

March 9, 2018

Meredith Williams, Ph.D.
Deputy Director
Safer Consumer Products
Department of Toxic Substances Control
Headquarters - 1001 I Street
Sacramento, CA 95812-0806

RE: Request to Remove Composite Wood Products from Proposed 2018-2020 Work Plan

Dear Dr. Williams:

These comments are submitted by the undersigned coalition of associations in response to the Department of Toxic Substances Control's ("DTSC" of the "Department") Safer Consumer Products Draft Priority Work Plan (2018-2020) ("Work Plan"). This group of associations represents the wood panel industry, their suppliers and various downstream user groups.

We respectfully request that DTSC remove formaldehyde emissions from composite panel products and finished goods incorporating such panels from the "Furnishings and Décor" and "Building Products" categories, including the specific reference to composite wood products on page 16 of the Work Plan. Both composite wood panels and finished goods incorporating these panels, such as furniture, cabinets and other building materials, are already regulated by California's Air Resources Board (CARB) Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products ("ATCM").¹ As outlined in greater detail below, the authorizing statute for the Safer Consumer Products program clearly addresses the issue of regulatory duplication, and formaldehyde emissions have been regulated by CARB dating back to 2008. Widely viewed as the most stringent regulation in the world today, the CARB ATCM has since been adopted at the federal level under the Formaldehyde Standards for Composite Wood Products Act (the "Act") and will apply nationally through promulgating regulations starting this year.

I. Composite Wood Panels and Finished Goods Made with These Panels Should Be Exempt.

The Department has broad discretion to establish product categories which contain chemicals of concern in the Work Plan. This authority, however, does have limitations. The authorizing statute provides in relevant part

- (b) This article does not authorize the department to supersede the regulatory authority of any other department or agency.
- (c) The department shall not duplicate or adopt conflicting regulations for product categories already regulated or subject to pending regulation consistent with the purposes of this article.²

The Health & Safety Code includes this common-sense approach to avoid wasteful duplication of effort by the Department and regulatory burden on the industry when a product is already regulated for the

¹ 17 CCR § 93120

² Health and Safety Code § 25257.1(b)&(c).

same purpose by other state or federal authorities. That is precisely the case at hand with formaldehyde in wood products. Emission limits are in place; detailed implementing regulations have been promulgated at the state and federal levels.

This statutory proscription is applicable to formaldehyde in particleboard, medium density fiberboard ("MDF") and hardwood plywood. It is broader, however. The California and federal formaldehyde limitations apply to wood products in finished goods such as furniture, cabinets, fixtures, musical instruments and other construction products. The regulations have detailed requirements for the use, documentation and labeling of these products as complying with the limitations. They apply to domestic and imported finished goods alike.

II. The CARB ATCM and TSCA Title VI Fulfill the Exposure Reduction Mission of the Safer Consumer Products Regulation.

This coalition of associations has been actively engaged at the state and federal level with the regulation of formaldehyde in wood products. In California, we have worked closely with CARB in the development and implementation of the ATCM. This regulation, which was first promulgated in 2008, established two phases of limits for formaldehyde emissions from composite wood products, defined as particleboard, medium density fiberboard and hardwood plywood. Significantly, the regulation also applies to any finished good that contains the regulated composite wood products:

The purpose of this airborne toxic control measure is to reduce formaldehyde emissions from composite wood products, and finished goods that contain composite wood products, that are sold, offered for sale, supplied, used, or manufactured for sale in California.³

CARB's purpose of reducing formaldehyde exposure from these products is identical to the statutory and regulatory purpose of the Safer Consumer Products program. The CARB rules were a result of many years of thorough technical assessment. The CARB rule is widely recognized as the most stringent formaldehyde production standard in the world and is overseen by a system of third-party certifiers that monitor emission limitations through the establishment and review of production testing and on-site sampling at the mills.

The Coalition and its members, along with environmental NGOs, were instrumental in the introduction and passage in 2010 of the Act, federal legislation specifically designed to

... amend the Toxic Substances Control Act to reduce the emissions of formaldehyde from composite wood products, and for other purposes.⁴

Again, this legislation had an identical purpose to the exposure reduction mission of the Safer Consumer Products regulation with respect to formaldehyde in wood products.

The Act adopts the CARB emission limitations for all composite wood products made or imported in the United States, thus nationalizing the extensive work done by California regulators. The promulgating

³ 17 CCR§ 93120(b). See also, §93120.2(a)(4)&(5)

⁴ 15 U.S.C. §2697 fil

regulations⁵ address a number of features such as labeling, non-complying lots, quality control protocols and others. As noted above, these regulations will be in effect for all regulated stakeholders this year.

CARB has also indicated that it will be revising some of the non-emission aspects of its ATCM later this year in an attempt to coordinate the federal and state regulations to the maximum extent possible.

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We respectfully submit that decisions on exemptions in cases of regulatory duplication should be made as soon as possible. The statutory provision prohibiting supersession or duplication of regulation was premised on the principle of avoiding undue burden on and expense for both the Department and the impacted industries. For these reasons, we strongly urge DTSC to remove from the list of Product Categories formaldehyde emissions from composite panel products and finished goods incorporating such panels.

Respectfully submitted,

California Manufacturers & Technology Association
American Chemistry Council
American Home Furnishings Alliance
American Forest & Paper Association
American Wood Council
APA – The Engineered Wood Association
Architectural Woodwork Institute
Composite Panel Association
Decorative Hardwoods Association
International Wood Products Association
Kitchen Cabinet Manufacturers Association
National Wood Flooring Association
Window and Door Manufacturers Association (WDMA)
WDMA National Architectural Door Council
Wood Machinery Manufacturers of America

⁵ 40 CFR Part 770; 81 Fed. Reg. 89674 et seq., December 12, 2016.