

**H.R. 1796, THE RESIDENTIAL CARBON MONOXIDE
POISONING PREVENTION ACT, AND H.R. 4805,
THE FORMALDEHYDE STANDARDS FOR COM-
POSITE WOOD PRODUCTS ACT**

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION

OF THE

COMMITTEE ON ENERGY AND
COMMERCE

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

—————
MARCH 18, 2010
—————

Serial No. 111-106



Printed for the use of the Committee on Energy and Commerce
energycommerce.house.gov

—————
U.S. GOVERNMENT PRINTING OFFICE

76-018

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON ENERGY AND COMMERCE

HENRY A. WAXMAN, California, *Chairman*

JOHN D. DINGELL, Michigan

Chairman Emeritus

EDWARD J. MARKEY, Massachusetts

RICK BOUCHER, Virginia

FRANK PALLONE, Jr., New Jersey

BART GORDON, Tennessee

BOBBY L. RUSH, Illinois

ANNA G. ESHOO, California

BART STUPAK, Michigan

ELIOT L. ENGEL, New York

GENE GREEN, Texas

DIANA DEGETTE, Colorado

Vice Chairman

LOIS CAPPS, California

MICHAEL F. DOYLE, Pennsylvania

JANE HARMAN, California

TOM ALLEN, Maine

JANICE D. SCHAKOWSKY, Illinois

CHARLES A. GONZALEZ, Texas

JAY INSLEE, Washington

TAMMY BALDWIN, Wisconsin

MIKE ROSS, Arkansas

ANTHONY D. WEINER, New York

JIM MATHESON, Utah

G.K. BUTTERFIELD, North Carolina

CHARLIE MELANCON, Louisiana

JOHN BARROW, Georgia

BARON P. HILL, Indiana

DORIS O. MATSUI, California

DONNA M. CHRISTENSEN, Virgin Islands

KATHY CASTOR, Florida

JOHN P. SARBANES, Maryland

CHRISTOPHER S. MURPHY, Connecticut

ZACHARY T. SPACE, Ohio

JERRY McNERNEY, California

BETTY SUTTON, Ohio

BRUCE L. BRALEY, Iowa

PETER WELCH, Vermont

JOE BARTON, Texas

Ranking Member

RALPH M. HALL, Texas

FRED UPTON, Michigan

CLIFF STEARNS, Florida

NATHAN DEAL, Georgia

ED WHITFIELD, Kentucky

JOHN SHIMKUS, Illinois

JOHN B. SHADEGG, Arizona

ROY BLUNT, Missouri

STEVE BUYER, Indiana

GEORGE RADANOVICH, California

JOSEPH R. PITTS, Pennsylvania

MARY BONO MACK, California

GREG WALDEN, Oregon

LEE TERRY, Nebraska

MIKE ROGERS, Michigan

SUE WILKINS MYRICK, North Carolina

JOHN SULLIVAN, Oklahoma

TIM MURPHY, Pennsylvania

MICHAEL C. BURGESS, Texas

MARSHA BLACKBURN, Tennessee

PHIL GINGREY, Georgia

STEVE SCALISE, Louisiana

SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION

BOBBY L. RUSH, Illinois
Chairman

JANICE D. SCHAKOWSKY, Illinois
Vice Chair

JOHN SARBANES, Maryland
BETTY SUTTON, Ohio
FRANK PALLONE, New Jersey
BART GORDON, Tennessee
BART STUPAK, Michigan
GENE GREEN, Texas
CHARLES A. GONZALEZ, Texas
ANTHONY D. WEINER, New York
JIM MATHESON, Utah
G.K. BUTTERFIELD, North Carolina
JOHN BARROW, Georgia
DORIS O. MATSUI, California
KATHY CASTOR, Florida
ZACHARY T. SPACE, Ohio
BRUCE L. BRALEY, Iowa
DIANA DeGETTE, Colorado
JOHN D. DINGELL, Michigan (ex officio)

CLIFF STEARNS, Florida
Ranking Member

RALPH M. HALL, Texas
ED WHITFIELD, Kentucky
GEORGE RADANOVICH, California
JOSEPH R. PITTS, Pennsylvania
MARY BONO MACK, California
LEE TERRY, Nebraska
MIKE ROGERS, Michigan
SUE WILKINS MYRICK, North Carolina
MICHAEL C. BURGESS, Texas

CONTENTS

	Page
Hon. Bobby L. Rush, a Representative in Congress from the State of Illinois, opening statement	1
Hon. Ed Whitfield, a Representative in Congress from the Commonwealth of Kentucky, opening statement	2
Hon. Jim Matheson, a Representative in Congress from the State of Utah, opening statement	3
Hon. Phil Gingrey, a Representative in Congress from the State of Georgia, opening statement	4
Prepared statement	5
Hon. Doris O. Matsui, a Representative in Congress from the State of California, opening statement	6
Hon. Steve Scalise, a Representative in Congress from the State of Louisiana, opening statement	6
Hon. Betty Sutton, a Representative in Congress from the State of Ohio, opening statement	8
Hon. Janice D. Schakowsky, a Representative in Congress from the State of Illinois, opening statement	8
Hon. Kathy Castor, a Representative in Congress from the State of Florida, opening statement	9
Hon. Joe Barton, a Representative in Congress from the State of Texas, prepared statement	87

WITNESSES

Robert J. Howell, Jr., Assistant Executive Director, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission	10
Prepared statement	13
Eric Lavonas, M.D., Associate Director, Rocky Mountain Poison and Drug Center, Emergency Physician, Denver Health Medical Center	19
Prepared statement	21
Answers to submitted questions	91
John Andres, Director of Engineering, Kidde Residential and Commercial Division	25
Prepared statement	27
Answers to submitted questions	95
Mark Devine, Vice President of Marketing, First Alert	32
Prepared statement	34
James J. Jones, Deputy Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances, U.S. Environmental Protection Agency	45
Prepared statement	48
Tom Julia, President, the Composite Panel Association	53
Prepared statement	55
Answers to submitted questions	97
Andy Counts, CEO, American Home Furnishings Alliance	61
Prepared statement	63
Answers to submitted questions	102
Don Ryan, Sierra Club, Founding Board Member, The National Center for Healthy Housing	65
Prepared statement	67
Melvin E. Andersen, CIH, PH.D., DABT, Director, Program in Chemical Safety Sciences, The Hamner Institutes for Health Sciences	70
Prepared statement	72
Answers to submitted questions	105

**H.R. 1796, THE RESIDENTIAL CARBON MON-
OXIDE POISONING PREVENTION ACT, AND
H.R. 4805, THE FORMALDEHYDE STANDARDS
FOR COMPOSITE WOOD PRODUCTS ACT**

THURSDAY, MARCH 18, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMMERCE, TRADE,
AND CONSUMER PROTECTION,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:07 a.m., in Room 2322 of the Rayburn House Office Building, Hon. Bobby L. Rush [Chairman of the Subcommittee] presiding.

Members present: Representatives Rush, Schakowsky, Sutton, Matheson, Barrow, Matsui, Castor, DeGette, Radanovich, Whitfield, Terry, Gingrey and Scalise.

Staff present: Michelle Ash, Chief Counsel; Robin Appleberry, Counsel; Timothy Robinson, Counsel; David Kohn, Press Secretary; Will Cusey, Special Assistant; Daniel Hekier, Intern; Brian McCullough, Minority Senior Professional Staff; Jerry Couri, Minority Professional Staff; Shannon Weinberg, Minority Counsel; Robert Frisby, FTC Detailee; and Samuel Costello, Minority Legislative Analyst.

**OPENING STATEMENT OF HON. BOBBY L. RUSH, A REP-
RESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Mr. RUSH. The subcommittee will come to order.

The Chair wants to thank all the members and the witnesses on both panels for your participation in this hearing this morning. This subcommittee is here on H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and also H.R. 4805, the Formaldehyde Standards of Composite Wood Products Act. The Chair recognizes himself for 5 minutes for the purposes of an opening statement.

The subcommittee is holding today's hearing on two introduced bills that would protect scores of consumers from highly dangerous and lethal carbon monoxide and formaldehyde emissions. The first bill we will take up, H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, was introduced by Mr. Matheson of Utah. The Consumer Product Safety Commission reports that carbon monoxide poisoning is the leading cause of poisoning deaths in the United States. Carbon monoxide poisoning claims the lives of over 400 people each year, hospitalizing another 4,000 individuals

and it causes 20,000 individuals to seek emergency medical treatment. H.R. 1796 would amend the Consumer Product Safety Act to require that residential carbon monoxide detectors meet current voluntary safety standards. Warning labels would have to be placed on portable generators advising consumers that they should not be used inside residential and dwelling units. And H.R. 1796 would authorize the Consumer Product Safety Commission to establish a grant program to assist the States in training fire code enforcement officials and educating the public about carbon monoxide risks and the proper use of carbon monoxide detectors.

Through these simple actions, H.R. 1796 will enable consumers to better protect themselves against carbon monoxide exposure and poisoning, and I want to take this time to commend Mr. Matheson for his tireless work to prevent these outcomes, many of which are avoidable, and I look forward to hearing from our first panel of witnesses and our ensuing discussion on this important bill and this important matter.

The second bill before us is H.R. 4805, the Formaldehyde Standards of Composite Wood Products Act. This legislation will achieve two very important goals: protecting American consumers and protecting American jobs. H.R. 4805 will amend the Toxic Substances Control Act by establishing a federal standard based on requirements already set by the State of California to limit the amount of formaldehyde that can be emitted from composite wood products. Because this standard will apply nationally, the legislation will result in greater protection for all Americans. It will also ensure that we do not have a repeat of the disaster with FEMA trailers that were used for emergency housing following Hurricane Katrina, which I might remind all of us, the thousands sick unnecessarily, and it would make all of our consumers much safer.

Mrs. Matsui's proposed legislation will level the playing field for American manufacturers. Currently, importers do not have to meet these standards except to the extent that they conduct business in California. As a result, badly needed manufacturing jobs are going overseas and American consumers are less safe. And I want to again take this moment to applaud my colleague from the State of California, Mrs. Matsui, for championing this legislation and working hard on this legislation and ensuring that we are doing everything that we can for both consumers and businesses.

With that, I yield back the balance of my time and recognize the ranking member, Mr. Whitfield, for 5 minutes for the purposes of an opening statement.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. Well, thank you, Chairman, and I certainly want to welcome all the witnesses today. We do look forward to your testimony, your expert testimony on both of these bills, and I certainly want to thank Mrs. Matsui for her bringing to our attention the formaldehyde issue with her legislation, H.R. 4805, which is the Formaldehyde Standards for Composite Wood Products Act.

I don't think there is any question that all of us recognize the concerns with formaldehyde, and the purpose of these hearings of

course is to bring out issues that are of concern to us, and one of the concerns that I have about this particular bill, which does not mean I am opposed to it in any way, but it does not write an actual standard into law and it does not direct the scientists at EPA to investigate this matter. Instead, it explicitly cites a State regulation that was adopted in California and it refers to the California provision. The California regulation has not been fully phased in yet. We cannot get a complete picture of any incremental improvements in public health or how smoothly businesses subjected to it have transitioned and whether consumers, particularly low-income Americans, have been able to have access to affordable products. On top of those concerns but no less importantly, I do always have a concern when we set a federal standard that there is not federal preemption, and I know that one of the witnesses, I believe maybe it was Mr. Tom Julia, although I am not 100 percent certain, expressed concern about their only concern about trying to push for federal preemption was that it might slow down this process. So I think that is a couple of issues that we can explore today in this hearing.

And then I certainly want to thank Mr. Matheson for H.R. 1796, the Carbon Monoxide Poisoning Prevention Act, which we also recognize is a real problem. I suppose that one issue that we will want to explore in this hearing as well relates to right now I guess about 25 States have voluntary standards on this issue and I believe this legislation makes it mandatory, and it is my understanding the Consumer Product Safety Act that the Commission can invoke a mandatory standard but it has to be under certain conditions and whether or not those are met in this situation, I am not sure.

One other concern that I have, particularly with our current financial situation in America with a \$14 trillion debt is starting a new grant program, and I don't remember precisely how much money is authorized for this per year but my recollection was maybe it is a couple of million a year, but those are issues that you all are going to help us address and so I want to thank you for being here, Mr. Chairman, and we look forward to their testimony today.

Mr. RUSH. The Chair recognizes the gentleman from Utah, the author of the bill that is currently under consideration, Mr. Matheson, for 2 minutes for the purpose of opening statements.

**OPENING STATEMENT OF HON. JIM MATHESON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH**

Mr. MATHESON. Thank you, Mr. Chairman, and thank you for holding this hearing. I do look forward to hearing from the witnesses and look forward to hearing from my colleagues because that is the purpose of these legislative hearings. We try to look to work together to build more consensus, and I am certainly not wedded to the specific text of the initial draft of the bill. I think that is why we are here today is to learn and improve on that to deal with what I think is a really important issue. We have roughly 500 deaths a year in the United States from carbon monoxide poisoning. An additional 15,000 people are hospitalized due to this. If there are efforts we can make that are prudent to create greater awareness of prevention, I think that is a worthy cause to take up,

so I am glad that this subcommittee has scheduled this hearing on this legislation.

Just real quickly, there are three basic components to the bill. It codifies current voluntary standards for carbon monoxide detectors into law. It mandates labeling standards for portable generators and establishes a grant program for States that want to raise awareness and provide carbon monoxide detectors.

Again, Mr. Chairman, I do appreciate you calling this hearing. I hope it is a productive hearing for all of us and we look to improve on this legislation as we move forward. I yield back my time.

Mr. RUSH. The Chair thanks the gentleman. The Chair now recognizes Dr. Gingrey for 2 minutes for the purposes of opening statement.

Mr. GINGREY. Mr. Chairman, I thank you and I would like to ask unanimous consent to submit my prepared remarks for the record.

Mr. RUSH. So ordered.

OPENING STATEMENT OF HON. PHIL GINGREY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. GINGREY. I want to spend my 2 minutes, Mr. Chairman, relating something anecdotally, and I hope you will bear with me. It was 53 years ago that I was a 14-year-old kid and my mom and dad owned a small mop and pop motel at the state line between South Carolina and Georgia, and in Georgia, it was permitted to drink at age 21 but in South Carolina it was permitted to drink at age 18. So a lot of the soldiers at Fort Gordon would come across the river on the weekends and stay at our motel for a couple of nights for relaxation and yes, of course, to go across the street and drink a little beer. On a cold March night on a Saturday night, we had three soldiers in one of the motel rooms. Sunday morning my mom and my two brothers and I, all Catholic, went to Mass, and when we came back to the motel, we were shocked to see Army hearses in the parking lot from Fort Gordon, Georgia. And what had happened is, those three soldiers in that motel room died from carbon monoxide poisoning that night because of a faulty heater. My dad has been dead for a long time. I wish he were alive today so he could know about Mr. Matheson's bill and be here and listen to what we discuss today because he never got over that emotionally. It wasn't his fault but of course as I say, he felt to blame for the deaths of these 18-year-old and I believe one 19-year-old soldier from carbon monoxide poisoning. Their bodies were found right next to the door trying to get out of that motel room. They almost made it but not quite. So I have very strong feelings about this and I told my staff that instead of reading the great written remarks he had prepared that this really means a lot to me and it all comes back. It is like it happened yesterday.

So this is serious business and I really commend Mr. Matheson and I commend my good friend, Mrs. Matsui, as well. I look forward to the testimony from the witnesses and discussion from my colleagues, and Mr. Chairman, with that I will yield back.

[The prepared statement of Dr. Gingrey follows:]

Rep. Phil Gingrey
Opening Statement for HR 1796 & HR 4805 Hearing
Commerce, Trade, and Consumer Protection Subcommittee
March 18, 2010

Mr. Chairman, I want to thank you for calling today's hearing on two pieces of legislation – H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act and H.R. 4805, the Formaldehyde Standards for Composite Wood Products Act. I also want to commend you for moving these bills through regular order. I believe that both pieces of legislation fall into important areas of the jurisdiction of the Subcommittee.

Mr. Chairman, I am pleased that we are going to be able to hear from both panels of witnesses on each bill so we can get a closer look at the need for federal action in this arena. On both bills, there are already mechanisms in place with the Consumer Product Safety Commission to potentially address these matters, but the question that I hope these witnesses will address is whether or not there is the need for further federal regulation.

Let me be clear, both carbon monoxide and formaldehyde present problems to consumers that have led to disease and in a number of cases – particularly with carbon monoxide – death. H.R. 1796, introduced by our Subcommittee colleague, Mr. Matheson of Utah, will mandate the current voluntary standard for carbon monoxide detectors and require warning labels on portable generators. One concern that this poses is that it may not have an impact on reducing the unfortunate fatalities that have resulted from carbon monoxide.

Mr. Chairman, H.R. 4805 – introduced by our Subcommittee colleague from California, Ms. Matsui – seeks to codify that the California standard on formaldehyde standards in composite wood products be applied at the federal level. As will be discussed throughout this hearing, this standard was only recently adopted in California, and I would like to get more information from the panel as to the impact it will have on both safety and the economy before we move forward on this legislation.

Mr. Chairman, I believe that we can all agree that there are a number of important issues that will affect consumer safety that will be discussed today. Again, I applaud you for allowing us the opportunity to fully discuss these issues in this hearing. I look forward to hearing from our panels, and I yield back the balance of my time.

Mr. RUSH. The Chair now recognizes the gentlelady from California, Mrs. Matsui, for 2 minutes for the purposes of opening statement.

OPENING STATEMENT OF HON. DORIS O. MATSUI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. MATSUI. Thank you, Mr. Chairman, and thank you very much for calling today's hearing. I would also like to thank the panelists for appearing before us today and I look forward to hearing your views.

The legislative proposals being discussed will help industry achieve consistent standards of compliance, create jobs, protect public health, boost consumer confidence and reduce harmful emissions. It is for these reasons that Congressman Matheson is to be applauded for sponsoring H.R. 1796, which will require the United States Consumer Product Safety Commission to enforce stronger standards to protect people nationwide against the deadly dangers of carbon monoxide. As we continue to discuss ways in which certain products impact American consumers, it is critical that the federal government adopt approaches that are stimulative, effective, innovative and efficient. It is equally important, however, that we ensure that our Nation follows best practices and adheres to the toughest production standards in the world.

Toward that end, I have partnered with Congressman Ehlers to introduce H.R. 4805, which would establish national standards for formaldehyde in domestic and imported composite wood products. The emissions of formaldehyde, which is a chemical widely used in a variety of composite wood product applications, are known to have adverse effects on human health and resulted in cases of toxicity for those storms victims provided FEMA trailers following Hurricane Katrina.

H.R. 4805 would apply the rule recently adopted by the California Air Resources Board, otherwise known as CARB, in collaboration with industry, regulatory authorities and public interest groups to lower limits for formaldehyde emissions in those composite wood products. In doing so, the bill would direct the EPA to accept the standard that is already being practiced by our domestic industries and ensure that ongoing economic recovery efforts continue. I urge my colleagues to favorably consider this bipartisan, bicameral legislation which is publicly endorsed by industry, environmentalists, labor and health care advocates, and I commend Senators Klobuchar and Crapo for offering the Senate counterpart and for their leadership on jobs and consumer health issues.

Mr. Chairman, I thank you again for calling today's hearing and I yield back the balance of my time.

Mr. RUSH. The Chair recognizes the gentleman from Louisiana, Mr. Scalise, for 2 minutes.

OPENING STATEMENT OF HON. STEVE SCALISE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. SCALISE. Thank you, Chairman Rush and Ranking Member Whitfield for having this hearing today.

I believe it is important that our subcommittee continue to examine chemicals and substances that are used in our everyday lives as well as the laws governing their use in commerce. It is our obligation to ensure that consumers are properly protected. As I have said before, we must also find the appropriate balance between protecting our health and the environment and protecting jobs in this economy and the manufacturers who make the products that we enjoy.

Of particular interest to me and my constituents for this hearing is formaldehyde. It is a chemical that is widely used but one that unfortunately my constituents are all too familiar with. In 2005, Hurricanes Katrina and Rita destroyed more than 300,000 homes and displaced approximately 700,000 people. As a result, FEMA and its contractors shipped over 200,000 mobile homes, travel trailers and other temporary housing units to our region. These temporary units helped meet the critical housing need following the 2005 hurricanes. Only later did we find out that some of these trailers contained formaldehyde and had exposed people to health risks associated with this chemical. According to the Department of Homeland Security's Inspector General, approximately one-third of the units had "significant potential formaldehyde problems." This led to many people experiencing health and respiratory issues and some even had to move out of the trailers.

Given the challenges we have faced, formaldehyde is an issue that we take very seriously in south Louisiana. That is why I am pleased to see some of my colleagues focusing on this issue and introducing legislation aimed at setting standards for formaldehyde in composite wood products. However, I do have concerns with the legislation and would like to see changes made. My office has discussed this legislation with a number of organizations and businesses involved in the composite wood industry and they have all echoed support for these changes. Chief among these is preemption. As many members have already said, I am afraid that without preemption, businesses will face a myriad of different state regulations that will only make it more difficult for them to conduct business. If California is essentially setting the national standard, what is to prevent them from changing the standard again, thereby creating different requirements and compromising the national standard?

I am also concerned about the timing requirements and restrictions that could be placed on businesses. It is my understanding that implementation was delayed in California because of the challenges business faced in meeting the requirements. I hope that we would look at these issues and the potential unintended consequences that could result from this bill.

Again, Mr. Chairman, formaldehyde is a serious issue that has impacted many of my constituents and I am pleased that we are having this hearing. I do hope that we will fully examine the legislation and proceed carefully when debating the possibility of implementing the prescriptive requirements of one State across the Nation. I look forward to hearing from our panelists on their views on H.R. 4805, particularly on whether preemption would improve the bill. I yield back.

Mr. RUSH. The gentlelady from Ohio, Ms. Sutton, is recognized for 2 minutes.

**OPENING STATEMENT OF HON. BETTY SUTTON, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Ms. SUTTON. Thank you, Chairman Rush, and thank you for holding this hearing on these two bills that are critically important moving through the subcommittee. I am proud to be a cosponsor of these initiatives and I commend Mr. Matheson and Mrs. Matsui for their leadership on these very important safety issues.

The Residential Carbon Monoxide Poisoning Prevention Act will require all manufacturers to meet widely accepted standards for carbon monoxide detectors, and the Formaldehyde Standards for Composite Wood Products Act will protect the health of American families from high uses of formaldehyde in common household products like flooring, paneling, cabinets and doors, both important objectives.

Carbon monoxide poisoning is the leading cause of poisoning death in the United States and formaldehyde has been recognized as a carcinogen. National standards will certainly enhance safety for consumers and will level the playing field between foreign and domestic manufacturers. Currently, foreign manufacturers who use unsafe levels of harmful toxins like formaldehyde are able to undercut domestic manufacturers who put safety above profit. Every year, countless Americans are injured, sometimes fatally, by harmful products that have been manufactured abroad and imported into the United States.

I recently introduced the Foreign Manufacturers Legal Accountability Act of 2010 to protect American consumers and businesses from defective products manufactured abroad. It is our job to protect American consumers. The American people expect and demand that the products that they are sold are safe for themselves and their families. When they install a carbon monoxide detector, they expect that it will warn of dangerous levels of carbon monoxide, and when they install a new countertop or paneling, they expect that the wood products are harmless, and we must ensure that that is the case regardless of where products are made. Dangerous products are dangerous products, and those who would profit over the safety of the American people must not escape accountability simply because they manufacture unsafe products abroad and ship them to the United States for our use, and I yield back.

Mr. RUSH. The Chair now recognizes the vice chairman of the subcommittee, the gentlelady from Illinois, Ms. Schakowsky, for 2 minutes.

**OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS**

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I am proud to be a cosponsor of the Residential Carbon Monoxide Prevention Act, which would establish a mandatory safety standard for all carbon monoxide detectors and requires warning labels on portable generators, a major source of carbon monoxide poisoning. I can't think of more dramatic and compelling testimony than we heard from Representative Gingrey about how important this legislation is, and I am not going to try and elaborate on that.

We do know, according to the Illinois Department of Public Health, however, that infants are even more susceptible to carbon monoxide poisoning because their hemoglobin binds with carbon monoxide better than adults do, so this is a special problem for children. The highest rates are among seniors because they are most likely to mistake the symptoms of carbon monoxide poisoning for the flu or general fatigue. So I am very happy to join my colleagues in H.R. 1796.

The Formaldehyde Standards for Composite Wood Products Act is another very important bill, and I would ask my colleague, Representative Matsui, to add me as a cosponsor of the bill to establish a strong standard for emissions of formaldehyde from the covered products, which are very common in usage and in most of our homes and backyards. But I think it is important to emphasize that Congress is being forced to act on this measure because the Environmental Protection Agency hasn't been able to do so under the existing Toxic Substances Control Act. This is another reason why we will turn our attention to reforming TSCA later this year. Thank you, Mr. Chairman.

Mr. RUSH. The Chair recognizes the gentleman from Nebraska, Mr. Terry, for 2 minutes.

Mr. TERRY. Waive opening statement.

Mr. RUSH. The Chair thanks the gentleman. The Chair now recognizes the gentlelady from Colorado, Ms. DeGette, for 2 minutes.

Ms. DEGETTE. I will put my opening statement in the record.

[The information was unavailable at the time of printing.]

Mr. RUSH. The Chair thanks the gentlelady. The chair now recognizes the gentlelady from Florida, Ms. Castor, for 2 minutes.

OPENING STATEMENT OF HON. KATHY CASTOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. CASTOR. Thank you, Chairman Rush, and good morning, everyone.

It is a good day when we can come to a hearing and discuss bipartisan legislation that will put more Americans back to work and make families and communities safer. I am supportive of both of these bills because there is no doubt they will save lives and jobs. When industry and public health can agree that new laws are in the best interest of all involved, that is very positive. However, I want to stress that these bills should be viewed as just steps in the path to where we really need to go. They don't really bring us across the finish line.

Now, H.R. 1796, the carbon monoxide bill, requires that the voluntary standard for carbon monoxide alarms be made mandatory, as many of you know, carbon monoxide, it is the leading cause of poisoning death in the United States each year so the urgency to pass this bill is particularly acute for Floridians because we are beginning to plan for hurricane season, and besides bottled water and batteries, Floridians are going out to buy generators, and when the big storms roll up through the Gulf or the Atlantic, they lose power and start their generators, and these generators, they will put them in the garages and the gas is colorless, odorless, and this poison can kill them while they sleep and we have had some very sad occasions there. So we need to pass this uniform standard. This is

going to protect all of us. It is a good start but what we really need to do is pass comprehensive TSCA reform so that we don't create more loopholes with piecemeal chemicals legislation. We need to give EPA the authority to regulate harmful chemicals in many of the products that are being dumped on us from overseas.

So in closing, I strongly support both of these bills and encourage my colleagues to vote for them as well.

Mr. RUSH. The Chair thanks the gentlelady and the Chair thanks all the members for their opening statements.

It is now my privilege to welcome our panel of witnesses before this subcommittee. It is indeed an esteemed panel, and I will introduce each panelist beginning on my left where we find Mr. Robert J. Howell, Jr., who is the assistant executive director of the Office of Hazard Identification and Reduction for the U.S. Consumer Product Safety Commission. Seated next to Mr. Howell is Dr. Eric Lavonas, who is the associate director of the Rocky Mountain Poison and Drug Center, and he is an emergency physician at the Denver Health Medical Center in Denver, Colorado. And seated next to Dr. Lavonas is Mr. John Andres, who is the director of engineering for the Kidde Corporation. And seated next to Mr. Andres is Mr. Mark Devine, who is the vice president of marketing for First Alert, which is an outstanding and illustrious company from my home State of Illinois located south of Chicago in Aurora, Illinois, where I visited many times, and First Alert is indeed an excellent Illinois corporate citizen.

I want to welcome all of the witnesses today, and I want you to know that it is the practice of this committee that each witness must be sworn in, so would you stand and raise your right hand?

[Witnesses sworn.]

Mr. RUSH. Let the record reflect that the witnesses have all answered in the affirmative.

And now we will invite Mr. Howell to present his opening statement. Mr. Howell, you are recognized for 5 minutes.

TESTIMONY OF ROBERT J. HOWELL, JR., ASSISTANT EXECUTIVE DIRECTOR, OFFICE OF HAZARD IDENTIFICATION AND REDUCTION, U.S. CONSUMER PRODUCT SAFETY COMMISSION; ERIC LAVONAS, M.D., ASSOCIATE DIRECTOR, ROCKY MOUNTAIN POISON AND DRUG CENTER, EMERGENCY PHYSICIAN, DENVER HEALTH MEDICAL CENTER; JOHN ANDRES, DIRECTOR OF ENGINEERING, KIDDE RESIDENTIAL AND COMMERCIAL DIVISION; AND MARK DEVINE, VICE PRESIDENT OF MARKETING, FIRST ALERT

TESTIMONY OF ROBERT J. HOWELL, JR.

Mr. HOWELL. Good morning, Chairman Rush, Ranking Member Whitfield and members of the Subcommittee on Commerce, Trade, and Consumer Protection. My name is Robert Howell and I am the assistant executive director for the Office of Hazard Identification and Reduction at the U.S. Consumer Product Safety Commission. I appreciate the opportunity to testify before you this morning regarding H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act and the overall danger of carbon monoxide poisoning.

Before I begin, I would like to note for the record that the testimony that I will give this morning is mine and reflects the views of my technical staff. The testimony has not been reviewed or approved by the Commission and may not necessarily reflect the views of the Commission.

Carbon monoxide is a colorless, odorless and poisonous gas that results from the incomplete combustion of fuels such as natural gas, gasoline, oil, coal and other fuels. The health effects related to carbon monoxide depend upon its concentration in the blood, which in turn depends upon its concentration in air, the duration of exposure and each individual's general health.

Some symptoms of CO poisoning may mimic common illnesses, such as influenza or colds, opening up the opportunity for an initial misdiagnosis. Patients are frequently unaware of exposures to carbon monoxide, and health care providers may not always consider carbon monoxide poisoning as a cause of such nonspecific symptoms.

CPSC staff estimates that there were 180 unintentional, non-fire carbon monoxide poisoning deaths in 2006 associated with consumer products with 71 percent of these deaths occurring in homes. Gas furnaces and boilers have historically been a leading cause of carbon monoxide deaths associated with consumer products. However, portable generator-related have increased more than 350 percent in recent years from an average of about 16 deaths per year from 1999 through 2001 to about 75 deaths per year from 2004 through 2006. But regardless of the type of appliance involved in the incident, CPSC data show that carbon monoxide poisoning and death are much more likely to occur in homes with no functioning carbon monoxide alarms.

CPSC recommends that every home have a carbon monoxide alarm in the hallway near the bedrooms in each separate sleeping area. These alarms should be battery operated or plug-in with a battery backup. CPSC publishes annual press releases on the importance of maintaining home heating systems using carbon monoxide alarms, meeting the requirements of the UL 2034 standard and installing carbon monoxide alarms outside every sleeping area in the home. We also issue our rapid response media alerts when an oncoming storm is likely to spur power outages, as happened in this winter's historic snowfalls. The Commission has also taken action to warn consumers of the specific danger posed by the improper operation of portable generators. In January 2007, the Commission issued a final rule making a portable generator labeling requirement mandatory on units manufactured after May 13, 2007.

The Commission has also directed staff to investigate methods to address the carbon monoxide hazard associated with portable generators. CPSC staff is working expeditiously and making excellent progress to develop and demonstrate a proof of concept for technology that would lower the risk of carbon monoxide poisoning associated with portable generators. To date, the work has yielded promising preliminary results such as prototype generators which would significantly lower emissions rates than found in today's marketplace. However, it likely will take another 2 years of additional testing and modeling before the Commission is ready to con-

sider a proposed rule to regulate carbon monoxide emissions from portable generators.

CPSC staff supports the goals of H.R. 1796. Carbon monoxide alarms save lives by warning consumers of the presence of carbon monoxide before the onset of its debilitating effects. CPSC staff believes that the current edition of UL 2034 is an effective standard and that products meeting those requirements provide adequate protection against carbon monoxide poisoning. Making conformance to UL 2034 mandatory will establish a minimum acceptable performance standard for carbon monoxide alarms and will give CPSC greater authority to keep non-complying carbon monoxide alarms out of the U.S. marketplace.

CPSC staff also supports the provisions in H.R. 1796 for a state grant program for carbon monoxide alarms. Reportedly, only 35 to 50 percent of U.S. households have carbon monoxide alarms. Working with state and local authorities is critical to amplifying our message on the dangers of carbon monoxide poisoning. Getting carbon monoxide alarms into more American homes, both existing and new construction, will save lives. We believe the passage of H.R. 1796 along with our work to reduce or eliminate carbon monoxide emissions at the source, alerting consumers to the presence of hazardous carbon monoxide levels if they occur, and educating consumers to the hazards posed by carbon monoxide will provide a comprehensive approach to addressing the risk to the American consumer from carbon monoxide.

Mr. Chairman, thank you again for the opportunity to testify on H.R. 1796 and the overall issue of carbon monoxide dangers.

[The prepared statement of Mr. Howell follows:]



**Statement of
Robert J. Howell
Assistant Executive Director
Office of Hazard Identification and Reduction
U.S. Consumer Product Safety Commission**

Before the

House Energy and Commerce Committee

**Subcommittee on Commerce, Trade and
Consumer Protection**

March 18, 2010

Good morning, Chairman Rush, Ranking Member Whitfield, and Members of the Subcommittee on Commerce, Trade and Consumer Protection. My name is Robert J. Howell, and I am the Assistant Executive Director for the Office of Hazard Identification and Reduction at the U.S. Consumer Product Safety Commission ("CPSC"). I appreciate the opportunity to testify before you this morning regarding H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and the overall dangers of carbon monoxide poisoning. The testimony that I will give this morning is mine and reflects the views of my technical staff. The testimony has not been reviewed or approved by the Commission and may not necessarily reflect the views of the Commission.

In my role at CPSC, I oversee the technical work of the agency within the directorates for Engineering Sciences, Epidemiology, Economic Analysis, Health Sciences and Laboratory Sciences. My office is responsible for the collection and analysis of death and injury data associated with consumer products, which include fuel-burning products such as heating systems, engine driven tools, gas appliances, and portable generators and related products, including carbon monoxide alarms. My office also is responsible for analyzing product safety performance, developing technological solutions to address product safety concerns, and working with those stakeholders involved in developing voluntary standards designed to improve consumer product performance.

I. Carbon Monoxide: The Silent Killer

Carbon monoxide (CO) is a colorless, odorless, and poisonous gas that results from the incomplete combustion of fuels such as natural or liquefied petroleum (LP) gas, gasoline, oil, wood, coal, and other fuels. The health effects related to CO depend upon its concentration in blood, which in turn depends on its concentration in air, the duration of exposure, and each individual's general health.¹

Some symptoms of CO poisoning may mimic common illnesses, such as influenza or colds: thus, there likely is a high incidence of initial misdiagnosis by physicians and victims. Patients are frequently unaware of exposures to CO, and health care providers may not always consider CO poisoning as a cause of such non-specific symptoms.

For example, picture an apartment complex with a faulty furnace. As CO seeps inside of that apartment or home, the residents will begin to feel sick. At first, maybe they will just believe they are coming down with the flu, as they experience mild nausea and headaches. The symptoms then worsen as the CO continues to concentrate and dizziness and disorientation set in. This is the critical moment. If the residents do not exit their dwellings and get to fresh air, then unconsciousness is the next stage. If the furnace does

¹ Carbon monoxide combines with hemoglobin (Hb) with an affinity about 250 times that of oxygen, forming carboxyhemoglobin (COHb) and interfering with oxygen transport, delivery and utilization. Generally, there are no perceptible health effects or symptoms in healthy individuals at COHb levels below 10 percent. Symptoms associated with blood levels at or above 10 percent COHb include headache, fatigue, nausea, and cognitive impairment. Loss of consciousness, coma, and death can occur at COHb levels greater than 20 percent, although for healthy adults CO fatalities typically require levels above 50 percent.

not shut down, or a carbon monoxide alarm fails to warn the occupants, serious injury or death is likely to occur. That is why properly operating CO alarms should be installed in all residences.

II. CO Poisoning Incidents: Recent Trends

CPSC staff estimates that there were 180 unintentional non-fire CO poisoning deaths in 2006 associated with consumer products with 71 percent of these deaths occurring in homes. Consumer products often associated with CO fatalities include fuel-burning appliances such as furnaces, portable generators, portable propane heaters, gas ranges, gas water heaters, and charcoal and gas grills.

Gas furnaces and boilers have historically been a leading cause of CO deaths associated with consumer products. From 2004 to 2006, they accounted for almost half (43%) of the estimated 69 CO deaths associated with the gas fueled appliances.

However, a significant increasing trend in consumer product-related, non-fire CO fatalities from 1999 to 2006 is attributable to generators. Portable generator-related deaths have increased more than 350 percent in recent years, from an average of about 16 deaths per year, from 1999-2001, to about 75 deaths per year in the period 2004-2006. During the three-year period 2004-2006, 41 percent of consumer product-related CO poisoning deaths (an average of about 75 deaths annually) were generator-related and 35 percent (an average of 63 deaths per year) were heating system-related.

Regardless of the type of appliance involved in the incident, CPSC data also show that CO poisoning and death are much more likely to occur in homes with no functioning CO alarms.

III. CPSC Response to CO Poisoning from Consumer Products

To address the non-generator related CO hazard, CPSC staff has employed a three-fold approach: (1) reducing or eliminating CO production at the source, (2) alerting consumers to the presences of hazardous CO levels if they occur; and (3) educating consumer to the hazards posed by CO.

In its efforts to reduce CO deaths, CPSC staff has taken the approach of limiting CO levels in the home to the lowest possible level achievable taking into account the limitations of combustion appliance technology and the detection capabilities of low-cost CO alarms. Avoidance of nuisance appliance shutdowns and alarm activations has been a primary concern. Historically, we have had good success, but more needs to be done.

When cooking or heating appliances are kept in good working order, they produce little CO. Improperly operating appliances can produce fatal CO concentrations in the home. Proper installation, operation, and maintenance of fuel-burning appliances in the home are the most important factors in reducing the risk of CO poisoning. In addition to the

proper use and upkeep of appliances that are potential CO sources, CO alarms provide a valuable second line of protection.

CPSC recommends that every home have a CO alarm in the hallway near the bedrooms in each separate sleeping area. The CO alarms should be battery-operated or plug-in with battery back-up. The CO alarms should be certified to the requirements of the most recent Underwriters Laboratories (UL) standard for CO alarms. Consumers should test CO alarms frequently and replace batteries annually. CPSC reaches out to the media and consumers about the dangers of carbon monoxide through many venues. Twice a year CPSC reminds consumers to check their CO alarms when they adjust their clocks for daylight saving time and to change the alarm batteries annually.

We also publish annual press releases on the importance of maintaining home heating systems, using CO alarms meeting the requirements of the UL 2034 standard, and installing CO alarms outside every sleeping area in the home. Our "rapid response" media alerts are issued when an oncoming storm is likely to spur power outages, as happened in the recent historic snowfalls here in the Northeast. We also have several publications on our Web site aimed at warning consumers about carbon monoxide poisoning. Consumers may download these publications or order free copies.

In addition, this year we are developing a poster contest for middle school students - the collection of contest submissions is anticipated in 2011. The goal is to educate students and families and generate awareness across the country about poisonous carbon monoxide.

The Commission has also taken action to warn consumers of the specific danger posed by the improper operation of portable generators. In January 2007, the Commission issued a final rule making a portable generator labeling requirement mandatory on units manufactured on or after May 14, 2007. The mandatory warning label informs purchasers that "Using a generator indoors CAN KILL YOU IN MINUTES; "Generator exhaust contains carbon monoxide. This is a poison you cannot see or smell;" "NEVER use inside a home or garage, EVEN IF doors and windows are open;" "Only use OUTSIDE and far away from windows, doors and vents." The warning label also includes pictograms indicating the danger of CO emissions from portable generators for consumers who may not understand the written warnings. However, labels are only part of the answer; vigorous action is needed to limit the amount of carbon monoxide produced by portable generators.

To lower the CO poisoning risk associated with portable generators, the approach the agency is taking is similar to the approach CPSC takes with many other products, which is to reduce the risk at its source. In December 2006, the Commission directed staff to investigate methods to address the CO hazard associated with portable generators and published an Advance Notice of Proposed Rulemaking (ANPR).

CPSC staff is working expeditiously and making excellent progress to develop and demonstrate a "proof of concept" for technology that would lower the risk of CO

poisoning associated with portable generators. Under a contract with the University of Alabama (UA), CPSC and UA staff have worked to develop two prototype portable generators. The first prototype is designed to operate with significantly reduced CO emissions in the exhaust. The prototype design incorporates electronic fuel injection (EFI), which is a proven, well-understood technology. The prototype generator was subjected to a durability test program to ensure it would perform while achieving the desired emission rates throughout the entire advertised useful life of the generator and not adversely affect generator performance.

A second prototype was developed that uses the same CO-emission reduction strategy as the durability-tested unit but incorporates programmed logic that can distinguish when engine performance is affected by operation in an enclosed space and shuts the engine off. This is a tamper-proof safety feature intended to further limit consumers' exposure to CO when the product is used in an enclosed area.

In tandem with the University of Alabama contract, we are also working with our federal partner – the National Institute of Standards and Technology (NIST) – to develop the requirements for a potential proposed rule limiting CO emissions from portable generators, the criteria for which will be based on health effects. To do this, NIST is testing the two University of Alabama prototype generators in a garage attached to a house set up to measure how CO moves from the garage into the rest of the house. This set-up, with the generator operating in an attached garage, is a common fatal consumer incident scenario. The results from these and other tests, conducted by NIST, will be used by CPSC staff to evaluate the efficacy of the prototypes, and compared to tests run with off-the-shelf commercially available generators, in creating survivable conditions for occupants in the house.

To date, the work on prototype generators that can reduce the risk of CO poisoning has been very promising. However, it likely will take another two years of additional testing and modeling before the Commission is ready to consider a proposed rule to regulate CO emissions from portable generators.

IV. H.R. 1796

CPSC staff supports the goals of H.R. 1796. CO alarms save lives. They do that by warning consumers of the presence of CO before the onset of its debilitating effects. CPSC staff believes that the current edition of UL 2034 is an effective standard, and that products meeting those requirements provide adequate protection against CO poisoning. CPSC staff worked closely with UL on the development and subsequent revisions to UL 2034. Making conformance to UL 2034 mandatory will provide a level playing field for CO alarm manufacturers and will give CPSC greater authority to keep non-complying CO alarms out of the U.S. market.

CPSC staff also supports the provisions in H.R. 1796 for a state grant program for carbon monoxide alarms. Reportedly, only 35 percent to 50 percent of U.S. households have CO alarms. CPSC is a small agency with a big mission. Working with state and local

authorities is critical to amplifying our message on the dangers of carbon monoxide poisoning. Getting CO alarms into more American homes – both existing and new construction – will save lives.

However, I should stress that our support of H.R. 1796 does not diminish the need for manufacturers of generators and gas appliances to design and build products in a manner that provides the greatest level of protection to consumers from CO exposure. We will continue to pursue our current initiatives to ensure that this is accomplished. We believe these initiatives, along with passage of H.R. 1796, will provide a comprehensive approach to addressing the risks to the American consumer from carbon monoxide.

* * * * *

Mr. Chairman, thank you again for the opportunity to testify on H.R. 1796 and the overall issue of CO dangers. CPSC continues to work aggressively to reduce deaths and injuries associated with carbon monoxide poisoning from consumer products under our jurisdiction, and we appreciate the Subcommittee's awareness of this critical issue. I would be happy to answer any questions at this time.

Mr. RUSH. The Chair now recognizes Dr. Lavonas for 5 minutes for the purposes of opening statement.

TESTIMONY OF ERIC LAVONAS

Dr. LAVONAS. Good morning, and thank you. I would like to thank the committee and particularly Mr. Rush and Mr. Matheson for inviting me to be here today. As Mr. Rush said, I am an emergency physician and a medical toxicologist from Denver. I am one of Ms. DeGette's constituents. Thank you. I am the associate director of the Rocky Mountain Poison and Drug Center, which is the State-designated poison control center for five States, and also a faculty member at the University of Colorado.

As Mr. Gingrey said, this is serious business, and I am passionate about this, probably for the same reason that Mr. Gingrey is. Carbon monoxide poisoning is the leading cause of unintentional poisoning death. That is after you subtract out deaths related to complications from drug abuse. The most recent data from CDC reports 562 unintentional deaths caused by carbon monoxide poisoning. That was in 2004. That is not counting fire-related deaths nor is it counting another 1,200 deaths due to suicide. There are approximately 20,000 people treated in America's emergency departments each year because of unintentional carbon monoxide poisoning. Again, that is not counting suicide attempts. As Ms. Schakowsky pointed out, infants and the elderly are at increased risk, as are women. Surprisingly, there is not much variation around the country. North, south, east or west, this is still a big problem. Of those 20,000 or so people treated in emergency departments every year, about a quarter will have lasting brain damage, and that is even with the best available medical treatment. This is a major public health problem in the United States.

So Mr. Gingrey stole my thunder. Statistics are important but sometimes it helps to understand two or three deaths instead of 562. In November 2008, we had an incident in the Colorado mountains in which the Lofgren family from Denver won use of a ski house in their kids' Presbyterian school charity auction. Unfortunately, a vent pipe in the heating system of that home had come unglued, apparently well installed but some glue failed. A pipe was disconnected. Parker and Caroline Lofgren, their 10-year-old son, Owen, and their 8-year-old daughter, Sophie, never woke up the next morning.

In January of 2009, we had a winter storm blow through Denver, as it is wont to do, and it loosened the chimney cap on an apartment building near the University of Denver. So the building super went up on the roof, tightened the cap down as you should do, and accidentally killed a 23-year-old graduate student named Lauren Johnson, who was found dead in her apartment the next morning.

But let me tell you a success story, and these kinds of success stories are why I am here. So when I was in Charlotte, North Carolina, we helped to pass and then strengthen a residential carbon monoxide alarm ordinance. The Charlotte ordinance requires a carbon monoxide alarm in every dwelling unit in the county. So this January, about 2 months ago, a woman, presumably a single mom, for reasons that I don't understand decided to use a charcoal grill inside the house to cook a meal for herself and her three small chil-

dren. Now, the landlord is a good landlord and he complied with the law so there was a carbon monoxide alarm and a smoke alarm in every dwelling unit in the building. Her carbon monoxide and smoke alarms went off but she knew the building wasn't on fire. She didn't understand about carbon monoxide and presumably she pulled the batteries. A few hours later, the carbon monoxide alarm in the upstairs apartment went off. The upstairs neighbor recognized the problem, went downstairs to check on his neighbor. He could hear people moving inside the apartment but nobody could answer the door, so he called Charlotte Fire Department. They gained entry to the apartment, found the mother semicomatose on the floor and the children severely ill. Happy ending. So if you want to know why am I here today, there are five very good reasons why I am here today. We had a good landlord spurred by a good law.

The impact on the survivors is meaningful. For example, I took care of an international—this is a patient I treated, so I can't use his name but an international building business consultant who flew back from wherever he flew back from, got home to his apartment, dropped his bag on the couch, went to bed. In the middle of the night his carbon monoxide alarm went off. He had to crawl down the steps to get help but we were able to treat him. He initially made what looked like a good recovery and then subsequently developed some problems with concentration. I lost track of him after we had referred him to brain injury rehab but he was unable to work, unable to perform his job.

So as you have heard, carbon monoxide poisoning is called the silent killer. This poison has no warning properties. You can't see it, you can't smell it. It mixes freely with air. The first signs that you are being poisoned feel like the flu: vomiting, diarrhea, achiness, fatigue, headaches. Doctors miss this diagnosis a lot, sometimes with tragic results.

If we are going to do something about this, we need three things: source reduction, early detection and public education. Now, I am sitting next to an expert from the Consumer Product Safety Commission so it is silly for me to talk about source reduction. I am not an engineer. Public education is important and both CDC and CPSC are doing aggressive messaging for public education. We can always do more. But we are here today to talk about early detection, carbon monoxide alarms. Even if you could control the behavior of 303 million Americans, there are 127 million households in this country and things break. I have had a carbon monoxide leak in my own home, and my home is 2 years old. Carbon monoxide alarms are inexpensive. They are about 20 bucks, and the price keeps going down. The sensor reliability for modern alarms is very good. We tracked our false alarm rate in Charlotte and found that about 60 percent of the time when Charlotte Fire Department got called for CO alarm activation, they found CO in the home.

As Ms. Castor said, this bill is a small step towards an important goal and I support the goals of this bill, and would look forward to an opportunity to come back with something even more effective and impactful in the future. Thank you.

[The prepared statement of Dr. Lavonas follows:]

Written statement of:

Eric Lavonas, MD
Associate Director, Rocky Mountain Poison and Drug Center
Denver Health and Hospital Authority
Denver, Colorado

Appearing before the:

Subcommittee on Commerce, Trade, and Consumer Protection
Committee on Energy and Commerce, United States House of Representatives
March 18, 2010

Regarding:

H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act

Good morning. I'd like to thank the Committee, and particularly Representatives Rush and Matheson, for inviting me to speak with you today. By means of introduction, I am an emergency physician and medical toxicologist from Denver, Colorado. I work for the Rocky Mountain Poison and Drug Center, the nation's busiest poison control center, serving the states of Colorado, Nevada, Montana, Idaho, and Hawaii. We are part of the Denver Health and Hospital Authority. I'm also on the faculty of the University of Colorado School of Medicine. I have worked actively in the prevention and treatment of carbon monoxide poisoning for ten years. I have worked with state and local government to design and enact carbon monoxide alarm laws, performed research with the Centers for Disease Control and Prevention to study the effectiveness of these laws, and serve on the Underwriters Laboratories / American National Standards Institute Standards Technical Panel 2034, which sets the voluntary standards for carbon monoxide alarms. Before coming to Denver, I worked in Charlotte, North Carolina, where I ran the hyperbaric oxygen unit that took care of most of the serious carbon monoxide poisoning cases in western North Carolina.

I am passionate about this issue because, despite all our efforts, carbon monoxide poisoning remains the third leading cause of unintentional poisoning death in the United States. Poisoning is second only to motor vehicle crashes as a cause of death due to injury in the United States.¹ Excluding deaths due to drug abuse, more than half of all unintentional poisoning deaths in the United States are due to carbon monoxide poisoning.² The most recent data from CDC reported 562 unintentional deaths caused by carbon monoxide poisoning in 2004. That does not count deaths that were fire-related, nor does it count another 1,200 deaths due to suicide. More than 20,000 people are treated in America's emergency departments each year because of unintentional carbon monoxide poisoning.³ Rates are slightly higher for women and small children. It's surprising, but there isn't much variation between regions of the country. Even with the best possible treatment, about a quarter of these survivors develop brain injuries, many of which are permanent.⁴ There is no question that carbon monoxide poisoning is a major public health problem in the United States.

Statistics are important, but they don't do enough to convey the importance of this problem. Let me give you three recent examples. I should stress that, although I have some connection to each of these stories, all the information I'm sharing comes from public sources:

- In November, 2008, the Lofgren family of Denver, Colorado, won the use of a ski home in Aspen in their children's school charity auction. Unfortunately, a vent pipe in the heating system had become disconnected. Carbon monoxide poisoning killed Parker and Caroline Lofgren, their 10-year-old son, Owen, and their 8-year-old daughter, Sophie.⁵
- In January of 2009, a winter storm loosened the chimney cap on an apartment building near the University of Denver. A repairman tightened the cap down. The following morning, a 23-year-old graduate student, Lauren Johnson, was found dead in her apartment from carbon monoxide poisoning.⁶
- Just this January, we had a success story in Charlotte, North Carolina. A family in a downstairs apartment used a charcoal grill to cook dinner and warm the home. Charlotte has a carbon monoxide alarm law, and the landlord had installed a carbon monoxide alarm in every apartment in the building. It appears that, when the alarm went off in the downstairs apartment, the mom pulled out the battery. A few hours later, the occupant of the upstairs apartment was awakened when his carbon monoxide alarm went off. He heard people inside the downstairs apartment, knocked on the door, and then called 911. The Charlotte Fire Department forced entry, and found the mother and three small children semi-comatose and vomiting on the floor. Potentially lethal levels of carbon monoxide were present in both apartments. If it wasn't for a good landlord who followed Mecklenburg County's carbon monoxide alarm law, at least five people would have died.⁷

To give you a better idea of the impact of carbon monoxide poisoning on survivors, let me tell you about a few of the patient's I've personally treated:

- An international business consultant flew home from Europe, dropped his bag on the couch, and went to sleep. Several hours later, he woke up with a horrible headache, vomiting, and trouble walking. He had to crawl down his stairs to get help. Even after treatment with hyperbaric oxygen, he had difficulty with concentration and complex thinking, and was unable to work. The last I heard, he was applying for permanent disability.
- A general contractor just happened to have a generator in his truck when an ice storm took out the power to his neighborhood. He's a pretty smart guy, so he set up the generator in his unfinished basement, opened all the windows and doors, and went to bed. Being a contractor, he had a carbon monoxide alarm in his home. The alarm woke him up, and he stumbled around the house to shut off the generator. The next morning, the paperboy found him passed out on his front lawn. Like the previous patient, he looked good after treatment, but then developed trouble concentrating. The last time I spoke with him, he was still unable to work, and his business was falling apart.

Carbon monoxide poisoning is often called “the silent killer,” because it gives little warning. Carbon monoxide is colorless, odorless, and mixes freely with air. Carbon monoxide is present in nearly every home. Everything that burns fuel, including automobiles, gas appliances, fireplaces, grills, and electrical generators, produces some carbon monoxide. The reason more people don’t get sick is a combination of good design, such as furnaces that vent to the outside, and good behavior, such as not running a generator inside the house or garage.

Three pillars of carbon monoxide poisoning prevention are source reduction, early detection, and public education.

Source reduction is basically good engineering: Designing, installing, and maintaining equipment to minimize the amount of carbon monoxide that is produced and to safely route the gas out and away from people. The CPSC and EPA have good people working on that. Other than to say that they need more resources, I’m not going to talk about that any further today.

Public education is crucial as well, for obvious reasons. The CDC and CPSC have put a lot of energy and focus into this area, and HR 1796 addresses this a bit with generator warning labels. However, people often don’t follow written warnings. Changing behavior requires a message that is timely, relevant, and repeated often. We can do much more to train the public not to accidentally poison themselves, but that’s a conversation for another day.

We are not going to make much headway in the fight against carbon monoxide poisoning without early detection, and that means carbon monoxide alarms. In our nation of 127 million households, things break! This can happen to anyone; I’ve even had a carbon monoxide leak in my own home. Unfortunately, it’s easy to mistake the early signs of carbon monoxide poisoning for food poisoning, a headache, or “the flu.” Doctors miss the diagnosis, too. When carbon monoxide leaks into a home, the best way to prevent serious carbon monoxide poisoning is a carbon monoxide alarm.

Carbon monoxide alarms are inexpensive. They currently cost about \$20, and the price continues to drop. Although sensor reliability was a problem in the past, modern sensors are quite good. The Charlotte Fire Department tracks its false alarm rate. About 60% of the time, when they respond to a carbon monoxide alarm activation, the alarm is right. Both the National Fire Protective Association and the International Code Council have placed carbon monoxide alarm requirements into their residential building codes.^{8,9} Because building code requirements generally only kick in when a home is built or undergoes substantial renovations, it will take 30 years or more to solve this public health problem through building codes. Currently, 24 states have some form of residential carbon monoxide alarm law.¹⁰ This is a growing national standard, and the states are leading the federal government.

To my knowledge, HR 1796 and its companion, Senate Bill 1216, are the first pieces of national legislation to directly address the problem of carbon monoxide poisoning. HR 1796 is a small step in the right direction. Its goals are modest: To ensure that generators have appropriate warning labels, as currently required by the CPSC, to ensure that all carbon monoxide alarms sold in this country meet widely agreed-upon industry standards, and to authorize block grants to help the states that choose to do so implement carbon monoxide alarm programs.

In addition to the provisions in HR 1796, I would encourage the Committee to consider these “next steps” for future legislation.

First, require that carbon monoxide alarms be installed in any housing subsidized by the federal government, including HUD housing, VA-subsidized housing, and government-controlled housing such as military and diplomatic housing. The cost would be about 50 cents per dwelling unit per month, including batteries. That’s money well invested in terms of lives saved, and would be largely offset by health care costs avoided.

Second, fund positions within the CDC dedicated to addressing the problem of carbon monoxide poisoning. Currently, the Air Pollution and Respiratory Health Branch of the CDC’s National Center for Environmental Health has no positions funded for carbon monoxide poisoning work. The agency has done excellent work in recent years, but each CDC official has to do this work in between other projects. The EPA, which regulates carbon monoxide in automobile exhaust, and the Consumer Products Safety Commission are also trying to do this work on a shoestring. I can’t think of another problem that kills 1,700 Americans each year and has so little federal support.

Thank you for taking the time to meet with me today. I will do my best to answer any questions.

References:

¹ Centers for Disease Control. Unintentional Poisoning Deaths – United States, 1999 – 2004. *MMWR* 2007; 56(5):93-6. <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5605a1.htm>, accessed March 14, 2010.

² Same.

³ Centers for Disease Control. Nonfatal, Unintentional, Non-Fire-Related Carbon Monoxide Exposures – United States, 2004 – 2006. *MMWR* 2008; 57(33):896-9. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5733a2.htm?s_cid=mm5732a2_c, accessed March 14, 2010.

⁴ Weaver LK, Hopkins RO, Chan KJ, *et. al.*. Hyperbaric Oxygen for Acute Carbon Monoxide Poisoning. *N Engl J Med* 2002; 347(14):1057-67.

⁵ <http://www.thedenverchannel.com/news/18166634/detail.html>, accessed March 14, 2010.

⁶ <http://www.thedenverchannel.com/news/18417675/detail.html>, accessed March 14, 2010.

⁷ <http://www.charlotteobserver.com/2010/01/04/1159583/family-rushed-to-hospital-for.html>, accessed March 14, 2010.

⁸ National Fire Protective Association, Standard 720, 2009 edition. Quincy, MA: NFPA, 2009.

⁹ International Residential Code, 2009 edition, section R313. Washington, DC: International Code Council, 2009.

¹⁰ <http://www.kidde.com>, accessed March 15, 2010.

Mr. RUSH. Thank you. The Chair recognizes Mr. Andres for 5 minutes.

TESTIMONY OF JOHN ANDRES

Mr. ANDRES. Good morning. I am John Andres, director of engineering for Kidde Residential and Commercial Division located in Mebane, North Carolina. Thank you, Chairman Rush and members of the committee, for the opportunity to contribute to the discussion on the prevention of carbon monoxide poisoning in the United States.

Kidde Residential and Commercial Division is part of UTC Fire and Security, a subsidiary of United Technologies Corporation. We are a proud leader in designing and manufacturing lifesaving residential carbon monoxide alarms and other fire safety devices and are committed to strict compliance to industry standards.

Kidde supports enactment of H.R. 1796, the Residential Carbon Monoxide Safety Act. The Centers for Disease Control and Prevention report each year unintentional CO poisoning kills more than 400 Americans, requires 20,000 more to seek emergency medical attention and causes more than 4,000 hospitalizations. H.R. 1796 is a strong first step toward preventing these tragedies. I commend Congressman Matheson for his leadership in elevating this public health and safety issue.

H.R. 1796 would focus much-needed federal attention and resources toward ending accidental carbon monoxide poisoning. The bill's provisions to create a grant program supporting residential CO alarm laws are especially important. However, for the purposes of today's hearing, my comments will focus on describing the carbon monoxide hazard and how CO alarms operate to provide warning and on explaining why it is necessary to establish mandatory federal product safety standards as laid out in H.R. 1796.

Known as the silent killer, carbon monoxide is a byproduct of incomplete combustion. Potential sources are gas-burning appliances such as a furnace, water heater, stove and grill as well as other fuel-burning devices like fireplaces and engines. If such devices are improperly installed or malfunction, carbon monoxide can build up inside a home. Carbon monoxide easily mixes with the air and can quickly reach dangerous levels. Because one cannot see, taste or smell carbon monoxide, the only safe way to detect the gas is to install working carbon monoxide alarms. Kidde and fire safety experts such as the National Fire Protection Association recommend placing carbon monoxide alarms outside each bedroom and on every level of an occupied dwelling.

When inhaled, carbon monoxide bonds with the blood's hemoglobin to form carboxyhemoglobin, which then deprives cells of oxygen. The CO alarm works by measuring CO concentrations over time to ensure that an alarm will sound before a person's blood level reaches 10 percent carboxyhemoglobin. Below this level, a normally healthy adult will not experience symptoms of CO poisoning.

Two key attributes of carbon monoxide alarms are accuracy and reliability. These form the cornerstone of Underwriters Laboratories UL standard 2034, an independent third-party standard for which carbon monoxide alarms are voluntarily tested and listed.

UL 2034 is an American National Standards Institute, or ANSI, accredited standard that combines input from medical experts, approval bodies like UL, government agencies such as the Consumer Product Safety Improvement Act, the National Fire Protection Association, users and manufacturers in order to create a robust standard of performance. First published in 1992, UL 2034 has gone through several revisions, each of which is based on years of field test data intended to progressively strengthen the standard. Kidde supports this standard because it specifically tests the product design for electrical safety, mechanical robustness and the accuracy of CO detection over time and in different environmental conditions. UL 2034 is continually reviewed by a standards technical panel in order to keep pace with technological advances and past lessons learned. This revision process has led to the creation of CO-sensing technology that is more advanced, stable and reliable than past generations.

To date, 24 States have enacted laws requiring CO alarms in residential dwellings, and while most mandate that CO alarms meet UL 2034, there is no uniform requirement. More States will likely adopt similar legislation in order to avoid confusion among regulators, consumers and the industry. State lawmakers need a consistent standard to define what constitutes an approved alarm. Without such a reference, conflicting regulations arise that counter one of the CPSC's objectives, which is to develop uniform safety regulations for consumer products and to minimize conflicting State and local regulations.

In closing, each week we hear families whose lives have been saved through the use of carbon monoxide alarms. Having a CO alarm can make the difference between life and death. A federal standard would provide an umbrella of protection for all consumers in the United States as well as increased awareness and save lives.

Again, I thank the committee members for their consideration of H.R. 1796 and for raising awareness about CO dangers. Congressman Matheson, we look forward to working with you to pass this important legislation expeditiously. Thank you for the opportunity to contribute to the discussion.

[The prepared statement of Mr. Andres follows:]



**WRITTEN STATEMENT OF
JOHN ANDRES,
DIRECTOR OF ENGINEERING,
KIDDE RESIDENTIAL AND COMMERCIAL
ON
CARBON MONOXIDE POISONING PREVENTION**

March 18, 2010

Subcommittee Hearing

Subcommittee on Commerce, Trade and Protection

House Energy and Commerce Committee

Good afternoon, I am John Andres, Director of Engineering for Kidde's Residential and Commercial Division located in Mebane, North Carolina. Thank you, Chairman Rush and members of the Committee, for the opportunity to contribute to the discussion on the prevention of carbon monoxide (CO) poisoning in the United States. Kidde Residential and Commercial Division is part of UTC Fire & Security, a subsidiary of United Technologies Corporation. We are a proud leader in manufacturing life-saving residential carbon monoxide alarms and other fire safety devices. We are committed to leading the industry in product safety and strict compliance to industry standards.

Kidde supports enactment of H. 1796, "The Residential Carbon Monoxide Safety Act." The Centers for Disease Control and Prevention reports that each year, unintentional CO poisoning kills more than 400 Americans, requires 20,000 more to seek emergency medical attention, and causes more than 4,000 hospitalizations. H.1796 is a strong first step toward preventing these tragedies. I commend Congressman Matheson for his leadership in elevating this critical public health and safety issue.

H.1796 would focus much-needed federal attention and resources toward ending accidental carbon monoxide poisoning. The bill's provisions to create a grant program supporting residential CO alarm laws are especially important. However, for the purposes of today's hearing, my comments will focus on describing the carbon monoxide hazard and how CO alarms operate to provide warning, and on explaining why it is necessary to establish mandatory federal product safety standards, as laid out in H.1796.

Known as the "silent killer," carbon monoxide is a by-product of incomplete combustion. Potential sources are gas-burning appliances such as a furnace, water heater, stove, and grill, as well as other fuel-burning devices like fireplaces and engines. If such devices are improperly installed or malfunction, carbon monoxide can build up inside a home. Carbon monoxide easily mixes with the air and can quickly reach dangerous levels. Because one cannot see, taste or smell carbon monoxide, the only safe way to detect the gas is to install working CO alarms. Kidde and fire safety experts such as the National Fire Protection Association recommend placing CO alarms outside each bedroom and on every level of an occupied dwelling.

When inhaled, carbon monoxide bonds with the blood's hemoglobin to form carboxyhemoglobin, which then deprives cells of oxygen. A CO alarm works by measuring CO concentrations over time to ensure that an alarm will sound before a person's blood level reaches 10-percent carboxyhemoglobin. Below this level, a normally healthy adult will not experience symptoms of CO poisoning.

Consumers must have confidence that a properly installed and maintained CO alarm will warn them about the presence of dangerous CO levels, and avoid nuisance alarms. This need for accuracy and reliability is the cornerstone of Underwriters Laboratories (UL) 2034, the independent, third-party standard to which U.S. carbon monoxide alarms are voluntarily tested and listed.

UL 2034 is an American National Standards Institute – or ANSI - accredited standard that combines input from medical experts, approval bodies like UL, government agencies such as the Consumer Product Safety Commission (CPSC), the National Fire Protection Association, users and manufacturers in order to create a robust standard of performance.

First published in 1992, UL 2034 has gone through several revisions, each of which is based on years of field test data intended to progressively strengthen the standard. Kidde supports this standard because it specifically tests the product design for electrical safety, mechanical robustness and the accuracy of CO detection over time and in different environmental conditions. UL 2034 is continually reviewed by a standards technical panel in order to keep pace with technological advances and past lessons learned. This revision process has led to the creation of CO sensing technology that is more advanced, stable, and reliable than past generations.

To date, 24 states have enacted laws requiring CO alarms in residential dwellings, and while most mandate that CO alarms meet UL 2034, there is no uniform requirement. More states will likely adopt similar legislation. In order to avoid confusion among regulators, consumers, and the industry, state lawmakers need a consistent standard to define what constitutes an "approved" alarm. Without such a reference, conflicting regulations arise that counter one of the CPSC's objectives, which is "to develop uniform safety standards for consumer products and to minimize conflicting state and local regulations."

In closing, each week we hear of families whose lives have been saved through the use of CO alarms. Having a CO alarm does make the difference between life and death. Consumers must have confidence that their CO alarm will work reliably and accurately. A federal standard would provide an umbrella of protection for all consumers in the US, as well as increase awareness and save lives.

Again, I thank committee members for their consideration of H.1796, and for raising awareness about CO dangers. Congressman Matheson, we look forward to working with you to pass this important legislation expeditiously. Thank you again for the opportunity to contribute to this discussion, and I will be glad to answer any questions.



Understanding the standard for carbon monoxide alarms and why it should be mandated

What is the Standard for carbon monoxide alarms?

Underwriters Laboratories (UL) 2034, is the independent third-party test and performance standard to which U.S. carbon monoxide alarms are voluntarily tested and listed. This American National Standards Institute (ANSI) recognized standard combines input from medical experts, approval bodies such as Underwriters Laboratories, government agencies such as the Consumer Product Safety Commission (CPSC), and the National Fire Protection Association (NFPA), users and manufacturers. This group of interested parties is referred to as the Standards Technical Panel (STP)

What is the purpose of the UL 2034 standard?

The purpose of UL 2034 is to describe and set-forth an orderly process for ensuring CO alarm designs perform to critical performance requirements. For example, the UL standard covers electrical safety and mechanical robustness of design for CO alarms and also requires tests of the alarms at various CO levels to ensure they activate according to the requirements set forth in the standard.

Why is it important to consumers that such a standard exist?

CO alarms continuously monitor the home's environment. They are designed to sound before a healthy adult would feel the effects of CO poisoning. The only safe way to detect this odorless, colorless and invisible gas in a home is with a working CO alarm. Consumers should have confidence that their properly installed and maintained CO alarm will function appropriately in the presence of dangerous CO levels, while avoiding unwanted nuisance alarming that may otherwise cause them to doubt the accuracy of the alarm. The UL 2034 standard accomplishes these goals.

How has the UL 2034 standard evolved?

UL 2034 was first published in 1992 and has since gone thru several revisions. Each revision is intended to strengthen the standard, and each revision is supported by years of field test data. All currently manufactured CO alarms approved by UL must meet this updated standard.

The UL 2034 standard is reviewed by the STP in order to keep pace with technological advances and past lessons learned. In accordance with ANSI rules, any member of the STP can recommend a revision in order to improve product performance or reliability. This revision process has led to the creation of CO sensing technology that is more advanced, stable and reliable than prior generations.

Why should the Federal Government set a mandatory federal Consumer Product Safety Standard for CO alarms?

Today, it is voluntary for a manufacturer to test and certify its CO alarms to the UL 2034 standard. While most states with laws requiring residential CO alarms mandate that the alarms meet UL 2034, there is no uniform requirement. By setting a mandatory Consumer Product Safety Standard, the federal government would provide a consistent standard of protection for all consumers in the US. This has been done in the past involving such standards for garage doors, bike helmets, ATVs, toys, cribs and pool drains.

To date, 25 states have enacted laws requiring CO alarms in residential dwellings, and more states are likely to adopt similar legislation in the coming years. In order to avoid confusion among regulators, consumers and the industry, state lawmakers need a consistent standard to define what constitutes an "approved" alarm. Without such a reference, conflicting regulations may arise, which would directly run counter to one of the CPSC's guiding objectives "to develop uniform safety standards for consumer products and to minimize conflicting state and local regulations."

Mr. RUSH. Mr. Devine is recognized for 5 minutes.

TESTIMONY OF MARK DEVINE

Mr. DEVINE. Thank you very much, and good morning. As the chairman indicated, I am Mark Devine, vice president of marketing for First Alert and BRK Brands in Aurora, Illinois. I would like to first take this opportunity to thank all of the members for bringing this important issue in front of us all today. I would like to also thank Chairman Rush for his kind words regarding our company. We do enjoy being in Illinois with you, sir. In addition, I would like to thank Mr. Matheson for really representing this whole event in front of us today.

First Alert is a whole-home safety company with a foundation in fire safety, carbon monoxide safety and extinguishing products. Our name is very synonymous with alarms, and like Mr. Andres, we also take pride in our quality, innovation, engineering and our manufacturing. We are also a leader in our industry in terms of public outreach and collaboration with all the fire safety organizations.

I speak for First Alert when I say that we are concerned about protecting and preserving human lives. That is the primary reason that we support in its entirety the Residential Carbon Monoxide Poisoning Prevention Act, H.R. 1796. As we understand it, this bill would require carbon monoxide alarms to be installed in residential dwellings and places where people sleep. This provides an effective way to reduce the incidence of carbon monoxide poisoning.

The need for such federal regulation is strong. Carbon monoxide continues to be the number one cause of accidental poisoning in the United States. Each year, tens of thousands of people as we have heard are driven into the medical care facilities as well as over 400 lives are lost each year. We are keenly aware of how many fatal CO poisoning incidents occur in this country. Another example is just recently Amanda's Law took effect in the State of New York. This was named for Amanda Hansen. She died of CO poisoning at age 16 while sleeping at a friend's house. The law requires that New York State residents take necessary precautions to protect themselves from the silent killer. Amanda's father, Ken Hansen, has become a vocal proponent of measures that would require consumers to protect themselves from carbon monoxide poisoning.

Moreover, each year we receive hundreds of calls, letters and e-mails from individuals whose families have been saved, and I brought just a few examples today of the literally hundreds of examples that we receive from people who purchased alarms and who have had unfortunate incidents but the alarms saved their lives. These people take the time to literally write in, call in, e-mail, send photographs because they feel so compelled after they have had the saving incident from the alarm, so it is a strong testimonial as to why I am here today is to help more individuals understand the necessity for alarms within their homes.

To better ascertain consumers' knowledge about carbon monoxide and their awareness, we conducted a survey in 2009 where we spoke to 1,000 adults across the United States. The survey that we conducted, we found some very startling statistics. Forty-seven percent of households still do not have carbon monoxide alarms. These

products have been in existence for well over 10 years, a lot of education, a lot of information, but again, nearly 50 percent still do not have alarms. We also asked consumers do you understand the importance of carbon monoxide. Seventy-three percent of those individuals said yes, they do understand carbon monoxide is very hazardous and it is very important to them that they have protection but yet they are not going out and purchasing products to protect themselves. We also learned that 23 percent of those individuals who have purchased alarms have never replaced them. These products, as you stated, have been in existence for well over 10 years. They do need to be replaced as time goes on, just like any electronic device within your home. So the message is not fully penetrating the American public at this time.

With this said, we can also confidently state that education can work. In 2002, there was a study that indicated that 40 percent of households claim to have a carbon monoxide alarm, but in our recent study that number has only increased in 7 years by 9 percent. So there are still many homes that are unprotected. Because of the effectiveness of education, we do support earmarking grant money for additional public education efforts. We believe this will further curb the rate of accidental carbon dioxide poisoning. We greatly are encouraged by the number of States and municipalities who have enacted legislation. We also are grateful to legislators like yourselves who are now working hard to gain that federal support.

Again, I want to thank all of this committee and the chairman, Mr. Rush, for allowing us to be here today to provide this testimony.

[The prepared statement of Mr. Devine follows.]

March 18, 2010

The Honorable Bobby L. Rush
Chairman
Subcommittee on Commerce, Trade, and Consumer Protection
House Committee on Energy and Commerce
Washington, DC 20515

The Honorable Ed Whitfield
Ranking Member
Subcommittee on Commerce, Trade, and Consumer Protection
House Committee on Energy and Commerce
Washington, DC 20515

Dear Chairman Rush and Ranking Member Whitfield:

On behalf of First Alert, a trusted name in consumer home safety products and a leading manufacturer of carbon monoxide detection and notification devices, I am writing to formally convey our company's support for the Residential Carbon Monoxide Poisoning Prevention Act (H.R. 1796), introduced by Representative Jim Matheson. We join Representative Matheson and the National Electrical Manufacturers Association (NEMA) in their concerns for protecting and preserving human lives and in their confidence that carbon monoxide alarms installed in residential dwellings, and other places where people sleep, provide an effective way to reduce the incidence of CO poisoning.

Each year, we receive hundreds of calls, letters and emails from individuals and families whose lives have been saved by our carbon monoxide alarms. Still, CO continues to be the number one cause of accidental poisoning in the United States, claiming nearly 400 lives each year and driving tens of thousands of others to seek medical attention (American Medical Association). In far too many cases, these incidences could have been prevented with proper detection and notification devices.

Last year, we conducted two nationwide surveys* related to the consumer use and replacement of residential carbon monoxide alarms. The findings were alarming. Nearly half of Americans (47 percent) do not have CO alarms in their homes. Equally disturbing is the fact that nearly a quarter (23 percent) of those who do have CO alarms at home have never replaced them, and five percent haven't replaced their CO alarm(s) in more than five years, the recommended replacement timeframe.

The Honorable Bobby L. Rush & The Honorable Ed Whitfield
March 18, 2010
Page 2

We are greatly encouraged by the numerous states and municipalities that have enacted legislation requiring CO alarms in residential dwellings. We also are grateful for legislators like yourself and Representative Matheson who are working hard to gain federal support to protect all Americans from the dangers that CO poses in homes.

Carbon monoxide poisoning is a threat to everyone. However, we believe bills like the Residential Carbon Monoxide Poisoning Prevention Act coupled with education and awareness will help to reduce the number of accidental poisonings from this "silent killer." We enthusiastically support H.R. 1796 and thank you for your attention to this life-threatening issue.

Sincerely,

Mark Devine
Vice President, Retail Marketing
First Alert

cc: The Honorable Jim Matheson

**The First Alert survey results are based on the responses of 1,000 adults in the United States who answered telephone surveys conducted Jan. 29 through Feb. 1, 2009 and July 31 through August 3, 2009. Results are accurate to +/-3 percent points with a 95 percent confidence level and can be generalized to the entire U.S. adult population.*

Mr. RUSH. Thank you. The Chair thanks all the witnesses, and now the Chair recognizes himself for the purposes of asking questions of the witnesses, and the Chair recognizes himself for 5 minutes.

I am going to begin with you, Mr. Howell. In your testimony, you state that a properly functioning carbon monoxide alarm should be installed in all residences and currently many States and localities require that carbon monoxide detectors be installed in homes to protect against carbon monoxide poisoning. The question that I have, actually four questions, I will ask them all in consideration of the time that I have and you can answer them, and if anybody else wants to chime in, please. The first question is, have these State and local regulations generally been effective in protecting people from harmful exposure to carbon monoxide, and are there any inconsistencies that give you concern? Should some form of these State and local requirements be adopted at the federal level, and lastly, States and localities also have regulations on fire detection. Are there efforts being made to ensure that the two detectors, fire and carbon monoxide, that they work together or be combined in some way?

Mr. HOWELL. Thank you, sir. In regards to the first question, as far as the effectiveness of State and local codes in requiring alarms, they certainly are effective. Given the fact that our data shows that 35 to 50 percent of homes have no alarms at all, I think I need to emphasize that there is an urgent need to get an alarm in every home, so whether it be a federal requirement or a State or local requirement, any move that would put an alarm in every home would certainly be effective in reducing the number of incidents, death and injuries, from carbon monoxide poisoning. As far as the question regarding a need for a federal requirement versus State and local, you know, I represent the technical arm of the agency and that truly would be a policy question. From a technical perspective, once again, regardless of what the source of the requirement was, any move to get an alarm in the home would certainly improve the odds of the American consumer surviving if exposed to hazardous levels of carbon monoxide.

Mr. RUSH. And what about combining fire and—

Mr. HOWELL. There are combined smoke alarms and CO alarms. You know, at this point in time as technology advances, you know, certainly there be an opportunity to combine those but the sensing technologies required for those devices are certainly unique and we want to ensure that the performance standards for each device reflect the particular hazard that is trying to identify an alarm to.

Mr. RUSH. Dr. Lavonas, do you have any response to that?

Dr. LAVONAS. Certainly. In answer to your first question, I absolutely agree with Mr. Howell. The State and local laws are generally effective. They are a patchwork quilt of some strong and some weak provisions. However, every step in the right direction gets you one step further in the right direction. There are inconsistencies, and I would love to see a federal standard on this, but that would be a much longer discussion than what we are prepared for today.

In terms of the combinations, in my home I have two combination dual-head smoke-carbon monoxide alarms, three wire nuts to

switch them. I dropped down the existing smoke head, three wire nuts, put up a smoke-carbon monoxide combination head. That takes advantage of the interconnect system that is part of smoke alarms in the code. Both of the major building standards, code-setting organizations have adopted carbon monoxide alarms. It is in the most recent version of both the international residential code and the National Fire Protection Association 720 code. However, building codes only trigger when you build or renovate a structure so if we are going to use building codes to solve this problem, it will take a good 30 years. We are losing people every week, so I would love to see a strong federal initiative on this question. That is my opinion.

Mr. RUSH. I am going to now recognize Mr. Whitfield for 5 minutes.

Mr. WHITFIELD. Well, thank you, Mr. Chairman, and thank you all very much for your testimony.

Mr. Howell, I want to start off with you, a couple questions. I notice in your testimony that you said that the Consumer Product Safety Commission supports the goals of H.R. 1796. Do you all support this specific legislation?

Mr. HOWELL. We do certainly, and this is from a technical staff perspective. Technical staff certainly supports the intent of the legislation. We believe that there is a need to work together on the language of the warning label, but beyond that, certainly putting a smoke alarm in every home, a grant program and, you know, making the UL standard for carbon monoxide alarms mandatory, we certainly support that language.

Mr. WHITFIELD. So on the technical side, the warning label is just one area that you would like to—

Mr. HOWELL. And it is really a minor issue. Warning labels are a tricky science and we have human factor experts that would certainly be willing going forward to work with committee staff to develop the appropriate language for a warning label.

Mr. WHITFIELD. And would there be any other technical areas that you would be concerned about?

Mr. HOWELL. No, sir.

Mr. WHITFIELD. Now, one other question I wanted to ask you. Under section 7 of the Consumer Product Safety Act, you all have the authority to promulgate a safety standard if two conditions are met. Do you have the authority to mandate the standard of alarms?

Mr. HOWELL. Section 7 of the CPSA requires the Commission to rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard whenever compliance with the voluntary standard is adequate or would eliminate or adequately reduce the risk of injury and it is likely that there is substantial compliance with the standard. At this point we believe that the standard is indeed adequate to reduce or eliminate the risk of injury and we also believe that there is substantial compliance.

Mr. WHITFIELD. So that would prohibit you from making it mandatory?

Mr. HOWELL. Yes, sir.

Mr. WHITFIELD. Thank you.

I notice in the legislation on page 4, and Mr. Andres, have you read this legislation?

Mr. ANDRES. Yes, I have.

Mr. WHITFIELD. It says, "Paragraph 2 does not apply to any carbon monoxide detector not covered by the standard as provided in section 1.4 of the standard." What is that referring to?

Mr. ANDRES. We actually read through that and we were a little bit confused by some of the language in there, and I think we need to work with Mr. Matheson to look at some of the language. I think the way that the provision is written right now, there is a lot of confusion between the term "detector" and "alarm" and they use those two terms interchangeably, and technically they are actually two different devices. So I think there is some language adjustments that need to be made to clean that up because honestly I didn't really understand what they were referring to in that section.

Mr. WHITFIELD. Yes, so I think it is important that we remember alarm and detector are two separate things, correct?

Mr. ANDRES. That is correct, and oftentimes a different UL standard would be applicable.

Mr. WHITFIELD. And on page 3 where they make this a mandatory standard, it says "mandatory consumer product safety standard, the American National Standard for single and multiple station carbon monoxide alarms." What is that safety standard in layman's terms? What is that?

Mr. ANDRES. Well, UL 2034 is the standard for conformance so—

Mr. WHITFIELD. For performance?

Mr. ANDRES. It not only looks at performance but also has requirements for design characteristics, so Underwriters Laboratories would actually accept a manufacturer's, a number of their alarms, and that particular standard would be used to test the design characteristics of that. When it comes to carbon monoxide alarms, they are going to look at not only electrical and mechanical safety but they are also going to look at specificity to detection of carbon monoxide. They are also going to look at the accuracy of carbon monoxide detection, which is very important, and they are going to look at the accuracy over time. So the UL 2034 standard has evolved over the years and it is actually a very good standard now. It has gone through a number of changes that have made it a very robust standard.

Mr. WHITFIELD. I know that we have an issue in the United States of not enough people have these in their homes, but how many alarms would you say are being sold in the United States today that do not meet this standard that is set out in this legislation, or would you have any idea?

Mr. ANDRES. I actually think today we are fortunate that most alarms that I am aware of are actually listed to this ANSI standard. I am not aware of any right now that are not.

Mr. WHITFIELD. Even imported alarms?

Mr. ANDRES. Correct.

Mr. WHITFIELD. OK. I see my time has expired, Mr. Chairman.

Mr. RUSH. The Chair now recognizes the gentleman from Utah, the author of the legislation, Mr. Matheson, for 2 minutes.

Mr. MATHESON. Thank you, Mr. Chairman.

Mr. Howell, you may have referenced this a little bit in your opening statement but there is a Senate version of this bill, as you are aware, and in the Senate version, it includes a provision that mandates the use of a shutoff switch, it is my understanding, on portable generators, where the machine would—you know, there is detection of carbon monoxide level at some point and it would disable the generator. And I understand the CPSC has been working in conjunction with the University of Alabama in looking at the development of this type of a device. Could you just give us a quick update on the progress of this study and how effective the shutoff switch has been in reducing the dangers of carbon monoxide poisoning?

Mr. HOWELL. Yes. CPSC staff investigated two approaches to the concept of a gas-sensing shutoff device to shut off an operating portable generator before it created a hazardous CO exposure. Both methods pose significant disadvantages. One approach was that of a shutdown system in which the CO-sensing device was mounted on the generator to detect the level of CO in the vicinity of the generator. Staff found that a disadvantage to this approach was a propensity for false shutdowns when the generator was operated in a ventilated outdoor environment but where the exhaust tended to accumulate around the generator. Staff also is concerned about the sensory reliability and life which may be comprised when exposed to the door environmental conditions, engine vibration, combustion products and heat.

The second approach the staff investigated involved a CO-sensing device located in a remote location away from the generator where occupants in the house might be that would shut down the portable generator using wireless technology if unsafe CO was developing inside the house. We conducted a demonstration using off-the-shelf components including a residential CO alarm, a radio frequency receiver and transmitter, and a portable generator. One disadvantage, and I want to say a major disadvantage of this approach was that it required the consumer to properly locate the remote sensor in the occupied area in order for it to work successfully and therefore it could be easily defeated by the consumer.

Mr. MATHESON. I appreciate that.

Mr. Chairman, I just wanted to get the Consumer Product Safety Commission's understanding of those difficulties because that is one of the differences between the House and the Senate bill, and the reason we did not include this language in the House version was because of these concerns about how well a shutoff switch would work, and I will yield back.

Mr. RUSH. The Chair thanks the gentleman.

The Chair now recognizes for 2 minutes the gentleman from Nebraska, and the Chair acknowledges the fact that the gentleman waived his opening statement so if you require an extra 2 minutes—

Mr. TERRY. I appreciate that. My questions will be short. I am not sure about the answers, though.

Let me first attack, or not attack but talk about the standards for both the detectors and the alarms. You need to help me work through why we need to have Congressional law to mandate the

standard when it seems to me that that isn't really what the issue is. The issue is that too many homes don't have CO detectors. Which one of you said that you actually had incident in your own home? Was that you, Doctor?

Dr. LAVONAS. That was me, Mr. Terry.

Mr. TERRY. Yes, we have had the same thing in our home. I have got three little kids, and we had our CO detector go off and found out that there was some crack in a part of the furnace, and so I am a believer in having those, but making the standard that everyone seems to agree on is adequate today mandatory, I am not sure we need to do that.

Mr. Howell, you are on the technical side. Explain to me why the voluntary standard that two of you have already said seems to be adequate needs to be made mandatory.

Mr. HOWELL. Mr. Terry, the decision to make this standard mandatory certainly would be the prerogative of the Congress. CPSC, as I indicated, not only is not currently involved in a move to make this standard mandatory but the CPSC actually prohibits us from making it mandatory as long as we feel like there is substantial compliance and that the standard adequately protects the American consumer.

Mr. TERRY. So if there wasn't compliance to this voluntary standard and that was inadequate, then you could make it mandatory?

Mr. HOWELL. We could make it mandatory or we certainly could promulgate a standard that was more stringent than the current UL standard.

Mr. TERRY. But you think that the current voluntary standard is adequate, if I buy a CO detector that is going to meet the standards?

Mr. HOWELL. Absolutely. Having said that, if I may, making this standard mandatory would give CPSC greater authority to keep any non-complying carbon monoxide alarms out of the U.S. market should they try to enter the market.

Mr. TERRY. Have you found instances of noncompliance?

Mr. HOWELL. At this point we have not.

Mr. TERRY. And then the other is on the warning labels and pictograms on portable generators. I think Jim has done a good job of showing why I think we probably need to do that, but the question then is begged, why does Congress need to mandate that on you? And that would be your-sorry, Mr. Howell. You get to represent the agency that has the authority.

Mr. HOWELL. That is not a problem. As I indicated before, in 2007 CPSC actually mandated warning labels on portable generators and on the packaging, and very clearly identified the risk to the consumer and the correct behavior. Our label clearly states using a generator indoors—and this part is in bold and caps—can kill you in minutes. There are also pictograms that indicate the behavior that we wanted to discourage. It says never use inside a home or garage even if doors and windows are open, and then it also illustrates the correct behavior. Only use outside and far away from windows, doors and vents. The Commission upon staff's recommendation and the development of this label by our human factors experts felt like this was a good label and served the purpose.

Mr. TERRY. Thank you very much. Yield back my 4 seconds.

Mr. RUSH. The Chair thanks the gentleman.

The Chair wants to apprise members that the staff has just informed me, or reminded me, rather, that there are 5 minutes under the committee rules for questioning, 2 minutes for opening statements and 5 minutes for questioning, and those who have gone before, if you require more—you are OK for now? All right. Well, thank you very much.

The Chair now recognizes the gentlelady from California, Mrs. Matsui, for 5 minutes.

Mrs. MATSUI. Thank you, Mr. Chairman.

Mr. Andres, the CPSC has estimated that 180 unintentional non-fire carbon monoxide poisoning deaths occurred in 2006 and were associated with consumer products. Of these deaths, 71 percent took place in homes. The data also showed that carbon monoxide poisoning deaths are more likely to arise in homes with no functioning alarms. To reduce deaths, CPSC has attempted to reduce carbon monoxide levels in homes by examining the limitations and detection capabilities of low-cost carbon monoxide alarms. Mr. Andres, I want to know how industry has worked with the CPSC and other stakeholders to develop voluntary standards to improve consumer product performance.

Mr. ANDRES. Yes. In fact, as outlined in some of the ANSI protocols to develop a recognized standard, there is a technical committee that is formed. We refer to it as the standards technical pattern, and in fact, the Consumer Product Safety Commission oftentimes participates in technical discussion on the performance of carbon monoxide alarms, and I have personally attended a number of these technical panel reviews over the years, and if anybody were to look at the amendments that have been made towards UL 2034, you would see that the standard has evolved into a very robust-type standard. Some of the major changes that have been made toward the standard are, number one, a requirement to demonstrate whatever sensing technology you are employing that that technology be proven to be accurate, not just accurate on day one at the time that the Underwriters Laboratory engineering is going to test the product, but certainly accurate years down the line. We have at Kidde, for example, over 10 years of ongoing test data that is third-party witnessed by Underwriters Laboratories. At the same time, Underwriters Laboratories has imposed environmental tests so that sensing technology is proven to be accurate under high humidity extremes or low temperature extremes or high temperature extremes. The Consumer Product Safety Commission has participated in many of these technical discussions and they have also raised issues in the past about performance of these sensing technologies, brought those into industry so that we could all discuss it, and that has led to the evolution of much better sensing technology today.

Mrs. MATSUI. I think that many of us have been made aware, particularly some of the testimony here, about the tragedies that occurred, and I think some of us have experienced this historic storm that we had in February where many of us lost our power and our heat sources, and once again we were reminded about the dangers of carbon monoxide. And it is unfortunate that things like that have to happen for us to be reminded of that, and that is why,

you know, I look at some of the data about the deaths and injuries that might occur. Do you believe that you are at a point where you don't need the stronger regulatory law? I mean, can we reduce more deaths or risks of deaths if we have a stronger regulatory law or reduce the risk of carbon monoxide as source?

Mr. ANDRES. Alarms have evolved to a point where you can buy an excellent alarm for an \$18 price tag that covers you for multiple sources of CO source. You know, we talked about generators but it is beyond generators. There are fireplaces, charcoal grills, attached garages with running cars, water heaters. I mean, for a \$20 device being able to protect against all those individual sources, that is just a fantastic deal. I mean, the same time we look at what we are doing here today. I mean, this is National Poison Prevention Week. We are having a very good discussion on, you know, a very pertinent point, carbon monoxide. Anything we can do to raise awareness will naturally leave to saving additional lives, so we are going to raise the awareness to the American public. They are going to react to that, many of them, and purchase carbon monoxide alarms. What you are doing here today will help raise that awareness.

Mrs. MATSUI. And I just wanted to comment, I think that, you know, we are looking at these things sometimes in silos. We are looking at the alarms right now. But you mentioned the other aspects of it, you know, the generators and all of this that are really a greater part of it too. So in a certain sense, we have to address some of those concerns and how they might affect as being the source of this and so I think that you are right, it is absolutely important to do this but I also think that we need to look beyond this also because this is—partly it is education but part of it is also the interconnectedness of all of this, and I think that is really the important thing. So with that, I yield back my time.

Mr. RUSH. The Chair recognizes now the gentlelady from Colorado, Ms. DeGette, for 5 minutes.

Ms. DEGETTE. Thank you very much, Mr. Chairman, and I want to give an official welcome to Dr. Lavonas, who is my constituent, and almost as importantly works for Denver Health, which this committee has heard me sing the praises of many, many times and does such a wonderful job not just with providing health care to folks but with some of these public health issues throughout our region. I want to welcome you, and Mr. Matheson and I both agreed that the entire panel provided excellent testimony and in particular you, Doctor.

I just want to ask a couple of questions of the panel. The first one, as we know, the legislation provides for grants to States and localities to assist in certain activities related to preventing carbon monoxide poisoning. Dr. Lavonas, do you think that the grants are a helpful way to address this issue?

Dr. LAVONAS. Yes, I do. I have been through—this is my third time working with a governmental body on questions regarding carbon monoxide alarms, and so I have heard from my previous experience the barriers that they face. The biggest barrier that the State of Colorado faced was cost. It costs money to implement a standard, particularly if there is government-owned housing or government-imposed requirements that are going to require training.

I think this bill does address that. I think that it may be helpful to allow the States to use this grant money in some additional ways as well as they see fit, for example, to allow the States to apply for grant money to put alarms in State-controlled housing or to fund alarm programs to provide subsidized alarms for low-income communities. But fundamentally, cost is a barrier. Every State in the Nation is struggling with their budget this year.

Ms. DEGETTE. Yes, and also the local governments, many of which like Pitkin County which passed a law after that tragic death in the family that you described and many other counties, they are struggling with their budgets too. So what you are saying is, if we are going to do a grant system, be sure we give maximum flexibility so that that money can be used as wisely as possible.

Dr. LAVONAS. Yes, ma'am.

Ms. DEGETTE. I wanted to ask you, one struck me during your testimony about the patient that you had who had brain injuries from carbon monoxide poisoning because we do hear, there are these tragic deaths. Mr. Devine has letters from people who survived. But my question is, we have the tragic deaths but we have many more people who have the poisoning who are somehow rescued. What are the long-term health impacts on folks who have survived from these poisoning episodes?

Dr. LAVONAS. These impacts can be significant. About three-quarters of survivors do OK. About a quarter of survivors develop a brain injury that sometimes can get worse for a few days after the poisoning. The problems have to do with—everybody is a little different but problems with concentration, problems with what is called executive processing like can I read a map, can I follow instructions, problems with short-term memory and problems with movement, tremors, similar to somebody with Parkinson's disease.

Ms. DEGETTE. And do we have any sense annually about how many of these lasting brain injuries there are as a result of carbon monoxide poisoning?

Dr. LAVONAS. Well, we know there are—if you add the suicide and the unintentional exposures together, probably about 45,000 or 50,000 people who visit an emergency department for carbon monoxide poisoning each year. We know from good research that about a quarter of these, perhaps more, will develop a lasting brain injury.

Ms. DEGETTE. Mr. Howell, I am wondering if you can tell me, as you know, the bill requires the CPSC to publish the existing voluntary Underwriters Laboratories 2034 standard for carbon monoxide alarms as a federal mandatory standard. Do you know how—can you tell us—I am sure you know how—the Underwriters Laboratories standard for carbon monoxide detectors was determined?

Mr. HOWELL. If you are asking how the standard came to be, it certainly is a gathering of technical experts, industry, stakeholders and of course CPSC is represented. Performance standard design criteria is developed and it is balloted and approved by technical experts that work to develop these standards.

Ms. DEGETTE. Do you think it will sufficiently protect the public?

Mr. HOWELL. At this point our indications are that it is adequate to protect the public from the risk as we see it today.

Ms. DEGETTE. OK. Just one last question. What proportion of carbon monoxide alarms currently available on the market conform to that standard?

Mr. HOWELL. I do not have an exact number but it is our indication that there is substantial compliance with the UL 2034 standards.

Ms. DEGETTE. Mr. Devine, do you know?

Mr. DEVINE. At this time we really understand that all the alarms that are available at retail establishments for consumers to purchase are compliant to the UL 2034 standard. Essentially all of the major retailers require us as manufacturers to have compliance to this standard today.

Ms. DEGETTE. Thank you.

Thank you very much, Mr. Chairman.

Mr. RUSH. The Chair thanks the gentlelady.

There was a question that came to mind, so the Chair will entertain any requests for one additional question from the members here, and the Chair recognizes himself for 1 minute.

Can anybody provide any information on the threat of carbon monoxide poisoning in any other place other than homes? And I am particularly concerned or interested in any evidence of carbon monoxide poisoning in automobiles.

Mr. HOWELL. Let me take the question as it began, which is any place outside of homes. CPSC actually has recorded incidents of people in outdoor environments, campers and tents, whether either through the use of generators or other fuel appliances that are used to either heat or cook have resulted in deaths to those from carbon monoxide poisoning.

Mr. RUSH. Anyone else?

Mr. DEVINE. Yes, Mr. Chairman. In addition to outside of the residence, also concerning to us is the hotel-motel while people are traveling. There have been occurrences, unfortunate incidents where people have had carbon monoxide poisoning while they are in a hotel-motel from a variety of different sources as well.

Mr. RUSH. Thank you.

The Chair recognizes the ranking member for 1 minute.

Mr. WHITFIELD. Thank you.

Mr. Howell, I wanted to ask you a question. You didn't come up to testify on H.R. 4805, the formaldehyde bill, which applies to hardwood, plywood, medium-density fiberboard and particleboard, all of which are products, and since you are the Consumer Product Safety Commission, are you familiar with this formaldehyde legislation?

Mr. HOWELL. I am aware that it was there. I have not actually studied the legislation at this point.

Mr. WHITFIELD. I was just thinking that these are products and you all deal with products and whether or not maybe your agency should have the jurisdiction over this formaldehyde issue, but we can talk about that later. I was just curious if you had looked at it. Thank you.

Mr. RUSH. The Chair wants to thank the witnesses. You have really been providing an invaluable service to this committee with your testimony and your answers to the questions. The Chair would like for you to know that we will keep the record open for

2 weeks, and if there are any members of the subcommittee who are not present who would like to submit questions to you in writing, would you please respond to those questions promptly within a 2-week period. Thank you so very much, and thank you for your time and your investment in the future of America. Thank you so much and God bless.

The Chair wants to thank the members of the second panel for their participation in this hearing and wants to introduce the second panel of this hearing for a discussion on the other matter that is before this subcommittee, the bill introduced by Mrs. Matsui. The Chair wants to thank all the witnesses for your investment of your time in this hearing.

The Chair wants to introduce beginning at his left Mr. James J. Jones, who is the deputy assistant administrator for the Office of Prevention, Pesticides and Toxic Substances of the U.S. EPA. Seated next to Mr. Jones is Mr. Tom Julia, who is the president of the Composite Panel Association. And seated next to Mr. Julia is Mr. Andy Counts, who is the CEO of the American Home Furnishings Alliance, and Mr. Don Ryan is sitting next to him, who is of the Sierra Club and a founding board member of the National Center for Healthy Housing. And next to Mr. Ryan is Dr. Melvin E. Andersen, who is the director of Program in Chemical Safety Sciences at The Hamner Institutes for Health Sciences. Again, we welcome all of the witnesses.

It is the practice of this committee to swear in the witnesses, so will you please stand and raise your right hand?

[Witnesses sworn.]

Mr. RUSH. Please let the record reflect that the witnesses have all answered in the affirmative.

The Chair now recognizes Mr. Jones for 5 minutes for the purposes of an opening statement.

TESTIMONY OF JAMES J. JONES, DEPUTY ASSISTANT ADMINISTRATOR, OFFICE OF PREVENTION, PESTICIDES, AND TOXIC SUBSTANCES, U.S. ENVIRONMENTAL PROTECTION AGENCY; TOM JULIA, PRESIDENT, THE COMPOSITE PANEL ASSOCIATION; ANDY COUNTS, CEO, AMERICAN HOME FURNISHINGS ALLIANCE; DON RYAN, SIERRA CLUB, FOUNDING BOARD MEMBER, THE NATIONAL CENTER FOR HEALTHY HOUSING; AND MELVIN E. ANDERSEN, CIH, PHD, DABT, DIRECTOR, PROGRAM IN CHEMICAL SAFETY SCIENCES, THE HAMNER INSTITUTES FOR HEALTH SCIENCES

TESTIMONY OF JAMES J. JONES

Mr. JONES. Thank you, Chairman Rush, Ranking Member Radanovich and members of the subcommittee. Thank you for the opportunity to speak with you today regarding the U.S. Environmental Protection Agency's efforts on formaldehyde and the potential legislative action in Congress.

Formaldehyde is a widely used chemical and may be found both indoors and outdoors. It is used in building materials and household products and also produces a byproduct of combustion. In homes, the most significant sources of formaldehyde are likely to

be pressed wood products made using adhesives that contain urea-formaldehyde resins.

Inhalation of formaldehyde can cause irritation of the eyes, nose, throat and skin as well as inflammation and damage to the upper respiratory tract. Additionally, there is growing evidence that formaldehyde exposure may impact pulmonary function and increase respiratory symptoms, asthma and allergic sensitization in children. In 1989, EPA classified formaldehyde as a probable human carcinogen.

EPA is currently engaged in a reassessment of the potential cancer and non-cancer risks of formaldehyde that will be entered into EPA's Integrated Risk Information, or IRIS program. As a result of this reassessment process, EPA is reexamining its conclusions regarding the cancer and non-cancer effects of formaldehyde. This assessment will be ready for external review soon. The agency has also asked the National Academy of Sciences to provide independent external scientific peer review, and EPA will offer opportunities for public comment on the underlying science.

The recent focus of formaldehyde in the Office of Prevention, Pesticides, and Toxic Substances resulted from a March 2008 petition to adopt the California State regulation concerning emissions of formaldehyde from three types of composite wood products. They petitioned EPA to exercise its authority under TSCA section 6 to adopt and apply nationally the California formaldehyde emissions regulation for these composite wood products. In response, EPA announced on June 24, 2008, that it was partially granting and partially denying the petition. While the agency denied the specifics of the petition request, EPA announced plans to issue an Advanced Notice of Proposed Rulemaking to initiate a proceeding to assist us in obtaining a better understanding of the available control technologies and approaches, industry practices and the implementation of the California regulation.

The ANPR was issued on December 3, 2008, and describes EPA's initial steps in that investigation and requested comment information and data relating to formaldehyde emissions from pressed wood products.

The challenge of regulating chemicals under our current TSCA authority is worth noting. As Congress moves toward TSCA reform legislation, we have stated in previous hearings that as a result of the legal and procedural requirements TSCA places on EPA to collect data, there are large, troubling gaps in the available data and state of knowledge of many widely used chemicals in commerce. Chemical producers are not required to provide EPA the data necessary to fully assess a chemical's risks. In cases such as formaldehyde where EPA has adequate data on a chemical and it wants to protect against well-known risks to human health and the environment, there are legal hurdles that prevent quick and effective regulatory action.

In regards to formaldehyde, the agency noted in its 2008 ANPR that EPA does not have sufficient information to evaluate whether the CARB standard would likely be the least burdensome alternative necessary to protect adequately against such risks. This finding illustrates the inherent difficulty the agency faces in regulating chemicals under TOSCA even for a chemical such as form-

aldehyde where data and information are available regarding its health effects.

Restoring confidence in our chemical management system is a top priority for EPA and an environmental priority for the Obama Administration. This Administration's principles for how TSCA should be revised and modernized call for stronger and clearer authority for EPA to collect and act upon critical data regarding chemical risks. Under a reformed TSCA, EPA should have the necessary authority and tools to quickly require testing and obtain other information from manufacturers that is relevant to determining the safety of chemicals and should also have clear authority to take risk-management actions when chemicals do not meet safety standards.

EPA currently anticipates being able to make a determination on whether to pursue regulatory action on formaldehyde in 2011. If we were to propose a new regulation at that time, a final rule could be anticipated 1 to 3 years later depending on the comments we receive and additional analysis and consultations which may be required in order to finalize.

As this committee considers legislation on formaldehyde, we agree that formaldehyde is a hazardous chemical and support the goal of legislation in reducing the risks of formaldehyde in pressed wood products. Reducing formaldehyde emissions in pressed wood products should be an important public health goal. California has made a valuable contribution to formaldehyde emissions reductions through its standards and is providing a clear model for addressing the problem.

We look forward to working with this committee as it moves forward to reduce exposure to formaldehyde from these products. It is our hope that Congress will also be able to act on TSCA reform since the Administration believes it is important to work together to quickly modernize and strengthen the tools available in TSCA.

Thank you for the opportunity to present EPA's views, and I am happy to answer any questions the subcommittee may have.

[The prepared statement of Mr. Jones follows.]

**Testimony of James J. Jones
Deputy Assistant Administrator
Office of Prevention, Pesticides and Toxic Substances
U.S. Environmental Protection Agency
before the
Subcommittee on
Commerce, Trade, and Consumer Protection
Committee on Energy and Commerce
United States House of Representatives
March 18, 2010**

Chairman Rush, Ranking Member Whitfield, and members of the Committee, thank you for the opportunity to speak with you today regarding the U.S. Environmental Protection Agency's efforts on formaldehyde and potential legislative action in Congress.

Formaldehyde is a widely-used chemical and may be found both indoors and outdoors. It is used in building materials and household products and can also be produced as a by-product of combustion. In homes, the most significant current sources of formaldehyde are likely to be pressed wood products made using adhesives that contain urea-formaldehyde (UF) resins. Pressed wood products made for indoor use include particleboard, plywood, and fiberboard.¹

Inhalation of formaldehyde can cause irritation of the eyes, nose, throat, and skin, as well as inflammation and damage to the upper-respiratory tract.² Additionally, there is growing evidence that formaldehyde exposure may impact pulmonary function, and increase respiratory symptoms, asthma, and allergic sensitization in children.³ There is evidence that some people can develop sensitivity to formaldehyde.⁴ In 1989, EPA classified formaldehyde as

¹ Formaldehyde Emissions From Pressed Wood Products, Advanced Notice of Proposed Rulemaking 73 FR 73620, at 73622 (December 3, 2008)

² ATSDR ToxFAQs, <http://www.atsdr.cdc.gov/tfacts111.html>; OSHA Safety Fact Sheet, http://www.osha-safety.org/osha_formaldehyde.asp

³ McGwinn, Gerald. Jr, Jeffrey Liener, and John I Kennedy Jr., *Environmental Health Perspectives*. Vol 188 (Number 3), March 2010.

⁴ Agency for Toxic Substances and Disease Registry. Toxicological Profile for Formaldehyde. 1999. <http://www.atsdr.cdc.gov/toxprofiles/tp111.html>

a probable human carcinogen. At that time, there was sufficient evidence in animals and limited evidence in humans from a set of 28 epidemiology studies.⁵ In 2005, the International Agency for Research on Cancer (IARC) concluded that there is sufficient evidence in humans and sufficient evidence in experimental animals for the carcinogenicity of formaldehyde.⁶

EPA recognizes that since 1989 there has been additional research into the health effects of formaldehyde. EPA is currently engaged in a reassessment of the potential cancer and non-cancer risks of formaldehyde that will be entered into the EPA's Integrated Risk Information System (IRIS) program. As a result of the IRIS reassessment process, EPA will be reexamining its conclusions regarding the cancer risk of formaldehyde after considering the currently available scientific information, including human data. EPA will also be evaluating the non-cancer health effects of inhalation of formaldehyde.

The recent focus on formaldehyde in the Office of Prevention, Pesticides and Toxic Substances resulted from a March 2008 petition from 25 organizations and approximately 5,000 individuals to adopt the California state regulation concerning emissions of formaldehyde from three types of composite wood products: 1) hardwood plywood; 2) particleboard; and 3) medium density fiberboard. They petitioned EPA to assess and reduce the risks posed by formaldehyde emitted from these products by exercising its authority under TSCA section 6 to: adopt and apply nationally the California formaldehyde emissions regulation for these composite wood products; and to extend the regulation to include composite wood products used in manufactured homes.

In response, EPA announced on June 24, 2008, that it was partially granting and partially denying the petition. While the Agency denied the specifics of the petition request, EPA announced plans to develop and issue an Advance Notice of Proposed Rulemaking (ANPR) to initiate a proceeding to assist us in obtaining a better understanding of the available control

⁵ IRIS File for Formaldehyde, <http://www.epa.gov/iris/subst/0419.htm>

⁶ IARC Monographs on the Evaluation of Carcinogenic Risks to Humans (see <http://monographs.iarc.fr/ENG/Monographs/vol88/index.php> and <http://monographs.iarc.fr/ENG/Meetings/88-formaldehyde.pdf>)

technologies and approaches, industry practices, and the implementation of California's regulation.

The ANPR was issued on December 3, 2008 and describes EPA's initial steps in that investigation and requested comment, information, and data relating to formaldehyde emissions from pressed wood products. The notice also announced a series of public meetings to obtain additional stakeholder input which took place in early 2009. In 2009, the Administration conducted an additional meeting in New Orleans to provide an opportunity for residents of the so-called "FEMA trailers" to offer their views.

As I noted, EPA is working towards an updated IRIS cancer and non cancer assessment regarding health effects of inhalation exposure to formaldehyde, and this should be ready for external review soon. The Agency has asked the National Academy of Sciences to provide independent external scientific peer review and EPA will also offer opportunities for public comment on the underlying science. Also, we are conducting an exposure assessment this year and will focus on exposures in communities with environmental justice concerns. In addition, we are developing an industry survey to characterize the current industry practices, control technologies and the extent to which the industry has adopted the California standards.

The point of these efforts is to gain a greater scientific understanding of the potential health risks associated with the use of formaldehyde in pressed wood products. In turn, this vital information will inform the regulatory approach EPA will take on formaldehyde, as we consider whether it is appropriate to use our authority under TSCA to ban or restrict the use of formaldehyde in pressed wood products.

The challenge of regulating chemicals under our current TSCA authorities is worth noting. As Congress moves toward TSCA reform legislation, we have stated in previous hearings that as a result of the legal and procedural requirements TSCA places on EPA prior to collecting data, there are large, troubling gaps in the available data and state of knowledge on

many widely used chemicals in commerce. Chemical producers are not required to provide, without further action from EPA, the data necessary to fully assess a chemical's risks.

In the cases where EPA has adequate data on a chemical and wants to protect the public against well-known risks to human health and the environment, there are legal hurdles that prevent quick and effective regulatory action. Meanwhile, the public may be exposed to chemicals for which we have little understanding of the consequences.

As has been frequently cited, after years of study, EPA issued a rule in 1989 phasing out most uses of asbestos – a chemical whose health effects had been exhaustively studied and demonstrated to cause lung cancer, mesothelioma and asbestosis in humans. Yet, a Federal court overturned the rule because EPA failed to clear the hurdles imposed under TSCA before existing chemical risks can be controlled. In regards to formaldehyde, the Agency noted in its 2008 ANPR that,

“On the basis of the significant differences in the legal standards applicable to the California Health and Safety Code (H&SC) and TSCA section 6, and the insufficiency of the information available to EPA for purposes of conducting the TSCA section 6 analysis, EPA is not granting the specific request in the petition to commence a proceeding under TSCA section 6 to impose the CARB formaldehyde ATCM nationwide. Even if the information available to EPA were sufficient to support an evaluation of whether formaldehyde in composite wood products presents or will present an unreasonable risk, petitioners have not provided sufficient information, and EPA does not otherwise have sufficient information, to evaluate whether the CARB ATCM would likely be the least burdensome alternative necessary to protect adequately against such risk.”

This finding illustrates the inherent difficulties the Agency faces in regulating chemicals under TSCA.

Restoring confidence in our chemical management system is a top priority for EPA and an environmental priority for the Obama Administration. This Administration's principles for how TSCA should be revised and modernized call for stronger and clearer authority for EPA to collect and act upon critical data regarding chemicals risks. Under a reformed TSCA, EPA should have the necessary authority and tools, such as data call in, to quickly and efficiently require testing or obtain other information from manufacturers that is relevant to determining the safety of chemicals, and should also have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns.

EPA currently anticipates being able to make a determination on pursuing regulatory action on formaldehyde in 2011. If we were to have the information and data necessary to propose a new regulation at that time, a final rule could be anticipated one to three years later, depending on the comments we would receive and the additional analysis and consultations which may be required in order to finalize.

As this Committee considers legislation on formaldehyde, we agree that formaldehyde is a hazardous chemical and support the goal of legislation in reducing the risks from formaldehyde in pressed wood products. Reducing formaldehyde emissions in pressed wood products should be an important public health goal. California has made a valuable contribution to formaldehyde emissions reductions through its standards and is providing a clear model for addressing this problem. We look forward to working with this Committee as it moves forward to reduce exposure to formaldehyde from these products. It is our hope that Congress will also be able to act on TSCA reform, since the Administration believes it is important to work together to quickly modernize and strengthen the tools available in TSCA.

Thank you for the opportunity to present EPA's views, and I am happy to answer any questions the Subcommittee may have.

Mr. RUSH. Mr. Julia, you are recognized for 5 minutes.

TESTIMONY OF TOM JULIA

Mr. JULIA. Thank you, Mr. Chairman, Ranking Member Radanovich, members of the subcommittee, and thank you in particular to Mrs. Matsui for taking the leadership to introduce this important piece of consumer legislation.

I am Tom Julia, president of The Composite Panel Association, a not-for-profit association representing more than 90 percent of the North American production of particleboard, medium-density fiberboard and hardboard. We are representing manufacturers of two of the three products regulated under this legislation, and we are here to offer to our strong support.

Composite panel products used in construction materials, furniture, cabinets and for hundreds of other uses are a major worldwide industry. In the United States alone, panel mills employ thousands of workers and the sale of our product affect hundreds of thousands of manufacturing jobs, typically in small rural communities throughout the Nation. We are among the greenest industries in the world, and most U.S.-made products use 100 percent recycled residual or post-consumer wood. CPA itself is a world leader in quality assurance, product testing and certification and sponsorship of voluntary industry standards.

I am proud to say today that nearly 100 percent of U.S. production capacity of particleboard and MDF is compliant with the California standard phase I and in many cases phase II, the levels that would be required under this legislation. Our sister trade association, the Hardwood Plywood Veneer Association, represented in the audience today, can tell you a comparable story for hardwood plywood products, the other product regulated under this bill.

None of this happened by accident. It took a long-term commitment to lower emission levels, a major and ongoing capital investment in new technology, and an early commitment to the California rule and to meeting its deadlines. We wish that everyone would share this strong commitment to product stewardship and lower formaldehyde emissions, especially some of those making products overseas that are bound for American markets. Fortunately, most of the U.S.-based trade associations representing off-shore producers have strongly committed themselves to supporting this bill and responsible importers are meeting the CARB rule. But there is still too much product entering the U.S. market made by companies who don't participate in trade associations, who don't get their products tested and certified, who don't sell into California and who often sell low-priced goods to the most vulnerable of our citizens. These are the bad actors that H.R. 4805 will reach while at the same time ensuring a consistent standard of compliance and enforcement throughout the United States.

By establishing national requirements, you will give the American public full confidence that panel producers are doing everything possible to minimize the environmental footprints of our products, that a rigorous federal standard stands behind these products and that compliance doesn't just happen some of the time, it happens all of the time. We submit to you that is good for public

health, this is good for domestic jobs and this is good for the American consumer.

We are here today at a rare moment in history when industry and environmentalists, labor and health care groups can come together and support a common result. This is also a day to think, as we heard earlier today, about the emergency housing units provided to victims of Hurricane Katrina and Hurricane Rita. Had there been a national emissions standards in place and third-party testing and certification to validate compliance, it is very possible there never would have been a FEMA trailer problem, at least one related to formaldehyde emissions from composite wood. And by passing this bill, you can make a statement that says we will never let it happen again.

I cannot say enough about third-party testing and certification. Responsible industries around the world are embracing it and it indeed has become our industry's equivalent to what President Reagan called trust and verify. It is also the key to the success of this bill.

In closing, I urge you to take what California has called the toughest production standard in the world and make it America's standard too. Earlier today there were some questions about pre-emption and the impact of this bill on the States, and I would be happy in my responses to questions to address those, Mr. Chairman, or at this time. Thank you so much.

[The prepared statement of Mr. Julia follows:]

US HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON COMMERCE, TRADE AND CONSUMER PROTECTION
LEGISLATIVE HEARING ON HR 4805
THE FORMALDEHYDE STANDARDS IN COMPOSITE WOOD PRODUCTS ACT
MARCH 18, 2010

STATEMENT OF THOMAS A. JULIA
PRESIDENT, COMPOSITE PANEL ASSOCIATION

Thank you Mr. Chairman and members of the Subcommittee for this opportunity to address you today about a bill with significant implications for American consumers.

I am Tom Julia, President of the Composite Panel Association (CPA), a trade association celebrating its 50th anniversary of service this year. The CPA represents companies responsible for more than 90% of the North American production capacity of particleboard, MDF and hardboard. We also represent most of the companies making wood-based decorative surfacing materials, as well as others affiliated with the composite panel industry.

The CPA represents manufacturers of two of the three major products that would be regulated under HR 4805, and I am here today to offer our strong support for this legislation.

Composite panel manufacturing and the use of our products in both construction applications and home and office furnishings, is a major worldwide industry. In the US alone our mills employ more than 20,000 workers, and affect more than 350,000 additional jobs, typically in small rural communities through the nation.

We pride ourselves as being among the greenest industries in the world, as almost all of our members' panel products are made with 100% recycled, residual or post-consumer wood. Indeed our industry is predicated on recycling and always has been. The CPA itself is a world leader in quality assurance, product testing and certification, sponsorship of voluntary industry standards, and development of technical data about industry products. Moreover, we have shared our technical expertise with organizations throughout the world, even assisting several international consumer product testing organizations who today are testing panel

products in China that are bound for the US. We believe this it is a good think that the consumers have high confidence in the composite wood products in their homes and offices regardless of the source, and we are committed to supporting global manufacturing too, even though our members' markets are exclusively domestic.

I am also proud to say that virtually 100% of both US and Canadian production capacity of particleboard and MDF is already certified to meet or exceed the CARB Phase 1 emissions levels, and many are already meeting the Phase 2 limits that go into affect for our products beginning next year. A sister association, the Hardwood Plywood Veneer Association, reports similar success for hardwood plywood products, the third of the three products regulated under HR 4805.

None of this happened by accident. It took a long term commitment to lowering emission levels, a major capital investment in technology, and an early commitment to the CARB rule and to meeting its deadlines. In no other part of the world has there been such a commitment and urgency to product stewardship and regulatory compliance, even for US markets where the CARV rule is not enforceable.

For decades CPA has operated the largest and most stringent third party testing and certification program for composite panels in North America. It includes monthly audits and random testing to assurance compliance with both formaldehyde emission requirements as well as physical properties. We operate a state-of-the-art International Testing and Certification Center in Leesburg, Virginia, where we can test to even the exceeding challenging tolerances of CARB Phase 2 emission requirement as well as other ultra-low emitting criteria.

The third party testing and certification requirements embedded in California's emission rules are based in large part on the CPA's Grademark Certification Program, and we were the first organization worldwide to be recognized and approved as a CARB-approved Third Party Certifier.

In short, we know a lot about composite wood products and about the use of formaldehyde based adhesives, and we have a demonstrated record of helping industry achieve and document increasingly lower emission profiles for its products.

We are convinced that it is imperative that our customers and the American public have full confidence that panel producers are doing everything possible to minimize the environmental footprint of our products and – equally important – full confidence that a rigorous, reliable testing and certification program stands behind our products, as mandated by federal law.

We wish everyone felt the same way and would demonstrate the same commitment, especially some of those responsible for the massive influx of composite panel products entering the United States from overseas. While things have improved since the CARB rule went into effect, and US-based trade associations representing many of these producers have strongly committed themselves to compliance with the CARB rule, there is still too much product that enters the US market without any regulatory oversight.

These are the bad actors that HR 4805 will enable the EPA to reach, while at the same time ensuring a consistent standard of compliance and enforcement not only in California but also throughout the United States. To be clear, not all importers are of the same mind, and not all products manufactured offshore are suspect. Indeed many companies have a long track record of product stewardship on a global scale, and many others have moved quickly to make sure their products meet the CARB rule as well as any prospective national standard. But there are, and a Congressional directive can help EPA make sure that compliance doesn't just happen some of the time but rather all of the time. That means putting in place the first ever federal standard governing emission levels from composite panel products– no matter where they are made in the world if sold in the US, and no matter where they are sold in the US.

With CPA's considerable experience, we know that in the rare instances when products are found to emit high levels of formaldehyde, they are most often products made without regard to industry standards, international accreditations or in-house testing.

Beginning with HR 4805, and its counterpart in the Senate, the Congress has a chance to change this. I submit that your real challenge is not whether to move ahead and direct EPA to enact a sensible rulemaking but rather how quickly and comprehensively they can do so to effect meaningful change.

A lot of eager lawyers and expert consultants are waiting in the wings, hoping a multi-year extravaganza that costs the federal government and

American taxpayers millions of dollars, that costs industry even more, and that bogs EPA staff down for years before a federal rule is adopted.

Who would be served by this? Certainly not the American consumer, nor the domestic composite panel industry – nor public health itself.

Last summer CPA submitted comments in response to the Sierra Club's petition for rulemaking by the EPA. We said yes, fill the void and establish a national standard. We said base it on the work done by the California ARB over the past seven years to formulate its Air Toxic Control Measure for Composite Wood Products. No more, no less. We said resist the urge to go down the path of a complex TSCA 6(a) rulemaking approach and find a better way. We said this is a moment in history when industry, environmentalists, labor and health care groups can come together all support the same approach.

Last but hardly least, we were are still cognizant of the allegations of high formaldehyde emissions from the emergency housing units provided by FEMA to victims of hurricanes Katrina and Rita. The Sierra Club has it right on this one: had there been a national standard in place and a third party testing and certification regimen to validate compliance, its likely there never would have been a FEMA trailer problem, at least not one related to formaldehyde emissions from composite wood products manufactured here or abroad.

I am here today to urge Congress to give direction and urgency to EPA, and not permit the agency to be drawn into a long, complex and expensive rulemaking. Instead, I urge you to memorialize what California has done and take the "toughest production standard in the world" (CARB's words, with which we agree), and make it America's standard too. Do it now, do it this year and give the American people the full confidence that what's in our homes and offices has been subject to rigorous in-mill quality assurance, to third party testing and certification, to verifiable chain of custody documentation, and to an enforcement regimen with teeth.

CPA is pleased to be part of a coalition supporting this bill that includes the American Home Furnishing Alliance, the Business and Institutional Furniture Manufacturers Association, the Hardwood Plywood Veneer Association, the Kitchen Cabinet Manufacturers Association, the American Forest and Paper Association, the APA-Engineered Wood Association, and other major business groups. We are equally pleased that this coalition includes the

Sierra Club, the National Center for Health Housing, the United Steelworkers Union and other influential environmental and public health advocates. We thank and commend them for their early leadership on this matter, and note that many are represented on the panel or in the audience here today.

I will close by addressing two questions that have sometimes been raised during our discussions with members of Congress and others since last year, and that bear repeating.

The questions are why not pre-emption in this bill, and why not give EPA the opportunity to establish emissions ceilings that are different than those established by California.

While the CPA might support pre-emption, the typical reasons for desiring it do not necessarily apply here, and so we do not believe it is essential. This is not the case of asking EPA to develop an entirely new regulation that is unfamiliar to the 50 states. Rather, compliance with the CARB rule is already being practiced by industry throughout the United States, though perhaps less by some than others. Indeed, California's rule is becoming a *de facto* national standard, so the incentive for any state to do anything different is not there. If Congress directs the EPA to establish a federal standard based on California's parameters, this will only help ensure that other states are not tempted to initiate a rule of their own, and will ensure the certainty that all stakeholders look for in a regulatory outcome.

Our reasons for not making pre-emption a condition of passing this bill are also pragmatic. Indeed, the breadth of stakeholder and Congressional bipartisan support for this legislative approach to date has been the result of consensus. If pre-emption were to be made an issue now we believe that consensus would unravel.

As to the levels themselves, the formaldehyde emission ceilings called for under the CARB rule are already exceedingly low, and the rule incentivizes the manufacture of what are termed Ultra Low Emitting as well as No Added Urea Formaldehyde adhesive systems. This is memorialized in HR 4805, and the American ingenuity – and the free market – is already responding by manufacturing dramatically lower emitting products over the past two years. This the appropriateness of once again addressing formaldehyde emissions from industry products again down the road is becoming moot. A federal standard based on CARB's approach will boost this positive direction and given everyone the assurance that at least the wood products sector is in full

compliance. Thus while we appreciate the desire to continue to address health related concerns about formaldehyde exposure, we submit that the levels of exposure that are possible under the CARB rule and a corresponding national standard are significantly below any reasonable level of concern. Moreover, the third party testing and certification requirement of the rule is the mechanism that will provide full confidence to the marketplace if implemented properly by the EPA.

Thank for again for holding this hearing and for the opportunity to address you today. CPA looks forward to continuing to support the work of the Congress on this important matter.

More information: tjulia@cpamail.org or 703.724.1128 ext. 243, or 703.405.5602 (mobile)

Mr. RUSH. Thank you.
The Chair recognizes Mr. Counts for 5 minutes.

TESTIMONY OF ANDY COUNTS

Mr. COUNTS. Good morning. I am Andy Counts, chief executive officer of the American Home Furnishings Alliance. I would like to thank Chairman Rush, Ranking Member Radanovich, members of the subcommittee for this opportunity to testify. I would especially like to thank Congresswoman Doris Matsui for her leadership along with Congressman Vern Ehlers for advancing this important legislation.

The AHFA is the world's largest trade association, serving the home furnishings industry. Member companies comprise an extensive global network of manufacturers who produce home furnishings or component parts constructed of composite wood products.

AHFA supports the regulation of formaldehyde emissions from composite wood products, and we support H.R. 4805. We believe that a national approach is crucial in order to avoid conflicting State standards and allow for the harmonized distribution of products and supplies.

AHFA along with wood products industry, environmental, health and labor organizations worked for more than 7 years with the California Air Resources Board to establish formaldehyde emission limits for composite wood products. These new emission limits are the most stringent in the world. Outside these emissions limits, however, there are several aspects of the California rule that cannot be implemented nationally. H.R. 4805 provides EPA the platform and flexibility needed to address these issues and modify the California approach, providing a commonsense, pragmatic national regulation.

Of critical importance will be the inclusion of adequate compliance timelines and sell-through provisions. Due to the unprecedented economic conditions of the last few years, inventory levels remain high. Unlike in California where noncompliant inventories could be moved to other markets, adequate sell-through provisions are needed nationally to accommodate increased inventories and slow inventory turns. We request a sell-through period of 36 months finished products following the compliance deadline for composite wood products.

It is important to note that the California formaldehyde standard and the national standard proposed under H.R. 4805 regulate emissions from composite wood products and not the finished products that contain composite wood components. In fact, the value-added steps associated with finished products such as lamination and finishing have been proven to lower emissions of composite wood components. EPA must focus compliance and enforcement where it belongs: at the point of manufacture and process control. The regulations should not contain any provisions for the testing of finished goods such as furniture or cabinets. If the raw board component parts are properly regulated, downstream users of these products will be required to purchase them and to only use or resell these safe products to consumers. This ensures the overall safety of the

global supply chain and the citizens who purchase home furnishings.

AFHA applauds the efforts of our global suppliers that have worked tirelessly to comply with the California standards. We stand ready to educate the industry on the new national standard and provide the tools necessary to ensure compliance on a global basis. We also look forward to working closely with EPA during the development of this regulation.

Thank you for this opportunity, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Counts follows:]



Oral Testimony of Andy S. Counts
American Home Furnishings Alliance

Before the U.S. House of Representatives Subcommittee on
Commerce, Trade, and Consumer Protection

March 18, 2010

Good Morning. I am Andy Counts, the Chief Executive Officer of the American Home Furnishings Alliance (AHFA). I would like to thank Chairman Rush, Ranking Member Stearns and Members of the Subcommittee for the opportunity to testify. I would especially like to thank Congresswoman Doris Matsui for her leadership, along with Congressman Vern Ehlers, for advancing this important legislation.

The AHFA is the world's largest trade organization serving the home furnishings industry. Member companies comprise an extensive global network of manufacturers who produce home furnishings or component parts constructed of composite wood products. AHFA supports the regulation of formaldehyde emissions from composite wood products and we support H.R. 4805. We believe that a national approach is crucial in order to avoid conflicting state standards and allows for the harmonized distribution of products and supplies.

The AHFA along with the wood products industry, environmental, health, and labor organizations worked for more than seven years with the California Air Resources Board (CARB) to establish formaldehyde emission limits for composite wood products. These new emission limits are the lowest anywhere in the world. Outside these emission limits there are several aspects of the California rule that can not be implemented nationally. H.R. 4805 provides EPA the platform and flexibility needed to address these issues and modify the California approach providing a commonsense, pragmatic national regulation.

Of critical importance will be the inclusion of adequate compliance timelines and sell through provisions. Due to the unprecedented economic conditions of the last few years inventory levels remain high. Unlike in California where non-compliant inventories could be moved to other markets; adequate sell through provisions are needed nationally to accommodate increased inventories and slow inventory turns. We request a sell through period of 36 months for finished goods following the compliance deadline for composite wood products.

It is important to note that the California formaldehyde standard and the national standard proposed under H.R. 4805 regulate emissions from composite wood products and not the finished products that contain composite wood components. EPA must focus compliance and enforcement where it belongs, at the point of manufacture and process control. The regulation should not contain any provisions for the testing of finished goods, such as furniture or cabinets. If the raw board component parts are properly regulated, downstream users of these products will be required to purchase only these regulated products, and to only use or resell these safe products to consumers. This ensures the overall safety of the global supply chain and the citizens who purchase our products.

AHFA applauds the efforts of our global suppliers that have worked tirelessly to comply with the California standards. We stand ready to educate the industry on the new national standard and provide the tools necessary to ensure compliance on a global basis. We also look forward to working closely with EPA during the development of this regulation.

Thank you again for the opportunity to share our views on this important issue and I look forward to answering any questions you may have.

Mr. RUSH. Mr. Ryan is recognized.

TESTIMONY OF DON RYAN

Mr. RYAN. Thank you, Mr. Chairman, Mr. Radanovich and Representative Matsui. My name is Don Ryan. It is my pleasure to testify today in strong support of H.R. 4805. I testify on behalf of two organizations: the National Center for Healthy Housing and the Sierra Club. The National Center is dedicating to ensuring that all Americans' homes are healthy and safe through proven and practical steps. The National Center is concerned about formaldehyde because of the enormous body of scientific evidence documenting formaldehyde's human health risks. Formaldehyde is an irritant, an allergen, a cancer risk, and composite wood products are a significant source of exposure, and just as importantly, an opportunity to significantly reduce exposures.

The Sierra Club is one of the Nation's oldest and largest environmental organizations. It is committed to protecting public health as well as natural resources. And it was the Sierra Club that first called the Nation's attention to the dangers of high formaldehyde levels in FEMA trailers after Hurricanes Katrina and Rita. The primary source was manufactured wood products with formaldehyde glue, most of which apparently came from overseas.

The painful story of formaldehyde and FEMA trailers is not yet over as just last week the federal government announced the sale of 120,000 of these travel trailers. I am concerned about the sale at several levels. The trailers may pose formaldehyde hazards. They may pose other health hazards. Some of these trailers may come to be occupied as permanent homes, even though that is not their designed intent, and there is a chance the warning labels may be removed before the resale to future buyers. What I want to drive home is that all these health hazards, these headaches, these heartaches could have been completely avoided, and that is why H.R. 4805's enactment is so important.

I want to applaud Representatives Matsui and Ehlert for introducing this bill. I want to thank this subcommittee for holding this hearing and moving it forward.

I also want to take a minute to salute the staff of the California Air Resources Board because the opportunity before us today to advance public health across the Nation is due to their hard work over the past 7 years to carefully craft the standard that is protective, that is practical, that is enforceable. But there are limits to what one State can accomplish when it comes to a worldwide market for products such as composite wood products. As we have seen with other consumer products, with drywall, with dog food, with children's toys, ensuring compliance by overseas manufacturers is absolutely critical and often very difficult. The California formaldehyde standard is the toughest production standard in the world. The standard has already taken effect. The standard is already working. Manufacturers are already complying.

So at the most basic level, what H.R. 4805 does is two things. It extends the California standard's public health protections across the country as quickly as possible, and number two, it strengthens enforcement to level the playing field so that unscrupulous manufacturers cannot undercut responsible manufacturers.

So this bill is a giant step forward for public health. It has the support of environmental, health, labor and consumer advocates and this bill is a giant step forward for responsible manufacturers because it levels the playing field. It will create green jobs for American workers.

And finally, I want to note this bill is a big win for the American taxpayer because it avoids the complexities and the clumsiness of TSCA by directing EPA to issue its regulation without delay.

So I would urge this subcommittee's support of the bill. I think it deserves your bipartisan support. I hope it wins your unanimous support, and I ask each of you to urge the full Energy and Commerce Committee to recommend this bill's early approval by the full House.

[The prepared statement of Mr. Ryan follows:]

**Don Ryan Statement on behalf of the Sierra Club and the
National Center for Healthy Housing before the**

House Subcommittee on Commerce, Trade, and Consumer Protection

March 18, 2010

Chairman Rush and members of the Subcommittee, I thank you for the opportunity to testify in support of H.R. 4805 as a representative of the Sierra Club and the National Center for Healthy Housing. Both organizations wholeheartedly support the bill and applaud the leadership of Representatives Matsui and Ehlers in introducing this important legislation.

The National Center for Healthy Housing is the nation's leading organization dedicated to creating healthy and safe homes for children through proven and practical steps. NCHH conducts research and provides training to health and housing professionals across the United States and promotes policies that make homes healthier. As one of the National Center's founders and a member of its board, I want to assure you the healthy homes community believes this bill takes our nation an important step closer to making homes healthier for all.

The Sierra Club is one of the nation's oldest and largest environmental organizations. For over 113 years, the Sierra Club has been dedicated to protecting our nation's natural resources and public health. Sierra Club, on behalf of its members, works to protect and enhance the health of the environment throughout the country. The Sierra Club has over 1.3 million members and supporters living throughout the United States.

Sierra Club has taken the lead nationally in fighting the battle to protect people from high levels of formaldehyde exposure. As a grassroots organization, Sierra Club got involved in this issue when the Club's Mississippi chapter began getting reports of serious respiratory problems from Hurricane Katrina and Rita survivors who were living in FEMA trailers. The Chapter chair, Becky Gillette, learned that formaldehyde may be a cause and began sampling the trailers for formaldehyde. The tests showed very high levels that – the Centers for Disease Control and Prevention conceded years later – were serious enough to warrant quick evacuation of the residents from these FEMA trailers. Wood products made with formaldehyde glue appeared to be the primary source. While lawsuits may eventually resolve who was at fault, it appears that much of the wood involved was imported from overseas in the rush to meet the huge demand for FEMA trailers, and that little or none of it was subject to compliance with any federal or even voluntary industry standard. A national standard on formaldehyde emissions could have prevented all of this.

The Sierra Club and NCHH remain concerned about the long-term health impacts of the residents who unwittingly were exposed to such high levels of formaldehyde. We also remain concerned that last week, the federal government sold 120,000 of these trailers with only a simple warning in an effort to recover pennies on the dollar. As Ms Gillette told the Washington Post, "What if Toyota ordered a recall, then simply put a sticker on its vehicles saying they were unfit to drive before reselling them? There's a double standard for the government."

Beyond looking backwards to clean-up the mistakes from Hurricane Katrina and Rita, the Club looked forward to prevent future tragedies. For years, it had been tracking rulemaking by the California Air Resources Board to protect Californians from formaldehyde as a toxic air contaminant. In April 2007, California established aggressive technology-based standards to reduce formaldehyde from hardwood plywood, particleboard and medium-density fiberboard. These regulations set the most protective standards in the world through a practical, technology-based approach. More importantly, the standards included rigorous third party testing and certification to ensure compliance.

The North American manufacturers of the wood products responded immediately by committing to full compliance with the California rules. While they believed that California overstated the risk of formaldehyde, they saw the value in reducing the formaldehyde emissions and in being responsible stewards of their products.

Unfortunately, there are limits to State leadership when it comes to a worldwide market for products such as composite wood products. While California's use of third parties to certify compliance with the rule allows overseas manufacturers and importers to comply with the rule, it is especially difficult to enforce their compliance. And as we have seen with consumer products such as drywall, pet food, and children's toys, overseas compliance is critical – and difficult to ensure.

Therefore, the Sierra Club drafted a petition to ask the U.S. Environmental Protection Agency (EPA) to exercise its authority under the Toxic Substances Control Act (TSCA) and enact a national standard on formaldehyde emissions from composite wood products based on California's approach. More than 20 organizations joined in signing onto this petition. And, to its surprise, in less than a week more than 5,000 individuals representing every state signed the petition too.

The Club submitted the petition to EPA in March 2008. Three months later, EPA decided to hold a series of public meetings across the country. It eventually held seven hearings with the last hearing held in New Orleans in March 2009.

While reading the comments submitted by the industry, the Club realized that the manufacturers were committed to resolving the problem despite their opposition to the specific request in the Club's petition. It reached out to the key association – the Composite Panel Association – and through extensive discussions, NCHH and the Club realized that there was common ground for a legislative solution that would accomplish three goals:

- Set a framework for EPA rulemaking that gives stakeholders confidence that the outcome will be reasonable, timely, and effective
- More quickly level the playing field for North American producers to the benefit of public health
- Avoid a prolonged regulatory and legal battle over the risks presented by formaldehyde by relying on a technology-based approach that, while aggressive, can be achieved using current technologies

For the next year, Sierra Club and NCHH negotiated joint consensus legislative language and broadened the consensus to include the key industries that rely on composite wood products, such as furniture and cabinets.

Senators Klobuchar and Crapo introduced S. 1660 in September 2009. Under their leadership and the leadership of the Senate Environment and Public Works Committee, final language has been crafted that all stakeholders can support. The National Center for Healthy Housing and the Sierra Club fully support this compromise language.

H.R. 4805, which mirrors S. 1660, represents a careful crafted compromise balancing many competing interests. It builds on the excellent work of the California Air Resources Board. It will not single-handedly address all issues related to formaldehyde, but it takes a major step forward by addressing one of the most significant sources of formaldehyde emissions in a way that is responsible, enforceable, and is already being accomplished by most of our domestic manufacturers and some others around the world. Therefore, NCHH and the Club fully support this legislation. We thank Representatives Matsui and Ehlers for introducing it, and encourage the Subcommittee and the full Committee on Energy and Commerce to support this bill and recommend its early approval the full House to give EPA clear direction.

-- End --

Mr. RUSH. Thank you.

Dr. Andersen, you are recognized for 5 minutes.

TESTIMONY OF MELVIN E. ANDERSEN

Mr. ANDERSEN. Thank you, Mr. Chairman. Good morning. I am Dr. Mel Andersen, director, Program in Chemical Safety Sciences, The Hamner Institutes for Health Science.

I completely applaud the legislation. I think it is important for the American people, and I am here actually to take objection with the scientific basis of the California risk assessment that has been used to support the emissions standards.

My professional career spans 40 years and five or six employers. My primary area of expertise is pharmacokinetics, how chemicals get to target tissues in the body, what they do there. In 1998 I served as a peer reviewer for an alternative risk assessment other than the California risk assessment that was developed by an organization, the Chemical Industry Institute of Toxicology, peer reviewed in Canada. I was a peer reviewer for that process.

The Hamner is the successor to CIIT. I have worked at The Hamner since 2002. Before that I was a professor of environmental health at Colorado State University in Fort Collins, Colorado. Over the past 5 years, I have conducted research at The Hamner funded by the Formaldehyde Council to understand the changes in genes and gene expression in the nose when rats are exposed to formaldehyde. More recently, we have been studying this area called pharmacokinetics of formaldehyde in the nose.

I want to stress that today I am here neither representing the formaldehyde council nor The Hamner. I am here representing a 40-year practitioner in toxicology and risk assessment.

You, me, all of us have substantial amounts of formaldehyde in every single cell in our body. The number actually is 12,000 parts per billion. It is part of normal metabolism. We have to have it. Formaldehyde causes toxicity when inhaled concentrations increase the levels in the tissues in the front of the nose to cause toxicity, cell death, regeneration and ultimately cancer at high concentrations.

Our studies show that at 100 parts per billion, there is no increase in the amount of formaldehyde in tissues in the nose compared to background levels, background physiological levels. But formaldehyde is a carcinogen, yes. It is a nasal irritant, yes. In trailers where people are closed, it has irritant properties. It could cause asthma. And we need to protect against it and this legislation is a good legislation to help us protect people who are in these trailers, people who live in all kinds of homes.

My comments really come down to just two points. The California risk assessment is extremely conservative using what are now antiquated approaches from the 1970s. They have not been updated by a better understanding of the biology of formaldehyde, its effects on tissues or a better understanding of cancer biology now that we have moved into the 21st century. They are technologies that are quite old. The CIIT assessment that was done 10 years ago is still in some ways outdated. It is better. It actually predicts risks that are probably 2,000-fold lower than estimated by the California risk assessment but it is still outdated. Neither one of them

take account of the fact that there is a good bit of indigenous formaldehyde.

I provided two visuals, one a table showing this comparison of the risks from what is an EPA risk assessment, almost equivalent to the California one, and one is the CIIT assessment. I provided a table that shows as a function of concentration different effects, different exposures going from 5 to 10 parts per million in outdoor air to higher concentrations, and then ones in which we have irritancy, 300 parts per billion, the threshold limit value of the American Conference of Government Industrial Hygienists, and then on to concentrations which are clearly toxic.

The proposed legislation sets limits on emission rates from building products. I am an industrial hygienist. Among all the letters after my name, CIH is certified industrial hygienist. As a certified industrial hygienist, it makes good sense to me to limit off-gassing of formaldehyde from these products by good manufacturing processes and to protect people from irritation, from a likelihood of asthma and from respiratory distress. However, I am here today because I find it, in my professional judgment, I find it objectionable that this decision is being taken based on outdated biologically deficient risk assessment, an assessment that neglected a broad body of research on formaldehyde carcinogenicity, on formaldehyde toxicity, ignores the attributes of biochemistry of cellular formaldehyde, a physiological material in our bodies, and it creates the impression that formaldehyde at concentrations only several parts per billion poses a substantial, quantifiable cancer risk in people. That is the piece of the legislation that I find most worrisome that you are indirectly agreeing when you accept this—that levels of formaldehyde well below any that would cause any significant changes in formaldehyde in the body will cause cancer in some definable number of people in a population.

This legislation should endorse the reduction in emissions, clearly. I applaud the legislation. I applaud the people who have brought this legislation to the committee. I wish it could be done without endorsing the questionable risk assessment from California that significantly overestimates the risks of inhaled formaldehyde, and I believe in public concerns about some particular end points, especially cancer.

Thank you very much for this opportunity to provide this perspective on House 4805 and to visit a panel of this kind for the first time in my career. Thank you very much.

[The prepared statement of Mr. Andersen follows:]

**Testimony on H.R. 4805
Committee on Energy and Commerce
March 18, 2010**

“Formaldehyde Emissions and Formaldehyde Risk Assessment”

Melvin E. Andersen, PhD, CIH, DABT, FATS
Director, Program in Chemical Safety Sciences
The Hamner Institutes for Health Sciences
Six Davis Drive
Research Triangle Park, NC 27709-2137
MAnderse@thehamner.org

Introduction: Good morning. I am Dr. Melvin E. Andersen, Director, Program in Chemical Safety Sciences, The Hamner Institutes for Health Sciences, Research Triangle Park, NC. I am very pleased to be here today to offer brief personal comments on the science used to assess the risk of inhaled formaldehyde by the State of California. The California risk assessment, dating from 1992, provided the rationale for decisions about acceptable formaldehyde emission rates from various building materials. These acceptable emission rates have found their way into H.R. 4805 - the bill under consideration. The 1992 California risk assessment used methods that date back to the 1970's when our knowledge of cancer biology and of the steps in cancer causation were very primitive. Their approach over-estimates cancer risks of formaldehyde at low exposure levels.

My Background: My professional career, spanning nearly 40 years, has focused on understanding how chemicals enter the body, how they make their way into cells and tissues, and how they affect tissues to cause toxicity. My resume' lists nearly 400 published papers and book chapters. The goal of my work has been to make the best use of contemporary science in improving chemical health risk assessments. I am regarded as an international expert in the area of pharmacokinetic (PK) modeling, i.e., a discipline describing the processes by which chemicals reach tissues at sufficient concentrations to cause toxicity. Among my papers are six that describe aspects of toxicology and risk assessment challenges with formaldehyde. In addition, in 1998 I served on a multi-stakeholder panel – US EPA, Health Canada, CIIT and TERA - convened in Ottawa, Canada to peer-review an alternative formaldehyde risk assessment that more adequately considered the extensive toxicological data base on formaldehyde and nasal cancer. CIIT here refers to the Chemical Industry Institute of Toxicology – the organization that developed the alternative risk assessment. TERA - Toxicology Excellence for Risk Assessment – organized the peer-review process. Aspects of the CIIT risk assessment were published in 2003 and 2004.

Current Hamner Research with Formaldehyde: CIIT was the predecessor organization to the Hamner where I have worked since 2002. Scientists at CIIT first discovered the nasal carcinogenicity of formaldehyde in rats about 30 years ago and have conducted a diverse array of studies to understand the changes in nasal tissues caused by inhalation of various concentration of formaldehyde and the role these changes play in nasal cancer. Over the past 5 years, The Hamner has been involved in research supported by the Formaldehyde Council to look at the changes in expression of genes in the rat nose after formaldehyde exposures and especially to see the differences in gene expression for different levels of exposure. Gene expression patterns differed markedly for concentrations causing nasal cancer in rats, above 6000 ppb, and those where no nasal cancers occur, 2000 ppb and below. Two papers from this research, by me and by my colleague Dr. Russell Thomas, received awards from the Risk Assessment Specialty Section of the US Society of Toxicology. Over the last 3 months, we have extended our formaldehyde research program at The Hamner to examine the manner in which inhaled formaldehyde enters nasal tissues and increases concentrations of formaldehyde in epithelial cells at the front of the nose. This newest portion of our formaldehyde research, focusing on pharmacokinetics, has not been supported by the Formaldehyde Council. It has been self-funded by The Hamner. It also bears some emphasis that today I am representing myself and my professional opinions. I am neither representing the Formaldehyde Council nor The Hamner.

You, me and formaldehyde: Formaldehyde is not simply a commercial chemical. It is present in every cell in our bodies –your cells and mine - at substantial concentrations. Formaldehyde is formed during normal metabolism and participates in important cellular functions. Cells in the body have specialized chemical processes to deal with formaldehyde, keep its free cellular concentration low, and stay healthy. Formaldehyde toxicity occurs when inhaled concentrations lead to a significant increase of tissue formaldehyde in the epithelial cells in the front portion of the nasal airways. Our current studies, in an area called pharmacokinetic modeling, show that formaldehyde inhaled at concentrations of 100 ppb or below would not increase cellular formaldehyde in cells in the nose significantly over physiological concentrations. This aspect of formaldehyde biology, i.e., its presence in all cells as a natural metabolite, was not considered in either the 1992 California assessment or in the 1998 CIIT-assessment. Table 1 compares the relationship between exposure levels in ambient and indoor air with inhaled concentrations that lead to specific biological or pharmacokinetic responses.

Formaldehyde and Nasal Cancer in Rats: Formaldehyde unquestionably has the potential to cause toxicity when inhaled concentrations become sufficiently large. When people breathe formaldehyde at 1000 ppb, it causes burning and irritation of the eyes and tissues in airways. The American Conference of Governmental Industrial Hygienists (ACGIH) has recommended an

occupational exposure for formaldehyde of 300 ppb as a ceiling – a concentration that is not to be exceeded in the workplace. In rats that breathe formaldehyde for 6 hrs per day every week day for two years, higher concentrations, 6000 ppb and above, caused squamous cell cancer in the front of the nose. At 15000 ppb, over half of the exposed rats developed nasal cancer. It is my professional judgment that formaldehyde is likely to be a 'high dose' human carcinogen: it would cause cancer if you or I were exposed to 15000 ppb, which is a highly irritating, locally corrosive concentration, every day for most of our life. However, a large body of research now shows that nasal cancer from formaldehyde in rats is closely associated with epithelial cell toxicity and with the recurrent scarring and healing processes that go on in these two-year exposures. The CIIT-risk assessment was based on a better understanding of the relationship between cellular toxicity of formaldehyde, the repeated damage and healing, and cancer. My professional judgment, similar in principle to the conclusions of the CIIT assessment and shared by many other toxicologists/risk assessors, is that formaldehyde only poses a cancer risk if concentrations are high enough, above 1000 ppb, to kill cells in the nose. Differences in the estimated risks based on the older methodology versus the CIIT risk assessment are captured in Figure 1. The California risk assessment, similar to the EPA assessment dating to 1987, indicated that 100 ppb exposures over a lifetime would result in 700 cancers in a million exposed individuals. The CIIT assessment indicated a risk of only 0.33 cases in the same size population.

Recommendations: The proposed legislation sets limits on emission rates from building products. Setting the limits based on reductions of off-gassing compounds into breathing zones is a good public health practice. As a certified industrial hygienist, it makes sense to me to follow good manufacturing practices to keep emission rates low. However, it is highly objectionable to take this decision based on an out-dated, biologically-deficient risk assessment – an assessment that neglects a broad body of research on formaldehyde carcinogenicity and toxicity, ignores key attributes of the biochemistry of cellular formaldehyde, and creates an impression that formaldehyde at concentrations of only several ppb poses a substantial, quantifiable cancer risk in people. The legislation should endorse the reduction in emissions without endorsing the questionable risk assessment.

Some References:

American Chemistry Council Long Range Research Initiative Perspective. Replacing Conservative Assumptions with Knowledge: Formaldehyde's State-of-the-Art Cancer Risk Assessment. September 2004.

Andersen, M.E., Clewell, H.J., III, Bermudez, E., Wilson, G.A., and Thomas, R.S. (2008). Genomic signatures and dose dependent transitions in nasal epithelial responses to inhaled formaldehyde in rats. *Toxicol. Sci.*, 105, 368-383.

Conolly, R.B., Kimbell, J.S., Janszen, D., Schlosser, P.M., Kalisak, D., Preston, J., and Miller, F.J. (2003). Biologically motivated computational modeling of formaldehyde carcinogenicity in the F344 rat. *Toxicol. Sci.*, 75, 432-447.

Conolly, R.B., Kimbell, J.S., Janszen, D., Schlosser, P.M., Kalisak, D., Preston, J. and Miller, F.J. (2004). Human respiratory tract cancer risks of inhaled formaldehyde: dose-response predictions derived from biologically-motivated computational modeling of a combined rodent and human dataset. *Toxicol. Sci.*, 82, 279-296.

Thomas, R.S., Allen, B.C., Nong, A., Yang, L., Bermudez, E., Clewell, H.J., III, and Andersen, M.E. (2007). A method to integrate benchmark dose estimate with genomic data to assess the functional effects of chemical exposure. *Toxicol. Sci.*, 98, 240-248.

Exposure Category	Concentration Range
Ambient Air	1-5 ppb
Indoor Air	10-50 ppb
FEMA Trailers	77 ppb (Geometric mean)
PK - No Increase in Tissue Concentration	~ 100 ppb
Occupational Standard TLV-Ceiling	300 ppb
Genomic Threshold	~ 700 ppb
Genomic Oxidative Stress Markers	~ 2000 ppb
Rat Nasal Cancer	~ 6000 ppb

Table 1: Comparisons of human formaldehyde exposures, including the occupational exposure limit of 300 ppb, with the formaldehyde concentrations associated with increases in tissue formaldehyde in the nose, alteration in gene expression in nasal tissues, and rat nasal cancer. PK stands for pharmacokinetics; TLV is Threshold Limit Value, a trademark of the American Conference of Governmental Industrial Hygienists.

Upper-Bound Excess Cancer Risk at 100 ppb formaldehyde

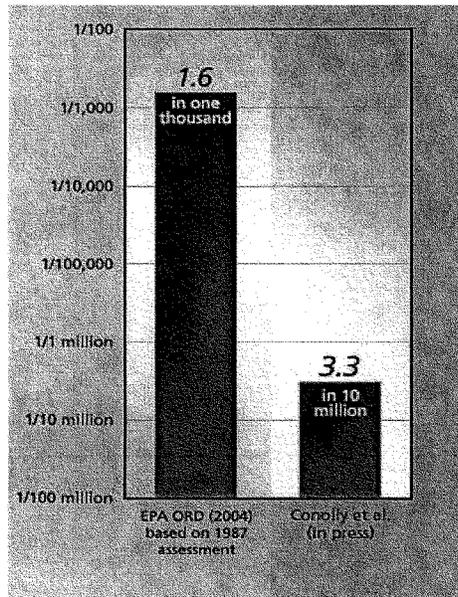


Figure 1: The graph shows the *estimated upper-bound excess lifetime cancer risk levels* for continuous long-term exposure to **100 ppb** formaldehyde in the air. At this exposure level, EPA's published assessment from 2004 predicted an additional cancer risk of 1.6 in one thousand people. The CIIT assessment estimates the cancer risk level to be 3.3 in ten million people. The 1992 California assessment estimated a risk of about 0.7 in one thousand, close to the EPA ORD assessment. This figure was adapted from the ACC-LRI Perspective- September 2004.

Mr. RUSH. Thank you very much, and I thank all the witnesses. The Chair recognizes himself for 5 minutes for the purposes of questioning the witnesses.

There are a number of questions that I might raise, and I guess in consideration of the limited time that I have, I really want to focus on this proposed sale that you alluded to, Mr. Ryan and Mr. Counts and others. This sale of these FEMA trailers and mobile homes, is this a wise undertaking by the federal government and are these mobile homes and trailers safe, and what course of action do you recommend that the federal government consider? I want to ask Mr. Jones and Mr. Counts and Mr. Ryan this question.

Mr. JONES. I don't feel it is appropriate for me as an EPA official to comment on FEMA, Homeland Security. We have briefed the officials from FEMA about our assessment and so they have awareness of how we view the risk associated with FEMA but it really, I think, is up to FEMA and Homeland Security to respond specifically to the appropriateness of their actions.

Mr. RUSH. Mr. Counts or any other—Mr. Ryan, Dr. Andersen, if you have any comments, I have 3 minutes.

Mr. RYAN. I would note the FEMA trailers present a vexing problem. We certainly can't say they are safe. FEMA can't say they are safe or EPA or CDC. In fact, the trailers are being sold with a label, a cautionary label that is intended to warn future buyers. The trailers are not intended as permanent housing units but we have a housing crisis in this country and almost certainly some of them will come to be occupied and used as housing, and there is a concern in the resale of those homes, whether the warning label may fall through the cracks.

Mr. RUSH. Mr. Counts.

Mr. COUNTS. I feel I wouldn't be qualified to respond on the FEMA trailers. Our members are not in the trailer business nor do they supply to that industry. So I will—

Mr. RUSH. Mr. Julia, Dr. Andersen raised some serious disagreements on concerns about the California standards, and what percentage of your membership are affected by the California standards?

Mr. JULIA. Mr. Chairman, it is fair to say that virtually the entire U.S. industry is affected by the California standards, and indeed we believe that even prior to California our industry was manufacturing using exceedingly low levels of formaldehyde and emissions levels are exceedingly low, and once perfected under phase II of California and under federal law will be truly de minimis standards. Moreover, the California rule as this federal bill does incentivizes industry to develop even lower, what are called ULEF and NAUF adhesive systems which indeed would do exactly what I believe public policy should do which would be to promote technological innovation and capital investment in lower-emitting technologies. But it is fair to say that the California regulation has become a de facto law of the land. It is indeed practiced almost throughout the United States by virtually every significant manufacturer or user of composite panel products. The problem with the California rule is that it is only enforceable in California.

Mr. RUSH. The Chair's time is expired. The Chair recognizes Mr. Radanovich.

Mr. RADANOVICH. Thank you, Chairman Rush, and I appreciate the testimony of all the witnesses.

Mr. Andersen, I am going to ask you a question. As I understand your testimony, your research in the weight of the current scientific evidence on formaldehyde shows that emission levels significantly higher than those permitted in California would not pose a health risk. Give me an idea of why you object to the standard set in California but also if you can give me an idea of the consequences of an emittance level that is set dramatically low.

Mr. ANDERSEN. I think the consequences from my point of view is that California law is based on causing cancer. It is based on an observation of cancer in rats at high doses when formaldehyde is corrosive. I mean, formaldehyde would cause cancer in you or I if we let ourselves be exposed to levels which were corrosive in our nose for our whole lifetime. We would walk away from it. But that is the basis. So they use that to make projections of very low-dose cancer risks, levels where the contribution of the formaldehyde is minuscule, absent to natural formaldehyde. That is the first. The second consequence from my opinion is the stress on trying to set the standard based on cancer. The FEMA trailer issue was one of irritation, respiratory distress and asthma. The levels should be based on asthma recognizing that formaldehyde doesn't pose a low-dose cancer risk. That is my professional opinion, which is shared by a large number of individuals.

Mr. RADANOVICH. Does formaldehyde air out? If you open the trailers in Louisiana for a certain amount of time, will that level diminish?

Mr. ANDERSEN. It will diminish, depending on how long this—there is so much in the wood and it will come out for a period of time and the concentrations in the air will continually diminish.

Mr. RADANOVICH. Thank you.

Mr. Julia, I appreciate your testimony. Your association comes out with a statement saying that the California standard is way too high and yet in your testimony, you support the bill and the legislation that sets it at the California standard. As I understand it, your association doesn't agree with what you are saying there. Do you want to reconcile that?

Mr. JULIA. I am not sure what is inconsistent, Congressman.

Mr. RADANOVICH. In March 1, 2002, in wood products, there was a belief that risk assessments upon which formaldehyde is being considered for regulation by the CARB in California are outdated and greatly overstate the potential for formaldehyde-related health problems. This was in a testimony on March 1st under Wood and Wood Products by Chris Leffle, who is the senior vice president for Composite Products Association.

Mr. JULIA. That is absolutely correct. When this regulation was introduced at the very end of 2001, it called for a de facto ban on our products, a de facto deselection of wood products, which we felt would have been a dramatic overreach and was initially linked to a very great degree on what we believe were challengeable health findings. In the 7 years as that evolved, California through significant evaluation of economic conditions or economic performance of our industry, technical capabilities of our industry and a whole lot of public workshops, I then came to be persuaded that their regula-

tion should be guided and I would have to therefore respectfully differ a little bit with the conclusion of my colleague on the panel here. California's decision, and indeed, I was in every one of those workshops, has been guided by technology, not by perceived cancer risk. Certainly they did that research and we have never said that—we have never acquiesced and said that we agree with those conclusions but their conclusions on the levels that they set in California were based on technological capability. It is, as they have characterized it, a "technology-driven regulation" and we think that is a very important distinction, one that is preserved in this legislation so it does not become a battle or a presumption that somehow current industry practices or current industry products present a health risk.

Mr. RADANOVICH. Thank you, Mr. Julia.

Mr. Andersen, that is kind of in conflict with what you were mentioning a little bit earlier, that it is a cancer risk assessment process and that your statements earlier mentioned being outdated and—

Mr. ANDERSEN. I think the cancer—

Mr. RADANOVICH [continuing]. Less scientific. Go ahead and respond to that.

Mr. ANDERSEN. I think the cancer risk assessment from 1992 fails to take into account a great deal of information about formaldehyde, its toxicity, its biology and it is outdated in that context. It is my understanding as I look through this legislation, and I have only been aware of it for a brief period of time in background, that the presumed risks from formaldehyde in the air were linked to this cancer model to develop emission rates.

Mr. RADANOVICH. All right. Thank you very much, Mr. Chairman.

Mr. RUSH. The Chair recognizes the gentlelady from California, Mrs. Matsui, for 5 minutes.

Mrs. MATSUI. Thank you, Mr. Chairman.

I have a question for Mr. Julia. H.R. 4085 would build upon the CARB rule by establishing national technology-based limits founded on the technological feasibility of the standards on formaldehyde emissions from most composite wood products. Now, industry has had a longstanding commitment to lowering emission levels, investing in technology and working collaboratively with regulatory authorities and public interest groups to set limits on emissions. Now, despite the strong commitments from domestic producers to voluntarily comply with the CARB rule, unacceptable levels of composite wood products are entering the U.S. markets without meeting our standards.

Mr. Julia, what are your estimates for the kind of economic productivity that heightening formaldehyde emission standards for composite wood products would create?

Mr. JULIA. Well, when the State of California first introduced its regulation, I think I was quoted at one of the first public hearings as saying that this was going to be the law of unintended consequences, that if in fact it didn't address trade issues, and indeed care and ensure a level playing field for domestic production, that we would in fact have the law of unintended consequences, that in fact domestic producers would be required to comply with a poten-

tially very onerous regulation whereas offshore producers would perhaps not have to comply with it, and indeed more of that product, the very product that California was concerned about, would enter the U.S. marketplace.

I think what we have seen is a significant evolution over 7 or 8 years, particularly in the offshore industry, which are represented by at least one individual here in this room such that they have come to make, I would say, a significant commitment among the responsible ones to comply with this regulation. I can tell you a story, a brief story of one of the largest home furnishings manufacturers in the world which does a tremendous amount of sourcing in Asia, and it has reduced over the past 2 to 3 years its number of suppliers by almost 75 percent. It really becomes a survival of the fittest sort of the thing where they have taken a look at the ability of their sources to meet the expectations not only in California but throughout the United States of the stewardship that is required in the California rule and would be required here and they have made the internal decision that for a matter of public policy, for a matter of corporate policy and for a matter of liability, they will only be sourcing for companies who can verify indeed that they produce products to lower formaldehyde levels.

And if I may, just in closing, return to the testing and certification part of this legislation. That is indeed the key because on all these issues, if you get to what level is the right level, what level is the lowest level, how do we enforce against imports, how do we enforce against domestic products, the secret to all of that, I believe, is to have third-party testing and certification whereby nobody is going to try to test every single table, every single chair, every single nightstand. That is physically impossible to do. Nobody is going to go into every store, nobody is going to go into every furniture mill whether for the federal government or the state of California or anybody else. That would be prohibitive. But you can verify all that through third-party testing and certification and create a chain of custody and a label where you can track every product all the way up to the testing agency that actually performed the initial testing.

Mrs. MATSUI. Mr. Julia, I take it you have no concerns about the implementation of the CARB rule nationwide at all?

Mr. JULIA. Concerns?

Mrs. MATSUI. Yes. No concerns about this implementation of the CARB rule nationwide?

Mr. JULIA. Well, I do have concerns. I think quite frankly there are 49 States in which you cannot enforce the CARB rule. The CARB rule—you know, I draw my analogy, the earlier comments today about carbon monoxide. Like Congressman Gingrey, I have a personal experience where my daughter was exposed to carbon monoxide poisoning at Virginia Tech 2½ years ago and nearly died, and I understand that in the State of Virginia we have no regulation of carbon monoxide. I understand that in the State of Maryland there is a very significant regulation on carbon monoxide detectors. The ability to simply say that because you have a rule in California which industry is embracing that that somehow solves the problem, I would submit to you, Congresswoman, that it does not solve the problem because you don't have a patchwork of dif-

ferent States doing things. In fact, you have nobody else doing anything. There is not a single State that is able to enforce that rule.

Mrs. MATSUI. That is why we are here today in actuality. So I don't have much time so I would yield back until—unless we have further time later on?

Mr. RUSH. The Chair will consider that.

The Chair now recognizes the gentleman from Louisiana, Mr. Scalise, for 5 minutes.

Mr. SCALISE. Thank you, Mr. Chairman. Just a few questions, first for Mr. Julia.

You had stated that if Congress directs the EPA to establish a federal standard based on California's parameters, this will only help ensure that other States are not tempted to initiate a rule of their own, and so I guess what I want to know is, do you know where specifically in the bill are other States prevented from passing different laws and regulations?

Mr. JULIA. Congressman, they are not. There is nothing in this bill that calls for federal preemption, and obviously that has been an issue of concern to a lot of folks. We would say perhaps in a typical situation, federal preemption is something we would support. This is a unique circumstance in which you have a State regulation where there has never been a federal regulation, there has never been any other State regulation, there is no other State that we are aware of thinking about a regulation, that California spent an awful lot of time working on and indeed a regulation they thought they would take a year or two to do. It took them 7 years to do, largely because they had a lot of input from stakeholders.

Mr. SCALISE. And it hasn't been fully implemented.

Mr. JULIA. It is in the process of being implemented. By the time this federal schedule kicks in, it will be fully implemented other than the sell-through periods of it.

We believe that because of the unique situation here and because of the difficulty of reaching accommodation within the Congress on this issue of preemption or not preemption, if you take a look at the particular facts and circumstances that really make this situation unique, you have a rule that the regulatory community, you have a rule that all of the industry stakeholders throughout the supply chain have embraced, that the environmental community, health care and labor community have embraced. We would argue that, you know, there is—I would pose the question, the rhetorical question, where else would California or any other State go at this point if the federal government stepped in and said we are going to take that model, we are going to make it apply to the entire United States. Essentially I would say problem solved. There is really no other place for a State agency, California included, to go at that point in terms of regulating our products, and that is certainly our hope and intention.

Mr. SCALISE. Mr. Counts, you had stated that "We believe that a national approach is crucial in order to avoid conflicting State standards and allow for the harmonized distribution of products and supplies." Yet of course, this legislation doesn't do anything to stop other States from enacting different or conflicting regulations. Would you be concerned if other States enacted different laws or regulations?

Mr. COUNTS. It is certainly a concern. Any time you have to create different products for your supply chain in different States, it would be very cost prohibitive. It is our thought that this is the most stringent standard in the world and there is no incentive for other States to follow and develop their own formaldehyde standard if we have a national standard that is in place.

Mr. SCALISE. Thank you. I yield back.

Mr. RUSH. The Chair wants to announce that we will have additional questions of the witnesses. The Chair recognizes himself for up to 3 minutes and the Chair will allow 3 minutes for each member to ask additional questions.

I want to clarify something for the record. In your written statement, Mr. Julia characterized the legislation as not giving EPA the ability to establish emissions limits that are different from those set by California. Mr. Jones, doesn't the legislation permit EPA to set formaldehyde standards at a given level after the initial rule-making required by the bill?

Mr. JONES. Chairman Rush, the bill initially requires the agency to set formaldehyde standards that are the functional equivalent of the CARB standard. That is what the provision itself does. That wouldn't take away EPA's existing authorities under TSCA section 6 to regulate formaldehyde if it could make the findings required under section 6. So that authority would remain intact despite implementation of the bill that is before the Congress right now.

Mr. RUSH. The Chair recognizes the ranking member for 3 minutes.

Mr. RADANOVICH. Thank you, Mr. Chairman.

Mr. Julia, I recognize the national standard sounds good. I recognize your industry's concern about the bad players on composite wood. But does the industry also have a concern about a standard that is set unnecessarily low as it relates to the cost of the product that you are trying to produce?

Mr. JULIA. We absolutely would have such a concern, and at very many of the workshops in California this is exactly the argument that we made because if you look at the record, the initial proposals coming out of California were indeed very different than what ended up being the California rule and we felt that over a period of years and education and working cooperatively with the staff of the California Air Resources Board, they came to appreciate the technological capability of the industry, the curve that we have been on of lowering, lowering, lowering our emission levels. We have never said either prior to the California rule or since then that anything that we make is in any way, shape or form dangerous to public health. We have never addressed in those hearings that issue of the perceived risk.

We believe it is a legitimate inquiry but we don't think it bears on the issue here in that the levels that we are talking about in this legislation are so low we don't believe that they rise to the occasion of asking the health concerns and the exposure concerns that some parties would like to bring to the table.

Mr. RADANOVICH. Yet Mr. Andersen, your conviction is pretty firm that the standard could be 10 times higher and not pose a risk.

Mr. ANDERSEN. I believe that, but there is another significant concern I have, this idea that we are going to be conservative based on cancer and then talk about numbers of cancers people will have. I think this is a disservice to public health. It is a disservice to my neighbors, who only hear that this can cause cancer when it is not a significant carcinogen. It needs to be regulated based on the right reasons, and these regulations and assessments need to take in the body of information. I guess you are hearing a purist here that we have to do this for the right reason, and we shouldn't be scaring people. Right now we scare people with these conservative estimates that say you are going to have cancer. One in a million will have cancer. All people hear is, you will have cancer. And especially for things that aren't legitimate carcinogens at realistic human exposure levels. This is terrible public health policy. That is my professional judgment.

Mr. RADANOVICH. Thank you, Mr. Andersen.

Thank you, Mr. Chairman.

Mr. RUSH. Mrs. Matsui is recognized for 3 minutes.

Mrs. MATSUI. Thank you, Mr. Chairman.

I have a question for Mr. Counts. You know, we understand that this has been a long process and I think it has been addressed before—at the beginning of the process there was wide disagreement but through the process, I guess took about 7 years or so, there became a cooperative effort here between industry, the regulatory authorities and the public interest groups. And I think that is something that you have to look at, the fact that this wasn't done overnight and it really took people working together. But after years of review and rulemaking, CARB finalized the rules establishing these standards, the first phase of which went into effect on January 1, 2009. Now, we know H.R. 4085 will apply these standards nationwide. Now, Mr. Counts, do you believe that manufacturers of composite wood products outside the United States will be able to comply with this proposed standard?

Mr. COUNTS. I am confident that if they are given the appropriate compliance times and sell-through provisions that they will be able to comply. They have had to comply with stringent European and Japanese standards for several years now. The biggest hurdle with California was a brand-new testing requirement that international labs were not familiar with, but they are getting up to speed on that and compliance is coming along very aggressively. So I am confident that on a national basis, given the proper timeline, they can comply.

Mrs. MATSUI. Does AHFA anticipate any issues maintaining adequate supply levels once the regulation is promulgated?

Mr. COUNTS. Well, the United States is the largest market for home furnishings in the world, and this is the most stringent standard in the world, so as we get to phase II of the California levels on a national basis, there is going to be some trial and error from our panel suppliers to make sure that they are complying. Unless the economy improves greatly, there is going to be a lot of inventory out there that is not compliant. We have to make sure we have adequate time to sell through all that product and work through the kinks but hopefully that will not be a major issue.

Mrs. MATSUI. And what steps has industry generally and AFHA taken to reduce formaldehyde emissions over the years?

Mr. COUNTS. Well, we have several members that distribute nationally and they are embracing the California standard on a national level. We have some members that do not sell in California and they are finding it harder and harder to find panel that would not be compliant with California. So we are instructing them that the national standard is very likely and they need to move forward in that direction, and we are providing education and tools to make that happen.

Mrs. MATSUI. Thank you, and I yield back.

Mr. RUSH. Mr. Scalise.

Mr. SCALISE. Thanks, Mr. Chairman.

A couple of questions for Mr. Jones. Some of the panelists lament the perceived length of a section 6A rulemaking process. If in attempting to apply the CARB standard, if EPA used the quality control order provisions in section 6B instead, are there such concerns?

Mr. JONES. Thank you, Mr. Scalise. Section 6B under TSCA allows the agency to do facility-by-facility regulation. For some industries where there may be two facilities, it might be more expeditious to go in that manner. In the case of formaldehyde in pressed wood, I believe there are hundreds of facilities and so it may actually be longer using 6B going facility by facility than just having a national standard under 6A.

Mr. SCALISE. It seems to me that the major issue is imports. What can EPA do under all the existing legal authorities to address the issue of wood products with higher formaldehyde levels that are coming into our country from other nations?

Mr. JONES. So if there were a federal regulation either because we acted under 6A or this bill became law, it would apply to imports.

Mr. SCALISE. But what can you do under your current legal authority? Are there more things you can be doing right now to address those imports that are coming in from other countries that have higher levels of formaldehyde?

Mr. JONES. We would have to have a regulation in place, either one that we initiated or that was initiated because this bill became law before we could do anything related to imports, and right now there is not a federal regulation—

Mr. SCALISE. Clean Air doesn't give any kind of ability to you?

Mr. JONES. I don't believe that a hazardous air pollutant regulation would have any ability to influence imports, but that is something we can confirm.

Mr. SCALISE. All right. Thanks. I yield back.

Mr. RUSH. The Chair will recognize himself for just a couple more questions. Any other member who has additional questions, you will be recognized.

Mr. Jones, if EPA were to set different standards in the future, they would have to be issued under TSCA. Is that correct?

Mr. JONES. That is correct, Chairman Rush.

Mr. RUSH. But EPA has found it exceptionally difficult, if not impossible, to use that statute to regulate chemicals like formaldehyde. Would you agree that the inherent limitations of TSCA raise serious legal obstacles for EPA on this or any other issue?

Mr. JONES. I would agree with that. The agency is pursuing a formaldehyde assessment that may well lead to a regulation but it is going to be very difficult and tricky for us to get over the hurdle of least burdensome, the potential permutations that you need to analyze before you could be affirmative in your determination that you picked the least burdensome. It has proven to be very difficult for the agency. And so we are probably 3 to 4 years away from having a formaldehyde regulation in place but we are going to try to work with the existing statute to see what we can do.

Mr. RUSH. Mr. Ryan, do you have any comments on this issue that I raise?

Mr. RYAN. I would just endorse Mr. Jones' comments in terms of TSCA authority and the clumsiness of TSCA in getting to an early solution to the public health opportunity at hand.

Mr. RUSH. Thank you very much.

The Chair thanks the witnesses, all of you. You have been very sacrificial in terms of your time and we really appreciate it. The Chair wants to thank the members who were present and those who have remained present. The Chair wants to note that we will have hearings of this type in the future, and now the Chair announces that the committee is hereby adjourned.

[Whereupon, at 12:45 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Statement of the Honorable Joe Barton
Ranking Member, Committee on Energy and Commerce
Legislative Hearing on H.R. 4805
And H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act
Subcommittee on Commerce, Trade, and Consumer Protection
March 18, 2010

Thank you for holding this hearing today to discuss these two bills. I am told there is a consensus behind the formaldehyde legislation we are considering today. Mr. Chairman, nothing is quite as intoxicating as feeling that you are part of a “consensus deal.” And, nothing is as deflating as realizing the unintended ramifications of an ill-considered “consensus deal.”

I know, because I felt the euphoria when we passed the precautionary Consumer Product Safety Improvement Act and, now, I feel the pain of seeing the major unintended consequences that law has wrought.

There are probably sensible reasons to support the provisions of this legislation. I think it is important, however, that we dissect what our committee is being asked to enact, and explore its implications rather than accepting, at face value, pleas to simply ratify a negotiated product as-is.

The overarching purpose of this bill is to codify the State of California’s air emissions regulatory standard for formaldehyde in furniture and composite wood board. The bill uses explicit references to the state regulation – something that not even the elected officials of California enacted.

I am troubled by this approach for two reasons: First, press articles around the time that California developed its regulation indicate that many people questioned the very risk assessment that was used to support the regulation. Indeed, many people believe that several subsequent studies, which bring the latest science to bear, actually refute California’s conclusions about the role of formaldehyde emissions and their harm to humans. We should never use outdated science to regulate, particularly when both economic and human health are at stake. Second, the California regulation has been fully phased in yet. We don’t yet know if it has resulted in an incremental improvement in either public health or affordable products. I regret that the State of California is not here as a witness to answer obvious questions about how this regulation is working.

This bill claims to be about EPA handling formaldehyde under the Toxic Substances Control Act (TSCA). But I am not sure why we would have the EPA regulate consumer products through TSCA rather than give that authority to the Consumer Product Safety Commission (CPSC) which is tasked with protecting the public from unsafe consumer products. Structurally, I think we need to know why TSCA is the appropriate venue when the Consumer Product Safety Act or the Federal Hazardous Substances Act might be better authorities for this effort.

Beyond the issue of blindly codifying one state's regulatory standard and applying it to 49 more states, the provisions of H.R. 4805 are all the more curious since TSCA has existing procedures for EPA to take the actions contemplated in this bill. In fact, EPA is considering a petition filed on March 24, 2008, by 25 organizations and 5,000 individuals to adopt as Federal law the same California regulation that H.R. 4805 contemplates. Given the controversy surrounding the risk assessment studies used in California, I would hope that EPA gets the science right this time. Moreover, I question whether the quality-control orders under TSCA Section 6(b), rather than TSCA generic regulatory authority under TSCA Section 6(a), might be a more efficient way to effectuate a change if needed. I hope our witnesses can explain this aspect of the debate to me.

I also have serious concerns about the lack of Federal pre-emption under this bill. I am told this legislation has been constructed to avoid the pre-emption section of TSCA and I am quite concerned about the implications this has for interstate commerce. In particular, because of the way this bill is drafted, the states could create an endless loop of new regulations and laws that makes selling these products in multiple markets a nightmare. This is a terrible precedent and bad policy. If the weight of high-quality scientific study shows the problem to be serious enough to warrant federal intervention, we should have a meaningful national standard to address it. We should not send the message to Sacramento or other state capitols that we think they should be setting 50 different policies in 50 different places.

My last point about this bill is about the delegation of legislative powers to the Executive Branch. H.R. 4805 gives EPA the power to modify by regulation the standard we create by statute. This is a recipe for trouble. We should write clear definitions about what Congress means. If EPA does not think that the law is doing what it should, then the Agency should come back up here and tell us what needs to be changed. We should not give the Agency a blank-check to do our job. I hope we will change that feature of this bill if we intend to mark-up this legislation.

I have reservations about H.R. 1796, the Carbon Monoxide Poisoning Prevention Act, as well. As a principle matter, Congress should not simply pick and choose which voluntary safety standards should become mandatory. The CPSC is fully empowered to promulgate mandatory standards if the voluntary standards are inadequate or industry is not complying with those voluntary standards. Neither is the case with CO detectors.

Similarly, this Committee travelled this path for a number of different existing standards in the previous Congress. We set a bad precedent and we are repeating the mistake. Industry has developed good standards. My Democrat colleagues acknowledge as much because they have plucked those standards and attempted to write them into law. But if we continue down this path, industry stakeholders are unlikely to continue to participate in the voluntary standard development process. And if that happens, the burden will fall to the CPSC alone and turn the CPSC into nothing more than a rule-writing agency for tens of thousands of consumer products. The CPSC will not be able to focus on enforcement. And that will not improve product safety.

Finally, I respect the sponsor of the legislation for his interest in promoting safety, but a grant program to states directing them to enact this policy is neither warranted nor appropriate. Twenty five states have already enacted laws requiring monoxide detectors in homes, generally as part of state building safety codes and permits. While the grant money may be a small amount by Washington standards, every taxpayer penny counts. It is our obligation to ensure that grant money is not used by the states as essentially the marketing arm of private companies to promote detectors. I think the responsibility for advertising should fall on the companies that make them.

I welcome our witnesses and look forward to their testimony. Although I have been critical in my opening remarks, I keep an open mind -- it's just going to take some serious convincing. I remain concerned that dealing with the issues these bills raise may be compromised by a desire not to disrupt a "deal" that private stakeholder interests have cut amongst themselves and other legislators. I hope this Committee will address these problems in a worthy manner.

I yield back the balance of my time.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority: (202) 225-2927
Minority: (202) 225-3641

April 14, 2010

Dr. Eric J. Lavonas, MD
Associate Director
Rocky Mountain Poison & Drug Center
777 Bannock Street, MC 0180
Denver, CO 80204

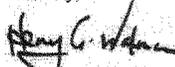
Dear Dr. Lavonas:

Thank you for appearing before the Subcommittee on Commerce, Trade, and Consumer Protection on March 18, 2010, at the hearing entitled "H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and H.R. 4805, the Formaldehyde Standards for Composite Wood Products Act."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by April 28, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,



Henry A. Waxman
Chairman

Attachment



Certified by the American Association of Poison Control Centers

April 29, 2010

Hon. Doris Matsui
 c/o Earley Green, Chief Clerk
 Committee on Energy and Commerce
 United States House of Representatives
 2125 Rayburn House Office Building
 Washington, DC 20515-6115
 Transmitted electronically

RE: HR 1796, the Residential Carbon Monoxide Poisoning Prevention Act

Dear Representative Matsui,

Thank you for your interest in HR 1796. I am happy to answer your questions, and apologize for my brief delay in doing so. I do need to state that the opinions I am about to express are my own, and do not necessarily represent the views of the Denver Health and Hospital Authority.

In response to your questions:

The U.S. Consumer Product Safety Commission (CPSC) has employed a three-part approach to address CO poisoning from consumer products that: (1) reduces or eliminates CO production at the source, (2) alerts customers to CO hazardous levels, & (3) educates consumers to the dangers posed by CO.

1. Is it possible or worthwhile to expand this approach?

As you correctly point out, any effective plan to reduce deaths due to CO poisoning will require three elements: (1) source reduction, (2) early detection and warning, and (3) public education.

The CPSC has taken positive steps in each of these dimensions. Using a data-driven approach, they have identified the type of consumer product responsible for the largest number of severe CO poisoning cases (electrical generators) and prioritized this product for engineering controls, studies of automatic shut-off devices, and mandatory warning labels.

Celebrating 50 Years of Serving the Community

Poison Center • Drug Consultation Center • DH NurseLine • Research & Consulting • Medical Toxicology

Mailing Address: 777 Bannock Street, Mail Code 0180 • Denver, CO 80204-4507
 Location: 990 Bannock Street • Denver, CO 80204-4028
 T: 303-739-1100 • F: 303-739-1119
 www.rmpdc.org





The strength of this approach is that CPSC has engineering and risk-communication expertise, and knows how to work with industry to drive effective change. I support the CPSC efforts to date, and hope these efforts will continue.

There are limitations which CPSC cannot overcome, even with an expanded CPSC-based strategy. These limitations will have to be addressed by another means.

First, consumer products are only responsible for about half the unintentional CO poisoning in the US, and only a small fraction of the attempted suicide by CO poisoning. Motor vehicles cause more CO poisoning deaths overall than consumer products. Motor vehicle emissions are regulated by EPA, not CPSC. CPSC is not permitted to work on CO poisoning related to motor vehicle exhaust. The structure and customs of federal government operations make it difficult for topic experts to work together across agency lines on anything but the most informal basis.

Second, there is a practical limit to the ability of each element of the CPSC approach. Although engineering controls can greatly reduce the amount of CO produced by a new item (generator, stove, furnace, etc.), items eventually wear out, go out of adjustment, or simply break. People routinely ignore safety warnings and actively defeat safety devices engineered into consumer products. Although we'd all like to see a CO detector coupled to an automatic shut-off device on electrical generators, my understanding is that reliable technology just isn't there yet.

It is possible and worthwhile for CPSC to expand the approach they've taken with generators to other consumer products. In particular, priority should be given to engineering studies of CO detection/alarm/shut-off devices integral to home heating systems. In addition, I would propose:

- (1) The creation and funding of a CO poisoning group within the CDC. With 3-5 dedicated FTE's and a modest research/implementation budget for CO poisoning prevention, the Air Pollution and Respiratory Health Branch of the CDC's National Center for Environmental Health could focus on this issue and finally make real progress on reducing death and disability due to CO poisoning.
- (2) A statement from Congress directing Federal agencies to improve interagency cooperation on CO poisoning prevention issues. This need not cost money; we just need to give staff at CPSC, EPA, CDC, HUD, etc., permission to work with each other more closely.
- (3) A directive from Congress that the EPA establish a standard for CO levels in indoor air. Although OSHA has workplace standards for indoor air, to my knowledge there is no regulatory standard for indoor air in general.

I recognize that these proposals go beyond the wording of H.R. 1796. I would be happy to work with the Committee or interested Representatives to explore these or other ideas in more detail.



2. In addition to supporting H.R. 1796, which industry has largely done, what other ways could stakeholders be helpful to comprehensively address the problem of CO poisoning?

Of the three approaches described above, I think that the “low-hanging fruit” is early detection by the widespread use of CO alarms. The fastest way to reduce the death and disability numbers is to increase the number of homes and businesses with working CO alarms. Although I’m not discounting the value of improved engineering and public education campaigns, CO alarms are something that we can implement rapidly and at low cost.

In an ideal world, I would like to see a requirement for CO alarms in all occupied structures, similar to the current smoke alarm requirement. Although we’ll get there eventually (both the International Residential Code – 2009 and the National Fire Protective Association Standard 720-2009 require CO alarms), the Congress could save hundreds of lives and prevent thousands of cases of severe CO poisoning each year by taking this step.

Short of such a bold move, some partial steps might include:

- (1) Requiring CO alarms in all housing units paid for by the federal government. Each agency (HUD, DoD, Park Service, State Department, etc) already has a list of minimum requirements, including smoke alarms. Congress could direct each agency to add CO alarms to this list of requirements, thereby saving the lives of HUD beneficiaries, federal employees, and their families and reducing federal health care costs used to treat CO poisoning in these victims.
- (2) Requiring CO alarms in day care centers, dormitories, and other places where large numbers of children sleep. Current mandates require smoke alarms, but not CO alarms. Children are unable to take personal steps to prevent CO poisoning, and must rely on adults to do so on their behalf. Congress could require that adults provide CO alarms to protect children.
- (3) Requiring CO alarms in hotels, motels, and other places where travelers sleep. Current mandates require smoke alarms, but not CO alarms. Recent research shows that serious CO poisoning events in hotels, motels, and resorts are too common to ignore.¹ Travelers are unable to take personal steps to prevent CO poisoning, and must rely on property owners and managers to do so on their behalf. Congress could require that property owners provide CO alarms to protect travelers.
- (4) Providing funding to the states to defray their costs associated with implementation of CO alarm programs. When states enact CO alarm laws, they have to pay to install alarms in property they own and manage, such as dormitories, prisons, and official residences. This cost is a barrier to the passage of state CO alarm laws. Although H.R. 1796 provides some

¹ Weaver LK, Deru K. Carbon monoxide poisoning at motels, hotels, and resorts. *American Journal of Preventive Medicine* 2007; 33(1): 23-7.



funding, the amount of money is probably insufficient to have a large impact. Congress could support states that wish to implement CO alarm programs by assisting with these costs.

Once again, I recognize that these proposals go beyond the current wording of H.R. 1796. I am happy to explore these or other ideas in more detail, either for this bill or future legislation.

Thank you very much for taking time to learn more about CO poisoning, and for taking steps to reduce the number of Americans harmed each year. I am happy to address any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Lavonas", is positioned above the printed name.

Eric Lavonas, MD, FACEP, FACMT
Associate Director



United Technologies



Kidde

A UTC Fire & Security Company

**ANSWERS TO QUESTIONS FOR THE RECORD
PROVIDED BY
JOHN ANDRES, DIRECTOR OF ENGINEERING,
KIDDE RESIDENTIAL AND COMMERCIAL
ON
CARBON MONOXIDE POISONING PREVENTION**

APRIL 27, 2010

1. How has industry worked with the CPSC and other stakeholders to develop voluntary standards to improve consumer product performance?

Answer: Via the standard's technical panel, industry leaders and the CPSC remain in contact regarding new studies, technology advances, and other criteria to ensure quality product performance. In addition, both parties provided input into the evolution of UL 2034, the third-party standard to which CO alarms are voluntarily tested and listed. In the 18 years since first being published, the standard has gone through several revisions, each of which is based on years of field test data intended to progressively strengthen the standard.

2. How will analyzing product safety performance of CO alarms help foster private sector innovation and create jobs in our economy?

Answer: As the standard for CO alarm quality becomes mandatory, there will be potential for new businesses to evolve surrounding specific industry needs. In addition, the awareness of the standard could lead to an increase in technology innovation, which would stem from entrepreneurs and other business development.

3. Is it possible to reduce deaths and injuries associated with CO poisoning without a stronger regulatory law or reducing the risk of CO at its source?

Answer: Yes, it is possible to reduce CO poisoning deaths and injuries without stronger regulatory laws. This bill, we believe, appropriately strengthens the regulatory requirement and offers grants to raise education and awareness. We believe that both stronger regulations and education are critical. Most state laws requiring CO alarms do not have strict compliance measures for homeowners, and officials/nonprofit organizations/fire departments rely on education and awareness to encourage them to install CO alarms. Without funding to educate the public about the dangers of CO and the need for CO alarms, a reduction in CO poisonings will be limited.

4. What are your estimates for the kind of economic productivity that designing and building products in a manner that would ensure greater consumer protection from CO exposure would create?

Answer: We estimate that the need for safer products could result in additional positions in service and innovation markets, as well as prompt new business development.

For additional information please contact Libby Elliott at (202) 336-7406 or Tom Sri at (919) 563-5911 ext 8543.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBLURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 226-2027
Minority (202) 226-3541

April 14, 2010

Mr. Tom Julia
President
The Composite Panel Association
19465 Deerfield Avenue, Suite 306
Leesburg, VA 20176

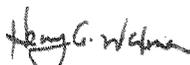
Dear Mr. Julia:

Thank you for appearing before the Subcommittee on Commerce, Trade, and Consumer Protection on March 18, 2010, at the hearing entitled "H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and H.R. 4805, the Formaldehyde Standards for Composite Wood Products Act."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by April 28, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,



Henry A. Waxman
Chairman

Attachment



COMPOSITE PANEL ASSOCIATION

*Advancing the wood-based panel and decorative surfacing industries
Celebrating 50 Years of Service (1960 – 2010)*

19465 Deerfield Avenue, Suite 306, Leesburg, Virginia 20176
Tel 703.724.1128 • 866.4COMPOSITES • Fax 703.724.1588

April 28, 2010

Honorable Henry Waxman, Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman:

Thank you for the opportunity to testify before the Subcommittee on Commerce, Trade and Consumer Protection on March 18, 2010. The Composite Panel Association (CPA) represents companies that are among those most impacted by H.R. 4805 and we strongly support passage of this bill.

H.R. 4805 has significant value to American consumers and public health generally, as well as to the competitiveness of domestic wood products manufacturers and hundreds of thousands of American jobs.

My responses to the questions posed in your letter dated April 14, 2010, are provided below.

Rep. Barton questions on pre-emption.

The bill as introduced contains no pre-emption provision that would prevent a state from initiating a rule of its own covering formaldehyde emissions from composite panel products, but CPA believes this is highly unlikely. This is because California enacted an exceedingly comprehensive regulation in early 2008 after more than six years of work with a wide range industry stakeholders. CPA spearheaded this industry dialogue with CARB through the broad based California Wood Industries Coalition (CWIC), which included both California-based and national organizations and companies. California's regulation was enacted with broad support, and there is no incentive for CARB or any other state agency to replicate or expand on this approach. Moreover, this rule has filled a vacuum and become a "de facto" national standard, since there never has been a comprehensive federal regulation in this area.

Affected parties throughout the U.S. and around the world have quickly seized on California's rule as their means of assuring environmental compliance regardless of where they sell products in the U.S., and H.R. 4805 creates a further disincentive for a competing approach by California or any other state. Also, the "third party testing and certification" (TPC) mechanism called for by California's rule embraces a stewardship approach already widely practiced in the U.S. and Canada, and now around the world too.

The CARB rule is working, and this result has made a positive contribution to product quality assurance and to fair trade. The long term result could be good for domestic jobs and manufacturing, as well as for public health, and the prospect of any other state coming up with its own regulatory approach is remote.

The problem with California's rule is that it cannot be enforced in any state except California, and that there is a risk of harm to domestic industries for this very reason. A federal standard modeled on the CARB approach would remedy this from the standpoint of nationwide enforceability. It would also provide additional assurance that no other state might seek to develop a different enforcement mechanism of its own.

If any state were to develop a regulatory approach inconsistent with what CPA hopes the federal government will do, we would strongly oppose such an effort and expect to be supported by a broad coalition of industry, environmental, labor and health care groups, all of which have come together in an unusual way in support of H.R. 4805 and its counterpart S. 1660.

Rep. Matsui question on economic productivity.

H.R. 4805 will go a long way toward successfully addressing concerns about formaldehyde emissions from wood products, and toward providing further consumer confidence in industry products sold in the U.S. regardless of where they are made in the world. Most concerns that have arisen over the years about formaldehyde emissions from wood products relate to finished goods made offshore and those that do not comply with even the voluntary industry standards that have overwhelmingly embraced for decades by American manufacturers. Composite panel products are made almost exclusively from highly "green", recycled and residual raw materials, and by effectively addressing concerns about formaldehyde emissions from these products (including incentivizing the use of non-formaldehyde based adhesive systems), H.R. 4805 will have a positive impact on the competitiveness of these products in existing and new markets. That's good for American jobs and economic productivity.

Rep. Matsui questions on jobs, innovation and compliance by offshore manufacturers.

As conveyed in these responses and in previous CPA testimony before CARB, EPA and other public bodies, there are important direct and ancillary benefits to having a national standard on formaldehyde emissions whereby Congress ensures that offshore and other non-U.S. manufacturers are covered by the same rules as American manufacturers.

Beyond the direct considerations of public health and consumer protection, there are positive domestic jobs and fair trade aspects to this legislation. It is unfair for American manufacturers to be expected to compete in a global marketplace when our industries embrace, invest in and are held to high standards of product efficacy and safety, if at the same time those who export competing products for sale in the U.S. are not held to the same standards.

This consideration is not unique to H.R. 4805. Rather it is a profoundly important one in any such Congressional mandate – i.e., there should be equity when it comes to the economic impact of such a regulation so American manufacturers are neither kept nor placed at a competitive disadvantage insofar as manufacturing and regulatory compliance costs. Passage of H.R. 4805 will contribute to global fair trade and to the expansion of domestic, green jobs as well as to continued capital investment and green product innovation by domestic wood products manufacturers. These are all good things for the American economy.

Rep. Matsui question on third part testing and certification.

Third party testing and certification (TPC) is key to the success of California's rule and will be for the effective enforcement of a federal standard. Self-certification will not work, especially for many offshore manufacturers. The U.S. industry has known this for decades and has overwhelmingly embraced a stringent third party testing and certification component to its business practices, long before there was a CARB rule. A rigorous TPC approach is essential if the federal standard contemplated by H.R. 4805 is to be credible, enforceable and effective. It should be based on internationally recognized criteria and accreditations, as is California's. There is nothing protectionist about this approach, and the evidence of international acceptance is compelling even in the first 16 months of the CARB rule.

H.R. 4805 asks the EPA to embrace a stewardship approach being used in California and already widely practiced in the U.S. and Canada, and around the world too. California has already approved 33 TPC agencies around the world, and they in turn have recognized 753 manufacturing facilities as qualified to meet the formaldehyde emissions requirements that are called for in H.R. 4805. The numbers are impressive:

33 CARB-approved TPCs

- 13 in Europe
- 9 in North America (all in US)
- 9 in Asia
- 2 in Australia/New Zealand

753 CARB-certified composite panel mills worldwide

- 474 in Asia
- 148 in Europe

- 109 in North America
- 16 in South America
- 6 in Australia/New Zealand

Rep. Matsui question on actions by other states.

CPA believes no state will develop a regulation to compete with California's if H.R. 4805 passes. Moreover, California is now in its second year of experience with its own regulation and will have no incentive to change or expand it if H.R. 4805 succeeds, even without a pre-emption provision. If the bill is unsuccessful though, there could be such a temptation even before the US Environmental Protection Agency completes action on its own planned rulemaking. See also the response to Rep. Barton's questions, above.

Please let me know if there is any additional information CPA can provide to the Committee.

Very truly yours,



Thomas A. Julia
President
tjulia@cpamail.org

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-2941

April 14, 2010

Mr. Andy Counts
CEO
American Home Furnishings Alliance
317 West High Avenue, 10th Floor
High Point, NC 27260

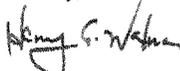
Dear Mr. Counts:

Thank you for appearing before the Subcommittee on Commerce, Trade, and Consumer Protection on March 18, 2010, at the hearing entitled "H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and H.R. 4805, the Formaldehyde Standards for Composite Wood Products Act."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by April 28, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,



Henry A. Waxman
Chairman

Attachment



The Honorable Doris Matsui

The State of California, in a cooperative effort between industry, regulatory authorities, and public interest groups (environmental, public health, and labor organizations), recently established limits on formaldehyde emissions in most composite wood products. In 2008, after several years of scientific review and rulemaking, the California Air Resources Board (CARB) finalized rules establishing higher standards in composite wood products, the first phase of which went into effect on January 1, 2009. H.R. 4805 would apply CARB's rule nationwide by establishing emissions standards for formaldehyde in domestic and imported composite wood products.

1. Do you believe that manufacturers of composite wood products outside of the United States will be able to comply with the proposed standard?

The AHFA believes manufacturers of composite wood products outside the United States will be able to comply with both Phase 1 and Phase 2 of the California ATCM or H.R. 4805. The global composite wood industry has successfully worked through the challenges of reformulating glue resin systems and production modifications. Currently, there are 33 CARB approved domestic and international 'Third Party Certifiers' (TPC). The TPC provide testing, certification and documentation to the manufacturers of composite wood products (CWP) sourced by fabricators and importers that become component parts of finished products. While the challenge will always be adequate lab 'space' AHFA believes these 33 labs have sufficient space to accommodate the potential increased sourcing demand created by a national standard.

2. Does AHFA anticipate any issues maintaining adequate supply levels once the regulation is promulgated?

Sourcing issues will always be the critical challenge of maintaining an adequate supply of compliant composite wood products. Currently there are 750 TPC certified CWP 'mills' (manufacturers) globally supplying the sourcing needs for fabricators and importers of finished products containing CWP component parts. These 750 certified mills have the capability and capacity to supply Phase 1, Phase 2, NAF (no added formaldehyde) and ULEF (ultra low emitting formaldehyde) composite wood products. It is imperative that sourcing and supply issues are addressed to ensure an

adequate supply of compliant composite wood products. While the California ATCM has become the 'de facto' international standard and most fabricators/importers are sourcing compliant board for products sold in state, outside California, demand must be monitored once there is a 'national standard.' There must be a sufficient supply of Phase 2 board and the wood products industry must continue working to implement emerging resin technologies. The transition from a 'California only' standard to a national standard must be seamless with no unintended 'bottlenecks' that would impede the supply of compliant composite wood products.

3. What steps has industry generally and AHFA specifically taken to reduce formaldehyde emissions over the years?

Historically, the wood products industry has worked with glue resin suppliers and CWP suppliers to steadily reduce potential formaldehyde emissions. Beginning with the voluntary HUD standard (1985), the wood products industry has worked with ASTM and ANSI to develop testing standards to properly identify emissions, evaluate a baseline and begin reducing formaldehyde emissions from our products. AHFA member companies have worked with their suppliers to source glues and composite wood products that meet the current emission requirements. AHFA participates as a member of the ASTM/ANSI standards rule making 'canvas' and has been at the table from the inception with CARB, EPA and the federal legislature as a key stakeholder.

The Honorable Joe Barton

1. In your written testimony you state: "we believe that a national approach is crucial in order to avoid conflicting state standards and allows for the harmonized distribution of products and supplies." Yet this legislation does nothing to stop another state from enacting different or conflicting regulations. Would you be concerned if other states enacted differing laws or regulations?

The AHFA believes that a national approach is crucial in order to avoid a 'patchwork quilt' of conflicting state standards and allows for the harmonized distribution of products and supplies. Multiple state standards would be a concern but we believe states would not have any incentive to develop a specific standard if a national one was in place. California expended considerable time resources to develop the ATCM. Time and resources other states do not have or are willing to allocate toward the development of a specific state rule that would be dramatically different.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

April 14, 2010

Dr. Melvin E. Andersen, CHH, PhD, DABT
Director, Program in Chemical Safety Sciences
The Hamner Institutes for Health Sciences
Six Davis Drive PO Box 12137
Research Triangle Park, NC 27709-2137

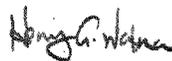
Dear Dr. Andersen:

Thank you for appearing before the Subcommittee on Commerce, Trade, and Consumer Protection on March 18, 2010, at the hearing entitled "H.R. 1796, the Residential Carbon Monoxide Poisoning Prevention Act, and H.R. 4805, the Formaldehyde Standards for Composite Wood Products Act."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by April 28, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,



Henry A. Waxman
Chairman

Attachment



April 27, 2010

The Honorable Doris Matsui
Committee on Energy and Commerce
2125 Rayburn Office Building
Washington, DC 20515-6115

Dear Congresswoman Matsui,

In the email and letter from Henry Waxman, Chairman of the House of Representatives Committee on Energy and Commerce dated April 14, 2010, you asked me to address the following question:

"Formaldehyde is a chemical known to have adverse effects on human health. It has been recognized by the International Agency for Research on Cancer and by the Environmental Protection Agency (EPA) as such. This chemical can cause difficulty in breathing in some humans exposed at elevated levels (above 0.1 parts per million). In addition, inhalation of formaldehyde can cause nose and throat irritation, burning sensations in the eyes and throat, and nausea. Other effects include coughing, wheezing, chest pains, bronchitis, and severe allergic reactions.

1. While I fully recognize that formaldehyde is a natural product, would you concur that efforts to lower exposure to formaldehyde emissions would protect public health, bolster consumer confidence, and benefit our economic recovery efforts?"

My response follows.

As stated in my prepared remarks, I believe lowering emission standards within reason would protect the public from excessive formaldehyde exposures, bolster confidence by insuring that products with excess formaldehyde would be removed from the market, and benefit recovery by assuring that US corporations following good manufacturing practices would not face competition from unregulated foreign manufacturers. My main concern is that you and your colleagues have generated a good law based on a faulty premise, i.e., the formaldehyde cancer risk assessment conducted by the State of California that does not acknowledge the background of formaldehyde in each of our cells. It seems all too likely that the benefits provided by the law will soon be forgotten and the precedent set by acceptance of the faulty risk assessment will live on and influence other bills and policy decisions in coming years. My purpose in testifying was to support the legislation while asking that the legislation distance itself from endorsement of the California cancer risk assessment. Your comments above on the respiratory irritation from formaldehyde are accurate and indisputable. The cancer risk assessment and conclusions that formaldehyde is a human carcinogen at lower levels of exposure, however, are highly questionable. I believe them to be incorrect.

Sincerely,

Director, Program in Chemical Safety Sciences
The Hamner Institutes for Health Sciences
Tel: 919-558-1205 Fax: 919-558-1300
MAAndersen@thehamner.org