



Regulatory Advisory

June 2009



Composite Wood Products ATCM Advisory: 09-03

Sell-through Provisions That Apply to Manufacturers, Importers, Distributors, Fabricators, and Retailers of Composite Wood Products and Finished Goods

(Note: This advisory, formerly referred to as Enforcement Advisory #380, 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

In April 2007, the California Air Resources Board approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood products and from finished goods that contain composite wood products. Businesses required to comply with the ATCM include manufacturers, importers, distributors, fabricators, and retailers of composite wood products. The ATCM contains “sell-through” provisions that allow affected businesses to sell or use noncomplying composite wood products for specified periods of time after the effective dates in the ATCM. The purpose of this advisory is to describe these sell-through provisions.

The ATCM is contained in title 17, California Code of Regulations, sections 93120-93120.12. The ATCM applies to panels and finished goods that are sold, offered for sale, supplied, used, or manufactured for sale in California. The ATCM does not apply to panels and finished goods that are manufactured, distributed, fabricated, imported, sold, offered for sale, or supplied for shipment and use outside of California. A “panel” is any particleboard, medium density fiberboard, or hardwood plywood board, produced for sale, supply, or distribution by a composite wood product manufacturer. Panels are collectively referred to in the ATCM and this Advisory as “composite wood products.” A “finished good” is any good or product (e.g., cabinets, furniture, etc.), other than a panel, that contains at least one of the three types of composite wood products.

The ATCM establishes formaldehyde emission standards for hardwood plywood, particleboard, and medium density fiberboard. In addition, the ATCM requires fabricators of finished goods to use composite wood products that comply with the emission standards. The first emission standards become effective on January 1, 2009. Except as provided in the sell-through provisions described below, all composite wood products and finished goods sold, offered for sale, supplied, used, or manufactured for sale in California after January 1, 2009, must comply with the applicable emission standards.

Sell-through Provisions of the ATCM

Appendix 2 of section 93120.12 contains the sell-through provisions and the dates that apply to entities required to comply with the regulation (for the specific dates, see the ATCM or the tables at the end of this Advisory). 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. Such products and finished goods do not need to comply with labeling requirements specified in the ATCM, unless these products comply with the emission standards in the ATCM. (If a composite wood product was manufactured after an applicable effective date, the product must meet the applicable emission standard and there is no sell-through

period.) As explained below, the sell-through provisions are different for composite wood products and finished goods:

Manufacturers:

Composite wood products: Manufacturers may sell, supply, or offer for sale noncomplying composite wood products manufactured before the effective date of an applicable emission standard, for up to three months after the effective date.

Importers:

Composite wood products: Importers may sell, supply, or offer for sale noncomplying composite wood products for up to three months after the applicable effective date of the emission standard.

Finished goods: Importers may sell, supply, or offer for sale finished goods containing noncomplying composite wood for up to eighteen months after the applicable effective date of the emission standard.

Distributors:

Composite wood products: Distributors may sell, supply, or offer for sale noncomplying composite wood products for up to nine months after the effective date for the Phase 1 emission standard for hardwood plywood with veneer core, particleboard, medium density fiberboard (MDF), and thin MDF (MDF with maximum thickness of eight millimeters), for up to five months after the effective date for the Phase 1 emission standard for hardwood plywood with composite core, and for up to five months after the effective date of the applicable Phase 2 emission standards.

Finished goods: Distributors may sell, supply, or offer for sale finished goods containing noncomplying composite wood for up to eighteen months after the applicable effective date of the emission standard.

Fabricators: (A “fabricator” is any person, such as a cabinet or furniture maker, who uses composite wood products to make a finished good.)

Finished goods: Fabricators may sell, supply, or offer for sale finished goods made before the applicable effective date for up to eighteen months after that date. Fabricators may also use noncomplying composite wood products, such as material that was on-site in storage or acquired during a sell-through period from a manufacturer, distributor, or importer, to make new finished goods and then sell, supply, or offer for sale those finished goods within the eighteen month sell-through period. Such finished goods do not need to comply with labeling requirements specified in the ATCM, unless these products comply with the emission standards in the ATCM.

Note: A fabricator may not purchase for use in finished goods any noncomplying composite wood products manufactured before an applicable effective date, unless it is purchased from a manufacturer or importer during their three month sell-through period for noncomplying composite wood products; from a distributor during their nine-month sell-through period for noncomplying hardwood plywood with veneer core, particleboard, medium density fiberboard (MDF), and thin MDF (MDF with maximum thickness of eight millimeters); or from a distributor during their five-month sell-through period for noncomplying hardwood plywood with composite core. As explained previously, these latter sell-through provisions apply only to composite wood products manufactured before the applicable effective dates. It is not legal for a fabricator to purchase noncomplying composite wood products manufactured after an applicable effective date; there is no sell-through period for such products.

Retailers:

Composite wood products: Retailers may sell, supply, or offer for sale noncomplying composite wood products for up to sixteen months after the effective date of the Phase 1 emission standard for hardwood plywood with veneer core, particleboard, medium density fiberboard (MDF), and thin MDF (MDF with maximum thickness of eight millimeters), for up to twelve months after the effective date of the Phase 1 emission standard for hardwood plywood with composite core, and for up to twelve months after the effective date of the applicable Phase 2 emission standards.

Finished goods: Retailers may sell, supply, or offer for sale finished goods containing noncomplying composite wood for up to eighteen months after the applicable effective date of the emission standard.

As noted above, the sell-through periods for fabricators of finished goods and retailers of finished goods are both eighteen months beyond the applicable effective dates. These time periods are not additive. In other words, a retailer who purchases finished goods from a fabricator during the eighteen month sell-through period cannot legally sell these goods in California after the end of the eighteen month period.

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

Manufacturer Sell-through Dates: Composite Wood Products ATCM ¹					
Action	HWPW- VC ²	HWPW- CC	PB	MDF	tMDF
<u>Pre-Phase 1 Products</u>					
Panels: Last day to manufacture Pre-Phase 1	31 Dec '08	30 Jun '09	31 Dec '08	31 Dec '08	31 Dec '08
Effective date of Phase 1 Standard	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Last day to sell Pre-Phase 1	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
<u>Phase 1 Compliant Products</u>					
Panels: Required to begin manufacturing Phase 1	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Required to begin selling Phase 1	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Panels: Last day for manufacturing Phase 1	31 Dec '09	30 Jun '12	31 Dec '10	31 Dec '10	31 Dec '11
Effective date of Phase 2 Standard	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Panels: Last day to sell Phase 1	31 Mar '10	30 Sep '12	31 Mar '11	31 Mar '11	31 Mar '12
<u>Phase 2 Compliant Products</u>					
Panels: Required to begin manufacturing Phase 2	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Panels: Required to begin selling Phase 2	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
<p>(1) <u>Disclaimer</u>: This table is an informative digest of the text in title 17, California Code of Regulations, section 93120.12, Appendix 1 (Sell-through Provisions and Dates that Apply to Manufacturers, Distributors, Importers, Fabricators, and Retailers). It is not legally binding and does not supersede the requirements in the final regulation order.</p> <p>(2) <u>Acronyms</u>: HWPW-VC: Hardwood Plywood-Veneer Core HWPW-CC: Hardwood Plywood-Composite Core PB: Particleboard MDF: Medium Density Fiberboard tMDF: Thin Medium Density Fiberboard</p>					

Distributor Sell-through Dates: Composite Wood Products ATCM ¹					
Action	HWPW-VC ²	HWPW-CC	PB	MDF	tMDF
<u>Pre-Phase 1 Products</u>					
Effective date of Phase 1 Standard	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Last day to buy Pre-Phase 1 from manufacturers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day to buy Pre-Phase 1 from importers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day for selling Pre-Phase 1	30 Sept '09	30 Nov '09	30 Sept '09	30 Sept '09	30 Sept '09
Finished Goods: Last day for selling Pre-Phase 1	30 Jun '10	31 Dec '10	30 Jun '10	30 Jun '10	30 Jun '10
<u>Phase 1 Compliant Products</u>					
Panels: Required to begin selling Phase 1	1 Oct '09	1 Dec '09	1 Oct '09	1 Oct '09	1 Oct '09
Effective date of Phase 2 Standard	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Panels: Last day to buy Phase 1 from manufacturers	31 Mar '10	30 Sep '12	31 Mar '11	31 Mar '11	31 Mar '12
Panels: Last day to buy Phase 1 from importers	31 Mar '10	30 Sep '12	31 Mar '11	31 Mar '11	31 Mar '12
Panels: Last day for selling Phase 1	31 May '10	30 Nov '12	31 May '11	31 May '11	31 May '12
Finished Goods: Required to begin selling Phase 1	1 Jul '10	1 Jan '11	1 Jul '10	1 Jul '10	1 Jul '10
Finished Goods: Last day for selling Phase 1	30 Jun '11	31 Dec '13	30 Jun '12	30 Jun '12	30 Jun '13
<u>Phase 2 Compliant Products</u>					
Panels: Required to begin selling Phase 2	1 Jun '10	1 Dec '12	1 Jun '11	1 Jun '11	1 Jun '12
Finished Goods: Required to begin selling Phase 2	1 Jul '11	1 Jan '14	1 Jul '12	1 Jul '12	1 Jul '13
<p>(1) <u>Disclaimer</u>: This table is an informative digest of the text in title 17, California Code of Regulations, section 93120.12, Appendix 1 (Sell-through Provisions and Dates that Apply to Manufacturers, Distributors, Importers, Fabricators, and Retailers). It is not legally binding and does not supersede the requirements in the final regulation order.</p> <p>(2) <u>Acronyms</u>: HWPW-VC: Hardwood Plywood-Veneer Core HWPW-CC: Hardwood Plywood-Composite Core PB: Particleboard MDF: Medium Density Fiberboard tMDF: Thin Medium Density Fiberboard</p>					

Importer Sell-through Dates: Composite Wood Products ATCM ¹					
Action	HWPW-VC ²	HWPW-CC	PB	MDF	tMDF
<u>Pre-Phase 1 Products</u>					
Effective date of Phase 1 Standard	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Last day to buy or sell Pre-Phase 1	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Finished Goods: Last day for selling Pre-Phase 1	30 Jun '10	31 Dec '10	30 Jun '10	30 Jun '10	30 Jun '10
<u>Phase 1 Compliant Products</u>					
Panels: Required to begin selling Phase 1	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Effective date of Phase 2 Standard	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Panels: Last day for selling Phase 1	31 Mar '10	30 Sep '12	31 Mar '11	31 Mar '11	31 Mar '12
Finished Goods: Required to begin selling Phase 1	1 Jul '10	1 Jan '11	1 Jul '10	1 Jul '10	1 Jul '10
Finished Goods: Last day for selling Phase 1	30 Jun '11	31 Dec '13	30 Jun '12	30 Jun '12	30 Jun '13
<u>Phase 2 Compliant Products</u>					
Panels: Required to begin selling Phase 2	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
Finished Goods: Required to begin selling Phase 2	1 July '11	1 Jan '14	1 Jul '12	1 Jul '12	1 Jul '13
<p>⁽¹⁾ <u>Disclaimer</u>: This table is an informative digest of the text in title 17, California Code of Regulations, section 93120.12, Appendix 1 (Sell-through Provisions and Dates that Apply to Manufacturers, Distributors, Importers, Fabricators, and Retailers). It is not legally binding and does not supersede the requirements in the final regulation order.</p> <p>⁽²⁾ <u>Acronyms</u>: HWPW-VC: Hardwood Plywood-Veneer Core HWPW-CC: Hardwood Plywood-Composite Core PB: Particleboard MDF: Medium Density Fiberboard tMDF: Thin Medium Density Fiberboard</p>					

Fabricator Sell-through Dates: Composite Wood Products ATCM ¹					
Action	HWPW-VC ²	HWPW-CC	PB	MDF	tMDF
<u>Pre-Phase 1 Products</u>					
Effective date of Phase 1 Standard	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Last day to buy Pre-Phase 1 from manufacturers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day to buy Pre-Phase 1 from importers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day to buy Pre-Phase 1 from distributors	30 Sept '09	30 Nov '09	30 Sept '09	30 Sept '09	30 Sept '09
Finished Goods: Last day for selling Pre-Phase 1	30 Jun '10	31 Dec '10	30 Jun '10	30 Jun '10	30 Jun '10
<u>Phase 1 Compliant Products</u>					
Panels: Required to buy Phase 1 from manufacturers	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Panels: Required to buy Phase 1 from importers	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Panels: Required to buy Phase 1 from distributors	1 Oct '09	1 Dec '09	1 Oct '09	1 Oct '09	1 Oct '09
Effective date of Phase 2 Standard	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Finished Goods: Required to begin selling Phase 1	1 Jul '10	1 Jan '11	1 Jul '10	1 Jul '10	1 Jul '10
Finished Goods: Last day for selling Phase 1	30 Jun '11	31 Dec '13	30 Jun '12	30 Jun '12	30 Jun '13
<u>Phase 2 Compliant Products</u>					
Panels: Required to buy Phase 2 from manufacturers	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
Panels: Required to buy Phase 2 from importers	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
Panels: Required to buy Phase 2 from distributors	1 Jun '10	1 Dec '12	1 Jun '11	1 Jun '11	1 Jun '12
Finished Goods: Required to sell Phase 2	1 Jul '11	1 Jan '14	1 Jul '12	1 Jul '12	1 Jul '13
<p>⁽¹⁾ <u>Disclaimer</u>: This table is an informative digest of the text in title 17, California Code of Regulations, section 93120.12, Appendix 1 (Sell-through Provisions and Dates that Apply to Manufacturers, Distributors, Importers, Fabricators, and Retailers). It is not legally binding and does not supersede the requirements in the final regulation order.</p> <p>⁽²⁾ <u>Acronyms</u>: HWPW-VC: Hardwood Plywood-Veneer Core MDF: Medium Density Fiberboard HWPW-CC: Hardwood Plywood-Composite Core tMDF: Thin Medium Density Fiberboard PB: Particleboard</p>					

Retailer Sell-through Dates: Composite Wood Products ATCM ¹					
Action	HWPW-VC ²	HWPW-CC	PB	MDF	tMDF
<u>Pre-Phase 1 Products</u>					
Effective date of Phase 1 Standard	1 Jan '09	1 Jul '09	1 Jan '09	1 Jan '09	1 Jan '09
Panels: Last day to buy Pre-Phase 1 from manufacturers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day to buy Pre-Phase 1 from importers	31 Mar '09	30 Sep '09	31 Mar '09	31 Mar '09	31 Mar '09
Panels: Last day to buy Pre-Phase 1 from distributors	30 Sept '09	30 Nov '09	30 Sept '09	30 Sept '09	30 Sept '09
Panels: Last day for selling Pre-Phase 1	30 Apr '10	30 Jun '10	30 Apr '10	30 Apr '10	30 Apr '10
Finished Goods: Last day for selling Pre-Phase 1	30 Jun '10	31 Dec '10	30 Jun '10	30 Jun '10	30 Jun '10
<u>Phase 1 Compliant Products</u>					
Panels: Required to buy Phase 1 from manufacturers	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Panels: Required to buy Phase 1 from importers	1 Apr '09	1 Oct '09	1 Apr '09	1 Apr '09	1 Apr '09
Panels: Required to buy Phase 1 from distributors	1 Oct '09	1 Dec '09	1 Oct '09	1 Oct '09	1 Oct '09
Effective date of Phase 2 Standard	1 Jan '10	1 Jul '12	1 Jan '11	1 Jan '11	1 Jan '12
Panels: Last day for selling Phase 1	31 Dec '10	30 Jun '13	31 Dec '11	31 Dec '11	31 Dec '12
Finished Goods: Last day for selling Phase 1	30 Jun '11	31 Dec '13	30 Jun '12	30 Jun '12	30 Jun '13
<u>Phase 2 Compliant Products</u>					
Panels: Required to buy Phase 2 from manufacturers	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
Panels: Required to buy Phase 2 from importers	1 Apr '10	1 Oct '12	1 Apr '11	1 Apr '11	1 Apr '12
Panels: Required to buy Phase 2 from distributors	1 Jun '10	1 Dec '12	1 Jun '11	1 Jun '11	1 Jun '12
Panels: Required to sell Phase 2	1 Jan '11	1 Jul '13	1 Jan '12	1 Jan '12	1 Jan '13
Finished Goods: Required to sell Phase 2	1 Jul '11	1 Jan '14	1 Jul '12	1 Jul '12	1 Jul '13
<p>⁽¹⁾ <u>Disclaimer</u>: This table is an informative digest of the text in title 17, California Code of Regulations, section 93120.12, Appendix 1 (Sell-through Provisions and Dates that Apply to Manufacturers, Distributors, Importers, Fabricators, and Retailers). It is not legally binding and does not supersede the requirements in the final regulation order.</p> <p>⁽²⁾ <u>Acronyms</u>: HWPW-VC: Hardwood Plywood-Veneer Core MDF: Medium Density Fiberboard HWPW-CC: Hardwood Plywood-Composite Core tMDF: Thin Medium Density Fiberboard PB: Particleboard</p>					