

# VOC emissions from wood-based panels – Barrier to trade due to national regulations

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## Abstract

### **German go-it alones hinder the internal market for wood-based panels**

National go-it-alones by individual Member States hinder the internal market of the European Union. The German legislator in particular sets numerous additional requirements for the use of European harmonised construction products. This affects not only German manufacturers or building owners, but also European and international manufacturers who want to market their products in Germany.

### **Additional product-related requirements for the use of OSB and chipboard in Germany**

Wood-based panels within the scope of EN 16516, especially OSB and chipboard, are also affected by additional national requirements. The safety requirements to be observed for the construction and use of buildings in Germany are regulated at state level in the so-called state building codes ("Landesbauordnungen"). All state building codes give the respective legislator the opportunity to issue technical building regulations in which the authoritative safety requirements can be specified. This has led to the fact that the respective German legislators have established "Requirements for buildings with regard to health protection" (so called ABG requirements). The ABG contains product-related requirements for volatile organic compounds (VOC) emissions from OSB and chipboards. The building owner must demonstrate compliance with the requirements formulated in the ABG to the building supervisory authorities if he wishes to use OSB or chipboard indoors. Otherwise, he is threatened with construction supervision measures according to the state building codes (e.g. cessation of work or demolition), as he cannot prove that the construction is in accordance with the material requirements of the building regulations. In future, the building owner (or the planners and architects commissioned by the building owner) will only purchase OSB if the manufacturer submits proof of compliance with the requirements laid down in the MVV TB in conjunction with the ABG. In fact, the manufacturers of OSB and chipboard are thus obliged to provide evidence of VOC emissions from OSB they manufacture. The DIBt – an authority which acts on behalf of the federal states on the basis of the DIBt agreement – offers manufacturers so-called "expert opinions" as evidence.

## **OSB and chipboard fall within the scope of Regulation (EU) Nr. 305/2011 (CPR)**

OSB and chipboards are harmonised construction products in accordance with EN 13986 ("Wood-based panels for use in construction – Characteristics, evaluation of conformity and marking"). EN 13986 does not contain any essential characteristic concerning VOC emitting from wood-based panels like OSB or chipboards.

## **Additional product-related requirements for the use of OSB und chipboard contravene EU law**

The national legislation in the ABG / state building codes and its content violate Article 8 (4) EU Construction Products Regulation, No. 305/2011 (CPR), which prohibits Member States, among other things, from impeding the use of CE-marked construction products. OSB and chipboards are CE-marked construction products in this sense, as they fall within the scope of the harmonised standard EN 13986 and, in accordance with Art. 8 CPR in conjunction with Art. 4 (1) CPR must be CE marked. An obstruction exists because the use of OSB and chipboard indoors got much more difficult by the fact that, in addition to the declaration of performance (DoP) according to Art. 4 (1) CPR, an additional proof of VOC emissions from OSB and chipboard is actually required. In this case, the trade is not affected, but the use, since it concerns the installation of OSB and chipboard. However, the use is also expressly covered by the prohibition of Art. 8 (4) CPR, since the usability of a product under the Building Regulations has a direct effect on the marketability of the construction product.

Although product-related requirements of the Member States are permitted within narrow limits, these limits are exceeded by the present national regulation. Art. 8 (4) CPR only allows minimum requirements from Member States in relation to "declared performances". The manufacturer declares the performance of the construction products he markets in relation to the essential characteristics (Art. 4 (1) CPR). The essential characteristics are in turn derived from the relevant harmonised standard. National product-related requirements to characteristics not mentioned in the harmonised standard – such as the mentioned requirements for VOC emissions from certain wood-based panels – are therefore not allowed to be imposed by Member States. This also applies if, from the point of view of the Member State, the harmonised standard is "incomplete" with regard to individual essential characteristics and a national "closure of the gap" is intended to serve the protection of fundamental rights. The administrative courts in Germany are currently dealing with the legality of the national ABG requirements regarding VOC emissions.

As Art. 8 (4) CPR applies to all harmonised construction products, manufacturers should monitor the activities of the Member States regarding the rules of use. This is the only way to ensure that timely legal action can be taken.