



NEWSLETTER DECEMBER 2017

Furniture Regulatory Updates

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HIGHER IMPORT DUTIES on PLYWOOD

After the U.S. Department of Commerce (DOC) recently set antidumping and countervailing duty rates on imported plywood from China. The final determination has now been approved by the U.S. International Trade Commission (ITC) ruling that material harm has occurred by the low priced and subsidized imported Plywood from China. The vote was a unanimous 4 to 0 on December 1, 2017. This now activates the new added antidumping duties (AD) of 183.6% and up to 194.9% for countervailing duties (CVD) that counter

the subsidization of plywood exports by the Chinese government.

This action is the culmination of investigations after a petition from the Coalition for fair trade of hardwood plywood(CFTHP) and a subsequent one year investigation by the ITC. This coalition, of group of six producers and manufacturers claim that the plywood imports were dumped for many years at very low prices and resulted in the closing of 42 domestic mills producing plywood and reduced capacity at many other mills with a loss of over 52,000 jobs in the U.S. and \$2 billion in wages.

However in opposition to the new duties the American Alliance for Hardwood Plywood(AAHP) made up many companies who import hardwood plywood from China reacted with strong disappointment .Greg Simon Chairman of the AAHP stated that “Industries including the kitchen cabinet, recreational

vehicle, window&door, Furniture, U.S. home builders and flooring industries all use Chinese plywood because it is *DISTINCTIVELY DIFFERENT* from American hardwood plywood.

Imported hardwood plywood from China totaled over \$1 billion last year. Supporting the AAHP were many industry groups including the Kitchen Cabinet MFG. Association, National Association of Home Builders, The Recreational Vehicle Association and the International Wood Products Association(IWPA).

So, as we can surmise, there is always support and opposition to new governmental regulations. We will continue to cover the progression and ramifications of these new import duties on these American industries. The question is;

Who will really benefit from these duties on imports?

Will prices on domestic produced plywood become an opportunity to significantly

increase prices?

Will a comparison of the qualities of the Chinese vs.American made plywood be revealed?

Will the 6 American companies of the CFTHP be watched by investigators to see if price alterations occur?

How will the larger group of Industries in support of the AAHP react in the marketplace in 2018?

We will follow this story in our Newsletters.All comments are welcome.

AMAZON FURNITURE BRANDS

Amazon has recently introduced two new furniture brands;**RIVET** and **STONE and BEAM** will be produced by contract manufacturers and will offer lower price points than brand-name competitors.

Rivet and Stone and Beam will provide”stylish and versatile midcentury-

modern furniture and décor” including sofas, side tables, arm chairs, rugs, lamps and wall art.

Rivet is more trendy and affordable while *Stone and Beam* emphasizes durability and the quality of items meant to last, at slightly higher price points. These two new private label brands are exclusive to Amazon and both will offer free shipping with “Amazon Prime”, a 30-day free returns policy and limited warranties.

An Amazon spokesperson replied when asked where the new furniture is being produced stated “in various locations” and “we are collaborating with well-respected manufacturers that have strong reputations in their respective industries”.

Since the recent launch of its first furniture brands, investment stocks of many of the leading furniture companies are down including; Wayfair-6.3%, Restoration

Hardware-3.7%, Bed Bath & Beyond-4.5%, William Sonoma-4.6% and Kirkland's down- 5.1%

Furniture is one of the fastest growing categories at Amazon. Total U.S. furniture sales were \$70 billion in 2016 and Amazon furniture sales were \$2.3 billion in 2016 with year to date furniture sales now up 50% for Amazon for 2017, according to a report by Nathan Rigby at One Click Retail.

With it's knowledge of trends in retail there is a new direction for Amazon to use it's enormous collection of data to know exactly what consumer's want and an investment in productng the product itself with certain manufacturers, thereby cutting out the middle-man and offering their well tested services while still being profitable and establishing their own brands now seems to be in the making.

FIRE SAFETY FOR CANDLES

A new standard ASTM-F2417-17 has been updated in October 2017. The safety standard for candles sets out minimum safety requirements intended to reduce fires, deaths and injuries from burning candles. The updates include:

1)-Description of the size of candles generally 17 inches or more are defined as “extended use candles” Maximum Flame height up to 3 inches (most candles), 3.75 inches for extended use candles. Candles intended for outdoor use are exempt.

2)-Candle Burning Performance tests are now specified to burn for the prescribed length of time above the 8 hours for gel-containing candles and the 4 hours for other types of candles.

3)-Stability test-Candles must remain stable when tilted to 10 degrees off level. Must not tip over during testing.

4)-Burn test parameters;Candles burn in 4 hour burn cycles until end of use.Wicks trimmed to Mfg.label instructions.Minimun draft,Temperatures 68 to 86 degrees and flame heights observed at periodic intervals.

Contact us for more specific language of ASTM F2407-17.

U.S.TRADE LAWS INCREASE IN 2017

The U.S.Department of Commerce this year has initiated 77 antidumplig and countervailing duty investigations, a 61% increase over the 48 investigations in 2016.Besides the plywood case detailed above,the DOC has decided to issue a final determination for countervailing duties(CVD) on imports of Chinese metallic cabinets and tool chests.The department determined that China is providing **subsidies** to its producers of cabinets and tool chests at rates from 14.03% to 95.96% and will issue

countervailing duties at these rates and instruct U.S. Customs and Border Protection (CBP) to require cash deposits based on these rates at time of importation. Exempted from this action are items made of plastic, wood, carbon fiber or other non-metallic substances.

Canadian Softwood Lumber

The U.S. International Trade Commission (USITC) has on December 7th determined that a U.S. industry is materially injured by reason of imports of softwood lumber from CANADA and that the U.S. Department of Commerce has determined that the lumber is subsidized and sold in the U.S. at less than fair prices. Therefore Commerce will issue antidumping and countervailing duty orders on imports from Canada. The USITC will issue a full report by January 12, 2018. The petition was filed by a coalition of 49 U.S. lumber producing

companies employing 18,361 workers in the U.S. in 19 States, totaling shipments of \$11.5 billion, while total U.S. consumption is \$17.9 billion. Imports total \$5.8 billion or 32.2% of U.S. consumption.

The U.S. Lumber Coalition representing large and small lumber producers is joined by 350,000 workers and tens of thousands of woodland owners across the United States. The combined total final determination rates for all added duties is estimated to be from 10% to 23% or \$1.2 billion on Canadian softwood lumber. Note that Canadian softwood is a heavier species than softwood lumber from the southern U.S. and is used for house framing and other high stress components in new home construction, where for example in Georgia 80% of framing lumber used in home construction is from Canada.

Compliance dates Formaldehyde rule.

The U.S.EPA after delaying the implementation of the TSCA Title VI 770 regulation for formaldehyde emissions from composite wood products (plywood, MDF and particle board) has again delayed the implementation of a direct final rule.

Originally the final rule was December 12, 2016 then delayed until March 21, 2017 then changed to May 22, 2017 then on September 25, 2017 EPA issued a final rule but again extended the December 12, 2017 date to December 12, 2018.

This is where things stand today.

However in the meantime the US EPA on December 8, 2017 withdrew the date again because of the adverse comments received from stakeholders concerning the different specific quality control methods used in testing procedures by CARB and the U.S. EPA.

So, we are now in a new comment period and there is no change to the December 12, 2018 date yet, but we can expect further delays.

The provision to provide early labeling is still allowed at this time but it is difficult to predict the final/final date of the implementation of the new National formaldehyde regulation by the U.S.EPA “TSCA Title VI 40 CFR Part-770” for formaldehyde emission standards from the composite woods used in furniture.

Other dates extended are:

- a)-For import certification provisions extended to March 22,2019 and,
- b)-For Laminated products producer provisions extended to March 22,2024 and,
- c)-For Conclusion of the transfer period for Third-Party Certifyers(TPC’S) to March 22,2019.

For California the current CARB PHASE TWO regulation is still in effect and for furniture shipped into and offered for sale in California it will continue to be in effect.

When the U.S.EPA national regulation is finally implemented BOTH regulations will be required for California and labeled as such on furniture items.

PROP 65 SAFE HARBOR LEVELS

As Stated on the OEHHA website on May,17,2017. Safe harbor levels,which include “No Significant Risk Levels(NSRLs)” for cancer causing chemicals and Maximum Allowable Dose Levels(MADLs) for chemicals causing reproductive toxicity have been established for many of the chemicals listed under Proposition 65.Exposure levels and discharges to drinking water sources that are below the Safe Harbor levels are exempt from the requirements of Proposition 65.Please see the Attorney General’s Proposition 65 website at <http://ag.ca/prop65> for further information about specific enforcement actions.The

current list of Safe Harbor levels for chemicals number over 300 out of the nearly 900 chemicals listed. The list is available by contacting this newsletter.

If an item of furniture has chemicals that are listed as Safe Harbor by OEHHA, than by the use of toxicology in a quantitative risk assessment study this can reveal if the item is exempted from Prop 65 enforcement since the exposure to the chemical(s) is under the safe harbor levels NSRL and or MADL and the risk over a 70 year period of exposure is limited.

The OEHHA regulation for compliance to California Prop 65 for furniture is required before August 30, 2018. There have been several changes to this regulation and there will be more revisions expected. As new information becomes available we will cover all new announcements in future editions of this newsletter.

CALIFORNIA PROP 65 and DEHP

There have been many lawsuits against furniture retail stores in California and the source factory where the suspect furniture item is produced.

In 2013 the chemical TDCPP and TCEP used as a flame retardants in upholstered furniture was sighted as a chemical that causes cancer and/or reproductive harm. Exposure to these chemicals were found not only in the polyurethane foam contained in sofas and chairs but in the air near these items of furniture. Consumers were being exposed from the release of morphed particles of these chemicals into the air and as dust that had settled on the floors in consumer's homes.

Testing of upholstered furniture from California at Duke University showed results of contamination and exposure to these flame retardant chemicals released

over time and the levels of these contaminants were above the safe harbor NSRL and MADL levels implemented by OEHHA as PROP 65.

These two chemicals were later banned in California and in many other States. Lawsuits were settled in California's Alameda Superior Court where in one individual case the settlement amounted to over \$670,000 for the retailers and manufacturer of these upholstered furniture goods.

In 2016 alone there were 760 settlements at a cost of over \$30,150,111. For various violations of Prop 65.

Now recently another chemical DEHP a phthalate or chemical used as a softener of plastic items or components which are found in many consumer products is being sighted in lawsuits. DEHP is found in many furniture finished goods, and furniture finishes and fabrics. Also in the following: cables, pvc, electrical wires, garden

furniture, lamps, leatherette (synthetic leather), fabrics, textiles, leather articles, formulation and use in polymers, upholstered furniture, packing materials, vinyl fabrics, rubber parts, zippers, mirrors and components, gaskets, motion furniture and vinyl parts and coverings.

DEHP is so ubiquitous that law suits have been settled on hundreds of consumer products. The settlements were nearly all requiring reformulation of DEHP to less than 1000 ppm (parts per million) and or required to provide a warning notice in the retail store and a warning notice label on the item.

For upholstered furniture the requirements are less than 1000 ppm for DEHP and the other phthalates BBP, DPB, DIDP, DINP and DnHP. In this case for upholstered furniture warning labels cannot be used as an alternative to meeting the requirement of reformulation or substitution to an

alternative safe chemical substance.

As we move forward toward the implementation of the final Prop 65 regulation and enforcement date of August 30,2018 more chemicals will certainly take prominence in new 60-day notices of a potential lawsuit from citizen enforcers,lawyer groups in Berkeley Calif.and the State Attorney General's office.We will keep clients aware of all developments as we proceed.

Prop 65 has it's effect worldwide not just for California businesses.If Furniture items are to be sold in California all manufacturers worldwide must adhere to the chemical restrictions in their furniture finished goods and must attach proper Prop 65 Warning Notice labels to the item itself in specific language deemed necessary by the California OEHHA(Office of Emvironmental Health Hazard Assessment) or face recalls,non-

sellable items, fines, penalties and lawsuits that will interrupt the supply chain of furniture goods to be shipped into California but manufactured worldwide.

Best Regards,
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