

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4805
OFFERED BY MR. WAXMAN OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Formaldehyde Stand-
3 ards for Composite Wood Products Act”.

4 **SEC. 2. FORMALDEHYDE STANDARDS FOR COMPOSITE**
5 **WOOD PRODUCTS.**

6 (a) AMENDMENT.—The Toxic Substances Control
7 Act (15 U.S.C. 2601 et seq.) is amended by adding at
8 the end the following:

9 **“TITLE VI—FORMALDEHYDE**
10 **STANDARDS FOR COMPOSITE**
11 **WOOD PRODUCTS**

12 **“SEC. 601. FORMALDEHYDE STANDARDS.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) FINISHED GOOD.—

15 “(A) IN GENERAL.—The term ‘finished
16 good’ means any good or product (other than a
17 panel) containing—

18 “(i) hardwood plywood;

1 “(ii) particleboard; or

2 “(iii) medium-density fiberboard.

3 “(B) EXCLUSIONS.—The term ‘finished
4 good’ does not include—

5 “(i) any component part or other part
6 used in the assembly of a finished good; or

7 “(ii) any finished good that has pre-
8 viously been sold or supplied to an indi-
9 vidual or entity that purchased or acquired
10 the finished good in good faith for pur-
11 poses other than resale, such as—

12 “(I) an antique; or

13 “(II) secondhand furniture.

14 “(2) HARDBOARD.—The term ‘hardboard’ has
15 such meaning as the Administrator shall establish,
16 by regulation, pursuant to subsection (d).

17 “(3) HARDWOOD PLYWOOD.—

18 “(A) IN GENERAL.—The term ‘hardwood
19 plywood’ means a hardwood or decorative panel
20 that is—

21 “(i) intended for interior use; and

22 “(ii) composed of (as determined
23 under the standard numbered ANSI/
24 HPVA HP-1-2009) an assembly of layers

1 or plies of veneer, joined by an adhesive
2 with—

3 “(I) lumber core;

4 “(II) particleboard core;

5 “(III) medium-density fiberboard
6 core;

7 “(IV) hardboard core; or

8 “(V) any other special core or
9 special back material.

10 “(B) EXCLUSIONS.—The term ‘hardwood
11 plywood’ does not include—

12 “(i) military-specified plywood;

13 “(ii) curved plywood; or

14 “(iii) any other product specified in—

15 “(I) the standard entitled ‘Vol-
16 untary Product Standard—Structural
17 Plywood’ and numbered PS 1–07; or

18 “(II) the standard entitled ‘Vol-
19 untary Product Standard—Perform-
20 ance Standard for Wood-Based Struc-
21 tural-Use Panels’ and numbered PS
22 2–04.

23 “(C) LAMINATED PRODUCTS.—

24 “(i) RULEMAKING.—

1 “(I) IN GENERAL.—The Admin-
2 istrator shall conduct a rulemaking
3 process pursuant to subsection (d)
4 that uses all available and relevant in-
5 formation from State authorities, in-
6 dustry, and other available sources of
7 such information, and analyzes that
8 information to determine, at the dis-
9 cretion of the Administrator, whether
10 the definition of the term ‘hardwood
11 plywood’ should exempt engineered ve-
12 neer or any laminated product.

13 “(II) MODIFICATION.—The Ad-
14 ministrator may modify any aspect of
15 the definition contained in clause (ii)
16 before including that definition in the
17 regulations promulgated pursuant to
18 subclause (I).

19 “(ii) LAMINATED PRODUCT.—The
20 term ‘laminated product’ means a prod-
21 uct—

22 “(I) in which a wood veneer is af-
23 fixed to—

24 “(aa) a particleboard plat-
25 form;

1 “(bb) a medium-density fi-
2 berboard platform; or

3 “(cc) a veneer-core platform;
4 and

5 “(II) that is—

6 “(aa) a component part;

7 “(bb) used in the construc-
8 tion or assembly of a finished
9 good; and

10 “(cc) produced by the manu-
11 facturer or fabricator of the fin-
12 ished good in which the product
13 is incorporated.

14 “(4) MANUFACTURED HOME.—The term ‘man-
15 ufactured home’ has the meaning given the term in
16 section 3280.2 of title 24, Code of Federal Regula-
17 tions (as in effect on the date of promulgation of
18 regulations pursuant to subsection (d)).

19 “(5) MEDIUM-DENSITY FIBERBOARD.—The
20 term ‘medium-density fiberboard’ means a panel
21 composed of cellulosic fibers made by dry forming
22 and pressing a resinated fiber mat (as determined
23 under the standard numbered ANSI A208.2–2009).

1 “(6) MODULAR HOME.—The term ‘modular
2 home’ means a home that is constructed in a factory
3 in 1 or more modules—

4 “(A) each of which meet applicable State
5 and local building codes of the area in which
6 the home will be located; and

7 “(B) that are transported to the home
8 building site, installed on foundations, and com-
9 pleted.

10 “(7) NO-ADDED FORMALDEHYDE-BASED
11 RESIN.—

12 “(A) IN GENERAL.—(i) The term ‘no-
13 added formaldehyde-based resin’ means a resin
14 formulated with no added formaldehyde as part
15 of the resin cross-linking structure in a com-
16 posite wood product that meets the emission
17 standards in subparagraph (C) as measured
18 by—

19 “(I) one test conducted pursuant to
20 test method ASTM E-1333-96 (2002) or,
21 subject to clause (ii), ASTM D-6007-02;
22 and

23 “(II) 3 months of routine quality con-
24 trol tests pursuant to ASTM D-6007-02 or
25 ASTM D-5582 or such other routine qual-

1 ity control test methods as may be estab-
2 lished by the Administrator through rule-
3 making.

4 “(ii) Test results obtained under clause
5 (i)(I) or (II) by any test method other than
6 ASTM E-1333-96 (2002) must include a show-
7 ing of equivalence by means established by the
8 Administrator through rulemaking.

9 “(B) INCLUSIONS.—The term ‘no-added
10 formaldehyde-based resin’ may include any
11 resin made from—

12 “(i) soy;

13 “(ii) polyvinyl acetate; or

14 “(iii) methylene diisocyanate.

15 “(C) EMISSION STANDARDS.—The fol-
16 lowing are the emission standards for composite
17 wood products made with no-added formalde-
18 hyde-based resins under this paragraph:

19 “(i) No higher than 0.04 parts per
20 million of formaldehyde for 90 percent of
21 the 3 months of routine quality control
22 testing data required under subparagraph
23 (A)(ii).

24 “(ii) No test result higher than 0.05
25 parts per million of formaldehyde for hard-

1 wood plywood and 0.06 parts per million
2 for particleboard, medium-density fiber-
3 board, and thin medium-density fiber-
4 board.

5 “(8) PARTICLEBOARD.—

6 “(A) IN GENERAL.—The term
7 ‘particleboard’ means a panel composed of cel-
8 lulosic material in the form of discrete particles
9 (as distinguished from fibers, flakes, or
10 strands) that are pressed together with resin
11 (as determined under the standard numbered
12 ANSI A208.1–2009).

13 “(B) EXCLUSIONS.—The term
14 ‘particleboard’ does not include any product
15 specified in the standard entitled ‘Voluntary
16 Product Standard–Performance Standard for
17 Wood-Based Structural-Use Panels’ and num-
18 bered PS 2–04.

19 “(9) RECREATIONAL VEHICLE.—The term ‘rec-
20 reational vehicle’ has the meaning given the term in
21 section 3282.8 of title 24, Code of Federal Regula-
22 tions (as in effect on the date of promulgation of
23 regulations pursuant to subsection (d)).

24 “(10) ULTRA LOW-EMITTING FORMALDEHYDE
25 RESIN.—

1 “(A) IN GENERAL.—(i) The term ‘ultra
2 low-emitting formaldehyde resin’ means a resin
3 in a composite wood product that meets the
4 emission standards in subparagraph (C) as
5 measured by—

6 “(I) 2 quarterly tests conducted pur-
7 suant to test method ASTM E-1333-96
8 (2002) or, subject to clause (ii), ASTM D-
9 6007-02; and

10 “(II) 6 months of routine quality con-
11 trol tests pursuant to ASTM D-6007-02 or
12 ASTM D-5582 or such other routine qual-
13 ity control test methods as may be estab-
14 lished by the Administrator through rule-
15 making.

16 “(ii) Test results obtained under clause
17 (i)(I) or (II) by any test method other than
18 ASTM E-1333-96 (2002) must include a show-
19 ing of equivalence by means established by the
20 Administrator through rulemaking.

21 “(B) INCLUSIONS.—The term ‘ultra low-
22 emitting formaldehyde resin’ may include—

23 “(i) melamine-urea-formaldehyde
24 resin;

25 “(ii) phenol formaldehyde resin; and

1 “(iii) resorcinol formaldehyde resin.

2 “(C) EMISSION STANDARDS.—

3 “(i) The Administrator may, pursuant
4 to regulations issued under subsection (d),
5 reduce the testing requirements for a man-
6 ufacturer only if its product made with
7 ultra low-emitting formaldehyde resin
8 meets the following emission standards:

9 “(I) For hardwood plywood, no
10 higher than 0.05 parts per million of
11 formaldehyde.

12 “(II) For medium-density fiber-
13 board—

14 “(aa) no higher than 0.06
15 parts per million of formaldehyde
16 for 90 percent of 6 months of
17 routine quality control testing
18 data required under subpara-
19 graph (A)(ii); and

20 “(bb) no test result higher
21 than 0.09 parts per million of
22 formaldehyde.

23 “(III) For particleboard—

24 “(aa) no higher than 0.05
25 parts per million of formaldehyde

1 for 90 percent of 6 months of
2 routine quality control testing
3 data required under subpara-
4 graph (A)(ii); and

5 “(bb) no test result higher
6 than 0.08 parts per million of
7 formaldehyde.

8 “(IV) For thin medium-density
9 fiberboard—

10 “(aa) no higher than 0.08
11 parts per million of formaldehyde
12 for 90 percent of 6 months of
13 routine quality control testing
14 data required under subpara-
15 graph (A)(ii); and

16 “(bb) no test result higher
17 than 0.11 parts per million of
18 formaldehyde.

19 “(ii) The Administrator may not, pur-
20 suant to regulations issued under sub-
21 section (d), exempt a manufacturer from
22 third party certification requirements un-
23 less its product made with ultra low-emit-
24 ting formaldehyde resin meets the fol-
25 lowing emission standards:

1 “(I) No higher than 0.04 parts
2 per million of formaldehyde for 90
3 percent of 6 months of routine quality
4 control testing data required under
5 subparagraph (A)(ii).

6 “(II) No test result higher than
7 0.05 parts per million of formaldehyde
8 for hardwood plywood and 0.06 parts
9 per million for particleboard, medium-
10 density fiberboard, and thin medium-
11 density fiberboard.

12 “(b) REQUIREMENT.—

13 “(1) IN GENERAL.—Except as provided in an
14 applicable sell-through regulation promulgated pur-
15 suant to subsection (d), effective beginning on the
16 date that is 180 days after the date of promulgation
17 of those regulations, the emission standards de-
18 scribed in paragraph (2), shall apply to hardwood
19 plywood, medium-density fiberboard, and
20 particleboard sold, supplied, offered for sale, or man-
21 ufactured in the United States.

22 “(2) EMISSION STANDARDS.—The emission
23 standards referred to in paragraph (1), based on
24 test method ASTM E-1333-96 (2002), are as fol-
25 lows:

1 “(A) For hardwood plywood with a veneer
2 core, 0.05 parts per million of formaldehyde.

3 “(B) For hardwood plywood with a com-
4 posite core—

5 “(i) 0.08 parts per million of form-
6 aldehyde for any period after the effective
7 date described in paragraph (1) and before
8 July 1, 2012; and

9 “(ii) 0.05 parts per million of form-
10 aldehyde, effective on the later of the effec-
11 tive date described in paragraph (1) or
12 July 1, 2012.

13 “(C) For medium-density fiberboard—

14 “(i) 0.21 parts per million of form-
15 aldehyde for any period after the effective
16 date described in paragraph (1) and before
17 July 1, 2011; and

18 “(ii) 0.11 parts per million of form-
19 aldehyde, effective on the later of the effec-
20 tive date described in paragraph (1) or
21 July 1, 2011.

22 “(D) For thin medium-density fiber-
23 board—

24 “(i) 0.21 parts per million of form-
25 aldehyde for any period after the effective

1 date described in paragraph (1) and before
2 July 1, 2012; and

3 “(ii) 0.13 parts per million of form-
4 aldehyde, effective on the later of the effec-
5 tive date described in paragraph (1) or
6 July 1, 2012.

7 “(E) For particleboard—

8 “(i) 0.18 parts per million of form-
9 aldehyde for any period after the effective
10 date described in paragraph (1) and before
11 July 1, 2011; and

12 “(ii) 0.09 parts per million of form-
13 aldehyde, effective on the later of the effec-
14 tive date described in paragraph (1) or
15 July 1, 2011.

16 “(3) COMPLIANCE WITH EMISSION STAND-
17 ARDS.—(A) Compliance with the emission standards
18 described in paragraph (2) shall be measured by—

19 “(i) quarterly tests shall be conducted pur-
20 suant to test method ASTM E-1333-96 (2002)
21 or, subject to subparagraph (B), ASTM D-
22 6007-02; and

23 “(ii) quality control tests shall be con-
24 ducted pursuant to ASTM D-6007-02, ASTM
25 D-5582, or such other test methods as may be

1 established by the Administrator through rule-
2 making.

3 “(B) Test results obtained under subparagraph
4 (A)(i) or (ii) by any test method other than ASTM
5 E-1333-96 (2002) must include a showing of equiva-
6 lence by means established by the Administrator
7 through rulemaking.

8 “(C) Except where otherwise specified, the Ad-
9 ministrator shall establish through rulemaking the
10 number and frequency of tests required to dem-
11 onstrate compliance with the emission standards.

12 “(4) APPLICABILITY.—The formaldehyde emis-
13 sion standard referred to in paragraph (1) shall
14 apply regardless of whether an applicable hardwood
15 plywood, medium-density fiberboard, or
16 particleboard is—

17 “(A) in the form of an unfinished panel; or

18 “(B) incorporated into a finished good.

19 “(c) EXEMPTIONS.—The formaldehyde emission
20 standard referred to in subsection (b)(1) shall not apply
21 to—

22 “(1) hardboard;

23 “(2) structural plywood, as specified in the
24 standard entitled ‘Voluntary Product Standard—
25 Structural Plywood’ and numbered PS 1–07;

1 “(3) structural panels, as specified in the stand-
2 ard entitled ‘Voluntary Product Standard–Perform-
3 ance Standard for Wood-Based Structural-Use Pan-
4 els’ and numbered PS 2–04;

5 “(4) structural composite lumber, as specified
6 in the standard entitled ‘Standard Specification for
7 Evaluation of Structural Composite Lumber Prod-
8 ucts’ and numbered ASTM D 5456–06;

9 “(5) oriented strand board;

10 “(6) glued laminated lumber, as specified in the
11 standard entitled ‘Structural Glued Laminated Tim-
12 ber’ and numbered ANSI A190.1–2002;

13 “(7) prefabricated wood I-joists, as specified in
14 the standard entitled ‘Standard Specification for Es-
15 tablishing and Monitoring Structural Capacities of
16 Prefabricated Wood I-Joists’ and numbered ASTM
17 D 5055–05;

18 “(8) finger-jointed lumber;

19 “(9) wood packaging (including pallets, crates,
20 spools, and dunnage);

21 “(10) composite wood products used inside a
22 new—

23 “(A) vehicle (other than a recreational ve-
24 hicle) constructed entirely from new parts that
25 has never been—

1 “(i) the subject of a retail sale; or

2 “(ii) registered with the appropriate
3 State agency or authority responsible for
4 motor vehicles or with any foreign state,
5 province, or country;

6 “(B) rail car;

7 “(C) boat;

8 “(D) aerospace craft; or

9 “(E) aircraft;

10 “(11) windows that contain composite wood
11 products, if the window product contains less than
12 5 percent by volume of hardwood plywood,
13 particleboard, or medium-density fiberboard, com-
14 bined, in relation to the total volume of the finished
15 window product; or

16 “(12) exterior doors and garage doors that con-
17 tain composite wood products, if—

18 “(A) the doors are made from composite
19 wood products manufactured with no-added
20 formaldehyde-based resins or ultra low-emitting
21 formaldehyde resins; or

22 “(B) the doors contain less than 3 percent
23 by volume of hardwood plywood, particleboard,
24 or medium-density fiberboard, combined, in re-

1 lation to the total volume of the finished exte-
2 rior door or garage door.

3 “(d) REGULATIONS.—

4 “(1) IN GENERAL.—Not later than January 1,
5 2012, the Administrator shall promulgate regula-
6 tions to implement the standards required under
7 subsection (b) in a manner that ensures compliance
8 with the emission standards described in subsection
9 (b)(2).

10 “(2) INCLUSIONS.—The regulations promul-
11 gated pursuant to paragraph (1) shall include provi-
12 sions relating to—

13 “(A) labeling;

14 “(B) chain of custody requirements;

15 “(C) sell-through provisions;

16 “(D) ultra low-emitting formaldehyde res-
17 ins;

18 “(E) no-added formaldehyde-based resins;

19 “(F) finished goods;

20 “(G) third-party testing and certification;

21 “(H) auditing and reporting of third-party
22 certifiers;

23 “(I) recordkeeping;

24 “(J) enforcement;

25 “(K) laminated products; and

1 “(L) exceptions from the requirements of
2 regulations promulgated pursuant to this sub-
3 section for products and components containing
4 de minimis amounts of composite wood prod-
5 ucts.

6 The Administrator shall not provide under subpara-
7 graph (L) exceptions to the formaldehyde emission
8 standard requirements in subsection (b).

9 “(3) SELL-THROUGH PROVISIONS.—

10 “(A) IN GENERAL.—Sell-through provi-
11 sions established by the Administrator under
12 this subsection, with respect to composite wood
13 products and finished goods containing regu-
14 lated composite wood products (including rec-
15 reational vehicles, manufactured homes, and
16 modular homes), shall—

17 “(i) be based on a designated date of
18 manufacture (which shall be no earlier
19 than the date 180 days following the pro-
20 mulgation of the regulations pursuant to
21 this subsection) of the composite wood
22 product or finished good, rather than date
23 of sale of the composite wood product or
24 finished good; and

1 “(ii) provide that any inventory of
2 composite wood products or finished goods
3 containing regulated composite wood prod-
4 ucts, manufactured before the designated
5 date of manufacture of the composite wood
6 products or finished goods, shall not be
7 subject to the formaldehyde emission
8 standard requirements under subsection
9 (b)(1).

10 “(B) IMPLEMENTING REGULATIONS.—The
11 regulations promulgated under this subsection
12 shall—

13 “(i) prohibit the stockpiling of inven-
14 tory to be sold after the designated date of
15 manufacture; and

16 “(ii) not require any labeling or test-
17 ing of composite wood products or finished
18 goods containing regulated composite wood
19 products manufactured before the des-
20 ignated date of manufacture.

21 “(C) DEFINITION.—For purposes of this
22 paragraph, the term ‘stockpiling’ means manu-
23 facturing or purchasing a composite wood prod-
24 uct or finished good containing a regulated
25 composite wood product between the date of en-

1 actment of the Formaldehyde Standards for
2 Composite Wood Products Act and the date
3 180 days following the promulgation of the reg-
4 ulations pursuant to this subsection at a rate
5 which is significantly greater (as determined by
6 the Administrator) than the rate at which such
7 product or good was manufactured or pur-
8 chased during a base period (as determined by
9 the Administrator) ending before the date of
10 enactment of the Formaldehyde Standards for
11 Composite Wood Products Act.

12 “(4) IMPORT REGULATIONS.—Not later than
13 July 1, 2012, the Administrator, in coordination
14 with the Commissioner of Customs and Border Pro-
15 tection and other appropriate Federal departments
16 and agencies, shall revise regulations promulgated
17 pursuant to section 13 as the Administrator deter-
18 mines to be necessary to ensure compliance with this
19 section.

20 “(5) SUCCESSOR STANDARDS AND TEST METH-
21 ODS.—The Administrator may, after public notice
22 and opportunity for comment, substitute an industry
23 standard or test method referenced in this section
24 with its successor version.

1 “(e) PROHIBITED ACTS.—An individual or entity
2 that violates any requirement under this section (including
3 any regulation promulgated pursuant to subsection (d))
4 shall be considered to have committed a prohibited act
5 under section 15.”.

6 (b) CONFORMING AMENDMENT.—The table of con-
7 tents of the Toxic Substances Control Act (15 U.S.C. prec.
8 2601) is amended by adding at the end the following:

“TITLE VI—FORMALDEHYDE STANDARDS FOR COMPOSITE WOOD
PRODUCTS

“Sec. 601. Formaldehyde standards.”.

9 **SEC. 3. REPORTS TO CONGRESS.**

10 Not later than one year after the date of enactment
11 of this Act, and annually thereafter through December 31,
12 2014, the Administrator of the Environmental Protection
13 Agency shall submit to the Committee on Environment
14 and Public Works of the Senate and the Committee on
15 Energy and Commerce of the House of Representatives
16 a report describing, with respect to the preceding year—

17 (1) the status of the measures carried out or
18 planned to be carried out pursuant to title VI of the
19 Toxic Substances Control Act; and

20 (2) the extent to which relevant industries have
21 achieved compliance with the requirements under
22 that title.

1 **SEC. 4. MODIFICATION OF REGULATION.**

2 Not later than 180 days after the date of promulga-
3 tion of regulations pursuant to section 601(d) of the Toxic
4 Substances Control Act (as amended by section 2), the
5 Secretary of Housing and Urban Development shall up-
6 date the regulation contained in section 3280.308 of title
7 24, Code of Federal Regulations (as in effect on the date
8 of enactment of this Act), to ensure that the regulation
9 reflects the standards established by section 601 of the
10 Toxic Substances Control Act.

