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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

DAVID SCHWETERT, STAFF DIRECTOR
KIM LIPSKY, DEMOCRATIC STAFF DIRECTOR

March 4, 2015

The Honorable Elliot Kaye
Chairman
The Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Thomas Frieden, MD
Director
The Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

The Honorable Edith Ramirez
Chairwoman
The Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Kaye, Director Frieden, and Chairwoman Ramirez:

I write today to call your attention to a report on the March 1, 2015, edition of CBS' *60 Minutes* program stating that Lumber Liquidators appears to be selling laminate wood flooring material imported from China with high levels of formaldehyde.

Formaldehyde has been designated as a human carcinogen by the International Agency for Research on Cancer and by the National Toxicology Program. In addition, the Environmental Protection Agency (EPA) has recognized formaldehyde as a likely carcinogen. Even short-term exposure to formaldehyde can lead to skin, eye, nose, and throat irritation, in addition to coughing, wheezing, and a variety of allergic reactions.

In the *60 Minutes* report, independent laboratories conducted testing of numerous samples of the Chinese laminate flooring from Lumber Liquidator stores in Florida, Illinois, New York, Texas, and Virginia.

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All of the tests showed that the laminate flooring violated the California formaldehyde standard despite being labeled as compliant. The California standard will soon be the federal standard under the Formaldehyde Standards for Composite Wood Products Act, but the EPA has yet to issue final rules implementing this law.

Delay of this rule may be the result of opposition from industry stakeholders, including the National Wood Flooring Association, which filed comments to the EPA expressing objections to proposed disclosure requirements and the law's application to laminated flooring.

In addition, the Chinese government filed comments in the proceeding suggesting reduced "frequencies of compliance verification of products" and asking for a process to handle disputes if "third-party certified composite wood products to be exported to the USA fail the tests." Nonetheless, this failure to timely promulgate the final rules setting formaldehyde standards for composite wood products may put consumers at risk.

In past Congresses, the Senate Committee on Commerce, Science and Transportation has held numerous hearings on defective drywall imported from China. Unfortunately, the laminate flooring sold by Lumber Liquidators bears resemblance to that defective product, which was widely installed in Florida homes, caused metal corrosion, and negatively impacted public health. Furthermore, the drywall debacle also showed that Chinese manufacturers often refuse to stand behind their products – even when they cause great harm to American consumers. We must not repeat the Chinese drywall experience.

Accordingly, I ask that your agencies independently investigate and test these specific Chinese wood laminate products to determine if they present a risk to the public under the Consumer Product Safety Commission's (CPSC) authority under the Federal Hazardous Substances Act or the limits prescribed by Congress in the Formaldehyde Standards for Composite Wood Products Act. In so doing, we request that the CPSC, in collaboration with the Centers for Disease Control's Agency for Toxic Substances and Disease Registry and the EPA, replicate the cooperative, inter-agency initiative that tested defective Chinese drywall.

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In addition, we ask that you also work with the Federal Trade Commission (FTC) to determine whether these laminate wood products, including its labeling as compliant with the California standard, may constitute an “unfair or deceptive trade practice” as broadly prohibited by section 5 of the FTC Act.

Thank you in advance for your assistance with this request.

Sincerely,



Bill Nelson
Ranking Member

cc: The Honorable John Thune, Chairman
The Honorable Gina McCarthy, Administrator