

2009 Winter National Meeting
San Francisco, CA

Catastrophe Insurance (C) Working Group

Monday, December 7, 2009

8:00 – 10:00 a.m.

Hilton San Francisco—Imperial Ballroom A

ROLL CALL

Kevin M. McCarty, Chair	Florida	Ralph S. Tyler, III/P. Randi Johnson	Maryland
Jim L. Ridling/Myra Frick	Alabama	Kevin Beagan/Caleb Huntington	Massachusetts
Linda S. Hall/Sarah McNair-Grove	Alaska	Mike Chaney	Mississippi
Steve Poizner/Bruce Patton/Ron Dalhquist	California	Ann Frohman/Alan Wickman	Nebraska
Thomas R. Sullivan/George Bradner	Connecticut	Anne Kelly/Mike Moriarty	New York
Gennet Purcell	District of Columbia	Mary Jo Hudson/Maureen Motter	Ohio
J.P. Schmidt/Shelley K. Santo	Hawaii	Scott H. Richardson	South Carolina
Michael T. McRaith/Judy Mottar	Illinois	Leslie A. Newman/Lacosta Wix	Tennessee
Sharon Clark/Treva Wright-Donnell	Kentucky	Alfred W. Gross/Mary Bannister/ Pat Worley	Virginia

AGENDA

1. Discuss Uniform Treatment for Flood Adjusters
 - *Harriett Kinberg – FEMA*
2. Public Hearing Regarding Chinese Drywall
 - *Eric Nordman – NAIC*
 - *David Kodama – Property Casualty Insurers*
 - *Amy Bach – United Policyholders*
 - *Charles Miller – Insurance Law Center*
3. Any Other Matters Brought Before the Working Group



Catastrophe Insurance (C) Working Group

December 7, 2009
San Francisco, California

ATTACHMENT ONE

Discuss Uniform Treatment for Flood Adjusters



FEMA

November 30, 2009

The Honorable Kevin McCarty
Commissioner, Office of Insurance Regulation
Chair, NAIC Catastrophe Insurance Working Group
Florida Department of Financial Services
Larson Building
200 East Gaines Street, Room 101A
Tallahassee, FL 32399

Dear Commissioner McCarty:

The partners and stakeholders of the National Flood Insurance Program (NFIP) appreciate the continued support provided by the National Association of Insurance Commissioners (NAIC). The NAIC has been of great value in fostering quality NFIP training for insurance agents nationwide. In an effort to continue to meet the goals of the NFIP, the U.S. Congress, and the insurance industry, we are once again calling upon the NAIC for assistance.

As you are aware, the NFIP is a Federal insurance program established by Congress in 1968 and overseen by the Federal Emergency Management Agency (FEMA). The Flood Insurance Reform Act of 2004 (FIRA 2004), Section 207, placed special emphasis on NFIP training for insurance agents. It is our understanding that the NAIC recognizes the Federal Crop Insurance Corporation (FCIC) as a Federal program not subject to certain State training requirements whereby an FCIC-approved vendor administers training, testing and continuing education. We are asking for your consideration in recognizing the NFIP in the same way.

Through a contract with GeoLearning, Inc., FEMA provides instructor-led workshops, webinars, and online training covering basic and advanced flood insurance topics. Each year, FEMA assists over 10,000 insurance agents in obtaining continuing education credits as required by their State for licensing. This is accomplished by filing NFIP course completion documentation with individual State Departments of Insurance. The associated cost to file this documentation is, on average, \$3.36 per record. We are requesting that the NAIC encourage State Departments of Insurance and their vendors to waive the fee for filing continuing education credits for NFIP training. The financial impact on individual States is expected to be small.

In addition, we would like to open a dialog with you on other ways that the NAIC can encourage State Departments of Insurance to give special consideration to NFIP training related issues. We have identified the following possibilities:

- 1) Provide FEMA with updated electronic mailing lists of licensed insurance agents, free of charge. We will use the list to notify agents of upcoming NFIP training.
- 2) Afford continuing education credits for NFIP webinar classes completed by insurance agents.
- 3) Expand the one-time NFIP education requirement for insurance producers to a biannual requirement.

The Honorable Kevin McCarty
November 30, 2009
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We believe that these actions will help the NFIP to meet its goals in advancing agent knowledge, consumer awareness, accurate calculation of flood insurance premiums, and accurate flood insurance claim settlements. These actions will also assist in lowering the costs associated with the implementation of Section 207 of FIRA 2004.

As always, the NAIC is a valued NFIP partner, and it is a pleasure working with you. I look forward to your response and to future discussions concerning these training-related issues.

Sincerely,



Edward L. Connor
Acting Federal Insurance Administrator
National Flood Insurance Program

ATTACHMENT TWO

Public Hearing Regarding Chinese Drywall

Chinese Drywall

- The facts:
 - Over 550 million pounds of Chinese drywall imported between 2004 and 2007
 - Possibly installed in over 100,000 homes in the USA
 - Current empirical data does not reflect this
 - The Consumer Product Safety Commission has recorded over 2,091 reports of defective drywall in 32 states
- The problem:
 - Most common is the smell of rotten eggs
 - Property damage claims:
 - Failure of air conditioning equipment
 - Corrosion of pipes, coils and wiring
 - Damage to furniture, fixtures and jewelry
 - Bodily injury claims:
 - Respiratory problems and sinus infections
 - Headaches, persistent cough and bloody noses
 - Asthma attacks and fatigue
- What's being claimed?
 - Cost to repair the house
 - Cost of health effects
 - Legal fees for the plaintiffs' lawyers
 - Defense costs
 - Indirect costs
 - Loss of use
 - Diminished value
- So how much?
 - Cost to repair the house (\$8 to \$10 Billion)
 - Cost of health effects (Anybody's guess)
 - Legal fees (\$5 to \$10 Billion)
 - Indirect costs
 - Loss of use (\$2 to \$5 Billion)
 - Diminished value (Not much)
 - TOTAL COSTS (\$15 to \$25 Billion)
- Drywall investigation is expanding into the US
 - National Gypsum
 - Georgia Pacific Group

U.S. Consumer Product Safety Commission
November 23, 2009

Press Statement on Corrosion in Homes and Connections to Chinese Drywall

Results from a major indoor air study of 51 homes are being released today along with initial reports from two studies of corrosion in homes with Chinese drywall. We now can show a strong association between homes with the problem drywall and the levels of hydrogen sulfide in those homes and corrosion of metals in those homes.

By identifying this association, the Interagency Drywall Task Force can now move forward to develop protocols that will identify homes with this corrosive environment and can determine the effectiveness of remediation methods. The Task Force continues to work with Congressional and White House officials to determine the best approaches to design and fund these identification and remediation efforts to help the families dealing with this issue.

“We now have the science that enables the Task Force to move ahead to the next phase – to develop both a screening process and effective remediation methods. Ongoing studies will examine health and safety effects, but we are now ready to get to work fixing this problem,” said U.S. Consumer Product Safety Commission Chairman Inez Tenenbaum.

The Studies

The 51 home study contracted by CPSC was done by Environmental Health & Engineering (EH&E), an internationally known environmental testing firm based in Massachusetts.

In addition, today two preliminary reports on corrosion safety issues are being released. The Sandia National Laboratories’ (SNL) Materials and Engineering Center is studying the long-term electrical safety hazards of conductor metal components. The National Institute of Standards and Technology (NIST) is studying the corrosion effects on fire safety components taken from complaint homes.

Findings

EH&E compared 41 “complaint” homes in five states selected from CPSC’s consumer incident report database, with 10 noncomplaint homes built around the same time in the same area as the complaint homes. Homes were sampled between July and September 2009.

The EH&E findings are that hydrogen sulfide gas is the essential component that causes copper and silver sulfide corrosion found in the complaint homes. Other factors, including air exchange rates, formaldehyde and other air contaminants contribute to the reported problems.

In ways still to be determined, hydrogen sulfide gas is being created in homes built with Chinese drywall. Earlier studies found large amounts of elemental sulfur in the Chinese drywall. CPSC is investigating drywall from other sources that may mimic the problems found with Chinese drywall. CPSC is meeting with drywall manufacturers and others who are studying this issue to take their findings into consideration.

EH&E exposed copper and silver test strips, known as coupons, in homes for a period of about two weeks. The coupons showed significantly higher rates of corrosion in complaint homes than in the control homes. The dominant species of corrosion on the coupons was copper sulfide and silver sulfide, as determined by additional laboratory tests. Visual inspection and evaluation of ground wire corrosion also revealed statistically significant greater ground wire corrosion in complaint homes compared to non-complaint homes.

The EH&E study also found that by using hand-held x-ray fluorescence (XRF) and Fourier Transform Infrared (FTIR) instruments, they were able to detect markers that could identify Chinese-made dry wall at a sheet-by-sheet level.

While drywall-related corrosion is clearly evident, long term safety effects are still under investigation. Like the EH&E study, initial reports available today from SNL and NIST show copper and silver sulfide corrosion on samples of metal taken from homes with problem drywall. These ongoing investigations will help the CPSC identify the nexus of problem drywall and long term safety issues.

In addition, the EH&E study found elevated formaldehyde readings in both the control and complaint homes. This is typical for new, more air-tight homes due to items such as cabinets and carpets which emit formaldehyde. Both formaldehyde and hydrogen sulfide are known irritants at sufficiently high levels. The concentrations measured in this study were below those levels. Investigators believe that the additive or synergistic effects of these and other compounds in the subject homes could cause irritant effects evident in the homes.

Next Steps

First, CPSC continues to search for homes exhibiting the corrosion and health effects under study. In addition to a direct call to consumers, CPSC is contacting governors of all states, all territories and the District of Columbia, to ensure that all homes with these problems have been reported to CPSC.

Second, the Interagency Task Force established an Identification and Remediation Protocol Team of scientists and engineers. This Team will use the results of the EH&E study and other information to design a cost-effective screening protocol to identify homes with this problem. Professional air sample testing, and destructive testing of drywall can carry high costs. The Protocol Team will develop quick, cost-efficient evaluation methods to identify homes with these problems. The Protocol Team will also look at remediation protocols, to see what cost-efficiency improvements to current remediation practices, if any, may be available, and what guidance should be issued on doing the work safely.

Third, investigations currently underway by Lawrence Berkeley Laboratories, SNL and NIST and others will continue toward identifying additional information on any possible long-term health and safety issues.

The Identification and Remediation Protocol Team will use information from the EH&E study and other information to begin evaluating remediation protocols. Homes that have undergone remediation are expected to yield valuable information that will be helpful for homeowners.

The Interagency Task Force is actively talking to Congressional and White House officials about the best approaches to design and fund both the Identification and Remediation efforts.

Other Ongoing Efforts

The Interagency Task Force, working with U.S. Customs and Border Protection, is monitoring imports of possible Chinese drywall. We believe that no new Chinese drywall has entered the United States in 2009. Owners of known U.S. inventories of Chinese drywall have been notified of this ongoing investigation. They have indicated that the drywall boards will not be sold. Further, CPSC has secured the cooperation of the Chinese Government to help identify the sources and causes of this problem.

CPSC is working with an ASTM committee that has just initiated discussions on the formulation of a proposed new standard on inspection of drywall for air quality issues.

Recommendations to Affected Homeowners

To date, CPSC has received more than 2000 reports from 32 states, the District of Columbia and Puerto Rico from consumers and homeowners concerned about problem drywall in their homes.

Homeowners who believe they may have problem drywall should immediately report to CPSC by calling 800-638-2772 or logging on to www.CPSC.gov. Hearing- or speech-challenged individuals may access the phone number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

Federal and state health experts suggest these steps to improve indoor air quality and to reduce exposure to substances that can cause health concerns:

- Open windows as much as possible to let in fresh air.
- Keep the temperature inside homes at the lowest comfortable setting.
- Run the air conditioner or dehumidifier.
- Also, spend as much time outdoors in fresh air as possible.
- Do not smoke, and especially do not smoke indoors. Cigarette smoke contains, among other contaminants, formaldehyde.

To read the technical research reports or for more information, log on to
www.DrywallResponse.gov.

Executive Summary of November 23, 2009 Release

Overview

Released today is additional information from the investigation of problem drywall including the results from three preliminary scientific reports: a fifty-one home indoor air study; an electrical component corrosion study; and a fire safety component corrosion study. Most significantly, the fifty-one home report released today finds a strong association between the problem drywall, the hydrogen sulfide levels in homes with that drywall, and corrosion in those homes. The two preliminary component corrosion studies support this finding. The fifty-one home study also provides some basic tools necessary for development of processes to identify and remediate affected homes, and advances the Interagency Task Force's investigation to a new phase focused on these objectives.

In sum, the significant findings released today are:

- The study of fifty-one homes found a strong association between the problem drywall, the hydrogen sulfide levels in homes with that drywall, and corrosion in those homes.
- While the study of fifty-one homes detected hydrogen sulfide and formaldehyde in homes containing the problem drywall at concentrations below irritant levels, it is possible that the additive or synergistic effects of these and other compounds in the subject homes could cause irritant effects. The Interagency Task Force continues to investigate the nexus between the drywall and reported health symptoms.
- The two preliminary studies of corrosion of metal components, taken from homes containing the problem drywall, found copper sulfide corrosion in the initial samples tested, which supports the finding of an association between hydrogen sulfide and the corrosion. Ongoing laboratory tests continue to investigate the nexus between safety and the short and long-term effects of such corrosion.

Based on the scientific findings of the studies completed to date, particularly the fifty-one home report released today, the Interagency Task Force can begin a new phase by developing (1) a protocol to identify homes with corrosive drywall and (2) a process to address the corrosive drywall and its effects. The Task Force's work will serve as a foundation upon which informed decisions can be based by homeowners and local, state and federal authorities.

While the U.S. Consumer Product Safety Commission (CPSC) has aggressively pursued a detailed investigation into the Chinese drywall supply chain, it remains difficult to estimate the total number of homes that could contain problem drywall. CPSC recently reached out to the governors of all fifty states and the U.S. territories to assemble the fullest possible accounting of homes reporting Chinese drywall. The CPSC, working with U.S. Customs and Border Protection (CBP), is monitoring imports of possible Chinese drywall. We believe no new Chinese drywall has entered the United States in 2009. There are several known inventories of uninstalled Chinese drywall in the United States and the owners of these stockpiles have been notified of this ongoing investigation and advised to notify the CPSC if they sell or dispose of any drywall from their inventory.

* * *

Introduction

This scientific investigation has moved as quickly as possible to understand the complex problems presented by the issue of Chinese¹ drywall. While the science of indoor air environments presents significant challenges, the fifty-one home report released today finds a strong association between the problem drywall, the hydrogen sulfide levels in homes with that drywall, and corrosion in those homes. Two preliminary component corrosion studies, also released today, support this finding. The scientific methods used to establish this association in the fifty-one home study provide basic tools necessary for the development of means to identify and remediate affected homes and permit the Interagency Task Force's investigation to begin a new phase focused on these objectives.

This scientific work completed to date has been essential to building the foundation upon which decisions can be based by homeowners and local, state and federal authorities.² The investigation continues on several fronts to expand our understanding of this issue – but current information is sufficient to begin to develop and determine the effectiveness of identification and remediation processes that are integral to the path forward for impacted homeowners.

Fifty-One Home Study

Environmental Health and Engineering (EH&E) completed a detailed study of fifty-one homes in Florida, Louisiana, Virginia, Alabama, and Mississippi. (The full report of EH&E is provided as Tab A). EH&E and CPSC staff selected forty-one “complaint” homes based on reported incidents from consumers and ten non-complaint homes as controls. EH&E’s investigation of each home included a visit by a team of scientists who gathered detailed data at each location such as: the layout, building materials and air exchange rate of each structure; the configuration of the home’s heating and ventilation systems; x-ray fluorescence (XRF) and Fourier transform infrared (FTIR) readings of the installed drywall; the presence and extent of corrosion; and detailed measurements of chemicals in the indoor and outdoor air. Copper and silver metal strips, called “coupons,” were also placed in the home for two weeks to test the corrosive environment of each house.

The report concluded that: (1) there was a strong association between the problem drywall, the hydrogen sulfide levels in homes with that drywall, and corrosion in those homes; (2) while hydrogen sulfide and formaldehyde concentrations were associated with corrosion, hydrogen sulfide was an essential component; (3) XRF and FTIR technology could potentially identify problem drywall without the destructive examination of each wall; and (4) while hydrogen sulfide and formaldehyde levels detected in homes containing the problem drywall were at

¹ The Interagency Task Force on Chinese Drywall is conducting a broad investigation and its studies have included both Chinese and non-Chinese samples. While this work does reference “Chinese” drywall as a general term, we have not concluded that all Chinese-manufactured drywall may present corrosion or health issues, or that all non-Chinese drywall may not present such issues.

² All reports and information released regarding Chinese drywall can be found at www.drywallresponse.gov.

concentrations below irritant levels, it is possible that additive or synergistic effects of these and other compounds in the subject homes could cause irritant effects.

The copper and silver coupons showed significantly higher rates of corrosion in complaint homes than in the control homes. The dominant species of corrosion on the coupons was copper sulfide and silver sulfide, as determined by additional laboratory tests. Visual inspection and evaluation of ground wire corrosion also revealed statistically significant greater ground wire corrosion in complaint homes compared to non-complaint homes. EH&E also used hand-held XRF and FTIR instruments to measure levels of strontium and carbonate absorbance in the installed drywall. The study found that the nondestructive XRF and FTIR testing could potentially identify the problem drywall in a home at a sheet-by-sheet level. A significant outcome of this testing is the establishment of these two methods as possible tools for an identification protocol or remediation.

Indoor air chemical monitoring in the fifty-one home study built upon the Interagency Task Force's ten-home air study, released on October 29, 2009. In the fifty-one home study, hydrogen sulfide gas was successfully measured at low levels in the majority of complaint homes by the use of passive samplers deployed in the homes for a two-week period. The concentrations of low-level hydrogen sulfide gas were statistically higher in homes identified as containing the problem drywall compared to control homes. Hydrogen sulfide has a low odor threshold and could contribute to the odors identified in the complaint homes. Levels of carbon disulfide, another sulfur gas of interest, varied between complaint and control homes, but the differences were not statistically significant.

Levels of formaldehyde and other aldehydes were comparable in complaint and control homes, and were consistent with levels that are expected in newly constructed homes. This finding was consistent with the previously released ten-home air study that also found formaldehyde in test and control homes.

Upper airway, skin, and eye irritation were common complaints from some occupants in the complaint homes. Both hydrogen sulfide and formaldehyde are known irritants at certain levels, although the concentrations found for each of these compounds in this fifty-one home study were below the irritant levels. Nevertheless, it is possible that additive or synergistic effects of these and other compounds in the subject homes could cause irritant effects.

Electrical Components Corrosion Study

Sandia National Laboratories' (SNL) Materials Science and Engineering Center was tasked to evaluate the nature and extent of conductor metal corrosion that may have occurred in residential electrical components exposed to the problem drywall. The objective was to determine if the corrosion would result in either near or long term electrical safety hazards. (The preliminary report of SNL is provided at Tab B). Electrical components for SNL's analyses were harvested by CPSC staff from six homes in Florida and Virginia which were reported to contain the problem drywall. A preliminary visual inspection by CPSC Electrical Engineering staff of all of the harvested electrical components revealed substantial corrosion of copper wiring, but there were no indications of significant overheating of conductors or conductive parts due to the corrosion events.

SNL examined six severely corroded receptacles and found that wires attached to these receptacles showed several morphologies of copper corrosion products including cauliflower-shaped nodules and spongiform (sponge-like) texture. The corrosion nodules were readily found on the surface of the exposed copper wires, while the spongiform texture appeared in micro-cavities beneath the corrosion nodules. The overall thickness of the corrosion layer varied from almost zero to twenty micrometers.

Elemental analyses of both forms of corrosion indicated the presence of copper, sulfur, and small amounts of oxygen, which strongly suggested the presence of copper sulfide and copper oxide. One sample of corroded copper wire was examined via X-ray diffraction and found to contain copper sulfide in the variety known as digenite (Cu_9S_5) and copper oxide in the variety known as cuprite (Cu_2O).

Corrosion of copper wiring was most extensive where bare copper was exposed. Intact electrical insulation on copper wiring appeared to protect the underlying copper conductor from corrosion.

Fire Safety Components Corrosion Study

The National Institute of Standards and Technology (NIST) presented a preliminary report in its investigation of corrosion on fire safety components based on an initial examination of copper natural gas supply tubing and two air conditioner heat exchanger coils. (The preliminary report of NIST is provided at Tab C).

A thin black corrosion product was found on all of the copper samples examined. Chemical and structural analysis of this layer indicated that this corrosion product was copper sulfide (Cu_2S) and X-ray diffraction peaks from this corrosion corresponded with those of the mineral digenite (Cu_9S_5). Corrosion products were also observed on other types of metals in the air conditioning coils in the areas where condensation would frequently make the metals wet. The thickness of the corrosion product layer on a copper natural gas supply pipe was measured and found to be between five and ten micrometers thick. Reduced sulfur compounds, such as hydrogen sulfide (H_2S), were determined to be the most likely candidates to have caused this type of corrosion.

None of the samples examined were failed components and no evidence of an imminent failure was found on any of the samples in this batch. All of the corrosion damage observed was consistent with a general attack form of corrosion that progresses in a uniform manner. No evidence of any type of localized attack was found, but the unpredictable nature of corrosion attack on metals exposed to reduced sulfur components and the exposure duration necessary for initiation of these forms of attack, mean that the number of samples examined to date was too small to draw any conclusion on the relative probability of these forms of corrosion being able to cause or not cause a failure. Ongoing work is designed to determine the extent of corrosion possible during decades-long exposure.

Interagency Identification and Remediation Protocol Team

Based on the scientific findings of the studies completed to date, particularly the fifty-one home report released today, the Interagency Task Force can begin a new phase by developing (1) a protocol to identify homes with corrosive drywall and (2) a process to address the corrosive drywall and its effects. The Task Force's work will serve as a foundation upon which informed decisions can be based by homeowners and local, state and federal authorities. Indeed, the Task Force will continue its cooperation with state partners in its development and evaluation of these identification and remediation processes.

The Interagency Task Force has assembled a multidisciplinary team to design a test to identify a home that contains the corrosive environment that we understand now to be characteristic of the problem drywall. This identification protocol could be employed in a screening program of affected homes. The positive results from the coupon and XRF/FTIR testing undertaken by EH&E suggest objective methods to evaluate potentially affected structures. Effectiveness, speed, ease of use, and cost will be principal factors in proposing a final identification protocol.

Remediation options will also be examined, in coordination with the identification protocol, to determine viable means of addressing the corrosive effects and environment in a home. The multidisciplinary team will review and consider all possible remediation approaches including the activities already undertaken by some builders and alternative methods proposed by other parties. The Interagency Task Force could also look to the federal government's experience addressing such contaminants as lead. Again effectiveness, speed, ease of use, and cost will be determinative factors in evaluating remediation methods.

The Interagency Task Force monitors closely the array of products and opinions offered to homeowners about Chinese drywall in the media and marketplace regarding identification and remediation. The Interagency Task Force is committed to sorting through the facts and conjecture and presenting consumers with substantiated scientific information.

Continuing Scientific Investigation

This scientific work completed to date has been essential to building the foundation upon which decisions can be based by homeowners and local, state and federal authorities. Today's reports advance the work released on October 29, 2009, where the Interagency Task Force was able to identify preliminary differences in the chemical composition and emissions between Chinese and non-Chinese drywall. The scientific investigation of the drywall matter continues in parallel to the new path forward towards identification and remediation solutions. These ongoing studies are:

- *Chamber Studies* – Work at Lawrence Berkeley Laboratories (LBL) continues on samples of Chinese and non-Chinese drywall to isolate the chemical emissions. Results from this investigation will present a better understanding of the specific compounds the problem drywall is contributing to indoor environments. The identification of these specific compounds emitting from drywall is also necessary to know what chemicals to use in the investigation of long-term corrosion.

- *Investigation of Long-Term Corrosion* – Sandia National Laboratories (SNL) is continuing to study corrosion of electrical components harvested from problem drywall homes and will expose new components to particular environments, which will include the isolated drywall emissions from LBL, and seek to accelerate the corrosion process to observe long-term effects. (The ongoing work of SNL is discussed in greater detail in Tab B.) National Institute of Standards and Technology (NIST) is conducting a similar investigation on fire safety components, including smoke alarms, sprinklers, and gas service lines. Given the limits of how quickly a laboratory can simulate decades of exposure, this work will not be completed until at least June 2010.
- *Bacterial Study* – The Interagency Task Force is conducting an investigation into the possibility of a bacterial mechanism in the production of emissions from the problem drywall.

Chain of Commerce of Chinese Drywall

While the CPSC has aggressively pursued a detailed investigation into the Chinese drywall supply chain, it remains difficult to estimate the total number of homes that could contain problem drywall. The investigation has worked from both ends of the manufacturer-to-consumer chain. CPSC began with information from CBP to identify importers and then expanded the inquiry to include drywall suppliers and builders. To date CPSC has contacted over 400 such entities. From the consumer end of the chain, CPSC has received over 2000 consumer reports from thirty-one states, the District of Columbia and Puerto Rico. CPSC recently reached out to the governors of all fifty states and the U.S. territories to obtain data on homes reporting Chinese drywall. This should better assist in understanding the full scope of this issue.

At present, the two metrics available for drywall full scope estimates, total imports and consumer complaints, both hold uncertainties. From the seven million sheets of Chinese drywall imported between 2000 and 2009, it is difficult to estimate the number of houses that might contain the drywall because a house could have just one or many sheets. Furthermore, CPSC does not yet know how many of these drywall sheets may be problematic. On the other hand, the over 2000 complaints received by CPSC probably do not include all affected consumers. A homeowner might not report their concerns because they have not yet associated issues in their home with drywall or out of a possible fear of the negative consequences of owning a property with Chinese drywall. Nevertheless, actual reports of drywall concerns may offer the best means for evaluating the scope of the problem drywall issue.

Current Imports and Existing Stockpiles of Chinese Drywall

The CPSC, working with CBP, is monitoring imports of possible Chinese drywall. We believe no new Chinese drywall has entered the United States in 2009. There are several known inventories of uninstalled Chinese drywall in the United States and the owners of these stockpiles have been notified of this ongoing investigation and advised to notify the CPSC if they sell or dispose of any drywall from their inventory.

* * *

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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

To prohibit insurers from canceling or refusing to renew homeowners insurance policies because of the presence of certain types of drywall in the home.

IN THE HOUSE OF REPRESENTATIVES

Mr. MELANCON introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit insurers from canceling or refusing to renew homeowners insurance policies because of the presence of certain types of drywall in the home.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drywall Victims Insur-
5 ance Protection Act of 2009”.

1 **SEC. 2. PROHIBITION OF CANCELING OR DECLINING TO**
2 **RENEW HOMEOWNERS INSURANCE BECAUSE**
3 **OF PRESENCE OF CERTAIN DRYWALL.**

4 It shall be unlawful for any insurer—

5 (1) to cancel, or decline to renew, any coverage
6 for homeowners' insurance for any single-family
7 housing based on the presence, or possibility of pres-
8 ence, in the housing of any drywall that has a cov-
9 ered characteristic; or

10 (2) in any renewal of homeowners' insurance
11 for such a structure, to discriminate in the amount,
12 rates for coverage, or other terms of such coverage
13 based on the presence, or possibility of presence, in
14 the structure of any drywall that has a covered char-
15 acteristic.

16 **SEC. 3. PRIVATE CAUSE OF ACTION.**

17 (a) IN GENERAL.—An insured who has been ad-
18 versely affected by a violation of section 2 by an insurer
19 may bring a civil action against the insurer in an appro-
20 priate Federal or State court for relief under subsection
21 (b).

22 (b) RELIEF.—Upon proof of a violation of section 2
23 by a preponderance of the evidence in an action described
24 in subsection (a), the court may award appropriate legal
25 and equitable relief, including temporary, preliminary, and
26 permanent injunctive relief and compensatory damages.

1 (c) ATTORNEYS' FEES AND OTHER COSTS.—In any
2 action or proceeding under this section, the court shall
3 allow a prevailing plaintiff reasonable attorneys' fee as
4 part of the costs, and shall include any expert fees as part
5 of the attorneys' fee.

6 **SEC. 4. DEFINITIONS.**

7 For purposes of this Act, the following definitions
8 shall apply:

9 (1) COVERED CHARACTERISTIC.—The term
10 “covered characteristic” means, with respect to any
11 drywall, that the drywall—

12 (A) was imported from, or originated in,
13 China at any time during the period consisting
14 of calendar years 2004 through 2007; or

15 (B) contains elevated levels of sulphur or
16 strontium.

17 (2) INSURED.—The term “insured” means any
18 natural person who has purchased coverage for
19 homeowners’ insurance.

20 (3) INSURER.—The term “insurer” means any
21 entity, including any affiliate thereof, that is licensed
22 or admitted to engage in the business of providing
23 homeowners’ insurance in any State.

24 (4) HOMEOWNERS’ INSURANCE.—The term
25 “homeowners’ insurance” means property and cas-

1 uality insurance coverage against losses to single-
2 family housing.

(5) SINGLE-FAMILY HOUSING.—The term “single-family housing” means a residential real property (including individual units of condominium and cooperative structures) designed principally for the occupancy of from one to four families.

Any Other Matters Brought Before the Working Group