



# COMPOSITE PANEL ASSOCIATION

*Advancing the wood-based panel and decorative surfacing industries*

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July 23, 2018

Submitted Electronically

Mr. Richard W. Corey  
Executive Officer  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: Draft Community Air Protection Blueprint AB617

Dear Mr. Corey:

These comments are submitted by the Composite Panel Association (CPA) in response to the notice of public comment for the California Air Resources Board (ARB) draft Community Air Protection Blueprint (Blueprint). CPA represents over 95% of the manufacturing capacity of particleboard and medium density fiberboard (MDF) in North America. These products are regulated under ARB's Composite Wood Products ATCM (ATCM),<sup>1</sup> a very successful regulation that has become the model for EPA's recently implemented federal regulations, known as TSCA Title VI.<sup>2</sup> North American particleboard and MDF manufacturers have been longstanding supporters of the ATCM, and in fact since 2008 had voluntarily complied with its requirements for all production regardless of whether it was destined for California or not. These manufacturers were also instrumental in pressing Congress to pass the legislation that has ultimately led to EPA's TSCA Title VI, now in force.

We write today because we believe the ATCM, while a very successful regulation and clearly one we support, should not be included in the final Blueprint. The intent of the Blueprint is to address "health inequities" experienced by certain communities in the state.<sup>3</sup> Thanks to the ATCM and its mirror regulation at the national level, all products sold in the state of California must comply with the world's most stringent emissions controls. This has resulted in significant emissions reductions that have positively impacted all California communities. Admittedly, as the experience with Lumber Liquidators Chinese-made laminate flooring has shown, more can be done in enforcement, and we fully support any effort ARB can make to strengthening its enforcement efforts. We believe, however, that the ATCM has been improperly included in the draft Blueprint because all products sold in California must meet the ATCM's stringent requirements and therefore no communities within the state are disproportionately impacted by formaldehyde emissions from regulated composite wood products.

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<sup>1</sup> 17 Code of California Regulations §93120.

<sup>2</sup> 40 CFR Part 770; 81 Fed. Reg. 89674 et seq., December 12, 2016

<sup>3</sup> See Draft Community Air Protection Blueprint (June 7, 2018), pg. 1.

### **A. The ATCM is a Successful Regulatory Program Positively Impacting All California Communities.**

The ATCM is widely recognized as the world's most stringent formaldehyde emissions regulation for composite wood products. To be certified under the ATCM, panel producers must on a quarterly basis have an ARB-approved third-party certifier audit their facilities and select samples for testing. Testing of collected samples must be done at an ARB-approved laboratory using test methodologies that have been proven to be effective since the regulation's inception in 2008. Each facility must also undertake its own lot-by-lot testing and report results to the third-party certifier. Non-complying lots must be isolated, as required by the regulation. Panel producers, finished product manufacturers, distributors and retailers must also meet record-keeping and labeling requirements to ensure chain-of-custody and proper notice. No other regulatory regime in the world today comes close to matching the low emission levels combined with such strong chain-of-custody and third-party oversight.

Since 2008, Californians across all communities have benefitted from this successful program. Emissions reductions have been dramatic not only for composite wood panels, but also for all finished goods made with regulated composite wood panels sold in the state, such as furniture, fixtures, cabinets and flooring.

Moreover, the reductions in emissions from the panels themselves do not reflect the true emission limitations from products containing them. The ATCM regulates "raw" particleboard and MDF to extremely low levels; however rarely are these boards incorporated "as is" in finished products. From laminate flooring to furniture and kitchen cabinets, it is now nearly universal that the composite wood boards used to make these products are fully encased in some laminate or coating creating a barrier effect that further reduces formaldehyde emissions significantly. CPA research has shown that the barrier effect can be as much as 80-95% of the emissions,<sup>4</sup> while the Standards Council of Canada recently issued CAN/CSA 0160-16 "Formaldehyde emission standard for composite wood products," which puts the barrier effect at a very conservative 70%.<sup>5</sup>

Laminate flooring, for example, is typically made with a thin MDF substrate, with formaldehyde emissions below 0.13 ppm. Decorative or wood laminates are put on the wear side and a backer sheet on the underside. Assuming a barrier effect of 80-95%, laminate flooring made with compliant thin MDF board should have emissions in the neighborhood of 0.01-0.05 ppm. Clearly, the barrier effect can be dramatic in further reducing emissions from the ATCM's already low levels.

The ATCM is a notable regulatory success story that has benefitted all Californians. It is helping to prevent disproportionate impacts throughout the state by ensuring all products sold in

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<sup>4</sup> CPA Technical Bulletin, VOC Emission Barrier Effects of Laminates, Overlays and Coatings for Particleboard, Medium Density Fiberboard and Hardboard (2013), Table A, pg. 6. Available upon request.

<sup>5</sup> CAN/CSA-0160-16 – Formaldehyde emissions standard for composite wood products; available at: <https://store.csagroup.org/>.

the state meet stringent emissions requirements. As such, we believe it has been improperly included in the draft Community Air Protection Blueprint.

**B. ARB's Planned Amendments Focused Primarily on Alignment with EPA Regulation, Not Emissions.**

ARB staff with responsibility for implementation of the ATCM has for some time been preparing amendments, which have been discussed in public stakeholder meetings dating back to 2014. Through this process, ARB staff have indicated repeatedly that they will be seeking to the greatest extent possible to align the ATCM with TSCA Title VI. This approach provides the regulated community with a consistent regulatory approach throughout the country. In addition, ARB staff have publicly indicated that they are considering regulating certain very limited additional product types, namely bamboo and cork flooring. At no point has ARB staff ever indicated an interest in changing the formaldehyde emissions levels already in place under the ATCM.

Appendix F to the Draft Community Air Protection Blueprint acknowledges that ARB staff are working on amendments, but it appears to suggest that part of the process will be to examine “additional formaldehyde emissions reductions.”<sup>6</sup> It is absolutely critical that the emissions levels remain consistent across both the ATCM and TSCA Title VI, a concern that ARB staff overseeing the ATCM understand given their emphasis on seeking TSCA Title VI alignment. Altering emissions levels for regulated products would create a very difficult and completely unnecessary compliance challenge for manufacturers of composite wood products sold in California. As noted above, when considering the barrier effect from enclosed particleboard and MDF panels used in finished goods today, emissions levels are already extraordinarily low in finished products. Further adjusting the emissions levels would have no real benefit on those communities under consideration in the Blueprint (or other communities in California) but would have significant disruptive harm to manufacturers of composite wood and products made from them.

**C. ARB Should Place Emphasis on ATCM Enforcement.**

We strongly believe that the best and most effective way for all Californian communities to benefit equally from the ATCM is to provide ARB staff with adequate tools and resources to ensure proper enforcement of the existing ATCM. CPA and its members are encouraged that ARB has levied fines in four instances for alleged violations of the ATCM by Chinese-made laminate flooring, but much more is needed to ensure all overseas imported products are meeting the same requirements as those met by North American producers today.

It is worth noting that, under TSCA Title VI, U.S. producers are now required to meet the stringent ATCM emissions levels 100%, 100% of the time. This means that U.S. producers must achieve a stricter adherence to the requirements by necessity, and this sets them apart from the rest of the world's producers. No other foreign producer is required to meet this standard of

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<sup>6</sup> See Draft Community Air Protection Blueprint, Appendix F, pg. F-6.

compliance, as these producers can always decide to ship noncomplying panels to other jurisdictions, including in their own country, where the regulations do not apply. As such, U.S. producers seek a level playing field that acknowledges the significant investments they have made to meet the emissions levels 100%, 100% of the time.

The experience with Lumber Liquidators suggests that some imported finished products continue to pose challenges for enforcement of the ATCM. In lieu of seeking further reductions in emissions levels through amendments to the ATCM under the auspices of the Community Air Protection program, we strongly suggest that ARB would best benefit all Californians by ensuring that the products going into their homes meet the already stringent ATCM requirements and that all products are subject to strong enforcement oversight.

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CPA and its members appreciate the significant work that ARB staff have put into making the ATCM what it is today – the most stringent standard in the world and the model for EPA’s federal regulations. With a future emphasis on strong enforcement, the full benefits of the ATCM can be enjoyed by all Californians. We contend that this is where ARB should place its resources and not in incorporating the ATCM in the broader, extensive planned work under the Community Air Protection program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Morrill', is written over the printed name.

Jackson Morrill  
President