“Compliance Guidance for Importers and Distributors”
California’s Composite Wood Products ATCM

Joint CARB-IWPA Webinar
September 23, 2008

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Overview

• ATCM Overview
• How do I comply?
  Importer/Distributor Requirements
• Sell-through Provisions
• Third Party Certification
  Status Update
  Status of Product Certification
• Enforcement
• Question and Answer Session
Airborne Toxic Control Measure (ATCM): Overview

- Establishes new formaldehyde emission limits for composite wood products, including particleboard (PB), medium density fiberboard (MDF), and hardwood plywood (HWPW)
- Applies to finished goods containing composite wood products
- Applies to products sold, supplied, used, or manufactured for sale in California
- Reduces public exposure due to formaldehyde emissions from PB, MDF, and HWPW
Regulated Community

Manufacturers

Third Party Certifiers

Importers/Distributors

Fabricator

Retailer

Board Producers

Certification

Importer Warehouse

Distributor/Wholesale

Retail Sale of Panels

Finished Product Fabricator (e.g., cabinets, doors, furniture)

Retail Sale of Finished Products
Manufacturers

• “Producers” of composite wood products
• Meet emission standards
• CARB certification
  Must enlist a services of a third party certifier
• Product labeling
• Statement of compliance to provide chain of custody
Third Party Certifiers (TPC)

- “Validates” CARB compliance at manufacturing mill
- Independently verifies manufacturers’ ability to provide consistent quality
- Certification is an integral aspect of ATCM
- Only qualified certifiers approved by CARB
Fabricators

- “Users” of PB, HWPW, MDF
  - For example: cabinet shops, furniture makers
- Reasonable prudent precautions
- Product labeling
- Statement of compliance
- Recordkeeping
Importers/Distributors

• “Transporters of goods”
  Raw panels (PB, HWPW, MDF)
  Finished goods
• Reasonable prudent precaution
• Product labeling, only if product is modified
• Statement of compliance
• Recordkeeping
Retailers

- “Goods provider” to consumers/public
  Raw panels (PB, HWPW, MDF)
  Finished goods
- Reasonable prudent precaution
- Recordkeeping
How Do I Comply?

**Importer/Distributor Requirements**

- No Third Party Certification Required
  - Responsibility applies to board manufacturers only
- Good Faith Efforts to Comply
  - Supply chain management
  - “Reasonable prudent precautions” *(ATCM required)*
  - Due diligence
  - Establish internal policies
  - Internal auditing – Quality Control
How Do I Comply?

Importer/Distributor Requirements

- **Product Labeling**
  
  No additional labeling is required unless product is modified by importer/distributor

- **Statement of Compliance**
  
  Designate goods as being made with compliant HWPW, PB, or MDF that complies with applicable emission standards
  
  i.e., purchase orders, invoice, or bill of ladings also provide to customers downstream

- **Recordkeeping**
  
  Record dates of purchase and suppliers name
  
  Retain records for minimum of 2 years
§ 93120.12 –Appendix 1 (b), (c)

- Allows sale of non-compliant products manufactured prior to standard effective dates
- Importers
  - HWPW, PB, MDF panels: 3 months
  - Finished goods: 18 months
- Distributors
  - HWPW, PB, MDF panels: 5 months
  - Finished goods: 18 months
- Enforcement sell-through advisory:
  - [http://www.arb.ca.gov/toxics/compwood/implementation/sell_thruadvisory.pdf](http://www.arb.ca.gov/toxics/compwood/implementation/sell_thruadvisory.pdf)
Third Party Certification Program Update
List of approved TPCs are posted on ARB website
11 applications are approved
12 applications are under review
Numerous contacts by candidate TPCs
Approved TPCs are providing global certification services
TPC Status

CPA=Composite Panel Association, PSI=Professional Service Industries, WKI=Wilhelm Klauditz, PFS Corporation, MUTU=Mutu Certification, AsureQuality Limited, HPVA=Hardwood Plywood and Veneer Association, SCS=Scientific Certification Systems, EPH
• 75% of U.S. PB and MDF CARB certified; 90% in 2 months

• ~60% of U.S. HWPW CARB certified by Fall 2008

• Over 100 mills (PB, MDF, HWPW) globally going through CARB certification process
  
  Over 40 mills in China, Malaysia, Indonesia and Vietnam
TPC Applications Under Review

- SGS from China
- Intertek from China (applications for 2 branches)
- SP Technical Research Ins. from Sweden
- AIDIMA from Spain
- CATAS from Italy
- Timber Research & Development Institute from Prague, Czech Republic
- FCBA from France
- Poznan from Poland
- MPA Eberswasde from Germany
- AWPA Testing and Cert. from Australia
- NSF from United States
- List of approved third party certifiers: http://www.arb.ca.gov/toxics/compwood/certifiers.htm
Enforcement
Enforcement
Overview

• Field inspections
  Labeling
  Use of field screening (FLEC)
• Enforcement emission testing
• Investigations
• Penalty assessment
• Case settlement
**Enforcement**

*Field Inspections*

- Inspect product for compliance with labeling requirements
- Check chain of custody documentation
- Screen suspect products FLEC chamber
- Purchase samples at retail, commercial, and internet outlets
- Samples sent to laboratory for testing
• **CARB Enforcement Based on Secondary Test Method**
  Small chamber will be deemed equivalent to large chamber
  Lab is undergoing equivalence testing

• **California Dept. of Public Health (DPH)**
  Working 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
• 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)
39674. Civil penalties; Strict liability; Liability for intentional or negligent violations

(a) ...any person who violates any rule or regulation, emission limitation, ... is strictly liable for a civil penalty not to exceed $1000 for each day of violation.

(b)(1) ...$10,000 for each day of violation.
• 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
• Good faith efforts
• 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
Enforcement Stakeholder Assistance

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

Advisory

To: COMPOSITE WOOD PRODUCTS INDUSTRY

Number 380
August 2009

SELL-THROUGH PROVISIONS THAT APPLY TO MANUFACTURERS, IMPORTERS, DISTRIBUTORS, FABRICATORS, AND RETAILERS OF COMPOSITE WOOD PRODUCTS AND FRANKED GOODS

Introduction

In April 2007, the California Air Resources Board approved an air toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products and their finished goods that contain composite wood products. Businesses required to comply with the ATCM include manufacturers, importers, distributors, fabricators, and retailers of composite wood products. The ATCM contains Sell-Through Provisions that apply to sell-through provisions that apply to manufacturers, importers, distributors, fabricators, and retailers of composite wood products and finished goods that contain composite wood products.

The ATCM is contained in Title 17, California Code of Regulations, sections 93120-93120.12. The ATCM applies to panels and finished goods that are sold, offered for sale, supplied, or manufactured for sale in California. The ATCM does not apply to raw materials and finished goods that are manufactured, processed, or fabricated by the manufacturer, fabricator, or wholesaler in California and sold, offered for sale, supplied, or distributed by that manufacturer, fabricator, or wholesaler.

The ATCM includes four provisions:

1. Sell-Through Provisions for Manufacturers, Importers, Distributors, Fabricators, and Retailers
2. Sell-Through Provisions for Meetings, Importers, Distributors, Fabricators, and Retailers
4. Sell-Through Provisions for Meetings, Importers, Distributors, Fabricators, and Retailers

Sell-Through Provisions

Sell-Through Provisions for Manufacturers, Importers, Distributors, Fabricators, and Retailers

Appendix 2 of section 93120.12 contains the sell-through provisions and the dates that apply to entities required to comply with the regulation for the specific dates, see the ATCM for the dates at the end of this industry. Under the sell-through provisions, composite wood products and finished goods that contain composite wood products that are sold, offered for sale, supplied, or distributed by manufacturers, importers, distributors, fabricators, and retailers of composite wood products and finished goods that contain composite wood products in California for specified periods of time after the effective date. Such products and finished goods do not need to comply with labeling requirements specified in the ATCM, unless these products comply with the emission standards in the ATCM. If a composite wood product was manufactured after an applicable effective date, the product must meet the applicable emission standards and there is no sell-through period. As explained below, the sell-through provisions are different for composite wood products and finished goods.
Continuing Implementation Activities

• Continue work with IWPA on importer/distributor implementation issues
• Web posting of world-wide certified mills
• Monitoring global supply of CARB certified composite wood products
• On-going ATCM outreach
For More Information

Visit our website:
http://www.arb.ca.gov/toxics/compwood/compwood.htm

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