

MANUFACTURERS

SPECIAL BULLETIN 2011-02

January 10, 2011

TO: CMHI Manufacturers
CMHI Retailers
CMHI community Owner & Developers
CMHI Board of Directors

FROM: Jess Maxcy

SUBJECT: Formaldehyde Up-Date Phase I & II Sell-Through Dates

On January 6, 2011 the California Air Resources Board (CARB) released the attached regulatory guidance. For the **complete** regulatory guidance (pages 1-8) go to <http://www.arb.ca.gov/toxics/compwood/compwood.htm>

CAVEAT

Manufacturers and retailers should pay particular attention to the "finished goods" dates highlighted in yellow on pages 7 and 8 and the penultimate paragraph on page 3 which reads:

"the sell-through periods for fabricators of finished goods and retailers of finished goods containing Phase 1 compliant composite wood products 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."





Regulatory Guidance

January 2011



Composite Wood Products ATCM

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

(Note: This guidance document contains a comprehensive listing of the sell-through provisions and dates for all regulated entities involved with the sale of composite wood product panels and finished goods in California. Some of the dates in this document have been revised to reflect Regulatory Advisory 10-01, which extended the sell-through date through December 31, 2011, for distributors, fabricators, and retailers of finished goods made with pre-Phase 1 panels.)

Introduction

In April 2007, the California Air Resources Board approved an airborne toxic control measure (ATCM) to reduce formaldehyde emissions from composite wood product panels 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 and finished goods. The ATCM contains "sell-through" provisions that allow affected businesses to sell or use noncomplying composite wood products and finished goods for specified periods of time after the emission standard effective dates in the ATCM. The purpose of this guidance document 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 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 established 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 became 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 1 of section 93120.12 contains the sell-through provisions that apply to entities required to comply with the regulation. 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.) The sell-through provisions are generally summarized below for all regulated entities, subdivided by whether the provisions apply to composite wood product panels or finished goods:

Manufacturers:

Composite wood product panels: 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 product panels: 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 Phase 1 compliant composite wood products for up to eighteen months after the applicable Phase 2 emission standards.

Distributors:

Composite wood product panels: Distributors may sell, supply, or offer for sale Phase 1 compliant particleboard, medium density fiberboard, and hardwood plywood with composite core for up to five months after the effective dates of the applicable Phase 2 emission standards.

Finished goods: Distributors may sell, supply, or offer for sale finished goods containing pre-Phase 1 noncomplying composite wood products through December 31, 2011; and finished goods containing Phase 1 compliant composite wood products for up to eighteen months after the applicable Phase 2 emission standards.

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 of the Phase 1 emission standards through December 31, 2011. Fabricators may also use pre-Phase 1 noncomplying composite wood products, such as material that was on-site in storage or acquired during a sell-through period from a manufacturer or distributor, to make new finished goods and then sell, supply, or offer for sale those finished goods through December 31, 2011. 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.

Similarly, fabricators may sell, supply, or offer for sale finished goods made with Phase 1 compliant composite wood products for up to eighteen months after the applicable effective date of the Phase 2 emission standards.

Note: A fabricator may not purchase for use in finished goods any pre-Phase 1 noncomplying composite wood products manufactured before the applicable Phase 1 effective date, unless it was purchased from a manufacturer or importer during their three month sell-through period for pre-Phase 1 noncomplying composite wood products; or from a distributor on or before December 31, 2010. As explained previously, the revised sell-through provisions apply only to composite wood products manufactured before the applicable Phase 1 effective dates. It is not legal for a fabricator to purchase pre-Phase 1 noncomplying composite wood products manufactured after an applicable effective date; there is no sell-through period for such products.

Retailers:

Composite wood product panels: Retailers may sell, supply, or offer for sale Phase 1 compliant composite wood products 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 pre-Phase 1 noncomplying composite wood products through December 31, 2011; and finished goods containing Phase 1 compliant composite wood products for up to eighteen months after the effective date of the applicable Phase 2 emission standards.

As noted above, the sell-through periods for fabricators of finished goods and retailers of finished goods containing Phase 1 compliant composite wood products 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.