

**Before the
U.S. Environmental Protection Agency**

**PETITION TO INITIATE RULEMAKING TO EXEMPT
LAMINATED WOOD COMPONENT PARTS USED IN THE
CONSTRUCTION AND ASSEMBLY OF FINISHED
FURNITURE PURSUANT TO 40 C.F.R. § 770(a)**

***On Behalf of
The American Home Furnishings Alliance***

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PETITION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Petition to Initiate Rulemaking to Exempt) *Submitted May ____, 2023 to the*
Laminated Wood Component Parts Used) *Administrator of the United States*
in the Construction and Assembly of) *Environmental Protection Agency*
Finished Furniture Pursuant to 40 C.F.R.)
§ 770(a))

The American Home Furnishings Alliance (“AHFA”) is the world’s largest and most influential trade association serving the home furnishings industry. AHFA’s 450 member companies operate numerous domestic wood furniture manufacturing facilities and comprise an extensive global supply chain that provides a wide variety of home furnishings to American consumers. Member companies provide approximately 300,000 manufacturing jobs throughout the United States and represent a \$35 billion segment of the nation’s economy. AHFA’s member companies represent industries in communities across the country.

The U.S. Environmental Protection Agency’s (“EPA”) “Formaldehyde Emissions Standards for Composite Wood Products” (“Final Rule”) designed to implement the statutory requirements for the Formaldehyde Standards for Composite Wood Products Act, impacts many of AHFA’s member companies. As consumers of certified composite wood products, these member companies laminate and finish these certified composite wood panels into component parts (“Laminated Wood Products”) in a “value-added process” incorporating them into finished goods. Given the vast impact of this proposed rule, many manufacturing jobs may be impacted if the proposed rule is finalized as is.

I. RELIEF REQUESTED

The EPA published the Final Rule on February 10, 2017. 40 CFR § 770. While the Final Rule exempted Laminated Wood Products made using NAF and ULEF resins on a permanent basis, it exempted Laminated Wood Products manufactured by attaching a wood or wood grass veneer to a compliant core or platform using urea-formaldehyde resins from the definition of Hardwood Plywood (“HWPW”) for only seven years, which ends on March 23, 2024. The past six years has demonstrated that there is no purpose for this distinction.

Finished furniture incorporating laminated components does not emit formaldehyde in excess of the statutory limits—regardless of which resin technology is applied during construction of component parts. Yet expiration of this exemption will impose significant and unnecessary costs on the small manufacturers that use urea-formaldehyde resin systems for their laminated component parts. Therefore, the AHFA requests that the EPA initiate rulemaking to permanently exempt all laminated component parts incorporated into finished furniture, including those which incorporate urea-formaldehyde resin systems.

II. THE EPA PROMULGATED THE FINAL RULE TO REDUCE CONSUMER EXPOSURE TO FORMALDEHYDE EMISSIONS FROM WOOD PRODUCTS INTENDED FOR INTERIOR USE

The EPA promulgated the Final Rule to reduce formaldehyde emissions from composite wood products in finished goods that move freely through commerce and are intended for in-home use. 40 CFR § 770, pp. 12-13. As directed by Congress, the EPA intended to reduce consumer exposure to formaldehyde and thereby avoid adverse health effects. Congress believed that consumer exposure to composite wood products in the home which emitted excessive formaldehyde posed an unreasonable risk of harm and potential disease. Congress directed the EPA to address this concern in the Final Rule. In other words, the point was to ensure

all composite wood products intended for interior use met the statutory emissions standards. The Final Rule was intended to be consistent with the requirements already in place under the California Air Resource Board (“CARB”) Air Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products (“ATCM”). Cal. Code Regs. tit. 17, § 93120.

By definition, Laminated Wood Products are component parts used in the construction or assembly of finished furniture and are not finished goods that move freely through commerce and are not available for interior use by consumers. Consumers are not and cannot be exposed to any emissions from Laminated Wood Products. As such, Congress granted the EPA the authority to promulgate a modified definition of composite wood products and the discretion to determine whether the definition of “hardwood plywood” should exempt any laminated product. 40 CFR § 770, pp. 14-15. The EPA evaluated a wide range of information from state authorities and the industry, including a wide variety of information on resins. According to its own Executive Summary to the Final Rule, the EPA concluded that the significant differences between hardwood plywood production and laminated product producers required that laminated product producers receive different treatment. 40 CFR § 770, p. 18. Specifically, the EPA determined that Laminated Wood Products should be exempt from the definition of HWPW. But in granting this exemption the EPA only took half a step: laminated products made with NAF and ULEF resins were permanently exempt; laminated products made with urea-formaldehyde resins were exempt for only seven years. EPA authorized manufacturers to petition for further exemption. *Id.*

III. THE PAST SIX YEARS SHOW THIS EXEMPTION WAS APPROPRIATE AND SHOULD BE MADE PERMANENT

The EPA hoped that the thousands of small manufacturers of laminated products would just switch to an exempt resin, but producers of laminated product used in finished furniture have not switched.¹ Even though these producers have not switched away from urea-formaldehyde resins, nothing suggests that this has frustrated Congress's and the EPA's goal of reducing consumer exposure to formaldehyde emissions from wood product used in the home. And for good reason: the finished furniture products incorporating these laminated components do not emit formaldehyde in excess of the statutory limit.² In fact, the very reason the EPA could grant a seven-year exemption and still comply with the Congressional directive is because laminated component products were never the target of the directive. Laminated component products are never purchased by consumers or inside the home. Nor have they ever been the source of wood products in the home which emit formaldehyde in excess of statutory limits. The experience of the last six years has only confirmed what the EPA knew before enacting the Final Rule: finished furniture incorporating laminated wood component parts does not emit formaldehyde in the home in excess of the statutory limit. And this includes Laminated Wood Products which use urea-formaldehyde resin systems. Moreover, compliant cores or platforms are being used.

Letting the exemption expire and treating laminated product producers of component products like hardwood plywood producers does not serve the Congressional directive to reduce

¹ EPA Final Rule – Laminated Products Public Workshop, September 8, 2020.

² AHFA “Composite Panel Deconstruction Experiment,” p. 21; Ashley UL Study dated July 12, 2013, EPA docket number; AHFA UL Study: “Decay Emissions Test for Furniture,” September 24, 2013.

consumer exposure to formaldehyde. This was true in 2017 and, after six years with no evidence of increased consumer exposure to formaldehyde from finished goods incorporating these laminated products, it is just as true today. Indeed, CARB ATCM, upon which the Final Rule was modeled, has not changed its treatment of laminated wood products. Though at the time of the Final Rule the EPA had concerns that CARB may change its standard,³ six years later it is clear that CARB made no change and laminated products remain exempt from the definition of HWPW under CARB ATCM.

None of this is surprising. Available and published data from as early as 2003 demonstrated that finished products dramatically reduce the emissions profile of laminated products used as component parts of finished goods.⁴ Once laminated and finished, emissions of the final product are significantly reduced and within the statutory limit.⁵ As noted in the AHFA's 2012 Comments to the Final Rule, both the regulated community and CARB recognized that including laminated wood products in the definition of HWPW was untenable.⁶ The data from emission profiles of laminated wood products was inconclusive and did not support including any laminated wood products in the definition of HWPW.⁷ Resin technology advances since then make any reliance on this emission data even more suspect.

³ EPA Final Rule, Executive Summary, p. 21.

⁴ Comments of the American Home Furnishings Alliance (Docket EPA-HQ-OPPT-2012-0018, pp. 5-6; AHFA "Composite Panel Deconstruction Experiment," p. 21.

⁵ AHFA "Composite Deconstruction Experiment," p. 21.

⁶ *Id.*; Small Business Administration Office of Advocacy, comments dated August 21, 2013, Section 4, pp. 8-10 (EPA-HQ-OPPT-2012-0018-0529) CARB Public Workshop Presentation, 08/01/13 (EPA-HQ-OPPT-2011-0380-0080).

⁷ Joint AHFA/CARB study on the "Formaldehyde Emissions of Fabricator Laminated HWPW Composite Core and their Deconstruction," p. 3, July 2013.

Given the above, the enormous costs to thousands of small manufacturers upon expiration of the exemption are unjustified.

IV. THE EXCESSIVE COST IMPOSED ON LAMINATED PRODUCT PRODUCERS DOES NOT PROVIDE ANY ADDITIONAL BENEFIT TO THE CONSUMERS OF FINISHED FURNITURE GOODS

AHFA's Comments to the proposed Final Rule identified the excessive costs imposed on fabricators if required to comply with the same testing and reporting requirements of hardwood plywood mills under the Final Rule.⁸ As noted by the AHFA and recognized by the EPA, fabricators of laminated products used as component parts in finished furniture are typically small business operations, in contrast to hardwood plywood mills which are typically larger. These additional costs are a burden that many fabricators may not be able to bear.

On February 15, 2023 the AHFA hosted a Formaldehyde Workshop in High Point, North Carolina. Over 34 furniture manufacturers who use Laminated Wood Products as component parts in their finished furniture attended the workshop, along with a representative of the EPA and several manufacturers of resin technologies. The lessons learned that day included confirmation that not all Laminated Wood Product furniture manufacturers have been able to transition from urea-formaldehyde resin technologies. As the resin manufacturers explained, alternatives not available at the time of the Final Rule are coming to market but their use will require an expensive and time-consuming wholesale change in the manufacturing process. The AHFA identified these costs in its 2012 comments.⁹ In the current economic climate, these

⁸ Comments of the American Home Furnishings Alliance (Docket EPA-HQ-OPPT-2012-0018, pp. 5-6; AHFA "Composite Panel Deconstruction Experiment," p. 21.

⁹ AHFA Economic Model, Cost Calculator.

additional costs will overwhelm the small manufacturers which fabricate laminated products for their finished furniture.

And to what benefit? Again, imposing these additional costs on laminate product producers does not serve the goal of the Final Rule because finished furniture goods incorporating laminate component parts comply with the statutory emission limits. Thus, imposing additional costs on small manufacturers of laminate component parts provides no additional benefit toward the goal of limited consumer exposure to formaldehyde emissions.

V. CONCLUSION AND REQUEST TO INITIATE RULEMAKING

From the time the EPA promulgated the Final Rule, it was clear that Laminated Wood Products were not the primary target. The Final Rule was intended to reduce consumer exposure to formaldehyde emissions in the home from wood products which moved freely through commerce and were intended for interior use. Laminated Wood Products did not fit that definition. Therefore, the Final Rule did not regulate Laminated Wood Products as it did the target of the regulation, hardwood plywood.

Since the Final Rule, all Laminated Wood Products have been exempt from the testing, certification, and reporting requirement imposed on HWPW. And there has been no indication that the effectiveness of the Final Rule in addressing its purpose was hindered or restricted. Regulations impacting HWPW have successfully reduced exposure to formaldehyde emissions from interior wood products. There is no evidence that making the exemption permanent jeopardizes this success. This is why CARB has not changed its exemption of Laminated Wood Products.

Because the costs of expiration of the exemption for Laminated Wood Products which use a urea-formaldehyde resin far exceed any *de minimis* benefit, the AHFA requests that the EPA initiate rulemaking to make permanent the exemption of Laminated Wood Products from the HWPW definition before it expires on March 24, 2024.