

An Enforcement Update *on California's Composite Wood Products* *ATCM*

Joint CARB-AHFA-KCMA Webinar for Fabricators

June 23, 2008

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Air Resources Board



Webinar Overview

- Introductions
- American Home Furnishings Alliance (AHFA)
Bill Perdue, Vice President ESH-Standards
- Kitchen Cabinet Manufacturers Association (KCMA)
Dick Titus, Executive Vice President
- CARB Presentation
- Third Party Certifiers Presentations
- Questions





Overview

- ATCM Overview
- Third Party Certification Program
 - Presentations from CPA, PSI-WKI, PFS
- NAF/ULEF Program
- Enforcement
- Closing Comments





Airborne Toxic Control Measure (ATCM): Overview

- Establishes new formaldehyde emission limits for particleboard (PB), medium density fiberboard (MDF), and hardwood plywood (HWPW) panels
- Applies to products sold, supplied, used, or manufactured for sale in California
- Requires manufacturers to be third party certified (TPC) and perform in-plant quality control (QC) testing



Airborne Toxic Control Measure (ATCM): Overview – *cont'd*

- ATCM also applies to distributors, importers, fabricators, and retailers
- Requires finished goods to be made from compliant PB, MDF, and HWPW panels
- Enforcement program elements
 - Chain of Custody
 - Emissions Testing
- Sell-through



Composite Wood Products ATCM Rulemaking *Status*

- On April 18, 2008, the Office of Administrative Law (OAL) approved the regulation and codified it into title 17, California Code of Regulations
- The regulation is now effective
- Implementation of first emission standards begins January 1, 2009





Fabricator Requirements

- **§ 93120.7**

- (a) Emission limits for HWPW, PB, and MDF

- Required to use compliant composite wood products
- Laminated products
- Complying platforms
- Fabricators that manufacture

- (b) Exemptions

- (c) Additional Requirements

- “Reasonable prudent precautions”
- Recordkeeping

- (d) Product Labeling; Statement of Compliance

- (e) Facility Inspections



Fabricator Sell-through

- Appendix 1, section (d)
Sell-through provision – **18 months** after the effective dates for the sale of finished goods:
 - made before the effective date
 - made after the effective date with non-compliant panels purchased before the effective date
 - made with panels purchased during the manufacturer's, distributor's, importer's sell-through periods for non-compliant panels

Third Party Certification Program





Third Party Certification (TPC) is Key!

- TPC program is key to enforcing the ATCM
- Integrity of TPC program is essential to realizing full anticipated health benefits
 - Verification that all HWPW, PB, MDF meets emission standards
- ATCM is having a global impact



Third Party Certification Program Update

- TPC application process is on-going
- List of approved TPC's are posted on CARB website

Composite Panel Association (CPA)

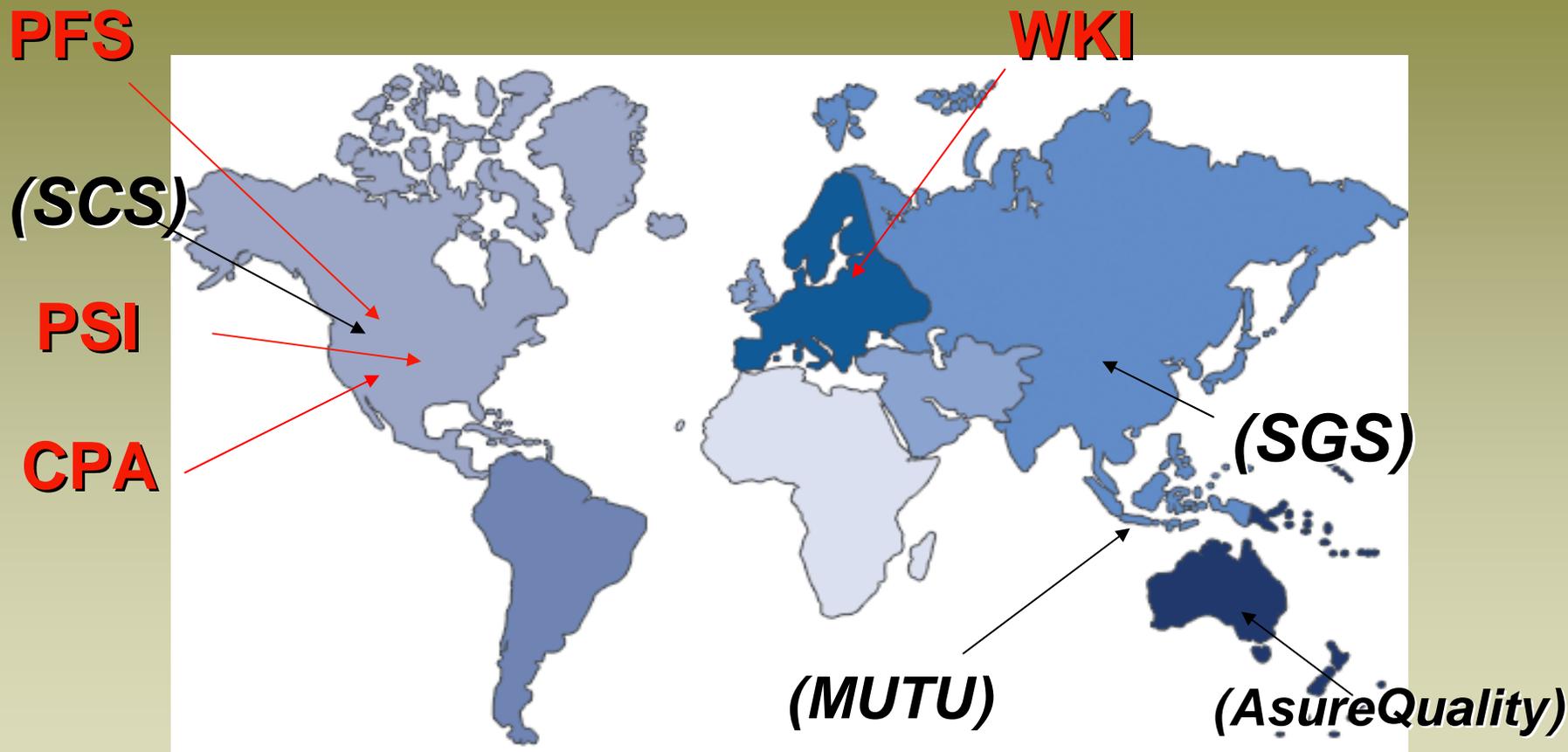
Professional Service Industries (PSI)

PFS Corporation

Wilhelm-Klauditz Institut (WKI)

- Four applications are under review and several submittals are pending

Approved or Candidate TPCs



CPA=Composite Panel Association, PSI=Professional Services Incorporated,
WKI=Wilhelm Klauwitz, PFS Corporation, MUTU=Mutu Certification, AsureQuality Limited,
SCS=Scientific Certification Systems, SGS

Color code: red=CARB-approved; (black= applications under review)

No-added Formaldehyde (NAF)/Ultra-low-emitting-formaldehyde (ULEF) Program





NAF and ULEF Applications

- Application being developed and will be available by early July 2008
- Manufacturers will apply to CARB
- Approvals will be case-by-case
- Exempts manufacturers who use NAF and certain ULEF resins from TPC, or allows for reduced testing
- Applications will require emissions data collected by working with approved TPC
- Mills may work with candidate TPCs

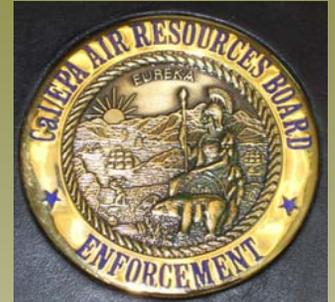
Enforcement





Enforcement *Overview*

- Field inspections
- Labeling Requirements
- Sell-through Provisions
- Emission testing
- Investigations
- Liability
- Case Settlement





Enforcement

Field Inspections

- Inspect product for compliance with labeling requirements
- Check chain of custody documentation
- Screen suspect products
- Purchase samples at retail, commercial, and internet outlets
- Samples sent to laboratory for testing





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Labeling Requirements

- What label should be used for products that meets the NAF or ULEF provisions?

Answer:

Each panel or bundle must be labeled to indicate compliance with NAF/ULEF

Label should include:

- *Fabricator's name*
- *Date of production*



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Labeling Requirements

- What labeling requirements apply for goods that contain products that meet different conditions of compliance?

Answer:

The label should indicate the highest emitting/least compliant level

(Examples)



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Sell-through Provisions

- Fabricators have 18 months to clear this inventory
- Non-compliant “Showroom” or Display items must be moved within 18 months sell-through period if items may be sold in California



Enforcement

CARB Testing Capabilities Update

- **CARB Enforcement Based on Secondary Test Method**

Small chamber will be deemed equivalent to large chamber

Lab is preparing to undergo equivalence testing

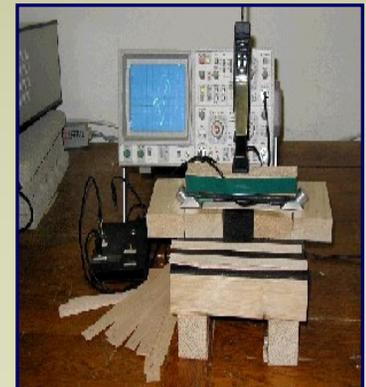
- **California Dept. of Public Health (DPH)**

- Will work with CARB's lab regarding equivalence testing using DPH's large chamber

- Emission testing to assist CARB in developing field screening method (FLEC) and test method for finished goods

- **Inter-laboratory Comparison Testing**

Planned for 4th quarter 2008





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Testing of Finished Goods

- CARB will develop approach to test finished goods – Summer/Fall 2008
- CARB will benefit from DPH emission studies
- CARB will share progress on testing approach with interested stakeholders



Enforcement *Stakeholder Assistance*

- Enforcement Advisories
- Outreach at Conferences and Trade shows
- Site Visits
- Press Releases
- Staff Consultations



Number 370

December 2007

Consumer Products Regulations: 2008 Requirements

The purpose of this advisory is to remind the consumer products industry of the upcoming changes in the volatile organic compound (VOC) standards as they apply to two consumer product categories (see Table 1). In addition, there is a definition change for Multi-purpose Solvents. Finally the sell-through period for 10 consumer product categories or forms will expire on December 31, 2007, and the sell-through period for an additional 10 consumer product categories or forms will expire on January 1, 2008 (see Table 2).

The California Code of Regulations (CCR), Title 17, Section 94509(a) lists standards for VOC (by weight percent) for consumer products sold, supplied, offered for sale, or manufactured for sale in California. On December 31, 2007, new VOC standards for electronic cleaners and nail polish removers will become effective, as shown in Table 1. All electronic cleaners and nail polish removers manufactured after December 31, 2007 must comply with these new VOC standards.

Table 1: New VOC Standards

Product Category	Effective Date	VOC Standard (percent VOC by weight)	
		Existing	New
Electronic Cleaner ¹	12/31/2007	(none)	75
Nail Polish Removers ²	12/31/2007	0	1

¹Electronic Cleaners that contain methylene chloride, perchloroethylene, or trichloroethylene and were manufactured before December 31, 2005, may be sold, supplied, or offered for sale until December 31, 2008, as long as the product container or package displays the date on which the product was manufactured, or a code indicating such date.

²Nail Polish Removers manufactured after 12/31/2004 were required to meet a zero (0) percent VOC limit. Since the VOC limit for Nail Polish Removers was increased to one (1) percent on 12/31/2007 and the sell-through period ended for the zero percent limit on the same date, all Nail Polish Remover products sold, supplied or offered for sale in California must meet the one (1) percent VOC limit.

The definition for a "Multi-purpose Solvent" has changed for products manufactured on or after January 1, 2008. The new definition includes any liquid product designed or labeled to be used for dispersing or dissolving or removing contaminants or other organic materials. The new definition also clarifies that, a "Multi-purpose Solvent" which makes any representation that the product may be used as, or is suitable for use as another consumer product; the most restrictive VOC limit for which the "Multi-purpose Solvent" could be categorized will be used for compliance purposes.



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Investigations

- Evaluate lab results
- Request information
 - California sales and purchase records
 - Quality control records, etc.
- Analyze information
- Determine who is the responsible party
- Issue Notice of Violation (NOV)





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California Health & Safety Code

- 42402 Violations of emission limitations (strict liability)
- 42402.1 Negligent emission of air contaminants
- 42402.2 Failure to take corrective action
- 42402.3 Willful and intentional emission of air contaminants
- 42402.4 Knowing falsification of document



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Determination of the Amount of Fine

- The extent of harm caused by the violation
- The nature and persistence of the violation
- The length of time over which the violation occurs
- The frequency of past violations
- Any action taken by the person including the nature, extent, and time of response of any mitigation of the violation
- The financial burden on the defendant
- Any other circumstances the court deems relevant



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Settlement Process

- Each case stands on its own
- Office conference
- Mutual settlement with Enforcement Division
- Referral to Legal Office for settlement
- Litigation referral to Attorney General or District Attorney
- Monitor corrective actions
- Ensure continued compliance
- Maintain level playing field



Closing Comments

- Regulation is now effective
- List of approved TPCs is growing
- NAF/ULEF application will be available in July 2008
- Enforcement summary



For More Information

Visit our website:

<http://www.arb.ca.gov/toxics/compwood/compwood.htm>



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