

PRELIMINARY DRAFT: OCTOBER 23, 2006

PROPOSED REGULATION ORDER

AIRBORNE TOXIC CONTROL MEASURE TO REDUCE FORMALDEHYDE EMISSIONS FROM COMPOSITE WOOD PRODUCTS

Adopt new section 93120, Title 17, California Code of Regulations, to read as follows:

Section 93120. Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products.

(a) Purpose. The purpose of this airborne toxic control measure is to reduce formaldehyde emissions from composite wood products that are sold, supplied, offered for sale, used, or manufactured for sale in California. The composite wood products covered by this regulation are particleboard, medium density fiberboard, hardwood plywood, and finished goods or products made from these materials.

(b) Applicability. This airborne toxic control measure applies to:

- (1) Manufacturers of hardwood plywood, particleboard, and medium density fiberboard that manufacture, sell, supply, or offer these products for sale in California, and
- (2) Distributors of hardwood plywood, particleboard, and medium density fiberboard and finished goods or products that are made from these materials, that sell, supply, or offer these products for sale in California, and
- (3) Importers of hardwood plywood, particleboard, and medium density fiberboard and finished goods or products that are made from these materials, that sell, supply, or offer these products for sale in California, and
- (4) Fabricators that use hardwood plywood, particleboard, and medium density fiberboard to make other products that are sold, supplied, or offered for sale in California, and
- (5) Retailers of hardwood plywood, particleboard, and medium density fiberboard and finished goods or products that are made from these materials, that sell, supply, or offer these products for sale in California.

Notwithstanding the provisions of subsections 1 through 5 above, hardwood plywood, particleboard, and medium density fiberboard and finished goods or

products that are made from these materials, that are sold, offered for sale, or supplied to persons outside of California, shall not be subject to this airborne toxic control measure.

(c) Definitions. For the purposes of this section, the following definitions shall apply:

- (1) "ARB" means the California Air Resources Board.
- (2) "ASTM" means the American Society for Testing and Materials.
- (3) "ANSI" means the American National Standards Institute.
- (4) "Batch" means the amount of composite wood product manufactured during an eight-hour period or a production run of 1,000,000 square feet.
- (5) "Composite Wood Products" means hardwood plywood, particleboard, and medium density fiberboard. The term does not include hardboard, fiberboard, oriented strand board, structural plywood, glulam, or other structural engineered wood products complying with the provisions of Product Standard PS-1, "Construction and Industrial Plywood," or Product Standard PS-2, "Performance Standard for Wood-based Structural-use Panels," ANSI A190.1, "Structural Glued Laminated Timber," ASM D5456, "Standard Specification for Structural Composite Lumber" or ASTM D5055, "Standard Specification for Establishing and Monitoring Structural Capacities of Prefabricated Wood I-Joists."
- (6) "Distributor" means any person to whom a composite wood product is sold or supplied to for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.
- (7) "Executive Officer" means the Executive Officer of the California Air Resources Board, or his or her delegate.
- (8) "Fabricator" means any person that uses composite wood products to make other goods or products for sale or supply in California.
- (9) "Facility" means the entity where composite wood products are manufactured, used, or sold in California. This includes, but is not limited to, manufacturing plants, distribution centers, warehouses, and retail stores.
- (10) "Fiber" means the slender threadlike elements of wood or similar cellulosic material, which are separated by chemical and/or mechanical means, as in pulping, that can be formed into boards.

(11) “Finished Goods or Products” means any good or product, other than a panel, containing hardwood plywood, particleboard, or medium density fiberboard made specifically for the California market after implementation of this regulation.

(12) “Formaldehyde” means a colorless gas at room temperature, that at elevated concentrations, has a strong, pungent odor and can be irritating to the eyes, nose, and lungs (i.e., CAS No. 50-00-0), that is used in the resins to bond the wood substrates in composite wood products.

(13) “Hardwood” means the wood of a deciduous broad-leafed tree. Examples of hardwoods include, but are not limited to, aspen, birch, and oak.

(14) “Hardwood Plywood” means a panel, molding, or other building material composed of an assembly of hardwood layers or plies of veneer or veneers, in combination with lumber core, particleboard core, medium density fiberboard core, hardboard core, or of a special core material joined with an adhesive. By this definition, hardwood plywood includes both hardwood plywood made with a veneer core and hardwood plywood made with a composite core.

(15) “Importer” means the person or entity as defined in the regulations of the Bureau of Customs and Border Protection, 19 CFR § 101.1, as it pertains to the sale or resale of hardwood plywood, particleboard, or medium density fiberboard manufactured outside of the United States, or finished goods or products that are made outside of the United States from these materials in California.

(16) “Manufacturer” means any person who imports, manufactures, assembles, produces, packages, or repackages a composite wood product (see Government Code section 14887(c)).

(17) “Medium Density Fiberboard” means a composite wood product panel, molding, or other building material composed of cellulosic fibers (usually wood) made by dry forming and pressing of a resinated fiber mat (ANSI A208.2-202, medium density fiberboard).

(18) “Panel” means any standard size particleboard, medium density fiberboard, or hardwood plywood board (e.g., 4 ft by 8 ft) produced for sale, supply, or distribution by a composite wood product manufacturer.

(19) “Particle” means a distinct fraction of wood or other cellulosic material produced mechanically and used as the furnish for a particleboard. Particles are larger in size than fibers.

(20) “Particleboard” means a composite wood product panel, molding, or other building material composed of cellulosic material (usually wood) in the form of

discrete particles, as distinguished from fibers, flakes, or strands, which are pressed together with resin.

(21) "Person" shall have the same meaning as defined in Health and Safety Code section 39047.

(22) "Platform" means the veneer-core or composite-core material used in the manufacture of hardwood plywood.

(23) "Plywood" means a panel product consisting of layers of wood veneers hot pressed together with resin. Plywood includes panel products made by hot pressing (with resin) veneers to a substrate such as other veneers, particleboard, medium density fiberboard, or lumber.

(24) "Press Conditions" means the press temperature, press time, and other parameters used to define the process used to manufacture hardwood plywood, particleboard, or medium density fiberboard.

(25) "Resin Formulation" means the chemical composition of the resin used to manufacture hardwood plywood, particleboard, or medium density fiberboard.

(26) "Retailer" means any person who sells, supplies, or offers for sale, composite wood products, either finished goods or products or in panel form, directly to consumers.

(27) "Softwood" means the wood of a coniferous tree. Examples of softwoods include, but are not limited to, southern yellow pine, Douglas-fir, and white spruce.

(28) "Third Party Certifier" means an entity, approved by the Executive Officer, that certifies the emission test procedures and facilities used by manufacturers to conduct formaldehyde emission tests.

(29) "Veneer" means thin sheets of wood peeled or sliced from logs for use in the manufacture of wood products such as plywood, laminated veneer lumber, or other products.

(d) *Emission Standards for Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF).*

(1) *Emission Standards.* The emission standards in Table 1 apply to hardwood plywood (HWPW), particleboard (PB), and medium density fiberboard (MDF) that is sold, supplied, offered for sale, or manufactured for sale in California.

Except as provided in the “sell-through” provisions of subsections (e)(2), (f)(3), (g)(3), (h)(3), (i)(3) and (i)(4), no person shall sell, supply, offer for sale, or manufacture for sale in California any HWPW, PB, or MDF which, at the time of sale or manufacture, does not comply with the emission standards in Table 1 on or after the effective dates specified in Table 1:

Table 1 Phase 1 and 2 Emission Standards for Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF) ¹				
Effective Date	---- Phase 1 (P1) and 2 (P2) Emission Standards (ppm) ----			
	HWPW-VC	HWPW-CC	PB	MDF
January 1, 2009	P1: 0.07	-----	P1: 0.18	P1: 0.21
July 1, 2009	-----	P1: 0.09	-----	-----
January 1, 2011	P2: 0.03	-----	P2: 0.08	-----
January 1, 2012	-----	-----	-----	P2: 0.08
July 1, 2012	-----	P2: 0.05	-----	-----

⁽¹⁾ Based on the large chamber test method (ASTM E1333-96) in parts per million (ppm). HWPW-VC = veneer core; HWPW-CC = composite core, where the core material is PB or MDF.

A product “does not comply with the emission standards in Table 1” if:

(A) The product was produced by a manufacturer without a current third-party certification program that complies with subsection (e)(3) and provides verification of the formaldehyde emission properties of the product, or

(B) Records of testing conducted by the manufacturer or the third party certifier show that a particular product or batch of product sold, supplied, or offered for sale in California exceeded the applicable emission standard specified in Table 1, based on the compliance testing procedure for hardwood plywood, particleboard, and medium density fiberboard in subsection (j)(1), or

(C) The product produced by a manufacturer is tested at any time after it is manufactured, using the enforcement test method specified in subsection (j)(2), and is found to exceed the applicable emission standard specified in Table 1, or

(D) A finished good or product contains any HWPW, PB, or MDF which does not comply with the emission standards in Table 1 (i.e., the HWPW, PB, or MDF contained in the finished good or product complies with any of the criteria set forth in paragraphs (A), (B), or (C) above), or

(E) A finished good or product is found to contain HWPW, PB, or MDF that does not comply with applicable emission standards in Table 1 using the enforcement test method specified in subsection (j)(3).

(2) *Exemptions.* The emission standards in subsection (d)(1) do not apply to plywood and particleboard materials when installed in manufactured homes and subject to the United States Housing and Urban Development regulations (*24 Code of Federal Regulations* § 3280.308).

In addition, the phase 1 emission standards in subsection (d)(1) do not apply to HWPW, PB, or MDF manufactured with phenolic and/or isocyanate adhesives, and for adhesive systems with no-added formaldehyde, such as soy resins and polyvinyl acetate. All of these products are subject to the phase 2 emission standards as specified in subsection (d)(1).

(e) Requirements for Manufacturers of Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF).

(1) *Emission Standards.* Except as provided in the “sell-through” provisions in subsection (e)(2), all manufacturers of HWPW, PB, and MDF must comply with the requirements of section (d). All HWPW, PB, and MDF manufactured on or after the effective dates specified in subsection (d)(1) must comply with the emission standards specified in subsection (d)(1).

(2) *Sell-through of Hardwood Plywood, Particleboard, and Medium Density Fiberboard Manufactured Before the Effective Dates of the Phase 1 and Phase 2 Standards.* Hardwood plywood, particleboard, and medium density fiberboard manufactured before the phase 1 and phase 2 effective dates specified in subsection (d) may be sold, supplied, or offered for sale by the product manufacturer for up to one month after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards are as follows:

(A) Hardwood plywood made with a veneer-core (HWPW-VC).

1. Panels of HWPW-VC manufactured before January 1, 2009 which do not comply with the phase 1 emission standard may be sold, supplied, or offered for sale by the product manufacturer until January 31, 2009. Beginning February 1, 2009, all HWPW-VC subject to the phase 1 standard must comply with this standard, regardless of the date on which the products were manufactured.

2. Panels of HWPW-VC manufactured before January 1, 2011 that comply with the phase 1 standard but do not comply with the phase 2 standard may be sold, supplied, or offered for sale by the product manufacturer until January 31, 2011. Beginning February 1, 2011, all HWPW-VC subject to the phase 2

standard must comply with this standard, regardless of the date on which the products were manufactured.

(B) Hardwood plywood made with a composite-core (HWPW-CC).

1. Panels of HWPW-CC manufactured before July 1, 2009 which do not comply with the phase 1 emission standard may be sold, supplied, or offered for sale by the product manufacturer until July 31, 2009. Beginning August 1, 2009, all HWPW-CC subject to the phase 1 standard must comply with this standard, regardless of the date on which the products were manufactured.

2. Panels of HWPW-CC manufactured before July 1, 2012 that comply with the phase 1 standard but do not comply with the phase 2 standard may be sold, supplied, or offered for sale by the product manufacturer until July 31, 2012. Beginning August 1, 2012, all HWPW-CC subject to the phase 2 standard must comply with this standard, regardless of the date on which the products were manufactured.

(C) Particleboard (PB) and medium density fiberboard (MDF).

1. Panels of PB and MDF manufactured before January 1, 2009 which do not comply with the phase 1 emission standard may be sold, supplied, or offered for sale by the product manufacturer until January 31, 2009. Beginning February 1, 2009, all PB and MDF subject to the phase 1 standard must comply with this standard, regardless of the date on which the products were manufactured.

2. Panels of PB manufactured before January 1, 2011 that comply with the phase 1 standard but do not comply with the phase 2 standard may be sold, supplied, or offered for sale by the product manufacturer until January 31, 2011. Beginning February 1, 2011, all PB subject to the phase 2 standard must comply with this standard, regardless of the date on which the products were manufactured.

3. Panels of MDF manufactured before January 1, 2012 that comply with the phase 1 standard but do not comply with the phase 2 standard may be sold, supplied, or offered for sale by the product manufacturer until January 31, 2012. Beginning February 1, 2012, all MDF subject to the phase 2 standard must comply with this standard, regardless of the date on which the products were manufactured.

(3) *Third Party Certification.*

(A) Manufacturers of HWPW, PB and MDF must demonstrate compliance with the emission standards specified in subsection (d)(1) via third party certification. Manufacturers must participate in a third party certification program

which contains the minimum requirements listed in subsection (e)(3)(C), and is approved by the Executive Officer.

(B) *Third Party Certification.* Applications for “third party certification,” must be submitted in writing (i.e., certification application) to the Executive Officer. Within 45 days of receiving an application for certification, the Executive Officer shall contact the applicant in writing and notify them if additional information is needed. When a complete application has been received, the Executive Officer shall review the application and notify the applicant in writing, as to whether their application is approved. If an application is not approved, applicants may provide additional information and reapply for certification. If the new information is sufficient, the Executive Officer may approve the application.

(C) *Minimum Requirements.* All certification programs must contain the minimum requirements set forth in “California’s Third Party Certification Requirements for Producing Composite Wood Products,” as adopted by the ARB on [effective date].

(4) *Product Labeling Requirements.* Each batch of HWPW, PB, and MDF must be clearly labeled to indicate compliance with the emission standards specified in subsection (d)(1). The label shall be applied as a stamp, tag, or bar code on every panel produced. The label shall include, at a minimum, all of the following information:

1. Manufacturer name;
2. Date of production;
3. Product lot number or batch produced; and
4. ARB-designated marking (to be specified) to denote that the product complies with the applicable phase 1 or 2 emission standards specified in subsection (d)(1).

(5) *Records Maintenance and Emissions Data Reporting Requirements.*

(A) *Phase 1 Standards.* Records must be maintained beginning January 1, 2009 for manufacturers of HWPW-VC, PB, and MDF, and July 1, 2009 for manufacturers of HWPW-CC. The required records are to consist of materials documenting the procedures used, quality control data, and laboratory test results, including, but not limited to, ASTM E1333-96 test results conducted on a quarterly (or more frequent) basis, results from tests conducted on-site during periods between ASTM E1333-96 tests with either small-chambers (ASTM No. D6007-02) or desiccators (ASTM No. D5582), and other applicable quality control data.

Each ASTM 1333-96 test shall be assigned a unique identification number that serves as the basis for tracking the compliance of HWPW-VC, HWPW-CC, PB, and MDF offered for sale in California to its applicable phase 1 emission standard. At a minimum, emissions test data for each product certified to a phase 1 standard in subsection (d)(1) must be kept for a period of three years.

All manufacturers subject to this regulation must submit quarterly ASTM 1333-96 test data to ARB within seven-days of the end of the quarter. The reporting form must, at a minimum, include:

1. Name, address, and contact information of the manufacturer and their third party certifier;
2. List of composite wood products and amount of panels covered by the specified large-chamber test (e.g., the batch numbers produced during the quarter and the test identification number); and
3. A summary table of the small-chamber or desiccator tests performed during the quarter.

(B) *Phase 2 Standards.* Manufacturers must demonstrate compliance with the phase 2 emission standards in subsection (d)(1). This demonstration must be made on or before January 1, 2011 for manufacturers of HWPW-VC and PB, on or before January 1, 2012 for manufacturers of MDF, and on or before July 1, 2012 for manufacturers of HWPW-CC. For products made with resins with no-added formaldehyde, after a period of six-months in which product emission levels are found to be at or below the prescribed product emission standard (i.e., 0.03 ppm for HWPW-VC, 0.05 ppm for HWPW-CC, and 0.08 ppm for PB and MDF), manufacturers may request a waiver from future data submissions from the Executive Officer. Subject to written approval by the Executive Officer, the submission of future phase 2-related emissions data may be waived. In their place, manufacturers shall submit a monthly letter documenting their continued production of compliant products made with resins with no-added formaldehyde.

In the event that manufacturers change their resin formulation or modify their press conditions, they must notify the Executive Officer and their third party certifier, and resume data submissions until there is sufficient data to establish that the new product complies with the phase 2 standards, as determined by the Executive Officer. At a minimum, emissions test data for each product certified to a phase 2 standard in subsection (d)(1) shall be kept for a period of three years.

(6) *Recordkeeping Requirements for Manufacturers of Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF).*

(A) For every panel produced for sale in California, manufacturers must maintain documentation that:

1. Allows each panel produced to be traced to a specific ASTM 1333-96 test that demonstrates compliance with its applicable phase 1 or 2 emission standard specified in subsection (d)(1);
2. Identifies the entity that purchased the panel and the amount purchased; and
3. Identifies the entity that transported the panel to the purchaser.

These requirements are met if manufacturers follow the structure and requirements of chain-of-custody programs, approved by the Executive Officer, developed for tracking the sale or supply of panels through the distribution chain, such that a clear determination can be made as to whether the products received by a distributor, importer, fabricator, or retailer were compliant with applicable standards in subsection (d)(1).

(B) For each batch of product, proof of its measured formaldehyde emission level must be traceable through its chain-of-custody documentation to a specific ASTM 1333-96 test, and listed on a form with a unique manufacturer identification number that also contains, at a minimum, the following information:

1. Manufacturer information (i.e., company name, contact person, address, phone number, email address)
2. Emissions test information (i.e., name of third-party certifier (TPC), TPC information – company name, contact person, phone number, mailing and email addresses, and statement on product invoice which certifies that the shipment of HWPW, PB and/or MDF complies with the emission standards in subsection (d)).
3. Product information (i.e., description of the panel (e.g., ½” hardwood plywood) and date of manufacture and batch/run number)
4. Purchaser information (i.e., Purchaser’s name, contact person, address, and phone number, and purchase order or invoice number)
5. Product transporter information (i.e., Delivery company name, contact person, phone number, and address, and shipping invoice number)

(7) *Facility inspections.* Each manufacturing plant may be inspected by ARB, local air district officials, or third party certifiers. In the course of an inspection, chain-of-custody programs used by manufacturers may be audited and a sample may be secured for emissions testing. Panels secured by the ARB would be subject to enforcement testing using the enforcement test method in subsection

(j)(2), to determine if the panel is in violation of its applicable phase 1 or phase 2 emission standard in subsection (d)(1).

(f) Requirements for Distributors of Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF) and Finished Goods or Products Containing Those Materials.

(1) *Emission Standards.* Except as provided in the “sell-through” provisions of subsection (f)(3), all distributors must comply with the requirements of subsection (d)(1) for all HWPW, PB, MDF panels and finished goods or products containing these materials that are sold, supplied, offered for sale, or purchased for sale in California.

(2) *Additional Requirements to Help Ensure that Complying Products are Purchased.* Distributors must take reasonable prudent precautions to insure that the panels and finished goods or products they purchase comply with the applicable emission standards specified in subsection (d)(1). “Reasonable prudent precautions” include instructing each supplier that the goods or products they supply to a distributor must comply with the applicable emission standards, and obtaining written documentation from each supplier that this is so. This subsection does not affect the liability of any person for any violation of subsection (d)(1).

In addition, distributors must keep records showing the date of purchase and the supplier of the panels and finished goods or products, and document what precautions were taken to insure that the panels and finished goods or products comply with applicable emission standards. These records must be kept for a minimum of three years.

(3) *Sell-through of Hardwood Plywood, Particleboard, and Medium Density Fiberboard Manufactured Before the Effective Dates of the Phase 1 and Phase 2 Standards.* Hardwood plywood, particleboard, or medium density fiberboard manufactured before the phase 1 and phase 2 effective dates specified in subsection (d)(1) may be sold, supplied, offered for sale, or used by distributors for up to five months after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards specified in subsection (d)(1) are as follows:

(A) Hardwood plywood made with a veneer core (HWPW-VC).

1. Panels of HWPW-VC manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2009. Beginning June 1, 2009, all HWPW-VC panels and finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 1 standard and be made

with HWPW-VC that complies with phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of HWPW-VC manufactured before January 1, 2011, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2011. Beginning June 1, 2011, all HWPW-VC panels and finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with HWPW-VC that complies with phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(B) Hardwood plywood made with a composite core (HWPW-CC).

1. Panels of HWPW-CC manufactured before July 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by distributors until November 30, 2009. Beginning December 1, 2009, all HWPW-CC panels and finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with HWPW-CC that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of HWPW-CC manufactured before July 1, 2012, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by distributors until November 30, 2012. Beginning December 1, 2012, all HWPW-CC panels and finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with HWPW-CC that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(C) Particleboard (PB).

1. Panels of PB manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2009. Beginning June 1, 2009, all PB panels and finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with PB that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of PB manufactured before January 1, 2011, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2011. Beginning June 1, 2011, all PB panels and finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with PB that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(D) Medium density fiberboard (MDF).

1. Panels of MDF manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2009. Beginning June 1, 2009, all MDF panels and finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with MDF that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of MDF manufactured before January 1, 2012, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by distributors until May 31, 2012. Beginning June 1, 2012, all MDF panels and finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with MDF that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(4) Product Labeling Requirements for Panels and Finished Goods or Products.

(A) *Panels.* If the HWPW-VC, HWPW-CC, PB, or MDF panels procured by a distributor are not modified by the distributor, no additional labeling is required. If the panels are modified, distributors would be subject to the labeling requirements specified for fabricators in subsection (h)(4).

(B) *Finished goods or products containing HWPW-VC, HWPW-CC, PB, or MDF.* If the finished goods or products purchased by a distributor are not modified by the distributor, no additional labeling is required. If the finished goods or products are modified, the distributor must either:

1. Label the modified goods or products as specified for fabricators in subsection (h)(4)(1), or

2. State on the bill of lading or invoice, that the goods or products are made with HWPW-VC, HWPW-CC, PB, or MDF that complies with the applicable phase 1 or phase 2 standard specified in subsection (d)(1).

(5) *Facility inspections.* Distributors may be inspected by ARB and/or local air district officials. In the course of an inspection, chain-of-custody programs used by distributors may be audited and samples may be secured to determine compliance with applicable emission standards. Panels or finished goods or products secured by the ARB would be subject to enforcement testing using the applicable enforcement test method in section (j), to determine if the panel or finished good or product is in violation of its applicable phase 1 or phase 2 emission standard in subsection (d)(1).

(g) Requirements for Importers of Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF) and Finished Goods or Products Containing Those Materials.

(1) *Emission Standards.* Except as provided in the “sell-through” provisions of subsection (g)(3), all importers must comply with the requirements of subsection (d)(1) for all HWPW, PB, MDF panels and finished goods or products containing these materials that are sold, supplied, offered for sale, or purchased for sale in California.

(2) *Additional Requirements to Help Ensure that Complying Products are Purchased.* Importers must take reasonable prudent precautions to insure that the panels and finished goods or products they purchase comply with the applicable emission standards specified in subsection (d)(1). “Reasonable prudent precautions” include instructing each supplier that the goods or products they supply to an importer must comply with the applicable emission standards, and obtaining written documentation from each supplier that this is so. This subsection does not affect the liability of any person for any violation of subsection (d)(1).

In addition, importers must keep records showing the date of purchase and the supplier of the panels and finished goods or products, and document what precautions were taken to insure that the panels and finished goods or products comply with applicable emission standards. These records must be kept for a minimum of three years.

(3) *Sell-through of Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF) Manufactured Before the Effective Dates of the Phase 1 and Phase 2 Standards.* Hardwood plywood, particleboard, or medium density fiberboard manufactured before the phase 1 and phase 2 standard effective dates specified in subsection (d)(1) may be sold, supplied, offered for sale, or used by importers for up to five months after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards specified in subsection (d)(1) are as follows:

(A) Hardwood plywood made with a veneer core (HWPW-VC).

1. Panels of HWPW-VC manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2009. Beginning June 1, 2009, all HWPW-VC panels and finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with HWPW-VC that complies with phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of HWPW-VC manufactured before January 1, 2011, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2011. Beginning June 1, 2011, all HWPW-VC panels and finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with HWPW-VC that complies with phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(B) Hardwood plywood made with a composite core (HWPW-CC).

1. Panels of HWPW-CC manufactured before July 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by importers until November 30, 2009. Beginning December 1, 2009, all HWPW-CC panels and finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with HWPW-CC that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of HWPW-CC manufactured before July 1, 2012, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by importers until November 30, 2012. Beginning December 1, 2012, all HWPW-CC panels and finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with HWPW-CC that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(C) Particleboard (PB).

1. Panels of PB manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2009. Beginning June 1, 2009, all PB panels and finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with PB that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of PB manufactured before January 1, 2011, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2011. Beginning June 1, 2011, all PB panels and finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with PB that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(D) Medium density fiberboard (MDF).

1. Panels of MDF manufactured before January 1, 2009, which do not comply with the phase 1 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2009. Beginning June 1, 2009, all MDF panels and finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 1 standard and be made with MDF that complies with the phase 1 standard, respectively, regardless of the date on which the products were manufactured.

2. Panels of MDF manufactured before January 1, 2012, which do not comply with the phase 2 emission standard may be sold, supplied, offered for sale, or used by importers until May 31, 2012. Beginning June 1, 2012, all MDF panels and finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 2 standard and be made with MDF that complies with the phase 2 standard, respectively, regardless of the date on which the products were manufactured.

(4) Product Labeling Requirements for Panels and Finished Goods or Products.

(A) *Panels.* If the HWPW-VC, HWPW-CC, PB, or MDF panels procured by an importer are not modified by the importer, no additional labeling is required. If the panels are modified, importers would be subject to the labeling requirements specified for fabricators in subsection (h)(4).

(B) *Finished goods or products containing hardwood plywood, particleboard, or medium density fiberboard.* If the finished goods or products purchased by an importer are not modified by the importer, no additional labeling is required. If the finished goods or products are modified, the importer must either:

1. Label the modified goods or products as specified for fabricators in subsection (h)(4)(1), or

2. State on the bill of lading or invoice, that the goods or products are made with HWPW-VC, HWPW-CC, PB, or MDF that complies with the applicable phase 1 or phase 2 standard specified in subsection (d)(1).

(5) Facility inspections. Importers may be inspected by ARB and/or local air district officials. In the course of an inspection, chain-of-custody programs used by importers may be audited and samples may be secured to determine compliance with applicable emission standards. Panels or finished goods or products secured by the ARB would be subject to enforcement testing using the applicable enforcement test method in section (j), to determine if the panel or finished good or product is in violation of its applicable phase 1 or phase 2 emission standard in subsection (d)(1).

(h) Requirements for Fabricators that use Hardwood Plywood (HWPW), Particleboard (PB), or Medium Density Fiberboard (MDF) and Finished Goods or Products Containing Those Materials.

(1) *Emission Standards.* Except as provided in the “sell-through” provisions of subsection (h)(3), all fabricators must comply with the requirements of subsection (d)(1) for all HWPW-VC, HWPW-CC, PB, MDF, and finished goods or products containing these materials that are sold, supplied, offered for sale, or purchased for sale in California.

(2) *Additional Requirements to Help Ensure that Complying Finished Goods or Products are Purchased.* Fabricators must take reasonable prudent precautions to insure that the panels and finished goods or products they purchase are in compliance with the applicable emission standards specified in subsection (d)(1), and are labeled as compliant with the applicable phase 1 or phase 2 standards in subsection (d)(1). “Reasonable prudent precautions” include instructing each supplier that the goods or products they supply to the fabricator must comply with the applicable emission standards, and obtaining written documentation from each supplier that this is so. This subsection does not affect the liability of any person for any violation of subsection (d)(1).

In addition, fabricators must keep records showing the date of purchase and the supplier of the panels and finished goods or products, and document what precautions were taken to insure that the panels and finished goods or products comply with applicable emission standards. These records must be kept for a minimum of three years.

(3) *Sell-through of Composite Wood Products Manufactured Before the Effective Dates of the Phase 1 and Phase 2 Standards.* Finished goods or products containing HWPW-VC, HWPW-CC, PB, or MDF manufactured before the phase 1 and phase 2 effective dates specified in subsection (d)(1) may be sold, supplied, offered for sale by fabricators for up to twelve months after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards specified in subsection (d)(1) are as follows:

(A) Finished goods or products containing hardwood plywood made with a veneer-core (HWPW-VC).

1. Finished goods or products made with HWPW-VC that does not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2009. Beginning January 1, 2010, all finished goods or products sold, supplied, or offered for sale must be made with HWPW-VC that complies with the phase 1 standard, regardless of the date that the finished good was fabricated.

2. Finished goods or products made with HWPW-VC that does not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2011. Beginning January 1, 2012, all finished goods or products sold, supplied, or offered for sale must be made with HWPW-VC that complies with the phase 1 standard, regardless of the date that the finished good was fabricated.

(B) Finished goods or products containing hardwood plywood made with a composite-core (HWPW-CC).

1. Finished goods or products made with HWPW-CC that does not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until June 30, 2010. Beginning July 1, 2010, all finished goods or products sold, supplied, or offered for sale must be made with HWPW-CC that complies with the phase 1 standard, regardless of the date that the finished good was fabricated.

2. Finished goods or products made with HWPW-CC that does not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until June 30, 2013. Beginning July 1, 2013, all finished goods or products sold, supplied, or offered for sale must be made with HWPW-CC that complies with the phase 2 standard, regardless of the date that the finished good was fabricated.

(C) Finished goods or products containing particleboard (PB).

1. Finished goods or products made with PB that does not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2009. Beginning January 1, 2010, all finished goods or products sold, supplied, or offered for sale must be made with PB that complies with the phase 1 standard, regardless of the date that the finished good was fabricated.

2. Finished goods or products made with PB that does not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2011. Beginning January 1, 2012, all finished goods or products sold, supplied, or offered for sale must be made with PB that complies with the phase 2 standard, regardless of the date that the finished good was fabricated.

(D) Finished goods or products containing medium density fiberboard (MDF).

1. Finished goods or products made with MDF that does not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2009. Beginning January 1,

2010, all finished goods or products sold, supplied, or offered for sale must be made with MDF that complies with the phase 1 standard, regardless of the date that the finished good was fabricated.

2. Finished goods or products made with MDF that does not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by fabricators until December 31, 2012. Beginning January 1, 2013, all finished goods or products sold, supplied, or offered for sale must be made with MDF that complies with the phase 2 standard, regardless of the date that the finished good was fabricated.

(4) *Product Labeling Requirements.* Fabricators must either:

1. Label their finished goods or products containing HWPW-VC, HWPW-CC, PB, or MDF destined for sale or supply in California by applying a stamp, tag, or bar code. The label shall be applied as a stamp, tag, or bar code on every finished good or product produced. The label shall include, at a minimum, the fabricator's name and an ARB-designated marking (to be specified) to denote that the product was made with HWPW-VC, HWPW-CC, PB, or MDF compliant with the applicable phase 1 or 2 emission standards in subsection (d)(1). Or,

2. Designate their goods or products as being made with HWPW-VC, HWPW-CC, PB, or MDF compliant with the standards specified in subsection (d)(1) on bills-of-lading or invoices to retailers or other entities that sell products to the public.

(5) *Facility inspections.* Fabricators are subject to periodic inspection by ARB and/or local air district officials. In the course of an inspection, ARB or local district officials may audit the records maintained by fabricators to document their purchases and sales of HWPW-VC, HWPW-CC, PB, or MDF and/or finished goods or products made with those materials, to establish compliance with applicable emission standards specified in subsection (d)(1), and secure samples for enforcement testing. Panels or finished goods or products secured by the ARB would be subject to enforcement testing using the applicable enforcement test method in section (j), to determine if the panel or finished good or product is in violation of its applicable phase 1 or phase 2 emission standard in subsection (d)(1).

(i) Requirements for Retailers that Sell, Supply, or Offer for Sale, Hardwood Plywood (HWPW), Particleboard (PB), and Medium Density Fiberboard (MDF) and Finished Goods or Products Containing Those Materials.

(1) *Emission Standards.* Except as provided in the "sell-through" provisions of subsections (i)(3) and (i)(4), all retailers must comply with the requirements of subsection (d)(1) for all HWPW-VC, HWPW-CC, PB, MDF, and finished goods or

products containing these materials that are sold, supplied, offered for sale, or purchased for sale in California.

(2) Additional Requirements to Help Ensure that Complying Products are Purchased. Retailers must take reasonable prudent precautions to insure that the HWPW-VC, HWPW-CC, PB, or MDF and finished goods or products containing those materials, that they purchase are in compliance with the applicable phase 1 or phase 2 emission standards specified in subsection (d)(1). “Reasonable prudent precautions” include instructing each supplier that the goods or products they supply to the retailer must comply with the applicable emission standards, and obtaining written documentation from each supplier that this is so. This subsection does not affect the liability of any person for any violation of subsection (d)(1).

In addition, retailers must keep records showing the date of purchase and the supplier of the panels and finished goods or products, and document what precautions were taken to insure that the panels and finished goods or products comply with applicable emission standards. These records must be kept for a minimum of three years.

(3) Sell-through of Hardwood Plywood (HWPW), Particleboard (PB), or Medium Density Fiberboard (MDF) Panels Before the Effective Dates of the Phase 1 and Phase 2 Standards. Hardwood plywood, particleboard, or medium density fiberboard panels manufactured before the phase 1 and phase 2 effective dates specified in subsection (d)(1) may be sold, supplied, or offered for sale by retailers for up to twelve months after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards specified in subsection (d)(1) are as follows:

(A) Hardwood plywood made with a veneer core (HWPW-VC).

1. Panels of HWPW-VC manufactured before January 1, 2009, which do not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2009. Beginning January 1, 2010, all HWPW-VC sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

2. Panels of HWPW-VC manufactured before January 1, 2011, which do not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2011. Beginning January 1, 2012, all HWPW-VC sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

(B) Hardwood plywood made with a composite core (HWPW-CC).

1. Panels of HWPW-CC manufactured before July 1, 2009, which do not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until June 30, 2010. Beginning July 1, 2010, all HWPW-CC sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

2. Panels of HWPW-CC manufactured before July 1, 2012, which do not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until June 30, 2013. Beginning July 1, 2013, all HWPW-CC sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

(C) Particleboard (PB).

1. Panels of PB manufactured before January 1, 2009, which do not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2009. Beginning January 1, 2010, all PB sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

2. Panels of PB manufactured before January 1, 2011, which do not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2011. Beginning January 1, 2012, all PB sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

(D) Medium density fiberboard (MDF).

1. Panels of MDF manufactured before January 1, 2009, which do not comply with the phase 1 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2009. Beginning January 1, 2010, all MDF sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

2. Panels of MDF manufactured before January 1, 2012, which do not comply with the phase 2 emission standard in subsection (d)(1) may be sold, supplied, or offered for sale by retailers until December 31, 2012. Beginning January 1, 2013, all MDF sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date on which the products were manufactured.

(4) Sell-through of Finished Goods or Products Containing Hardwood Plywood, Particleboard, or Medium Density Fiberboard Before the Effective Dates of the Phase 1 and Phase 2 Standards. Finished goods or products containing HWPW-VC, HWPW-CC, PB, or MDF manufactured before the phase 1 and phase 2 effective dates specified in subsection (d)(1) may be sold, supplied, offered for sale, or used by retailers for up to 18 months after each of the specified effective dates. The specific sell-through dates for the phase 1 and phase 2 standards specified in subsection (d)(1) are as follows:

(A) Finished goods or products containing hardwood plywood made with a veneer-core (HWPW-VC).

1. Finished goods or products containing HWPW-VC that do not comply with the phase 1 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2010. Beginning July 1, 2010, finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date that the product was fabricated.

2. Finished goods or products containing HWPW-VC that do not comply with the phase 2 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2012. Beginning July 1, 2012, finished goods or products containing HWPW-VC, sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date that the product was fabricated.

(B) Finished goods or products containing hardwood plywood made with a composite-core (HWPW-CC).

1. Finished goods or products containing HWPW-CC that do not comply with the phase 1 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until December 31, 2010. Beginning January 1, 2011, finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date that the product was fabricated.

2. Finished goods or products containing HWPW-CC that do not comply with the phase 2 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until December 31, 2013. Beginning January 1, 2014, finished goods or products containing HWPW-CC, sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date that the product was fabricated.

(C) Finished goods or products containing particleboard (PB).

1. Finished goods or products containing PB that do not comply with the phase 1 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2010. Beginning July 1, 2010, finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date that the product was fabricated.

2. Finished goods or products containing PB that do not comply with the phase 2 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2012. Beginning July 1, 2012, finished goods or products containing PB, sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date that the product was fabricated.

(D) Finished goods or products containing medium density fiberboard (MDF).

1. Finished goods or products containing MDF that do not comply with the phase 1 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2010. Beginning July 1, 2010, finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 1 standard in subsection (d)(1), regardless of the date that the product was fabricated.

2. Finished goods or products containing MDF that do not comply with the phase 2 emission standard in subsection (d)(1), may be sold, supplied, or offered for sale by retailers until June 30, 2013. Beginning July 1, 2013, finished goods or products containing MDF, sold, supplied, or offered for sale must comply with the phase 2 standard in subsection (d)(1), regardless of the date that the product was fabricated.

(5) *Facility inspections.* Retailers are subject to periodic inspection by ARB and/or local air district officials. In the course of an inspection, ARB or local district officials may audit the records maintained by retailers to document their purchases and sales of ARB-compliant products, and secure samples for enforcement testing. Panels or finished goods or products secured by the ARB would be subject to enforcement testing using the applicable enforcement test method in section (j), to determine if the panel or finished good or product is in violation of its applicable phase 1 or phase 2 emission standard in subsection (d)(1).

(j) Test Methods.

(1) *Compliance Test Method for HWPW-VC, HWPW-CC, PB, and MDF to the applicable emission standard in section (d)(1).* Compliance with the emission standards for HWPW-VC, HWPW-CC, PB, and MDF in subsection (d)(1) shall be

demonstrated by conducting product emissions tests using ASTM E1333-96 (large chamber test method); or an alternate test procedure as specified in subsections (j)(1)(A) to (j)(1)(C).

(A) Test methods other than ASTM E1333-96 (i.e., large chamber test) may be used if they are demonstrated to provide equivalent results to those obtained using ASTM E1333-96. All alternative test methods must be approved in writing by the Executive Officer prior to use as specified in subsections (j)(1)(B) and (j)(1)(C).

(B) An application to use an alternative test method must be submitted to the ARB in writing, and must include, at a minimum, the following information and data:

1. A complete description of the test method used to quantify product emissions, including all procedures used, precision and reproducibility, and the criteria used to verify the validity of the test (e.g., modified small chamber test procedure, quality assurance and quality control measures).

2. Results collected using the alternate test method and corresponding equivalent emission rate(s), as stipulated in the large chamber test method (ASTM E1333-96)

(C) Within 30 days of receipt of an application, the Executive Officer shall notify the applicant in writing that the application is complete, or if additional information or testing is required to complete the application. If the Executive Officer finds that an application complies with the requirements of this subsection, then he or she may issue an Executive Order certifying that the alternate test procedure provides equivalent results to ASTM E1333-96, and authorize its use for compliance testing.

(2) Enforcement Test Method for HWPW-VC, HWPW-CC, PB, and MDF Samples Secured by ARB Inspectors.

----- UNDER DEVELOPMENT -----

(3) Enforcement Test Method for Finished Goods or Products Containing HWPW-VC, HWPW-CC, PB, or MDF Secured by ARB Inspectors.

----- UNDER DEVELOPMENT -----

(k) Severability.

Each part of this section shall be deemed severable, and in the event that any part of this section is held to be invalid the remainder of this section shall continue in full force and effect.

Note: Authority cited: Sections 39600, 39601, 39650, 39658, 39659, 39666, and 41511, Health and Safety Code. Reference: Sections 39650, 39658, 39659, 39666, and 41511, Health and Safety Code.