

TO: CAL/EPA Air Resources Board

RE: Testimony in support of a strengthened Composite Wood ATCM

DT: 4/17/2007

FR: Tom Lent, Technical Policy Director for the Healthy Building Network.

First I want to complement the ARB staff for their hard work and diligence in researching this issue and developing this ATCM and their patience and perseverance in working through the complexities of this important issue. That said, I urge the Board to not only accept the ATCM concept presented by the staff but to direct them to return to earlier stricter proposals for final formaldehyde levels in phase 2. The Staff research has amply demonstrated the critical nature of the health impacts of formaldehyde emissions and the fact that there is no safe level of emissions. Their research has also demonstrated that much of the industry is already meeting the levels proposed in the first phase of the current standards, is not far from the second phase and the technology is already available to move more rapidly than proposed toward much more stringent levels.

With broad recognition that any additional formaldehyde releases from these materials increasing concentrations above ambient conditions will result in more cancers and more bronchial problems, and new materials appearing on the market already providing alternatives that are completely free of added formaldehyde, there is significant public and industry support for the strongest possible regulation. We see no valid reason to set levels higher than the 0.03 ppm ambient and urge you not under any circumstances to accept any proposed endpoint over 0.05 ppm.

I would like to provide you with a broader industry context for the proposed regulation than you will hear from the fabrication industry to put it in context with related actions being taken by many others around California and the country. The Air Resources Board is not acting in a vacuum. Many parties are in strong agreement with the ARB staff that formaldehyde is a highly serious health issue and are acting on it in parallel with your regulatory effort – and in fact have been for years now.

Health care systems: The **Kaiser Permanente** health system has publicly committed efforts to eliminate chemicals of concern from the building materials with which they build their hospitals. Urea formaldehyde is a priority chemical for them and they have already worked hard to seek alternatives to eliminate it from the boards they use in the casework they fabricate. They are now seeking alternatives in their purchased furniture, are testing formaldehyde free building insulation and are seeking to weed out other sources of formaldehyde in textiles and other interior finish building materials as well. Kaiser is a leader in a growing group of health care systems that are addressing chemicals of concern in their medical products and building materials and include formaldehyde in that work.

Sustainable building guidelines: Every single sustainable building guideline I have reviewed addresses urea formaldehyde. The US Green Building Council's **LEED** standard, the **Collaborative for High Performance Schools**, and the **Green Guide for Health Care** (GGHC) all reward buildings that use composite wood products with no added urea formaldehyde resins. This credit is consistently one of the more popular credits in these programs - almost three quarters of the projects that participated in the GGHC's pilot program (representing many major health care systems) are attempting to attain this credit and the experience is similar for the other programs.

Governmental support: A variety of California cities such as the **City of San Francisco, Los Angeles, Santa Monica, Berkeley, Oakland and San Jose** likewise have prioritized eliminating formaldehyde from their buildings and aggressively work to educate builders and homeowners in their city about options to avoid composite wood products with formaldehyde added.

But with all of these programs the message is the same – not enough cost effective product on the market. The sustainable building industry is growing and hungry for formaldehyde free product but the industry is resisting providing it. We need the help of the regulatory mechanism to get the industry moving.

It is clear that your proposal to regulate formaldehyde emissions from building products is timely, in the mainstream and rapidly gaining significant public support here in California.

Organizational support: Last summer, **84 organizations** that we contacted signed on to a letter of support (submitted separately) to the staff for this action to regulate formaldehyde emissions, plus a similar number of **individuals (87)**.

Far from being a small group of “emotionally-charged green building advocates” demonizing the industry (as one of the trade associations characterized it), these signatures represent:

- 56 firms that design, construct and sell buildings** – the users of these products.
- joined by another 50 individual signers who make their living in the industry.

- 25 non profit organizations** concerned about environmental health, including ten of the leading national environmental health organizations that have been studying formaldehyde issues for some time and are strongly supportive of California's action. Several other national organizations are sending their comments to you individually.

- 3 California local government agencies** signed on their support as well.

California construction industry based support: The vast majority of these signatories are California based design and construction firms, organizations and citizens – mostly architects, designers, homebuilders, remodelers, cabinet makers – people and firms many

of whose businesses will be immediately affected by the regulations. Why are they speaking out in support in the face of a trade association blitz warning of how the proposed regulation will harm the industry?

These design and construction firms understand that formaldehyde is **causing harm now** to the health of their workers and their customers. They also know that a steadily increasing number of their customers are seeking safer materials in their buildings and there are technologies available that work – but that they **aren't going to have the selection of products they need while manufacturers continue to view healthy building materials as just another green building niche market.**

Market failure: Furthermore we recognize that most people **don't get to choose** the casework to which they are exposed in their offices, schools and rental homes. Market pressure alone can't change the industry when the people who are paying the health costs – the ones who breathe the emissions and eventually get the cancer or asthma – aren't even the ones who make the relevant purchase decisions. They didn't buy the cabinets, but they can't avoid exposure to them.

This is a classic formula for **market failure** and one that the Air Resources Board is very familiar with. The historical chart prepared by staff of the static nature of formaldehyde emissions since the HUD standard was set in 1985 is telling. It is time to move the bar again. That is why the **EU and Japan** decided years ago not to wait and hope that the market would sort it out and that is why we support your efforts to do the same.

These signatories are agreeing with you that emissions from building materials are a **public health issue, not something which individuals can protect themselves from through market choice.** Significant improvement in what we and our children are exposed to can only come by clear appropriate regulatory action that places the same expectations on all manufacturers.

Enforcement: We certainly agree with the industry that enforcement is important and something that should be worked on earnestly by all parties - but in parallel, not as a delaying tactic to the overdue bar setting. We appreciate the work the CARB staff is clearly putting into developing this. Also we are heartened by the trade association assurances earlier today that the big import players *are* going to play by the rules. This encourages me that - while certainly a challenge - this will not be an industry busting deal breaker.

Industry representatives have made dire warnings about the cost and practicality of this regulation, as trade associations predictably have many times in the past about regulation like this. We see it for ARB regulations, energy efficiency standards and more. But each time the market pull discipline given by a fair, across the board regulation toward cleaner technologies for a commodity product like this is generally very effective at driving development in more efficient technologies and production methods expanding applicability and availability while driving down cost and generally renders those warnings moot.

The cost of inaction: The real cost to worry about is the cost of not acting. Staff estimates that the proposed regulation will only cut cancer cases by about 40%. California will still have 1300 to 3500 cases of cancer from formaldehyde exposure with the higher terminal levels. Our health system - and our children – are and will continue to pay the cost that the industry is avoiding by continuing to be allowed to use so-called cheap formaldehyde and allow it to be emitted from these products. It is time to end this externalization of cost.

This is not a new issue – the warning signals have been available to the industry for years now in international standards development and the staff has been working with this issue for many years. It is time for the industry to stop complaining and get to work on how to best make this transition toward lower emitting products. Industry leaders like Columbia Forest Products have shown how to do this in a cost neutral way. There is no excuse for the rest of the industry not to follow.

We strongly urge you to guide the staff to return to earlier stronger approaches to this regulation and keep levels at or near ambient.

Thank you for your attention and action.

A handwritten signature in black ink, appearing to read "Tom Lent", is centered on the page. The signature is fluid and cursive, with a large initial "T" and "L".