

# California's Composite Wood Products Regulation Enforcement Program



**American Home Furnishings Alliance**

**April 1, 2009**

**RC Smith, Darrell Hawkins, & Rebecca Geyer**

***Enforcement Division***

California Environmental Protection Agency



Air Resources Board

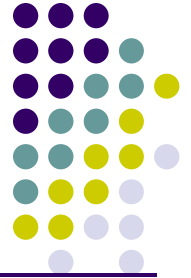


# Enforcement Program Update



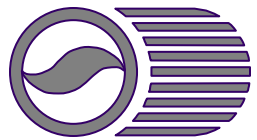


# Presentation Overview



- What can you do to ensure compliance?
- Enforcement program overview
- CARB focus in 2009
- Questions





# ATCM Enforcement Program Overview



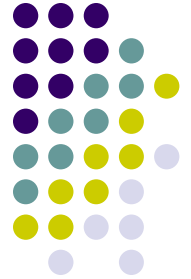
- Labeling requirements
- Recordkeeping requirements and chain of custody documentation
- Inspections
- Emissions testing (panels, finished goods)
- Investigations
- Penalty assessment and case settlement
- Assistance & outreach





# Enforcement

## Labeling Requirements



- Labeling requirements for fabricators
  - Fabricators name
  - Date of fabrication
  - Statement of compliance
- Statement of compliance on invoices or bills of lading
- Sample statement of compliance:  
“CARB §93120 Compliant for Formaldehyde”



# Enforcement

## *Recordkeeping Requirements*



- Purchase records
  - Description of product
  - Date of purchase
  - Supplier information
- Reasonable prudent precautions
  - Written documentation from each supplier
  - Any other precautions taken to ensure compliance
- Records kept for 2 years



# How Do I Comply?

*Fabricator, Importers, Distributors,  
& Retailers Requirements*



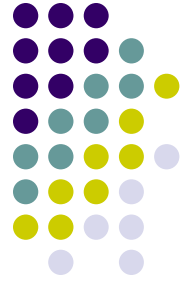
- No third party certification required
  - Responsibility applies to board manufacturers only
- Good faith efforts
  - “Reasonable prudent precautions”
    - Written documentation from suppliers
    - Supply chain management
  - Due diligence
    - e.g., Establish internal policies
    - e.g., Internal auditing – quality control





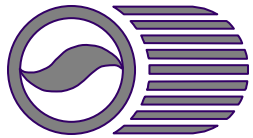
# How Do I Comply?

*Fabricator, Importer, Distributor,  
& Retailer Requirements*



- Product labeling
  - Fabricators - required
  - Importers/Distributors/Retailers - no additional labeling required unless product is modified
- Statement of compliance
  - Designate goods as being made with composite wood that complies with applicable emission standards
    - Statement from suppliers
    - Statement to downstream customers (Importers, Distributors, Fabricators only)
- Recordkeeping
  - Record dates of purchase, suppliers name, product received
  - Retain records for minimum of 2 years





# Enforcement

## *Inspections*



### Field inspections

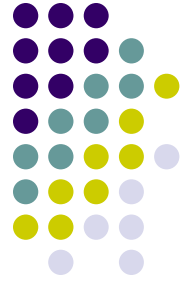
- Check labels & review available records
- Product emission screening
  - FLEC
- Purchase samples at retail, commercial and internet outlets
- Submit samples to lab





# Enforcement

## *Emissions Testing (Panels and Finished Goods)*



- Test methods
  - Established for raw panels and one-side covered finished goods
  - Equivalent “secondary” test method – small chamber commissioned in late-February, 2009
- CARB is developing a protocol for preparation of finished good samples, which are covered on two sides
- CARB will share progress on finished goods test methods with interested stakeholders



# Enforcement

## *Investigations*



- Investigations

- Evaluate lab results
- Request & analyze information
- Determine who is the responsible party
- Issue Notice of Violation (NOV)

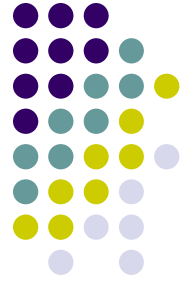




# Enforcement

## *California Health & Safety Code*

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- 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



# 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

<http://www.calepa.ca.gov/Enforcement/Policy/VolDisclosure.pdf>

(Link to access Cal/EPA's Recommended Guidance on Voluntary Disclosure)

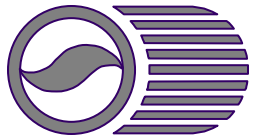


# Enforcement

## *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

## *Assistance and Outreach*



- 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 384 – Revised January 2009

### LABELING REQUIREMENTS FOR MANUFACTURERS, FABRICATORS, IMPORTERS, DISTRIBUTORS, AND RETAILERS

**Introduction**

The California Air Resources Board (CARB) approved an Airborne Toxic Control Measure (ATCM) in April 2007 to reduce formaldehyde emissions from composite wood products including hardwood plywood (HWPV), medium density fiberboard (MDF), and particleboard (PB) (Title 17, California Code of Regulations §93120-93120.12). The ATCM applies to manufacturers, distributors, importers, fabricators, retailers, and third party certifiers of composite wood products, and finished goods that contain composite wood products, which are destined for the California market.

Everyone, including the general public, must be able to determine quickly and easily that the goods they are purchasing are low in formaldehyde emissions and comply with the ATCM. Therefore, proper labeling is critical. The intent of this advisory is to clarify the labeling requirements for composite wood products and finished goods containing composite wood products bound for California.

**General Labeling Requirements**

The first effective date for labeling compliant composite wood products, or finished goods containing composite wood products, is January 1, 2009. It is acceptable to label compliant products before the effective dates as long as all the requirements of the ATCM have been met. Noncompliant products cannot be labeled as compliant. Noncompliant products to be sold during a self-through period cannot be labeled as compliant. Items not intended for sale in California are not required to be labeled.

The ATCM specifies the minimum information required for a label but does not specify the format, color, size, or font for the label. These choices are left to the manufacturer or fabricator to allow flexibility to meet the needs of individual companies. All required information must be in readable English and not in code. The required information may be on a separate label or incorporated into other existing labels. Individual companies may include any additional information they deem necessary.

Labels should be properly affixed to withstand transportation and normal handling of the item. There should be proper documentation to identify the article and confirm compliance in the event that the label does become separated from the product. Labels may also be stamped or printed directly on to the composite wood product or finished good and should be in a location that is easily accessible.

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



# CARB Focus in 2009



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- Continue work with industry
  - Monitor adequacy of sell-through periods
  - Monitor status of global supply of CARB certified composite wood products



## For More Information

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Visit our website:

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

Or contact us:



**RC Smith**, Manager, Strategic Environmental Investigations and Enforcement Section  
(916) 445-1295, [rsmith@arb.ca.gov](mailto:rsmith@arb.ca.gov)  
Enforcement Division

**Darrell Hawkins**, Air Pollution Specialist  
(916) 445-0268, [dhawkins@arb.ca.gov](mailto:dhawkins@arb.ca.gov)  
Enforcement Division

**Rebecca Geyer**, Air Pollution Specialist  
(916) 445-1461, [rgeyer@arb.ca.gov](mailto:rgeyer@arb.ca.gov)  
Enforcement Division