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EDUCATION · EYAK PRESERVATION COUNCIL · GREAT LAKES UNITED
· CIRCUMPOLAR CONSERVATION UNION · DEPARTMENT OF THE
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COALITION · KENTUCKY ENVIRONMENTAL FOUNDATION · COMMON
GROUND · ALASKA COMMUNITY ACTION ON TOXICS**

September 23, 2002

Dear Senator:

As organizations working to protect the environment and public health across the country, we urge you to support S.2118, the POPs Implementation Act of 2002. This legislation is now pending before the Senate Environment and Public Works Committee, and is presently scheduled for markup on September 26. If amended to clarify but not weaken the bill's so-called POPs "adding mechanism," this legislation will enable the United States to fully and effectively implement our obligations under the Stockholm Convention on Persistent Organic Pollutants (POPs), and to be a full participant in future decisions under the agreement.

Our organizations strongly support the Stockholm Convention, which calls for the phase-out and elimination of POPs, including highly toxic dioxins, PCBs, and pesticides such as DDT, and provides a science-based process to add newly identified POPs to the original "dirty dozen" specified in the Convention. Adopted in May 2001 and signed by the Bush Administration and representatives of more than 150 other countries, the agreement must now be ratified and implemented. In the Plan of Implementation adopted at the recent World Summit on Sustainable Development, the United States committed to "promote the ratification and implementation of relevant international instruments on chemicals and hazardous waste including the [Stockholm Convention]."

While the United States has already banned or restricted most of the initial 12 POPs, full domestic implementation of the treaty will require targeted amendments to the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Implementing legislation must authorize the Environmental Protection Agency (EPA) to bring its

regulations regarding the 12 initial POPs into line with the treaty, and regulate any additional POPs that might be added to it in the future. S.2118 provides such authority, and we urge you to support this bill.

The Stockholm Convention Is Critical to Protecting Public Health and the Environment from POPs

POPs pose a global hazard because of their toxicity to animals and people, their persistence in the environment and in the fatty tissues of living organisms, their ability to travel long distances on air and water currents, and their propensity to bioaccumulate in food chains. They have become common contaminants of fish, dairy products, and other foods around the world. Because humans, like raptors and marine mammals, are at the top of our respective food chains, many Americans may now carry enough POPs in their body fat to cause serious health problems, including reproductive and developmental problems, cancer, and immune system disruption. The Arctic ecosystems and their indigenous peoples suffer disproportionately from POPs contamination.

If properly implemented, the Stockholm Convention will protect human health and the environment from POPs by banning some of the worst POPs outright, phasing out others over time, employing a science-based approach to identify and take action against additional POPs, and helping to develop the capacity of all countries—especially the less developed countries—to eliminate POPs. *(For more details of what the Convention will accomplish, please refer to the fact sheet attached to this letter.)*

The Addition of Future POPs Is at the Heart of the Stockholm Convention

While the Stockholm Convention begins with an initial list of twelve POPs, it is not limited to that list. Because negotiators from all countries agreed that the treaty should be a dynamic instrument, the Convention authorizes the establishment of a Persistent Organic Pollutants Review Committee that uses a science-based screening and risk profile process to recommend the restriction of additional POPs. Additional chemicals identified as POPs and agreed to by Parties to the Convention will be added to the treaty through an amendment process. When ratifying the treaty, the United States, like any other party, may reserve the right to “opt-in” to such amendments via a separate, subsequent ratification process, as a safeguard against being bound by any international decision with which the U.S. may not agree.

During the treaty negotiations, the U.S. delegation acknowledged that narrowly crafted changes to TSCA and FIFRA would be necessary to enable EPA to ban the manufacture and export of the chemicals presently named in the treaty and those that might be added subsequently. Regrettably, legislation introduced in the House and Senate on behalf of the White House does not include the necessary “adding mechanism” to address these additional POPs, thereby limiting its future value and undermining the treaty’s intent. The environmental and public health communities have been joined by the chemical industry in support of the inclusion of a process for adding new chemicals in the implementing legislation.

Legislation Must Ensure that the U.S. Is a Full Participant in the Stockholm Convention

As introduced on April 11, 2002, S.2118 includes an adding mechanism that would establish a “rebuttable presumption” that the U.S. will follow international decisions to add POPs to the treaty. While our organizations have supported that approach, the chemical industry has pointed to a potential risk that the international body will list a POP based solely on political motivations rather than sound science. We consider this possibility exceedingly remote, and believe that the United States is already protected from such an outcome because it may always choose not to “opt-in” to such an amendment. The adding mechanism proposed by Senator Jeffords fully implements the letter and spirit of the POPs treaty, and we call upon the Committee to support Senator Jeffords’ bill.

To date, at least 21 countries have ratified the Stockholm Convention; when a total of 50 have done so the treaty will enter into force. In order to protect the environment and public health and to ensure that our country is at the table and participating fully when the Convention enters into force, the United States must ratify the Convention as soon as possible. However, ratification based on incomplete legislative authority implementing the Convention would create uncertainty among U.S. industry as well as environmental and public health constituencies, would unnecessarily burden Congress in the future, and would surely be viewed by the international community as a bad faith reflection of our commitment to implement a treaty that is important to governments worldwide.

We therefore urge you, as a member of the Senate Environment and Public Works Committee, to support Senator Jeffords’ bill at the upcoming markup.

Sincerely,

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Cc: Sen. Joseph R. Biden, Jr., Chair, Senate Foreign Relations Committee
Sen. Jesse Helms, Ranking Member, Senate Foreign Relations Committee
Sen. Tom Harkin, Chair, Senate Agriculture, Nutrition and Forestry Committee
Sen. Richard G. Lugar, Ranking Member, Senate Agriculture, Nutrition and Forestry Committee
John F. Turner, Assistant Secretary, Bureau of Oceans and International Environmental
and Scientific Affairs, U.S. Department of State
Stephen L. Johnson, Assistant Administrator, Office of Prevention, Pesticides and Toxic
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John D. Graham, Administrator, Office of Information and Regulatory Affairs, Office of
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James L. Connaughton, Chair, Council on Environmental Quality