Compliance Guidance for Furniture Retailers

California’s Composite Wood Products ATCM (Airborne Toxic Control Measure)

CARB Webinar for Furniture Retailers
September 25, 2008

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Substance Evaluation Section
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California Environmental Protection Agency
Air Resources Board
Overview

- ATCM Overview
- How do I comply?
  - Furniture Retailers Requirements
- Sell-through Provisions
- Third Party Certification
- Status Update
  - Status of Product Certification
- Enforcement
- Question and Answer Session
Why Composite Wood Products?

• Composite wood products made with UF-resins; emitting over long term

• ARB identified formaldehyde as TAC in 1992 with no safe threshold for exposure
  Nasopharyngeal cancer
  Acute and chronic effects – eye, nose, respiratory irritant

• Formaldehyde is both an indoor and outdoor health risk
  Indoor concentrations contribute to ambient levels
  CA average concentration above OEHHA chronic REL (3µg/m³)
  Formaldehyde is both an indoor and outdoor health risk

• Technology exists to significantly reduce formaldehyde emissions
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
  - 180 tons/year (Phase 1) to 500 tons/year (Phase 2)
  - Reduces lifetime cancer cases by 12-35 (Phase 1) to 35-97 (Phase 2)
Manufacturers

• “Producers” of composite wood products
• Meet emission standards
• CARB certification
  Must enlist a service 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 precautions
- 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?

• Good Faith Efforts to Comply
  Supply chain management
  “Reasonable prudent precautions”
  (ATCM required)
  Due diligence
  Establish internal policies
  Internal auditing – Quality Control

• Recordkeeping
  Record dates of purchase and suppliers name
  Retain records for minimum of 2 years
§ 93120.12 – Appendix 1
Composite wood products: 12 months
Finished goods: 18 months

Enforcement sell-through advisory:
http://www.arb.ca.gov/toxics/compwood/implementation/sell_thruadvisory.pdf
## Sell-through Period for Retailers

<table>
<thead>
<tr>
<th>Action</th>
<th>HWPW-VC</th>
<th>HWPW-CC</th>
<th>PB</th>
<th>MDF</th>
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<tr>
<td>Effective date of Phase 1 Standard</td>
<td>1 Jan ‘09</td>
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<td><strong>Phase 2 Finished Products</strong></td>
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<td>Effective date of Phase 2 Standard</td>
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HWPW-VC=Hardwood plywood veneer core  
PB=Particleboard  
MDF=Medium density fiberboard  
tMDF=Thin medium density fiberboard  

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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
• 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 Eberswalde 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](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
• 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. This higher limit may apply to intentional or negligent violations.
Enforcement
Penalty Assessment

- 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 Advisories
• Outreach at Conferences and Trade shows
• Site Visits
• Press Releases
• Staff Consultations
Continuing Implementation Activities

- Continue work with WHFA
- Web posting of world-wide certified mills
- Monitoring global supply of CARB certified composite wood products
- On-going ATCM outreach
Visit our website:
http://www.arb.ca.gov/toxics/compwood/compwood.htm

Or contact us:
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Substance Evaluation Section

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Enforcement Division