"Compliance Guidance for Importers and Distributors"

California's Composite Wood Products ATCM

Joint CARB-IWPA Webinar
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Overview

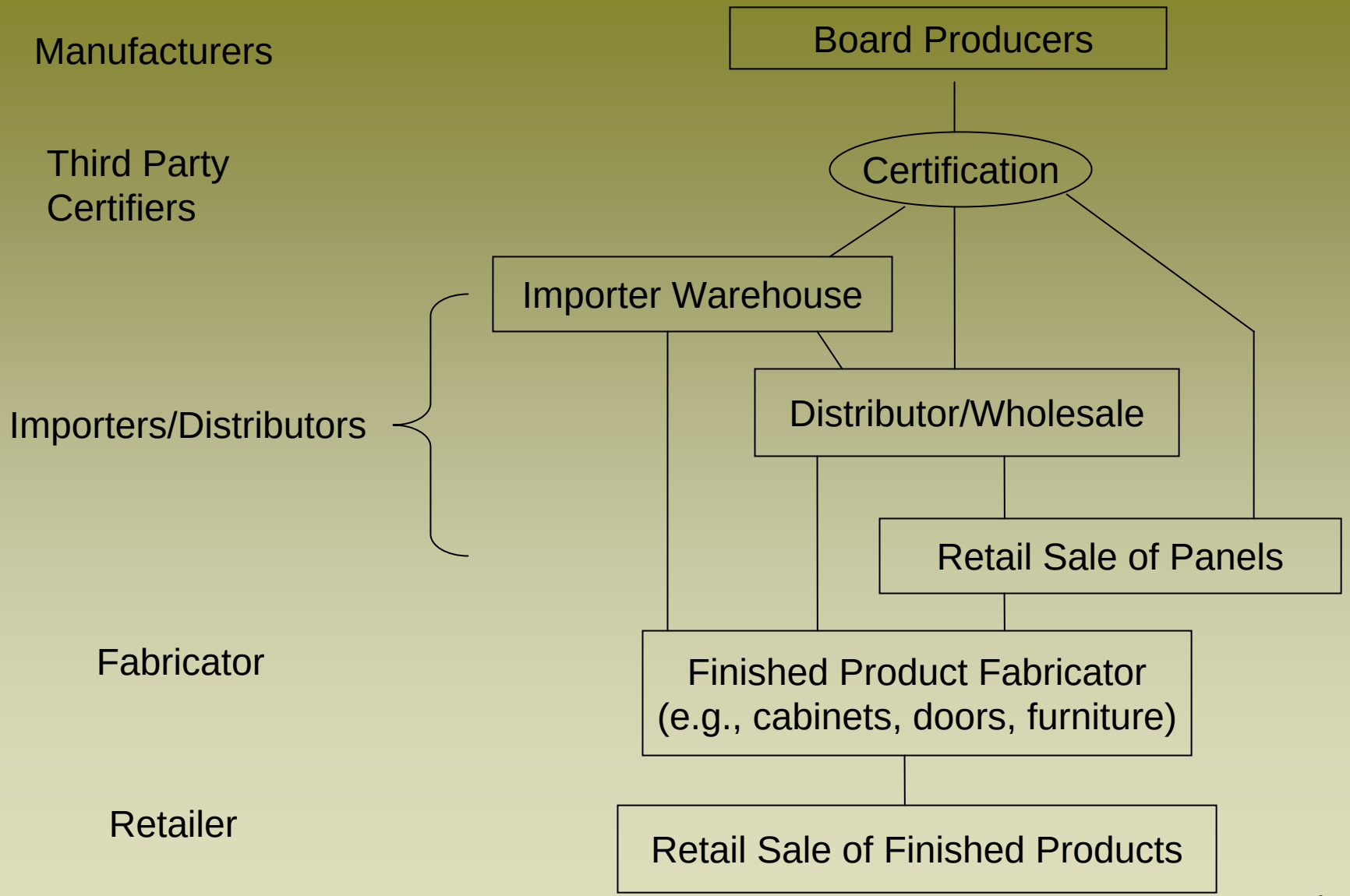
- ATCM Overview
- How do I comply?
  - Importer/Distributor Requirements
- Sell-through Provisions
- Third Party Certification Status Update
  - Status of Product Certification
- Enforcement
- Question and Answer Session



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

- “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

Sell-through Provisions

§ 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

Third Party Certification Program Update





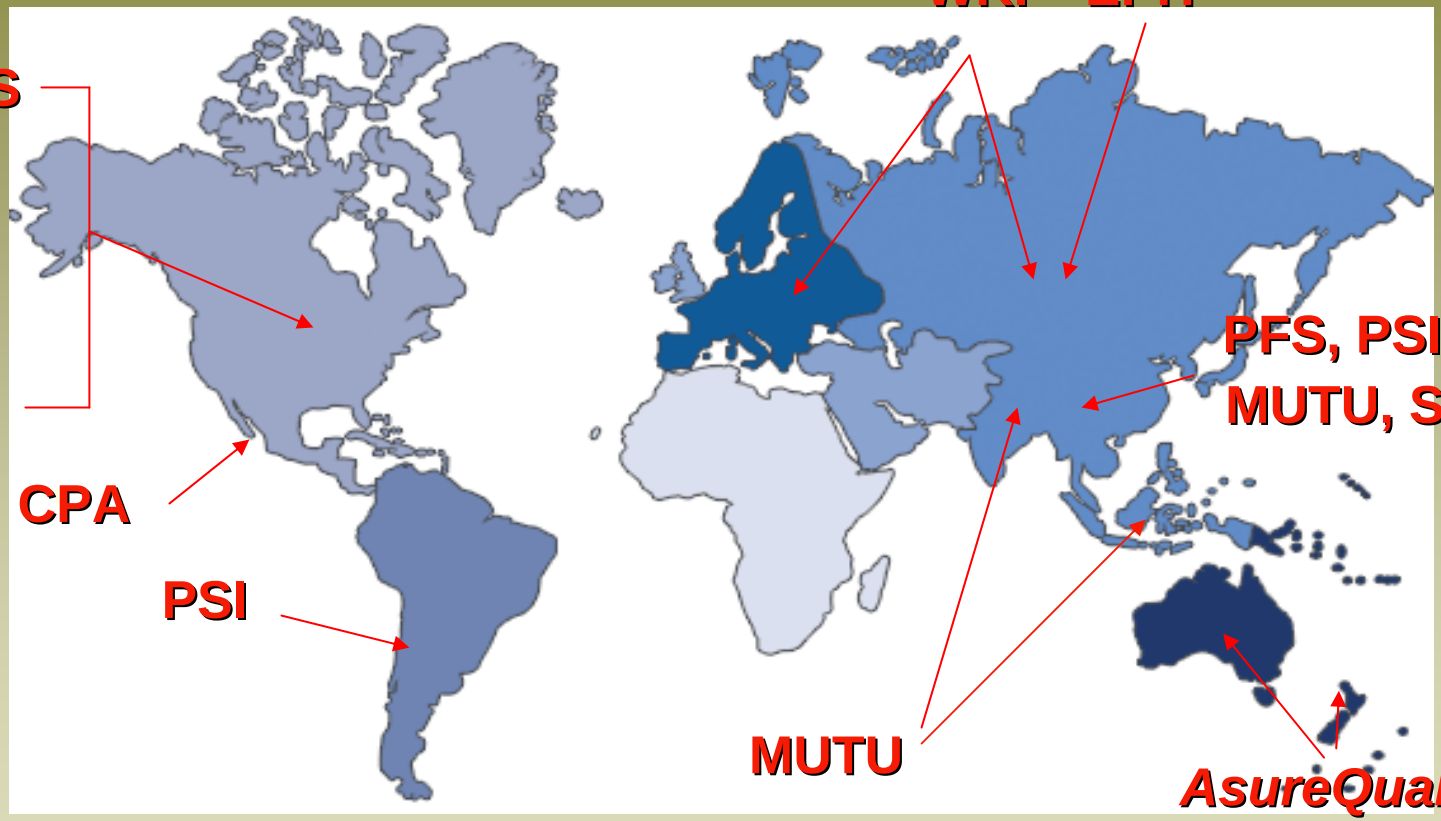




Third Party Certification Program Update

- 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

Status of Manufacturing Mill Certification

- 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



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Emission Testing-Test Methods

- **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



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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

- 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.

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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

Enforcement

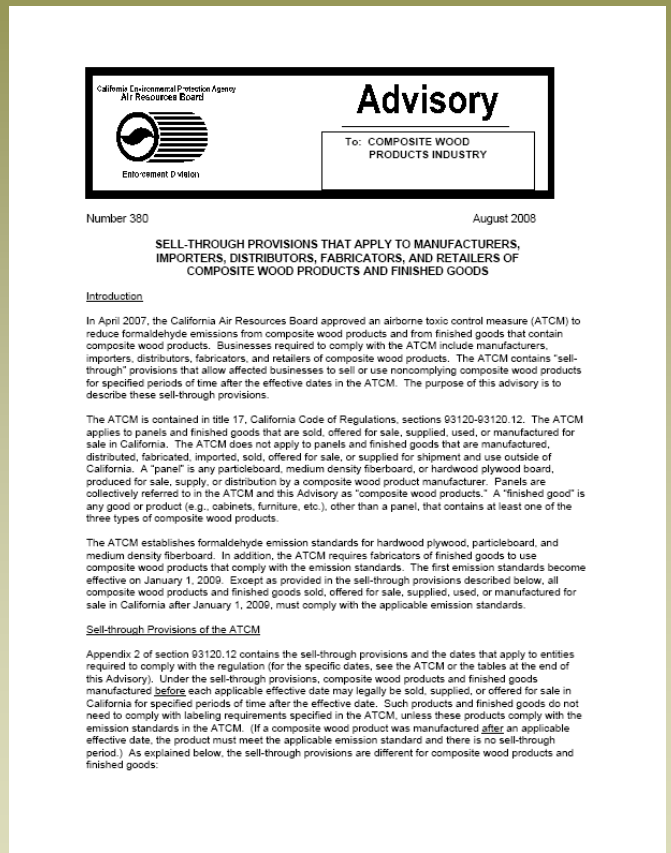
Case Settlement

- 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



California Environmental Protection Agency
Air Resources Board

Enforcement Division

Advisory

To: COMPOSITE WOOD PRODUCTS INDUSTRY

Number 380 August 2008

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

Introduction

In April 2007, the California Air Resources Board approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products and from 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 allow affected businesses to sell or use noncomplying composite wood products for specified periods of time after the effective dates in the ATCM. The purpose of this advisory is to describe these sell-through provisions.

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, used, or manufactured for sale in California. The ATCM does not apply to panels and finished goods that are manufactured, distributed, fabricated, imported, sold, offered for sale, or supplied for shipment and use outside of California. A "panel" is any particleboard, medium density fiberboard, or hardwood plywood board, produced for sale, supply, or distribution by a composite wood product manufacturer. Panels are collectively referred to in the ATCM and this Advisory as "composite wood products." A "finished good" is any good or product (e.g., cabinets, furniture, etc.), other than a panel, that contains at least one of the three types of composite wood products.

The ATCM establishes formaldehyde emission standards for hardwood plywood, particleboard, and medium density fiberboard. In addition, the ATCM requires fabricators of finished goods to use composite wood products that comply with the emission standards. The first emission standards become effective on January 1, 2009. Except as provided in the sell-through provisions described below, all composite wood products and finished goods sold, offered for sale, supplied, used, or manufactured for sale in California after January 1, 2009, must comply with the applicable emission standards.

Sell-through Provisions of the ATCM

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 or the tables at the end of this Advisory). Under the sell-through provisions, composite wood products and finished goods manufactured before each applicable effective date may legally be sold, supplied, or offered for sale 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 standard 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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