012(E) (incorporated by reference, see § 770.99).

(2) *Application.* To be recognized by EPA under the EPA TSCA Title VI Third-Party Certification Program, a Product AB must submit an application to EPA in accordance with § 770.8 that contains the following:

(i) Name, address, telephone number, and email address of the organization or primary contact;

(ii) Documentation of IAF MLA signatory status, membership in one of the IAF recognized regional accreditation cooperations, or an equivalent organization as determined by EPA;

(iii) Description of any other qualifications related to the Product AB's experience in performing product accreditation of TPCs for manufactured products including an affirmation that assessors will be technically competent to assess a TPC's ability to perform their activities under paragraph (c)(4) of this section; and

(iv) If not a domestic entity, name and address of an agent for service located in the United States. Service on this agent constitutes service on the AB or any of its officers or employees for any action by EPA or otherwise by the United States related to the requirements of this part. ABs may share an agent for service.

(3) *Recognition agreement.* To be recognized by EPA under the EPA TSCA Title VI Third-Party Certification Program, a Product AB must enter into a recognition agreement with EPA that describes the EPA TSCA Title VI Product AB's responsibilities under this subpart.

(i) Each recognition agreement will be valid for three years.

(ii) Each recognition agreement will identify an EPA Recognition Agreement Implementation Officer and an EPA TSCA Title VI Product AB Implementation Officer that will serve as the point of contact for the EPA TSCA Title VI

Third-Party Certification Program.

(iii) To renew a recognition agreement for an additional three-year period, the EPA TSCA Title VI Product AB must submit an application for renewal in accordance with § 770.8 before the three-year period of the recognition agreement lapses. The application must indicate any changes from the EPA TSCA Title VI Product AB's initial application or most recent renewal application.

(iv) If an EPA TSCA Title VI Product AB fails to submit an application for renewal prior to the expiration of the previous recognition agreement, its recognition will lapse and the EPA TSCA Title VI Product AB may not provide accreditation services under TSCA Title VI.

(v) If an EPA TSCA Title VI Product AB does submit an application for renewal prior to the expiration of the previous recognition agreement, it may continue to provide TSCA Title VI accreditation services under the terms of its previous recognition agreement until EPA has taken action on its application for renewal of the recognition agreement.

(4) *Impartiality.* EPA TSCA Title VI Product ABs must act impartially when performing activities under the EPA TSCA Title VI Third-Party Certification Program. To demonstrate impartiality, Product ABs must:

(i) Ensure that an accreditation decision regarding a TPC is made by persons different from those who conducted the assessment of the TPC; and

(ii) Ensure that the AB's personnel who assess TPCs or make decisions regarding accreditation do not receive financial benefit from the outcome of an accreditation decision.

(5) *Responsibilities.* Each EPA TSCA Title VI Product AB has the following responsibilities under the EPA TSCA Title VI Third-Party Certification Program:

(i) *Accreditation.* EPA TSCA Title VI Product ABs must determine the accreditation eligibility, and accredit if appropriate, each TPC seeking recognition under the EPA TSCA Title VI Third-Party Certification Program by performing an assessment of each TPC as described in this section. The assessment must include all of the following components:

(A) An on-site assessment by the EPA TSCA Title VI Product AB to determine whether the TPC meets the requirements of ISO/IEC 17065:2012(E), is in conformance with ISO/IEC 17020:2012(E) as required under ISO/IEC 17065:2012(E) section 6.2.1 and section 6.2.2 (incorporated by reference, see § 770.99) and the EPA TSCA Title VI TPC requirements under this part. In performing the on-site assessment, the EPA TSCA Title VI Product AB must:

(1) Develop a checklist of the EPA TSCA Title VI TPC requirements under paragraph (c)(4) of this section and the key accreditation elements of ISO/IEC 17065:2012(E) (incorporated by reference, see § 770.99); and

(2) Use the checklist for each on-site assessment.

(B) A review of the approach that the TPC will use to verify the accuracy of the formaldehyde emissions tests conducted by the TPC laboratory and the formaldehyde quality control tests conducted by or for the panel producers producing composite wood products that are subject to the requirements of TSCA Title VI.

(C) A review of the approach that the TPC will use for evaluating a panel producer's quality assurance and quality control processes, the proficiency of the panel producer's quality assurance and quality control personnel, the required elements of a panel producer's quality assurance and quality control manual, and sufficiency of on-site testing facilities as applicable.

- (D) A review of the approach that the TPC laboratory will use for establishing correlation or equivalence between ASTM E1333-14 and ASTM D6007-14, if used, (incorporated by reference, see § 770.99) or allowable formaldehyde test methods listed under § 770.20.
- (E) A review of the approach that the TPC will use for evaluating the process for sample selection, handling, and shipping procedures that the panel producer will use for quality control testing as applicable.
- (F) A review of the accreditation credentials of the TPC laboratory, including a verification that the laboratory has been accredited to ISO/IEC 17025:2017(E) (incorporated by reference, see § 770.99) with a scope of accreditation to include this part—Formaldehyde Standards for Composite Wood Products and the formaldehyde test methods ASTM E1333-14 and ASTM D6007-14, if used, by an EPA TSCA Title VI Laboratory AB (incorporated by reference, see § 770.99).
- (ii) *Reassessment.* Each EPA TSCA Title VI Product AB must, in accordance with ISO/IEC 17011:2017(E) section 7.9 (incorporated by reference, see § 770.99), conduct an on-site reassessment or surveillance on-site assessment at least every two years of each EPA TSCA Title VI TPC that the AB has accredited.
- (iii) *Suspension, reduction, withdrawal.* Each EPA TSCA Title VI Product AB must suspend, reduce, or withdraw the accreditation of an EPA TSCA Title VI TPC that the AB has accredited when circumstances warrant.
- (iv) *Notifications.* Each EPA TSCA Title VI Product AB must provide, in accordance with § 770.8, the following notifications to EPA, as applicable:
- (A) Notification of the loss of its status as a signatory to the IAF MLA, or loss of membership in one of the IAF recognized regional accreditation cooperations, or an equivalent organization as determined by EPA must be provided within five calendar days of the date that the body receives notification of the loss of its signatory or membership status.
- (B) Notification that an EPA TSCA Title VI TPC has failed to comply with any provision of this part must be provided within 72 hours of the time the Product AB identifies the deficiency. The notice must include a description of the steps taken to address the deficiency.
- (C) Notification of suspension, reduction or withdrawal of an EPA TSCA Title VI TPC's accreditation must be provided within 72 hours of the time that the suspension, reduction or withdrawal takes effect.
- (D) Notification of a change in a non-domestic Product AB's agent for service must be provided within five calendar days.
- (v) *Records.* Each EPA TSCA Title VI Product AB must maintain, in electronic form, the checklists and other records documenting compliance with the requirements for assessment, reassessment, and surveillance on-site assessments of EPA TSCA Title VI TPCs for three years.
- (vi) *Annual report.* Each EPA TSCA Title VI Product AB must provide, in accordance with § 770.8, an annual report on or before March 1st of each year for the AB services performed during the previous calendar year including the number and locations of assessment, reassessment, and surveillance on-site assessments performed for each EPA TSCA Title VI TPC.

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