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NATIONAL STANDARDS

On July 7, 2010, the President signed into law the Formaldehyde Standards for Composite Wood Products Act. The bill creates a national standard for formaldehyde use based on an existing California standard. The bill sailed through the House and Senate with little fanfare and it was supported by those industries that had the most direct interest in formaldehyde use in composite wood products.

There are several back stories here. The first (which everybody recognizes so not exactly earth-shattering news) is that California rules the world. We see it with Prop 65, mattress flammability, clean air standards and a host of other initiatives. The saying among those who watch consumer protection and environment issues, is "Watch for the first sign in Europe, keep an eye on it as it sails over our continent and lands in California, brace yourself for the bounce back to the East Coast states, and then hold on as it slowly creeps inland from the West and East."

The second back story is the adoption of a national standard. For years, states' rights advocates in

Congress put up strong resistance to the adoption of national standards of any kind (businesses, with some exceptions, generally thought they were better off with the states). With the passage of the Consumer Product Safety Improvement Act (CPSIA), we heard a significant change in the tone of the debate (although, it turns out some states have found soft spots in the CPSIA's national application and Prop 65 was exempt from the get-go). There was nary a peep during the debate on the formaldehyde bill.

I know businesses sitting in Iowa, which never dreamed they would get entangled in a Prop 65 case, that would say national standards cannot come soon enough. Although I am not aware of any current move to put the rest of us out of our Prop 65 misery, there have been attempts to do so in past Congresses. Maybe the waters are warm enough to try again in the next Congress.

The third back story is one I have been preaching about for awhile now. There is a new generation of folks who are perfectly happy to have big government watching out for them. There are some around town that would say more regulations are a Democratic thing. The Dems might come with some

predisposition to do so, but the sea change in the demographics is going to keep the regulations coming, whether we like them or not. Hmmm, health care reform, financial institution reform, climate change...choo choo.

Laws, like the Regulatory Flexibility Act, we were able to get on the books decades ago to help leverage mitigation relief may be more important than ever.

Back to the new law. The formaldehyde standards are based on the regulations in place in California. It establishes national technology-based limits (i.e., limits based on the technological feasibility of the standards) on formaldehyde emissions from most composite wood products. It does so by requiring EPA to issue regulations, not later than January 1, 2013, to apply formaldehyde emissions standards that are equivalent to the California standards for hardwood plywood, medium density fiberboard, and particleboard that is sold, supplied, offered for sale, or manufactured anywhere in the United States. EPA's regulations must ensure compliance with the federal standard and must include provisions relating to labeling,

chain of custody requirements, provisions for sale of products or finished goods that were manufactured before the compliance deadline but are allowed to continue to be sold within a specified time period after the deadline (or product “sell-through”), third-party testing and certification, and other matters of implementation. Under the law, the new limits will go into effect 180 days after EPA issues its regulations.

TRY AGAIN

Congress is back. The Senate will try again to lock down a version of a small business lending and tax relief bill. (See the June 28 Weekly - not much has changed since then.) Whatever it passes will go back to the House. Something will get to the President’s desk by the August recess. (After all, it is an election year and there is plenty of campaigning to do during the break.) We are making a hard push to get the provision that doubles penalties for inadvertent mistakes in filing tax information reports, out of the bill. Some folks are finally having a “duh” moment that they just exponentially expanded the reporting requirement and it is going to look pretty bad to double the penalties shortly thereafter.

FORM 1099

The Internal Revenue Service (IRS) has issued Notice 2010-51 asking for comments on how to implement the send-everybody-a-1099 requirement. Our view is there are no good ideas out there to mitigate the impact. I think even the IRS would welcome plenty of comments saying it is a bad idea. They have no choice in the matter, they cannot ignore the law, but a huge record of objections might help make the case for repeal. You can go to www.irs.gov to find out how to file comments electronically. Our comments and a letter to the President we recently sent can be found on the news release section of the SBLC site (www.sblc.org). No log in is required to access that part of the site.

Also, the National Taxpayer Advocate, with whom SBLC has worked over the years (she has attended several SBLC annual meetings) has put out an excellent statement on the problems of implementing the Form 1099 requirement. You can find that on the IRS site too.

SBLC AND THE FISCAL COMMISSION

Earlier this year, with Congress unable to find a way to do what it wanted to do, President Obama established the bi-partisan National Commission on Fiscal Responsibility and Reform by executive order. The Fiscal Commission has 18 bi-partisan members including several Senators and Representatives. It is co-chaired by former White House Chief of Staff Erskine Bowles and former Senator Alan Simpson (R-WY). The Fiscal Commission is to report back to the President by December on ways to cut the deficit. It needs 14 votes for any recommendation which should make life interesting for Bowles and Simpson.

A week ago, the Fiscal Commission held an all-day, all evening marathon for public input (three minutes of your best thoughts). At 7 p.m. it is difficult to be original after 60 or 70 folks have spoken before you. If you go to our website www.sblc.org under the news release section, (no log on required) you will see SBLC President John Satagaj’s efforts ☺.