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The Honorable Jerry Brown  
Governor of California  
State Capitol Building  
Sacramento, CA 95814

Dear Governor Brown:

Chemtura Corporation ("Chemtura") produces fire safety products that protect the public and reduce injury and fatalities. Chemtura has been involved in fire safety for more than 40 years. After exhausting all regulatory avenues, Chemtura reluctantly filed a lawsuit to overturn revised rules recently announced by the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (the "Bureau"). Chemtura firmly believes that the revised rules impose weaker fire safety standards, diminish fire safety for upholstered furniture and will ultimately adversely affect standards for the entire nation.

The previous standard required upholstered furniture sold in California to be resistant to two common sources of upholstered furniture fires: a smoldering cigarette and a small open flame, generally caused by matches, candles or lighters. These two common ignition sources together account for half of all furniture fires in this country. Chemtura acknowledged during the rulemaking process that the existing standard should be updated to account for changes in technology, and to ensure comprehensive, effective furniture fire protection. However, the Bureau's revised fire safety standard requires nothing more than a cigarette smolder test, eliminating the long-standing state mandate for furniture to be protected against open flames. Ironically, while flaming ignition sources (candles, matches, lighters, etc.) remain part of our daily lives, smoldering cigarettes are a diminishing fire threat because of successful anti-smoking campaigns and the California Fire Safe Cigarette law.

With the revised rules in place and the marketplace forced to react to the new testing requirement, this lawsuit is necessary to seek judicial review of the authority of the Bureau to eliminate the essential requirement of the fire safety standard. Eliminating the open flame test presents the real risk that there will be a significant increase in furniture fires, damage to structures, and injuries and deaths resulting from fires.

Our position behind this action is consistent with comments submitted to the Bureau from other fire safety authorities that support the need for the open flame test. The Consumer Product Safety Commission (CPSC), after previously proposing a national fire safety standard for furniture that required only a smolder test, is now considering inclusion of an open flame test in a new national fire safety standard for furniture. Similarly, the National Fire Protection

Association (NFPA) recently published a white paper confirming that open flame ignition is a significant contributor to furniture fires, and announced that it is considering a flammability standard that addresses open flame ignition of furniture.

The fact that the Bureau deemed it appropriate to gut the furniture fire safety standard is even more troubling when you consider the Bureau's insistence just a few years ago that an open flame test was crucial to a viable national fire safety standard. When the CPSC was considering a national furniture flammability standard in 2008 (Proposed Furniture Flammability Std. 16), the Bureau of stated:

The Bureau strongly believes that any national furniture flammability standard must address the typical scenario of open flame ignition in upholstered furniture.

The Bureau further added:

Considering the fact that many open flame furniture fires are caused by small children playing with matches or lighters, the seriousness of such hazard cannot be overstated.

We respectfully request that you immediately intervene and direct the Bureau to initiate a public process to develop a new standard that restores the open flame ignition sources while also addressing smoldering sources, thereby strengthening, rather than weakening fire safety. Otherwise, we are left with no alternative but to ask the court to reverse the revised rules.

Thank you for your consideration of this request.

Sincerely,

*Anne P. Noonan*

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