June 22, 2011

Dear Senator,

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. To address this, Senator Frank Lautenberg introduced the Secure Chemical Facilities Act (S. 709) and the Secure Water Facilities Act (S. 711). Together, these bills close dangerous gaps in current chemical plant security laws. Our groups urge you to co-sponsor and support enactment of this legislation.

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. Continuing to extend CFATS without establishing a comprehensive program will only continue putting millions of Americans at needless risk.

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.

In testimony before Congress on February 11, the DHS and EPA 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 support Senator Lautenberg’s comprehensive chemical security legislation. It represents a compromise that incorporates input from industry and it also builds seamlessly on the existing DHS regulations. It also keeps the DHS as the lead agency regulating privately owned chemical plants, harmonizes coverage of 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 it will:

- Require 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;

- Provide 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;
- Involve plant employees in the development of security plans and provide protections for whistleblowers and limits back ground check abuses;
- Preserve 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 voluntary conversions it will take decades before they do.

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,

Tom Trotter
AFL-CIO

Cynthia Bradley
American Federation of State, County, and Municipal Employees (AFSCME)

Dave LaGrande
Communication Workers of America (CWA)

LaMont Byrd
International Brotherhood of Teamsters

John Morawetz
International Chemical Workers Union Council/UFCW

Bill Borwegen
Service Employees International Union (SEIU)

Marc Norberg
Sheet Metal Workers’ International Association

Barbara Somson
United Automobile, Aerospace and Agricultural Implement Workers of America

Jo Deutsch
United Food and Commercial Workers

Holly Hart
United Steelworkers (USW)

John Kepner
Beyond Pesticides

Yvette Pena Lopes
Blue Green Alliance

Gretchen Lee
Breast Cancer Fund

Lois Gibbs,
Mike Schade
Center for Health, Environment, and Justice

Daryl Ditz
Center for International Environmental Law

Barbara Warren
Citizens’ Environmental Coalition

Lynn Thorp
Clean Water Action

Tracey Easthope
Ecology Center

Shelley Vinyard
Environment America

Richard Denison
Environmental Defense Fund
Janelle Sorensen
Healthy Child, Healthy World

Mona Metzger
Houston Green Scene

Kathleen Schuler
Institute for Agriculture and Trade Policy

Shana Ortman
International Campaign for Justice in Bhopal

Elizabeth Crowe
Kentucky Environmental Foundation

Bettie D. Kettell, R.N.

Anne Rolfes
Louisiana Bucket Brigade

Paul Santomenna
Maine Physicians for Social Responsibility

Johanna E. Neuman
Maryland PIRG

Janet Domenitz
Massachusetts PIRG

Chris Kolb
Michigan Environmental Council

Dorothy Felix
Mossville Environmental Action Now

Matt Prindiville
Natural Resources Council of Maine

Amy Goldsmith
New Jersey Environmental Federation

Jeff Tittel
New Jersey Sierra Club

Jen Kim
NJ PIRG

Rick Engler
NJ Work Environment Council

Russ Haven
New York Public Interest Research Group (NYPIRG)

Niaz Dorry
Northwest Atlantic Marine Alliance

Maye Thompson
Oregon Physicians for Social Responsibility

Lisa Arkin
Oregon Toxics Coalition

Pamela LaBrake
Parents Against Lindane

Michele Kessler
Pennsylvania Northeast Area Labor Federation

Maya Nye
People Concerned about MIC

Mable Mallard
Philadelphia Right to Know Committee

Barbara H. Warren
Physicians for Social Responsibility, Arizona

Elizabeth O’Neal
Protect All Children’s Environment

Tom Smith
Public Citizen, Texas

Ted Schettler
Science and Environmental Health Network

Kathleen Burns
Sciencecorps

Deborah E. Moore
Second Look

Robert M. Gould
SF-Bay Area Chapter Physicians for Social Responsibility

Lauren Ornelas
Silicon Valley Toxics Coalition

Sanford Lewis
Strategic Council on Corporate Responsibility

Marybeth Palmigiano
Tampa Bay Physicians for Social Responsibility

Craig McDonald
Texas for Public Justice

Robin Schneider
Texas Campaign for the Environment

Juan Parras
Texas Environmental Justice Advocacy Services (T.E.J.A.S.)

Melissa Cubria
Texas PIRG

Charity Carbine
Vermont PIRG (VPIRG)

Cherie Eichholz
Washington Physicians for Social Responsibility

Laurie Valeriano
Washington Toxics Coalition

Cecil Corbin-Mark
WE ACT for Environmental Justice

Bruce Speight
WISPIRG

Teresa Mendez-Quigley
Women’s Health and Environmental Network

Erin Switalski
Women’s Voices for the Earth

Gail Bateson
Worksafe, Inc.

Kristen Breitweiser
9/11 Widow and Activist