



Regulatory Advisory

July 2010



Composite Wood Products Regulation Advisory: 10-01

EXTENSION OF SELL-THROUGH DATE FOR DISTRIBUTORS, FABRICATORS, AND RETAILERS OF PRE-PHASE 1 FINISHED GOODS

The California Air Resources Board (ARB) is delaying the enforcement of the sell-through date that applies to distributors, fabricators, and retailers of finished goods made with pre-Phase 1 composite wood product panels. The extension is through December 31, 2011, and affects businesses which use composite wood product panels (i.e., fabricators) to make finished goods, such as furniture, cabinets, picture frames, etc., as well as businesses that distribute or sell these goods at the retail level. The extended sell-through period will not change the anticipated emission reduction benefits, because ARB had expected that these pre-Phase 1 finished goods would have already been sold if the economy and turnover of inventories had not slowed. The purpose of this extension is to address excess inventories within California of finished goods made with pre-Phase 1 composite wood product panels. These excess inventories are a result of the economic recession, which has led to slow sales across many business sectors.

Definitions

- “Pre-Phase 1 composite wood product panels” means composite wood product panels manufactured before January 1, 2009, that do not comply with the Phase 1 emission standards specified in ARB’s Airborne Toxic Control Measure To Reduce Formaldehyde Emissions From Composite Wood Products (the “Regulation”).
- “Pre-Phase 1 finished goods” means finished goods made from pre-Phase 1 composite wood product panels.
- “Extension,” “delay in enforcement,” and “enforcement grace period” mean that ARB will not enforce the sell-through dates for finished goods made with pre-Phase 1 panels until after December 31, 2011. During this enforcement grace period, ARB regulatory staff will not refer pre-Phase 1 finished goods for penalties or take other enforcement action against distributors, fabricators, and retailers regarding the affected sell-through dates.

Background

Businesses required to comply with the Regulation are: manufacturers, distributors, importers, 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.

To comply with the Regulation, panels must meet the formaldehyde emission standards specified in the Regulation and must have been produced by a manufacturer that has been certified by an ARB-approved third party certifier. Similarly, panels used to make finished goods must also have been certified as complying with the emission standards.

The Regulation has provisions that allow businesses a limited time to sell or use non-compliant composite wood products 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. If a composite wood product was manufactured after an applicable effective date, the product must meet the applicable emission standard.

Why is ARB extending the sell-through period for pre-Phase 1 finished goods?

ARB recognizes that many California businesses that sell and supply finished goods containing composite wood products have been and continue to be adversely affected by the recession. Therefore, the ARB is providing an additional year, until December 31, 2011, for distributors, fabricators, and retailers to deplete their existing inventories of pre-Phase 1 finished goods.

In November 2009, the ARB issued Regulatory Advisory 09-04, which extended through December 31, 2010, the sell-through dates that apply to: 1) distributors and retailers of pre-Phase 1 composite wood product panels; 2) distributors, importers, fabricators, and retailers of finished goods made with pre-Phase 1 composite wood product panels; and 3) distributors of Phase 1 compliant hardwood plywood with veneer core (HWPW-VC). Since November 2009, staff has monitored the sell-through and found that the sale of many finished goods are still slow due to the recession and more time is needed to draw down remaining inventories of pre-Phase 1 finished goods.

No extensions have been provided to manufacturers of composite wood product panels. All particleboard (PB), medium density fiberboard (MDF), hardwood plywood with composite core (HWPW-CC), and thin MDF currently being manufactured for California must be Phase 1 compliant. Many PB and MDF manufacturers are already certified as meeting the Phase 2 standards. Likewise, all HWPW-VC being manufactured for California must be Phase 2 compliant. Manufacturers currently have the capacity to produce ample quantities of certified panels to meet both Phase 1 and Phase 2 demand.

What other issues should distributors, fabricators, and retailers be aware of?

The delay in enforcement is intended to allow distributors, fabricators, and retailers more time to deplete their existing inventories of pre-Phase 1 finished goods that exist within California. Allowing the continued foreign importation into California of pre-Phase 1 finished goods would simply add to the existing inventories and make the problem worse. Therefore, the delay in enforcement does not apply to the foreign importation into California of pre-Phase 1 finished goods for sale in California.

What is the extended sell-through date?

As mentioned, ARB previously announced a delay until December 31, 2010, in the enforcement of the sell-through dates for distributors, importers, fabricators, and retailers of pre-Phase 1 finished goods. With this Regulatory Advisory, this date is extended until December 31, 2011, for distributors, fabricators, and retailers. For importers, the enforcement delay for pre-Phase 1 finished goods will expire on December 31, 2010.

For more information

The Regulation may be viewed at: <http://www.arb.ca.gov/toxics/compwood/compwood.htm>. Appendix 1 of section 93120.12 of the Regulation sets forth the sell-through provisions. Additional information about complying with the Regulation, including staff contacts, fact sheets and Frequently Asked Questions, are available on this website.