



Regulatory Advisory

June 2009



Composite Wood Products ATCM Advisory: 09-01 (REVISED)

Applicability of the Sell-through Period for Retailers Purchasing Non-complying Composite Wood Product Panels

(Note: This advisory has been updated to reflect Regulatory Advisory 09-02, dated May 29, 2009, which extended the sell-through dates for distributors and retailers of composite wood product panels manufactured before January 1, 2009. Retailers may now sell non-complying composite wood panels until April 30, 2010 for HWPW-VC, PB and MDF. The sell-through period for HWPW-CC was not changed; retailers may sell non-complying HWPW-CC until June 30, 2010. Please see Regulatory Advisory 09-02 for more details.)

Introduction

This advisory is primarily directed to retailers of composite wood products including hardwood plywood (HWPW), particleboard (PB) and medium density fiberboard (MDF). This advisory will explain what provision(s) apply to retailers that purchase, sell, supply, or offer for sale non-complying composite wood product panels to California customers.

Background

In 2007, the California Air Resources Board (CARB) approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products. The regulation requires that composite wood panels and finished goods (i.e., cabinets, furniture, etc.) be made with HWPW, PB and MDF that meet the applicable formaldehyde emission limits. On January 1, 2009, the ATCM's Phase 1 emission standard became effective for HWPW with veneer core (HWPW-VC), PB, MDF, and thin MDF (thickness 8 millimeters or less). The Phase 1 emission standard for HWPW with composite core (HWPW-CC) will become effective on July 1, 2009. The increasingly stringent Phase 2 standards will take effect between 2010-2012. The ATCM applies to manufacturers, distributors, importers, fabricators, and **retailers** that manufacture, sell, supply, or offer for sale composite wood panels and/or finished goods to California.

This advisory focuses on the ATCM's "sell-through" provisions for retailers. "Sell-through" periods allow products manufactured before the effective date of the Phase 1 or Phase 2 standard to be sold for a specified time period after the effective date, even though the products do not comply with the standard (non-complying products). The sell-through period allows time for retailers to clear their inventory of old products that do not comply with a new standard. After the end of the sell-through period, all products

(i.e., panels and finished goods) sold by the retailer must comply with the standard regardless of the date on which the products were manufactured.

What do retailers need to know about the sell-through period?

While the Phase 1 emission standards went into effect on January 1, 2009, the ATCM allows a sell-through period to provide a smooth transition to the new emission standards.

Retailers of composite wood panels have sixteen months after the effective dates of the Phase 1 emission standards for HWPW-VC, PB, MDF, and thin MDF, twelve months after the effective date of the HWPW-CC emission standard Phase 1, and twelve months after the effective date of Phase 2 emission standards to sell any non-complying panels manufactured before the effective date. Therefore, for the Phase 1 emission standards that went into effect on January 1, 2009, retailers have until April 30, 2010, to sell HWPW-VC, PB, MDF, and thin MDF panels manufactured before January 1, 2009, and until June 30, 2010, to sell any non-complying HWPW-CC panels that were manufactured before July 1, 2009. Retailers should be aware that distributors of HWPW-VC, PB, MDF, and thin MDF have until September 30, 2009, to sell non-complying products that were manufactured before January 1, 2009.

Example 1: A retailer has inventory of non-complying particleboard (PB) panels manufactured before January 1, 2009. Although these PB panels do not comply with the Phase 1 emission standard, they may be sold to customers until April 30, 2010. They may not be sold, supplied, or offered for sale in California after this date.

Example 2: Retailers may purchase non-complying HWPW-VC, PB, MDF, or thin MDF panels during the nine-month sell-through period for a **distributor**, or during the five-month sell-through period for non-complying HWPW-CC. Thus, a retailer may purchase non-complying HWPW-VC, PB, MDF, and thin MDF panels from a distributor on or before September 30, 2009, and sell these products until April 30, 2010; or may purchase non-complying HWPW-CC from a distributor on or before November 30, 2009, and sell these products until June 30, 2010.

Retailers may sell, supply, or offer for sale finished goods containing non-complying composite wood products for up to eighteen months after the applicable effective date of the emission standard.

For more information

Please visit our website at: <http://www.arb.ca.gov/toxics/compwood/compwood.htm> or contact Ms. Angela Csondes at (916) 445-4448 (or acsondes@arb.ca.gov).