



Regulatory Advisory

May 29, 2009



Composite Wood Products Regulation Advisory: 09-02

EXTENSION OF SELL-THROUGH DATES FOR DISTRIBUTORS AND RETAILERS OF COMPOSITE WOOD PRODUCT PANELS MANUFACTURED BEFORE JANUARY 1, 2009

(Note: This advisory supersedes the portions of Advisory #380, dated August 2008, and Regulatory Advisory 09-01, dated March 2009, that relate to the sell-through dates for non-complying composite wood product panels.)

The purpose of this advisory is to announce a four-month delay in the enforcement of the Phase 1 sell-through dates for distributors and retailers of composite wood product panels manufactured before January 1, 2009. These products include hardwood plywood with veneer core (HWPW-VC); particleboard (PB); medium density fiberboard (MDF); and thin MDF.

Manufacturers of these products are currently producing ample quantities of panels that meet the Phase 1 standards in the California Air Resources Board's (ARB's) Composite Wood Products Regulation. Due to the economic downturn, however, product sales have been much lower than expected, and distributors and retailers of these products still have a significant amount of non-complying inventory that was manufactured before January 1, 2009. The four-month enforcement grace period will allow additional time to sell these inventories.

The four-month enforcement grace period means that ARB will not enforce the sell-through dates during the grace periods for distributors and retailers of these products. During the enforcement grace period, ARB regulatory staff will not refer these products for penalties or take other enforcement action against distributors or retailers regarding these sell-through dates.

Phase 1 Sell-through Dates for Distributors and Retailers of Panels Manufactured Before January 1, 2009

	Dates Specified in Regulation	Extended Dates for HWPW-VC, PB, MDF, and Thin MDF	Number of Months Extended from Original Date
Distributors	May 31, 2009	September 30, 2009	4
Retailers	December 31, 2009	April 30, 2010	4

Background

In April 2007, ARB approved the Airborne Toxic Control Measure To Reduce Formaldehyde Emissions From Composite Wood Products (the "Regulation"). Regulated products include: HWPW-VC; hardwood plywood with composite core (HWPW-CC); PB; MDF; and thin MDF (MDF with maximum thickness of 8 mm). Businesses required to comply with the Regulation are:

manufacturers, importers, distributors, fabricators, and retailers of composite wood products and finished goods that contain these products. The Regulation establishes formaldehyde emission standards. The Phase 1 formaldehyde emissions standards for HWPW-VC; PB; MDF; and thin MDF became effective on January 1, 2009. The Phase 1 emission standard for HWPW-CC will become effective on July 1, 2009.

Why is ARB extending the sell-through periods for distributors and retailers of panels?

The Regulation contains sell-through provisions that allow affected businesses to sell or use non-complying composite wood products that were manufactured prior to January 1, 2009, for specified periods of time after the effective dates of the emission standards in the Regulation. The sell-through provisions are intended to provide a smooth transition to selling complying products while curtailing inventories of non-complying products. The dates of the sell-through periods in the Regulation reflected normal inventory turnover rates in 2007. Since the Regulation was adopted, our state and national economy has slowed dramatically. Consequently, distributors have a significant amount of non-compliant panels in their inventories. The four-month enforcement grace period for panel distributors provides additional time to sell these inventories. The extended sell-through period will not decrease the emission reduction benefits anticipated from the regulation, because ARB had expected that these non-complying products would have already been sold, if the economy and turnover of inventories had not slowed. A four-month enforcement grace period for panel retailers is also necessary to allow time for retailers to sell products that they acquire during the extended sell-through period for panel distributors. No other compliance dates, such as the effective dates of the formaldehyde emission standards or the sell-through periods beyond the Phase 2 emission standards, are affected by this advisory.

What actions will ARB take to monitor the sell-through of non-compliant products?

Over the next few months, ARB staff will work with panel distributors and panel retailers to assess the amount of inventories affected, the rate products are moving, and distributors' and retailers' plans for turning over their inventory of non-complying panels. ARB staff expects full cooperation from distributors and retailers during this assessment.

Where can I read more about the sell-through provisions of the Regulation?

Appendix 2 of section 93120.12 of the Regulation contains the sell-through provisions and the dates. Except as provided by this Regulatory Advisory, all other sell-through dates in the Regulation apply. In addition, Advisory #380 on the Composite Wood Products website contains further explanation of the sell-through provisions. Under the sell-through provisions, composite wood products and finished goods manufactured before each applicable effective date may legally be sold, supplied, or offered for sale in California for specified periods of time after the effective date. In addition, such products and finished goods do not need to comply with labeling requirements specified in the Regulation. 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.

For more information

View the Regulation at: <http://www.arb.ca.gov/toxics/compwood/compwood.htm>. Additional information about complying with the Regulation, including staff contacts, fact sheets and Frequently Asked Questions, are available at the same website.