

January 3, 2013

Mr. C.T. Howlett, Jr.  
Hardwood Plywood and Veneer Association  
1825 Michael Faraday Drive  
Reston, VA 20190

**RE: ANS Legal Timber Due Diligence 1.0-2013 Standard**

Dear Kip Howlett, Jr.:

I am writing to you on behalf of the National Marine Manufacturers Association (NMMA) to comment on the Hardwood Plywood and Veneer Association (HPVA) *proposed National Standard for Due Diligence in Procuring / Sourcing Legal Timber*. The stated purpose of the standard is to establish “nationally recognized requirements for compliance with the legal requirements in the United States, European Union, Japan, Australia, and other jurisdictions to harvest, use and consume legally harvested timber and the products derived from them.” In addition, the standard will serve “to document a common understanding of the best internal management system for reducing the risk of illegal timber in the timber supply chain. Entities may choose to self-certify or to engage a third party with ISO/IEC 65 credentials to perform an independent audit and prove compliance with this Standard.” See Draft Standard Abstract.

NMMA unfortunately was a late addition to the canvas committee and as such has not received a ballot nor have we benefited from the discussion that HPVA has been having on this standard during its development. Nonetheless, NMMA offers these brief comments at this stage to assist NPVA in its next draft of the standard. Thank you for agreeing to accept our comments after the deadline.

By way of background, NMMA is the nation’s leading recreational marine industry association, representing nearly 1,300 boat builders, engine manufacturers, and marine accessory manufacturers. NMMA Certification is the premier product certification program for boats, yachts, boat trailers, personal watercraft and marine oils in the United States. NMMA members collectively produce more than 80 percent of all recreational marine products made in the United States. With 12.4 million registered boats, 17 million boats in use, and 83 million boaters nationwide, the recreational marine industry is a major consumer goods and services industry with an annual economic impact of \$72 billion. 348,000 Americans are employed by the U.S. recreational boating industry, earning \$10.4 billion annually.

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The U.S. recreational boating industry has been successful in seeking international markets for its goods. Since 2007, there has been a positive balance in U.S. trade of recreational boats and marine engines. Nearly all boat categories had positive trade balances in 2011.

Ninety-seven percent of marine manufacturers are small businesses employing less than 500 employees. Recreational marine manufacturing facilities are located throughout the U.S. with twenty States having over 100 marine manufacturers located in their borders (CA, FL, GA, IL, LA, MA, MD, MI, MN, MO, NC, NJ, NY, OH, PA, SC, TX, VA, WA, & WI).

NMMA members use a variety of wood and wood composite products to manufacture boats and boat components. Many of these wood products are chosen for their ability to withstand the marine environment. Some of these wood products can only be sourced outside of the North American market. Others are quite unique in their ability to provide esthetic value with very low weight (e.g., fine wood veneers on top of a corrugated cardboard or balsa wood core).

### **ANSI Outreach Process and Scope of the Draft Standard**

NMMA commends HPVA for seeking American National Standards Institute (ANSI) accreditation for this standard. NMMA participates with a number of standard setting organizations and finds that the ANSI process is the gold standard for achieving workable and balanced standards that have been fully vetted by all materially affected parties. Importantly, a standard developed without transparency, public disclosure and an effort to actively seek to engage all materially affected parties will not likely be relevant and ultimately will not stand the test of time nor hold up in court.

NMMA cautions HPVA against moving too quickly with the finalization of this particular standard. There has been very little outreach by HPVA to engage the materially affected industries and as such most are unaware that this standard is under development. This is a major flaw in the current process and will result in a standard that is not workable for the very parties materially affected by it. Indeed, the standard will impact each level of the marketing chain for wood and wood products, all the way to the retail level.

HPVA represents the interests of the hardwood plywood, hardwood veneer, and engineered hardwood flooring industries and NMMA would trust that it has a good understanding of these industries. However, the scope of this standard would apply to far beyond the first level manufacturers of plywood, veneer and engineered hardwood flooring products to cover any company who imports, exports, or engages in the inter-state commerce of timber and wood products. Timber and wood products would include under the standard: "logs, lumber, veneer, chips, shavings, sawdust, bark, pulp, paper and products from these materials excluding recycled products." A trader under the standard includes any entity engaged in the business of buying and/or selling of timber and wood products. The scope of this standard is vastly beyond the membership of HPVA and extends to every kind of product under the sun that has any

wood in it and to anyone who is involved in any way with the trading of this wood including retailers.

NMMA suspects that HPVA is drafting its standard with such a vast scope because the laws it is seeking to amplify with this standard, such as the U.S. Lacey Act, have vast coverage. However, by making its standard apply to all of wood commerce it is ensuring that it cannot have an understanding about the true impact of its provisions on all materially affected parties.

**NMMA's strong recommendation to HPVA is to confine itself to developing a standard that will cover only its core membership – that is, the manufacturing of hardwood plywood, hardwood veneer, and engineered hardwood flooring products.** After the standard has been fully vetted, it can be tried out in the field and adjusted as necessary. The experience learned from this focused application can then be mined for further expansion.

**NMMA recommends that HPVA seek to partner with other industry sectors and standard setting organizations to develop a due diligence standard that would work for these industries and would balance the needs of businesses who use both imported and domestically sourced products.** This approach is preferable to trying to draft and apply a standard to all industries without their full participation in the standard development process.

HPVA should partner with others because supply chains are complicated and there are vastly different processes for --

- the acquisition of raw materials for further processing;
- the production of composite wood products;
- the incorporation of wood products (processed and composite) into products of increasing complexity;
- the purchasing of component products that will be installed into a larger complex product;
- the purchasing of domestic vs. imported-sourced products; and
- the purchasing of specialized products only available from one or two sources.

A deliberate go slow approach will allow for a due diligence standard that could actually be incorporated into the business processes of a variety of industries and would be able to be used by small, medium and large-sized businesses and those who purchase inputs from a variety of domestic and imported sources. Importantly, any due diligence standard needs to make sure that it doesn't inadvertently impose such high costs that it would be impossible for a small business to use. Finally, taking a more focused deliberate process would ensure that those materially affected could be full participants in the standard development process.

## **Sustainability, Chain of Custody, and Conflict Concepts Detract from Illegality Focus**

In addition to concerns regarding the scope of the standard in terms of the variety of industries it would cover, the Draft Standard also appears to go beyond its stated scope of reducing the risk of illegal timber and wood products entering the supply chain. The standard requires a purchasing policy that it will systematically eliminate from the supply chain “unsustainable sources of timber.” This reference to unsustainability is puzzling since its inclusion would require a completely different set of criteria and judgments to be made about a sourcing choice. Similarly, the standard is confusing in that it purports to not include a chain of custody element, yet the concept is included in numerous places throughout the standard. Again, it appears that HPVA is trying to do too much with this one standard and would be wise to narrow its focus.

It is also puzzling that the standard appears to prohibit the purchasing of products from any area with any conflict of any kind. The standard in Section 4.4.2.2 would bar the use of timber:

- “[O]riginating from areas associated with human rights violations, armed conflict or violation of UN sanctions.”
- “[A]reas where open conflict exists between communities, worker groups, concession managers and/or government forces.”
- “Suppliers that are suspected to be involved in armed conflict...”

These are extremely broad statements without definition and since the U.S. is involved in two major wars itself, not even U.S. wood sources would be able to meet these criteria. There also appears to be no opportunity to cure, for example, once a country was hit with UN sanctions, even if lifted, there would be no way for it to get off the list of prohibited sources. Most concerning is that these criteria do not apply to the legality of the timber, but rather to the political state of that region. Once again, it appears that HPVA is trying to do too much with this one standard and would be wise to narrow its focus.

NMMA welcomes the opportunity for continued constructive engagement with HPVA on this project. Unfortunately, given the vast scope of the project, NMMA must object to the standard. If you have any questions or need additional information, please do not hesitate to contact me at [csquires@nmma.org](mailto:csquires@nmma.org); (202) 737-9766.

Respectfully submitted,



Cindy L. Squires, Esq.

Chief Counsel for Public Affairs and Director of Regulatory Affairs