

AFL-CIO – American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers – Communications Workers of America (CWA)
International Brotherhood of Teamsters – International Chemical Workers Union Council/UFCW
Service Employees International Union (SEIU) – United Food and Commercial Workers (UFCW)
United Automobile Aerospace and Agricultural Implement Workers of America (UAW)
United Steelworkers (USW)
Breast Cancer Fund – Blue Green Alliance – Center for Environmental Health
Center for Health, Environment & Justice – Center for International Environmental Law
Citizens’ Environmental Coalition – Clean Water Action – Ecology Center – Environment America
Environmental Defense Fund – Environmental Health Fund – Environmental Health Strategy Center
Environmental Working Group – Friends of the Earth – Greenpeace – Health Care Without Harm
Healthy Child, Healthy World – League of Conservation Voters – OMB Watch
Physicians for Social Responsibility – Public Citizen – Sierra Club – U.S. Public Interest Research Group
Alliance@IBM CWA 1701 – Air Alliance Houston – Alaska Community Action on Toxics
Alliance of Nurses for Healthy Environments – Arizona Physicians for Social Responsibility
Kristen Breitweiser – CALPIRG – Citizens for Sanity.com, Inc. – Clean New York
Clean Production Action – Colorado PIRG – Connecticut Coalition for Environmental Justice
Deep South Center for Environmental Justice – Detroiters Working for Environmental Justice
Don’t Waste Arizona – Earth Day Coalition – Empire State Consumer Project
Environmental Justice Resource Center – Environment Texas – Farmworkers Association of Florida
Florida PIRG – Global Community Monitor – Green Science Policy Institute – Healthy Building Network
Indiana Toxics Action – Investor Environmental Health Network
International Campaign for Justice in Bhopal – Kentucky Environmental Foundation – Bettie D. Kettell
Kids for Saving Earth – Los Jardines Institute – Louisiana Bucket Brigade – Maine AFL-CIO
Maryland Pesticide Network – Maryland PIRG – MassPIRG – Mossville Environmental Action Now
NAACP Delaware – National Bucket Brigade Coalition – National Refinery Reform Campaign
New Jersey Work Environmental Council – NJ PIRG – Northwest Atlantic Marine Alliance
Nurses Work Group of Health Care Without Harm – NYPIRG – Oregon Physicians for Social Responsibility
Oregon State PIRG – PennPIRG – Public Citizen, Texas – Science and Environmental Health Network
Second Look – SF-Bay Area Physicians for Social Responsibility – T.E.J.A.S. – Texans for Public Justice
Texas Campaign for the Environment – Texas Public Interest Research Group – VPIRG
Western Broome Environmental Stakeholders Coalition – WISPIRG
Women’s Health and Environmental Network – Women’s Voices for the Earth

June 6, 2011

Dear Representative;

As we approach the 10th anniversary of the September 11th attacks it is unacceptable that more than 100 million Americans still live in the danger zone of a chemical disaster. The Department of Homeland Security has repeatedly asked Congress for the authority to require the highest risk chemical plants to convert to safer alternatives to eliminate or reduce the consequences of a terrorist attack. In November 2009 the House of Representatives adopted a compromise bill (H.R. 2868) that granted this authority and closed the greatest security gaps in the current law but the Senate failed to act.

Chemical plants and other chemical facilities remain one of the sectors of America’s infrastructure most vulnerable to terrorist attacks. The Department of Homeland Security (DHS) has identified approximately 5,000 “high-risk” U.S. chemical facilities. In 2004, the Homeland Security Council planning scenario projected that an attack on a chemical facility would kill 17,500 people and send an additional 100,000 people to the hospital. A December 2009 Congressional Research Service review of U.S. Environmental Protection Agency (EPA) data shows that 91 chemical facilities each put 1 million or more people at risk.

The current interim statute enacted as a rider to the 2007 Homeland Security appropriations bill temporarily authorized the Chemical Facility Anti-Terrorism Standards (CFATS) to give Congress time to enact comprehensive legislation.

Examples of inherent flaws in the interim (CFATS) statute include:

- It prohibits the DHS from requiring any specific “security measure” whatsoever.
- It fails to develop the commonsense use of *smart security* -- safer and more secure chemical processes that can cost-effectively prevent terrorists from triggering chemical disasters.
- It explicitly exempts thousands of chemical and port facilities, including approximately 2,400 water treatment facilities and 400-600 facilities on navigable waters, including a majority of U.S. oil refineries.
- It fails to involve knowledgeable employees in the development of vulnerability assessments and security plans, or protect employees from excessive background checks.
- It denies the public the information needed to ensure an effective, accountable program.
- It fails to address the current pervasive problem of risk shifting, such as when companies shift chemical hazards to unguarded locations such as rail sidings

On March 4th three bills were introduced that would do nothing but extend this flawed current law for 6-7 years—H.R. 908 by Representative Timothy Murphy, H.R. 901 by Representative Dan Lungren, and H.R. 916 by Representative Charles Dent. We strongly oppose these bills and urge you to vote no on them. If Congress needs more time to enact permanent comprehensive legislation then a one year extension of current law is sufficient to maintain continuity in the program without abrogating Congress’s responsibility to enact truly protective legislation as soon as possible.

In testimony before Congress on March 31, the DHS repeated their request for legislation that requires **all** high risk facilities to assess safer chemical processes and conditionally requires the highest risk facilities (tiers 1 and 2) to use safer processes where feasible. In addition, they urged Congress to eliminate the gap in security for water treatment facilities and to modify the exemption for port facilities now regulated under the Maritime Transportation Security Act to ensure consistency with CFATS.

To correct the flaws in the interim law and enact comprehensive legislation, **we urge you to enact legislation at least as strong as H.R. 2868 which was adopted by the House in 2009.** H.R. 2868 is a compromise that *builds seamlessly on CFATS*. It maintains the DHS as the lead agency regulating privately owned chemical plants, including port facilities, and authorizes the EPA as the lead agency regulating publicly owned water and wastewater treatment facilities and provides funding for publicly owned water facilities to adopt the most protective security measures.

In addition H.R. 2868 would have:

- Required high risk facilities to assess safer chemical processes and conditionally requires the highest risk plants (approximately 162 facilities) to use safer chemical processes where feasible and commercially available and includes a technical appeals process to challenge DHS decisions;
- Provided up to \$100 million in the first year to assist privately owned plants to use safer and more secure processes, \$125 million for drinking water facilities and an unspecified portion of \$200 million for wastewater facilities to use safer more secure processes;
- Involved plant employees in the development of security plans, provided protections for whistleblowers, and limited background check abuses;
- Preserved state authority to establish stronger security standards;

Since 1999, more than 500 facilities have used *smart security* to eliminate these risks to more than 40 million Americans. On November 4, 2009, the Clorox Company announced plans to convert all seven of its U.S. facilities to eliminate the bulk use of chlorine gas and inherent risks to nearby communities. While this is encouraging, more than 480 facilities each put 100,000 people at risk and assuming the current rate of voluntary conversions it will take decades before they all switch.

In addition, the Association of American Railroads issued a statement in 2008 saying, *“It’s time for the big chemical companies to do their part to help protect America. They should stop manufacturing dangerous chemicals when safer substitutes are available. And if they won’t do it, Congress should do it for them...”*

We look forward to working with you and your staff on this urgently needed legislation.

Sincerely,

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