



# Regulatory Advisory

November 12, 2009



## Composite Wood Products Regulation Advisory: 09-04

### EXTENSION OF SELL-THROUGH DATES FOR PRE-PHASE 1 COMPOSITE WOOD PRODUCTS, PRE-PHASE 1 FINISHED GOODS, AND PHASE 1 HARDWOOD PLYWOOD WITH VENEER CORE

The purpose of this advisory is to address the problem of excess inventories in California of pre-Phase 1 composite wood product panels and finished goods made with pre-Phase 1 panels. This problem has been created by the economic recession and the slowdown in the housing industry. This advisory also addresses an anticipated inventory bottleneck as businesses transition from Phase 1 hardwood plywood to Phase 2. With this advisory, the California Air Resources Board (ARB) is announcing a delay through December 31, 2010, in the enforcement of the sell-through dates that apply to: 1) distributors and retailers of pre-Phase 1 composite wood product panels; 2) distributors, importers, fabricators, and retailers of finished goods made with pre-Phase 1 composite wood products; and 3) distributors of Phase 1 compliant hardwood plywood with veneer core.

By "pre-Phase 1 products," we mean composite wood product panels manufactured before January 1, 2009, that do not comply with the Phase 1 emission standards specified in ARB's Airborne Toxic Control Measure To Reduce Formaldehyde Emissions From Composite Wood Products (the "Regulation"). By "pre-Phase 1 finished goods," we mean finished goods made with pre-Phase 1 composite wood products.

The delay in enforcement means that ARB will not enforce the sell-through dates for pre-Phase 1 composite wood product panels, finished goods made with pre-Phase 1 panels, or for Phase 1 compliant hardwood plywood with veneer core through December 31, 2010. During this enforcement grace period, ARB regulatory staff will not refer these products for penalties or take other enforcement action against distributors, importers, fabricators, and retailers regarding the affected sell-through dates.

### Background

The Regulation establishes formaldehyde emission standards and other requirements for: hardwood plywood with veneer core (HWPW-VC); HWPW with composite core (HWPW-CC); particleboard (PB); medium density fiberboard (MDF); and thin MDF (MDF with maximum thickness of 8 mm). Businesses required to comply with the Regulation are: manufacturers, distributors, importers, fabricators, and retailers of composite wood products and finished goods that contain these products. The Regulation establishes two tiers of formaldehyde emission standards. The Phase 1 formaldehyde emissions standards for HWPW-VC, PB, MDF, and thin MDF became effective on January 1, 2009; and for HWPW-CC on July 1, 2009. The Phase 2 emission standard for HWPW-VC will become effective on January 1, 2010.

To comply with the emission standards, panels must meet the numerical standards specified in the Regulation AND must have been produced by a manufacturer that has been certified by an

ARB-approved third party certifier. Similarly, panels used to make finished goods must also have been certified as complying with the emission standards.

The Regulation specifies sell-through provisions that allow businesses to sell or use composite wood products manufactured before the effective date of each emission standard for specified periods of time after each effective date. These sell-through provisions are intended to provide a smooth transition to each new emission standard by allowing businesses to sell, for a limited period of time, their inventories of noncomplying products that still exist on the effective date of the new standard. If a composite wood product is manufactured after an applicable effective date, the product must meet the applicable emission standard and there is no sell-through period.

### **Why is ARB extending the sell-through periods?**

All composite wood product panels currently being manufactured for sale in California are required to meet the Phase 1 formaldehyde emission standards. Manufacturers are currently producing ample quantities of panels that meet the Phase 1 standards. Manufacturers of hardwood plywood with veneer core have already made significant progress toward meeting the Phase 2 standards. However, California's economy is recovering slowly from the recent recession. Many California businesses that sell and supply composite wood products and finished goods that contain composite wood products have been adversely affected by the recession and the slowdown in the housing industry. Sales have been much lower than expected at most levels of the commercial chain. Thus, distributors, importers, fabricators, and retailers of these products still have significant amounts of pre-Phase 1 panels and finished goods made with pre-Phase 1 panels in their inventories. Distributors have similar slow moving inventories of Phase 1 compliant hardwood plywood with veneer core.

ARB has been contacted by several industry associations, distributors, importers, fabricators, and retailers of composite wood product panels and finished goods, regarding the slow economy and their need for additional sell-through time to sell their inventories of pre-Phase 1 products. To address this problem, ARB first took action in May 2009, by issuing Regulatory Advisory 09-02. This Advisory announced a four-month delay in the enforcement of the sell-through dates for distributors and retailers of pre-Phase 1 composite wood product panels. Based on information from affected associations and specific businesses, as well as ARB's distributor survey, ARB staff has concluded that the four-month delay was not long enough to solve the problem, which is why ARB is now providing a longer enforcement delay. Because the inventories and demand for composite wood products and finished goods are closely linked, ARB staff believes it is important to take a comprehensive approach and provide extended sell-through periods for both composite wood panels and finished goods.

The extended sell-through periods will not decrease the emission reduction benefits anticipated from the Regulation, because ARB had expected that these pre-Phase 1 products would have already been sold, if the economy and turnover of inventories had not slowed. Except as indicated in this Regulatory Advisory, all other sell-through dates in the Regulation apply. In addition, no other compliance dates in the Regulation, such as the effective dates of the formaldehyde emission standards, are affected by this advisory.

**What other issues should distributors, importers, fabricators, and retailers be aware of?**

The delay in enforcement is not intended to encourage the increased importation and sale of pre-Phase 1 products, beyond those that exist in current inventories. Distributors, importers, fabricators, and retailers of composite wood product panels and finished goods should be aware that if they continue to purchase pre-Phase 1 panels or pre-Phase 1 finished goods, they run the risk that they may not be able to sell all of these pre-Phase 1 products by December 31, 2010. After December 31, 2010, it will not be permissible for anyone to sell pre-Phase 1 panels and pre-Phase 1 finished goods in California. Similarly, it will not be permissible for distributors to sell Phase 1 hardwood plywood with veneer core after this date.

**What are the extended sell-through dates?**

**Extended Sell-through Dates for Distributors and Retailers of Pre-Phase 1 Panels; Distributors, Importers, Fabricators, and Retailers of Pre-Phase 1 Finished Goods; and Distributors of Phase 1 Hardwood Plywood with Veneer Core**

		<b>Date Specified in Regulation</b>	<b>Extended Date</b>	<b>Number of Months Extended from Original Date</b>
Distributors of Pre-Phase 1 HWPW-VC, PB, MDF, and Thin MDF*		May 31, 2009	December 31, 2010	19
Distributors of Pre-Phase 1 HWPW-CC		November 30, 2009	December 31, 2010	13
Retailers of Pre-Phase 1 HWPW-VC, PB, MDF, and Thin MDF*		December 31, 2009	December 31, 2010	12
Retailers of Pre-Phase 1 HWPW-CC		June 30, 2010	December 31, 2010	6
Distributors, Importers, Fabricators, and Retailers of Pre-Phase 1 Finished Goods		June 30, 2010	December 31, 2010	6
Distributors of Phase 1 HWPW-VC		May 31, 2010	December 31, 2010	7

\* Previously extended four months under Regulatory Advisory 09-02.

**For more information**

The Regulation may be viewed at: <http://www.arb.ca.gov/toxics/compwood/compwood.htm>. Appendix 1 of section 93120.12 of the Regulation sets forth the sell-through provisions. Additional information about complying with the Regulation, including staff contacts, fact sheets and Frequently Asked Questions, are available on this website.