

**Statement of the Association of the German Wood Based Panel Industry
(VHI e.V.)**

**Notification: 2016/0376/D Draft Model Administrative Rules – Technical
Building Regulations [M-VV TB] as at 20 July 2016**

The draft Model Administration Rules – Technical Building Regulations are based on the enabling provision in § 85a of the Model Building Regulation (MBO: see Notification 2016/0228/D). They include provisions to clarify the general requirements for construction works under § 3 MBO, with respect to Annex I of Regulation (EU) No 305/2011. They also include requirements for building products with respect to the protection of health (ABG). The following comments refer to the above mentioned ABG.

As already indicated in our statement of 27th January 2016 (see enclosed) on the DIBt working draft (status 17th December 2015), VHI still cannot see that the infringements found in the European Court of Justice (ECJ) judgement of 16th October 2014 in legal case C-100/13 are corrected and taken into account in the actual ABG version of 20th of July. The ECJ judgement states that Member States must refrain from further requirements concerning harmonized building products. The ABG refers for example to components, construction kits and construction material, all vague legal items, but in the end, building products are concerned. With the ABG requirements EU law is violated because Germany is trying to enforce its own VOC regulations. Wood-based panels are harmonized according to EN 13986. In a single market, different requirements for building products in member states are not possible.

Furthermore, the Commission has just presented its new draft proposal for VOC classes (DS 313) and a delegated act is expected very soon. So, this process needs to be carried out and to be finished. Germany is deeply involved in this discussion and cannot create in parallel its own requirements.

The ABG requirements cannot be accepted by the industry, there are further economic and technical aspects:

- In section 2.1, the complete declaration of the chemical composition of the building product is demanded. The essential aspect of data protection is not addressed.
- Furthermore, in section 2.1 the stipulations of the German Waste Wood Ordinance are requested. The German Waste Wood Ordinance is addressed to recycling companies and not to the building material industry.

- The specifications in 2.2.1 are not correct for European harmonized products. The testing and evaluation methods defined in harmonized regulations must be applied. For example the prEN 16516:2015-05 is taken into account. This standard could change in the course of the objection process. The mentioned ISO 16000-9 in this chapter cannot be used for the measurements of formaldehyde.
- The handling of emissions/ingredients that cannot be contained in a product is likewise unclear. Is testing required nonetheless? Is there a declaration option for “without further testing”? For example for wood based panels ammonia and nitrosamines doesn't play any role. The measurements are unnecessary.
- Furthermore, reference is made to national “Niedrigste Interessierende Konzentration” (NIK)-values, as well to EU-LCI values. This cannot be requested; these values differ and are not the same.

All in all, the ABG requirements contain still many uncertainties and ambiguities, as already pointed out in our statement of 27th January 2016. Therefore, VHI is against the adoption of Requirements for Structural Installations with Respect to the Protection of Health (ABG) in this form and together with the Draft Model Administrative Rules – Technical Building Regulations [M-VV TB]

Gießen, 23.09.2016