



# Regulatory Advisory

November 12, 2008



## **Composite Wood Products ATCM Advisory: 08-01 Certification of “Non-complying Lots” Produced by CARB Certified Manufacturers**

This regulatory advisory is primarily directed to manufacturers of composite wood products and is intended to provide information regarding the handling of “non-complying lots.” This advisory will explain provisions that can be applied by a manufacturer for inventories produced before being recognized as a producer of CARB compliant composite wood products by an approved third party certifier.

### **Background**

In 2007, the California Air Resources Board (CARB) approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products. On January 1, 2009, the ATCM's Phase 1 emission standards will take effect for hardwood plywood with veneer core, particleboard, medium density fiberboard (MDF), and thin MDF (thickness 8 millimeters or less). The Phase 1 emission standard for hardwood plywood composite core will take effect on July 1, 2009. To be in compliance with the ATCM, domestic and foreign manufacturers are required to retain the services of a CARB approved independent third party certifier (TPC) to verify that their manufacturing mill production is in compliance with the applicable emission standards.

Numerous manufacturing mills have received their TPC approval as a producer of CARB certified composite wood products. Some of these certified mills have accumulated inventories of composite wood products that were produced before they received their official CARB certification approval by the TPC. CARB recognizes that some of these composite wood products emit formaldehyde at levels below the Phase 1 emission standards. These products that were produced before the mill was CARB certified may be retroactively certified using the “non-complying lots” provision in the ATCM.

### **“Non-complying Lots”**

The ATCM provisions for “non-complying lots” may be utilized by manufacturers for panels that are still in their possession or under their control. Manufacturers that produce non-complying composite wood products, such as products produced before obtaining CARB certification, may retroactively deem those inventories as CARB compliant if they follow the provisions for “non-complying lots” specified in California Code of Regulations, title 17, section 93120.12, Appendix 2, subsections (g)(5)-(g)(8).

Below is a brief summary of the steps that must be followed, although manufacturers should read the full regulatory language to understand all of the requirements that must be met:

- 1) Manufacturers must have valid third party certification, per section 93120(3)(b).
- 2) The manufacturer's TPC must be notified.
- 3) If necessary, the “non-complying lot” may be treated to reduce formaldehyde emissions by using a scavenger or handled by other means, such as aging.

- 4) Retesting of samples from the “non-complying lot”. Retesting consists of:
  - A) Testing at least three panels from three separate bundles from each “non-complying lot.” The panels should be selected to be representative of the entire lot. Each panel shall be tested using the manufacturer’s small scale quality control test method.
  - B) Test samples shall not be selected from the top or bottom panels of a bundle.
  - C) The average of three representative samples must test at or below the manufacturer’s quality control limit (established with their TPC) or their shipping quality control limit.
  - D) In the event that a “non-complying lot” cannot be certified, the TPC shall be informed promptly in writing.

If the test results indicate the products comply with the applicable emission standard, the manufacturer may deem the “non-complying lot” as CARB compliant and must then follow the manufacturer’s labeling requirements in section 93120.3(e) for the applicable lots. These requirements include labeling each panel or bundle of composite wood products with the manufacturer name, product lot number or batch number, a marking to denote that the product complies with the applicable Phase 1 or Phase 2 emission standards, and the ARB assigned number of the manufacturer’s TPC. Such manufacturers must inform their TPC of the disposition of these “non-complying lots” and must keep records on the amount of product handled in this manner. Similarly, TPCs are required to keep records on manufacturers’ disposition of “non-complying lots.”

If certified manufacturers have questions or wish to pursue retroactive certification of composite wood products made before being certified, the manufacturers should contact their third party certifier.

### **Frequently asked questions**

Can CARB-certified manufacturing mills use the “non-complying lot” provisions for composite wood products in distribution warehouses?

Yes, as long as the manufacturer can track and verify that the composite wood products were produced in their manufacturing facilities. The previously described testing requirements must be followed and the manufacturer will be liable under the ATCM for “non-complying lots.”

Can mills that met European or Japanese standards prior to being deemed a CARB-certified manufacturing mill utilize the “non-complying lot” provisions?

Yes, manufacturers that previously met the European or Japanese emission standards for composite wood products are eligible, provided that those mills have since become CARB certified mills.

### **For more information**

To obtain a copy of the regulation or other related compliance assistance documents, visit the composite wood product ATCM website at <http://www.arb.ca.gov/toxics/compwood/compwood.htm>.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 323-7053.