

**AFL-CIO – American Federation of Teachers – Communications Workers of America (CWA)**  
**International Brotherhood of Teamsters – International Chemical Workers Union Council/UFCW**  
**United Automobile Aerospace and Agricultural Implement Workers of America (UAW)**  
**United Food and Commercial Workers – United Steel Workers (USW)**  
**Service Employees International Union (SEIU)**  
**Advocates for Environmental Human Rights – Beyond Pesticides – BlueGreen Alliance**  
**Breast Cancer Fund – Center for Environmental Health – Center for Health, Environment, and Justice**  
**Center for International Environmental Law – Clean Water Action – Clean Production Action**  
**Ecology Center – Environment America – Environmental Defense Fund**  
**Environmental Working Group – Friends of the Earth – Greenpeace – League of Conservation Voters**  
**International Campaign for Justice in Bhopal – OMB Watch – Physicians for Social Responsibility**  
**Sierra Club – U.S. Public Interest Research Group**  
**Arizona PIRG – Citizens for a Clean Environment, Inc. – Clean New York**  
**Clean Water Action-Massachusetts – Connecticut Coalition for Environmental Justice**  
**Connecticut Council on Occupational Safety and Health – Deep South Center for Environmental Justice**  
**Don't Waste Arizona – Empire State Consumer Project – Environmental Health Fund**  
**Environmental Health Strategy Center – Environmental Justice Action Group of WNY**  
**Environment Illinois – Environment Massachusetts Environment Texas**  
**Farmworker Association of Florida – Galveston Houston Association for Smog Prevention and Mothers**  
**for Clean Air (GHASP/MfCA) – Global Community Monitor – Glynn Environmental Coalition**  
**Great Neck Breast Cancer Coalition – Green Action – Green Education and Legal Fund, Inc.**  
**Greenwich Citizens Committee – Healthy Building Network – Healthy Schools Network**  
**Indiana Toxics Action --Kentucky Environmental Foundation – Kristen Breitweiser, 9/11 Widow**  
**Maryland PIRG --Massachusetts Breast Cancer Coalition – Massachusetts Green Jobs Coalition**  
**Massachusetts Interfaith Power and Light – Massachusetts PIRG – Michigan Environmental Council**  
**MomsRising – Natural Resources Council of Maine – New Jersey Environmental Federation**  
**New Jersey PIRG – NJ Work Environment Council – New York PIRG – Oregon PIRG**  
**Oregon Toxics Alliance – People's Settlement Association – Protect All Children's Environment**  
**Public Citizen-Texas – Science and Environmental Health Network – Sciencecorps**  
**Somerville Climate Action – Students for a Just and Stable Future**  
**Texas Campaign for the Environment – Texans for Public Justice – Texas PIRG**  
**Urban Health Environment and Learning Project – Vermont PIRG**  
**Veterans for Peace/Smedley Butler Brigade – Washington Toxics Coalition**  
**Women's Voices for the Earth – Worksafe Inc.**

July 2010

Dear Senator,

On November 6, 2009, the House of Representatives passed the *Chemical and Water Security Act of 2009* (H.R.2868) a comprehensive chemical security bill. This week, Senator Frank Lautenberg introduced the Secure Chemical Facilities Act and the Secure Water Facilities Act. **The undersigned organizations support this legislation and urge the U.S. Senate to pass it before the interim law expires on October 4, 2010.**

Chemical plants and other chemical facilities remain one of the most vulnerable sectors of America's infrastructure 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. As a security program CFATS was intended only as an interim stop gap measure. It fails to protect the millions of Americans at risk by eliminating preventable catastrophic hazards.

The interim statute:

- Prohibits the DHS from requiring any specific “security measure” whatsoever.
- Fails to develop the commonsense use of “smart security” or safer and more secure chemical processes that can cost-effectively prevent terrorists from triggering chemical disasters.
- Explicitly exempts thousands of chemical and port facilities, including approximately 2,400 water treatment facilities and 400-600 port facilities including many oil refineries.
- Fails to involve knowledgeable employees in the development of vulnerability assessments and security plans, or protect employees from excessive background checks.
- Denies the public the information needed to ensure an effective, accountable program.

On February 4<sup>th</sup> Senator Collins (R-ME) introduced a bill (S. 2996) that would do nothing but extend this inadequate and flawed law for five more years. **We strongly oppose S. 2996 and any further delay in comprehensive chemical security legislation.**

In their March 3<sup>rd</sup> testimony before the Senate Homeland Security and Governmental Affairs Committee, both the DHS and the EPA called for comprehensive legislation that requires high risk facilities to “assess” safer chemical processes and conditionally requires the highest risk plants to use safer chemical 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 in the Senate** as a companion to H.R. 2868. 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 will:

- Require high risk facilities to assess safer chemical processes and conditionally requires the highest risk plants (approximately 107) 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; and
- Preserve state authority to establish stronger security standards;

**Passing comprehensive legislation this year is vital to our national security.** Since 1999, more than 500 facilities have used *smart security* to eliminate these risks to more than 40 million Americans. In a March 2006 floor statement, then Senator Obama said, "by employing safer technologies, we can reduce the attractiveness of chemical plants as a target...Each one of these methods reduces the danger that chemical plants pose to our communities and makes them less appealing targets for terrorists." In November 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.

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...*"

**Disaster prevention is a defining policy in this legislation which has taken on new urgency following the BP oil blow out in the Gulf of Mexico and renewed threats of terrorism. To truly protect employees and surrounding communities, a comprehensive law should:**

- Use *smart security* to prevent the catastrophic consequences of an attack by implementing cost-effective safer and more secure chemicals and processes at all of the highest risk facilities.
- Include all categories of facilities such as port facilities and water treatment plants.
- Involve plant employees in developing plant security programs, including participation in workplace inspections, and provide employees with both an appeals and a waiver procedure to protect against excessive background checks.
- Allow citizen suits against chemical facilities and government agencies to enforce the law.
- Ensure greater accountability through the disclosure of non-sensitive information on compliance and implementation of security standards.
- Allow states to set more protective security standards.

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

**Sincerely,**

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Claire Barnett  
**Healthy Schools Network**

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**Indiana Toxics Action**

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**International Brotherhood of Teamsters**

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**International Campaign for Justice in Bhopal**

John Morawetz  
**International Chemical Workers Union Council/UFCW**

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**Kentucky Environmental Foundation**

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**Massachusetts Green Jobs Coalition (MAGJC)**

**Massachusetts Interfaith Power and Light**

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**Oregon Toxics Alliance**

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