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SPECIAL BULLETIN 2012-03
PHASE I FORMALDEHYDE
EXTENSION

February 6, 2012

TO: All CMHI Members

FROM: Jess Maxcy

SUBJECT: Phase I Formaldehyde "Sell Through" Extension

GOOD NEWS

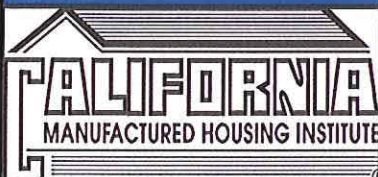
As you were informed in Special Bulletin 2011-02 and again on CMHI's web page on January 17, 2012, the "sell through period" for homes containing Phase I formaldehyde materials was set to expire on June 30, 2012.

The California Air Resources Board has released Regulatory Advisory 12-01 (attached) which extends the "sell through period" for "finished goods" (manufactured homes) containing Phase I formaldehyde materials to December 31, 2013.

This change, coupled with our Pre-Phase I extension and the fact that our manufacturers voluntarily switched to Phase II products months before the mandatory change over date, should bring us into compliance with the new emission standards without the need for cost prohibitive retrofits.

CMHI is thankful for the responsiveness and guidance from CARB as we work to resolve the issues peculiar to our industry and ensure compliance.

JRM



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Composite Wood Products Regulation Advisory: 12-01

EXTENSION OF SELL-THROUGH DATES FOR RETAILERS OF PRE-PHASE 1 FINISHED GOODS AND

DISTRIBUTORS, FABRICATORS, AND RETAILERS OF PHASE 1 FINISHED GOODS

The California Air Resources Board (ARB) staff is administratively extending the sell-through date in the ARB's Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products (the "Regulation") that applies to retailers of finished goods made with pre-Phase 1 (noncompliant) composite wood product panels. In addition, this advisory also provides an extension of the sell-through dates for distributors, fabricators, and retailers of finished goods made with Phase 1 compliant composite wood product panels. Further details on the extensions of the sell-through dates are described below:

Pre-Phase 1 Finished Goods Sell-through Extension

- applies only to retailers physically located in California;
- provides for the sale of pre-Phase 1 finished goods through December 31, 2012; and
- only applies to the inventory of finished goods that is currently part of a retailer's California-based inventory that had been purchased prior to December 31, 2011, and for which the retailer has records to document that finished goods were purchased prior to December 31, 2011.

Phase 1 Finished Goods Sell-through Extension

- applies to distributors, fabricators, and retailers;
- provides for the sale by distributors and fabricators of Phase 1 finished goods through December 31, 2012;
- provides for the sale by retailers of Phase 1 finished goods through December 31, 2013; and
- does not apply to importers.

The purpose of these extensions is to address excess inventories in California of finished goods made with pre-Phase 1 and Phase 1 composite wood product panels. These excess inventories are the result of slow sales across many business sectors.

This advisory also provides retailers with one sell-through deadline for Phase 1 finished goods, regardless of the type of Phase 1 composite wood products contained in finished goods. This will help to avoid confusion with different Phase 1 sell-through dates for different composite wood products, especially in cases in which finished goods contain different types of composite wood products (e.g., doors that contain particleboard and thin medium density fiberboard).

ARB plans to amend the Regulation in late 2012. The amendments will address these extensions.

Definitions

- “Pre-Phase 1 finished goods” means finished goods (such as furniture, cabinets, picture frames, stereo speakers, etc.) made from pre-Phase 1 (noncompliant) composite wood product panels. “Pre-Phase 1 composite wood product panels” are hardwood plywood (HWPW) with veneer or composite core, particleboard, medium density fiberboard (MDF), and thin MDF manufactured before January 1, 2009, that do not comply with the Phase 1 emission standards specified in the Regulation.
- “Phase 1 finished goods” means finished goods made with Phase 1 compliant composite wood product panels.
- “Extension” means that ARB will not enforce the sell-through date for finished goods made with pre-Phase 1 panels until after December 31, 2012, and will not enforce the sell-through date for finished goods made with Phase 1 panels until after December 31, 2012 for distributors and fabricators, and after December 31, 2013 for retailers.

Background

The Regulation applies to manufacturers, importers, distributors, fabricators, and retailers of composite wood product panels and finished goods that contain regulated products. The Regulation establishes a phased-in approach to formaldehyde emission standards with the most stringent standards going into effect between January 2010 and July 2012.

Importers, distributors, fabricators, and retailers in California must ensure that any finished goods that they sell are made with composite wood products that meet the formaldehyde emission standards in the Regulation. The Regulation has provisions that allow businesses a limited amount of time to sell finished goods made with composite wood products that do not meet the emission standards if those products were manufactured before the effective date of each emission standard. This is referred to as the sell-through period. Allowing businesses time to sell or use existing inventories provides a smoother transition to each new emission standard. ARB previously extended the sell-through deadline for distributors, fabricators, and retailers of finished goods that contain pre-Phase 1 composite wood products from June 30, 2010 to December 31, 2011. No extensions have been provided to manufacturers of composite wood product panels.

Why is ARB extending the sell-through period for finished goods?

ARB recognizes that, due to slow sales, many businesses have unsold finished goods containing composite wood products. ARB also recognizes that some small businesses may not yet be familiar with the Regulation. Therefore, ARB is administratively providing additional time, until December 31, 2012, for retailers to deplete their existing inventories of pre-Phase 1 finished goods and for ARB staff to provide additional outreach and education. Similarly, ARB is providing additional time for distributors, fabricators, and retailers to sell their inventories of Phase 1 finished goods.

What other issues should businesses be aware of?

The extension is intended to allow retailers more time to deplete their existing inventories of pre-Phase 1 finished goods that exist within California. Retailers must have records to document that finished goods were purchased prior to December 31, 2011. Allowing the continued foreign importation or domestic transfer into California of pre-Phase 1 finished goods would simply add to the existing inventories and make the problem worse. Therefore, the extension does not apply to any pre-Phase 1 finished goods that were purchased for import or transfer into California after December 31, 2011.

The extension for Phase 1 finished goods is intended to allow distributors, fabricators, and retailers more time to deplete their inventories. The sell-through period for importers of Phase 1 finished goods is not being extended, to avoid adding to existing inventories of Phase 1 finished goods. Retailers need to be aware that the sell-through deadline for importers of most Phase 1 finished goods, provided by the Regulation, is June 30, 2012.

What can retailers do to comply and to ensure finished goods meet the Regulation's emission requirements?

- **Check with suppliers** – When purchasing finished goods from distributors, importers, or fabricators, retailers must verify with their suppliers that the finished goods they are purchasing comply with the applicable Phase 1 or Phase 2 emission standards.
- **Check for proper labels** - Finished goods containing composite wood products must be labeled by the fabricators to show the fabricator's name, date of fabrication, and statement of compliance.
- **Check invoices** - Suppliers must include a statement denoting compliance with the regulation. Check for a statement on invoices or bills of lading for all finished goods made with hardwood plywood, particleboard, or medium density fiberboard.
- **Keep proper records** - Records must be kept (such as invoices, bills of lading) of all regulated finished good purchases, showing the date of purchase and the suppliers. These records must be kept for at least two years.

For more information

The Regulation may be viewed 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 also available on this website.