



NEWSLETTER AUGUST 2017

Schoenfeld Consulting

HEADLINE FURNITURE NEWS

Maine restricts certain flame retardant chemicals.

The State of Maine has issued a prohibition(HP138) on the sale and distribution of certain flame retardant chemicals used in new upholstered furniture. The new measure restricts flame retardant chemicals included but not limited to;”halogenated,phosphorous-containing,nitrogen-based and nanoscale flame retardants and any chemical or chemical compound where ‘flame retardant’ appears on the substance safety data sheet(SDS) under 29 CFR,section 1910.1200”.

The restriction is effective on January 1, 2019 it restricts the chemical or compound mixture of chemicals to be no more than 0.1% in new residential upholstered furniture. If new upholstered furniture was acquired by retailers and wholesalers before January 1, 2019 it can be sold or offered for sale or distributed until supplies are exhausted.

This act also protects firefighters who are in danger fighting fires where burning upholstered furniture containing these flame retardants could be “off gassing” dangerous fumes and other resultant chemicals that put fire fighters at risk.

The state of Maine will be developing a product labeling and registration program for upholstered furniture manufacturers and a product sampling and testing program for certification. We will follow the progress as this new law is implemented.

The

other States and jurisdictions regulating

flame retardant chemicals include; California, Hawaii, Illinois, Maryland, Michigan, New York, Oregon, Rhode Island, Minnesota, Vermont, Washington and Washington DC.

In California under the CAL-117-2013 flammability regulation issued in 2014 there is no provision to specifically ban the use of fire retardant chemicals as long as manufacturers comply with the California smolder testing requirements of TB-117-2013 (testing bulletin).

Also for California under Senate Bill #1019 there must be a label on all upholstered products for sale that indicates by a “yes or no” box, checked indicating if there are flame retardant chemicals used in the upholstered item or that there are no flame retardant chemicals used in the upholstered item.

The other States mentioned above have separate different regulations banning flame retardant chemicals in each

jurisdiction. These State regulations will individually be discussed in next month's Newsletter.

US EPA DATE for formaldehyde rule on emissions from furniture extended again.

After numerous changes in dates of the proposed rules for control of the emissions of formaldehyde from furniture containing composite wood. A final rule as of this date is not fully confirmed yet by the U.S.EPA.

Originally the date of December 12, 2017 was proposed then it was moved forward to March 22, 2018, then because there was some negative comments to this March date it reverted back to December 12, 2017. This is the date termed "manufactured by" date and labeling for compliance to the U.S.EPA rule was supposed to begin on this December date. However then a petition for "early warning labeling" was allowed before the December date as long as full compliance to the new rule could be

accomplished by manufacturers/fabricators who were required to label the furniture items.

So now early warnings can be done and the manufactured by date is still December 12,2017.... UNLESS a new petition is allowed and approved for extending the December date until March 22,2018.

This has been an exhausting process to keep track of and now on August 25th there might be more changes again to this U.S.EPA regulation.

We will keep you posted as this proceeds.

The Hub Group initiates new systems of ocean container controls

In May of 2017 in a white paper released by the HUB GROUP a multi-billion dollar transportation company,that is leading the way in technology advances by installing a global positioning system which tracks every movement of containers from point of origin to destination, providing more utilization and providing cargo safety and real time tracking capability.

For our U.S.furniture industry where imports now make up more than 60% of furniture,the use of ocean containers is at the center of the distribution network.Most all furniture retailers today rely on the flow of furniture goods in ocean containers in a timely and safe condition.Knowledge of exactly where containers are located after arriving at ports in the U.S. is vital to predict the arrival times for retail stores and their customers.

The Hub Group's Vice President Mr.Jakub Cerny explains that "the GPS, system sends an electronic message over a cellular network which relays it to the Hub Groups transportation management system whenever a container's location changes,when it starts being hauled by a truck,or when it stops.

It also sends an alert when a container is loaded or unloaded and when its door is opened or closed.Every time there is a change in any of these parameters,it sends a message that provides an update on all three data points.It also reports what we call a heartbeat at least every 24 hours to tell us everything is fine and that nothing has changed"

This new advance provides obvious protecion from theft which in high crime areas has always been a concern.As Hub VP Mr.Troy Spolum states "We are leveraging our technology for exceptional management,resulting in improved service and more

proactive communication to our customers”

Future developments by the Hub Group and other competitors will be covered in this growing system of giving more knowledge to furniture distributors and retailers. This knowledge can be passed on to customers and improve our furniture businesses ability to control the somewhat difficult task of predicting delivery times while keeping the cargo safe and secure.

CALIFORNIA OEHHA PROP 65

OEHHA is the California Office Of Environmental Health Hazard Assessment responsible for the voter approved Prop 65 regulations passed in 1986. The agency has expanded the regulation over the years and has established a list of harmful chemicals that can cause exposures that cause cancer, reproductive harm and/or both. This list of chemicals had initially listed 39 chemicals and now in 2017 has grown to more than 800+ chemicals found mainly in consumer products. Lawyers and concerned citizen enforcers have filed hundreds of lawsuits against businesses and the

manufacturers producing products for these businesses that are offered for sale in California. In 2016 alone these suits were settled for over \$20 million dollars and have continued at this rate with no end in sight. The average furniture store and linked manufacturer paid on average \$26,000.00 per suit, plus court settled required reformulations and removal of harmful chemicals and the introduction of reformulated materials.

As a result of these lawsuits, compliance to Prop 65 regulations has now become a worldwide regulatory obligation for manufacturers. Furniture shipments into California come from furniture factories around the world and all furniture imported into California and offered for sale requires compliance to Prop 65 starting at the manufacturing factories. In 2016 OEHHA shifted the major responsibility for warning consumers by required signage in the **retail stores** to the **manufacturer**, the producers of furniture goods. Now the manufacturer must

attach the proper prop 65 warning notices on the product itself and on the outside packaging of the product. Retail stores still must warn consumers in a manner that the warning notice contains specific language and is conspicuous or likely to be read before the consumer decides to purchase.

In August of 2018 OEHHA is expected to release the final requirements for Prop 65 “on-product” warning notices. The exact wording of these notices, some of which are “tailored for Furniture Stores”, manufacturers and retailers will be required to:

A)- name one or more of the chemicals that can cause an exposure to the risk of cancer and/or reproductive harm.

B)-state the route of exposure.

C)- state the likelihood of the specific chemical being a risk ,if exposure occurs and results in contacting cancer and or reproductive harm. This risk is done using toxicology in a quantitative risk assessment.

OEHHA has also developed a number of

“Safe Harbor” levels where if the toxicology report reveals that the exposure is less than a certain threshold level than the consumer product is considered a NSRL(non significant risk level) and no warning notice is required. Products above this level require warning notices in the retail furniture store and on the item and its packaging before it leaves the manufacturing furniture factory. So the burden today and in the future after August of 2018 is how does our furniture industry prepare for Prop 65 enforcement? In order to avoid having to label each furniture item as well as post notices in retail stores, it is now required to follow a chain of custody upstream from the retail store to the manufacturer and to any sub-suppliers and sub-sub-suppliers. Then after establishing the exact chemicals contained in the furniture item, the toxicology testing for Safe Harbor levels in finished furniture goods and MSDS and SDS sheets listing the chemicals used at the manufacturing factory and

tracing this relevantly small group of chemicals out of the 800+ on the prop 65 list will be required.

So, the full costly toxicology testing by a quantitative risk assessment analysis will be required to prove that the safe harbor levels exist.

Or simply to use the, OEHHA provided Prop-65 proper warning notice system at the retail store and by the manufacturer on the furniture item itself and on its outside packaging.

More information on these alternative methods of abiding by this California Prop65 regulation will be discussed as we near the final rule in July/August of 2018.

Yes this is a year away but to coordinate a strategy with manufacturers, distributors and retail stores the task is somewhat daunting and we will need the time to make sure we are prepared to stay ahead of the law with full legal compliance assured.

Regards,
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