

* Advocates for Environmental Human Rights * Alaska Community Action on Toxics * American Rivers * Arizona Toxics Information * Beyond Pesticides * Breast Cancer Fund * Californians for Alternatives to Toxics * Center for Environmental Health * Center for Health, Environment and Justice * Center for International Environmental Law * Chemical Weapons Working Group * Circumpolar Conservation Union * Citizen's Environmental Coalition * Clean Water Action * Commonwealth * Department of the Planet Earth * Earthjustice * Ecology Center * Environment California * Environmental Health Fund * Environmental Health Strategy Center * Environmental Working Group * EnviroSpec * Foundation for Advancements in Science and Education * Greenpeace * Indigenous Environmental Network * International Indian Treaty Council * International POPs Elimination Network * League of Conservation Voters * MOMS (Making our Milk Safe) * National Environmental Trust * National Pediculosis Association * National Wildlife Federation * Natural Resources Council of Maine * Pesticide Action Network North America * Physicians for Social Responsibility * Oceana * San Francisco Physicians for Social Responsibility * Science and Environmental Health Network * Sciencecorps * Sierra Club * U.S. Public Interest Research Group * Washington Toxics Coalition * World Wildlife Fund *

February 28, 2006

The Honorable Joe Barton
Chairman
House Committee on Energy and Commerce
2109 Rayburn Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member
House Committee on Energy and Commerce
2328 Rayburn Building
Washington, DC 20515

The Honorable Paul E. Gillmor
Chairman
House Subcommittee on Environment
and Hazardous Materials
1203 Longworth Building
Washington, DC 20515

The Honorable Hilda L. Solis
Ranking Member
House Subcommittee on Environment
and Hazardous Materials
1641 Longworth Building
Washington, DC 20515

Re: Legislation to implement the Stockholm Convention on Persistent Organic Pollutants (POPs)

Dear Chairmen and Ranking Members:

We write to strongly encourage your leadership in ensuring that the paramount health and environmental protection goals of the Stockholm Convention are fully embodied in U.S. implementing amendments to the Toxic Substances Control Act (TSCA). Persistent organic pollutants (POPs) are a global threat. Carried around the world by wind and water, they persist for years in the environment and accumulate in our bodies, where they can cause cancer, neurological and learning disabilities, and harm immune and reproductive systems. Infants and children in the United States and

throughout the world are especially vulnerable to exposure before birth and from their mother's milk. Many Americans, especially Alaskans and indigenous peoples, workers, and communities near industrial facilities, bear a heavy burden of chemical contamination from POPs.

The Stockholm POPs Convention was negotiated with the active participation of the U.S. government and signed by the Bush Administration with broad support from the business community, workers, and the environmental and health community. The treaty bans or severely restricts ten industrial or agricultural chemicals, and sets the goal of minimizing and ultimately eliminating two industrial byproducts. At U.S. insistence, it also establishes a rigorous, science-based process for identifying and adding other POPs to the Convention. As none of the "dirty dozen POPs" chemicals presently in the treaty are intentionally produced in the United States, how Congress chooses to implement the treaty's provisions for regulating other POPs is a test of U.S. leadership.

Representatives Solis and Gillmor have each introduced bills that would amend TSCA for the purpose of allowing the United States to implement the Stockholm Convention. Both bills protect U.S. sovereignty by ensuring that the United States can make its own, independent decisions whether to be bound by future international decisions to regulate additional POPs. But the two bills have widely divergent visions of how Americans should be protected from these dangerous substances. The Solis bill (H.R. 4800) seeks to implement the letter and spirit of the POPs Convention by giving EPA clear authority to regulate and by living up to the expectations of the American people that protecting human health should be a primary objective of U.S. environment and health law. The Gillmor bill (H.R. 4591) would abandon the Convention's fundamental health protection goal, introduce a standard that will weaken U.S. environmental and health safeguards, and create regulatory hurdles that would make it practically impossible for EPA to ever protect Americans from some of the world's most dangerous chemicals.

On behalf of all Americans who will benefit from U.S. ratification of the POPs Convention, we urge you to support implementing legislation that will enable the United States to reassert leadership in protecting its citizens from persistent organic pollutants. The Solis bill does this in a pragmatic and effective manner by requiring timely U.S. action, by implementing the Convention's health-based standard, and by honoring the right of state, local and tribal authorities to protect their citizens from the dangers of POPs. The Solis bill reflects the high standard for implementing legislation that our organizations have insisted upon since the Convention was signed.

Ensure Timely U.S. Action

Once the United States commits to regulating additional POPs chemicals added to the Stockholm Convention, EPA must have the authority to respond quickly and effectively.

- The Gillmor bill does not require the United States to take *any* action after an international decision to add a new POP to the Convention, even when the United States supports the decision. Moreover, the Gillmor bill politicizes science, mandating that EPA apply potentially onerous requirements that invite litigation while doing nothing to improve the scientific quality of regulatory decisions.
- The Solis bill embodies a better approach, directing EPA to take prompt regulatory action when a new POP chemical is added to the Convention. Such action can include a decision *not* to regulate if EPA concludes that there will be no adverse effect on human health. The bill sensibly instructs EPA to take into account the findings of the international scientific review process, in which the United States would be a full participant, as the logical starting point for its evaluation, thereby avoiding costly, time-consuming, and redundant analysis.

Adopt the Treaty's Health Standard

A health-based decision-making standard is at the heart of the Stockholm Convention. As a treaty that will become part of “the law of the land,” the Convention text should be the source of the standard for implementing amendments in the United States.

- The Gillmor bill jettisons the Convention's health standard and directs EPA to find a “reasonable balance” between the costs to chemical companies and the benefits of protecting children and other vulnerable Americans from some of the world's most dangerous chemicals. Such cost-benefit standards have been shown time and again to overestimate the cost of regulation and dramatically undervalue the benefits of protecting public health. Moreover, because the Gillmor bill would allow costs to trump health, it would all but ensure that the United States could *never* join the rest of the world in accepting amendments that add dangerous POPs chemicals to the treaty.
- The Solis bill adopts the Stockholm Convention's health-based standard for regulating POPs. The bill directs EPA to implement the control measures specified in the Convention in a manner that protects against “significant adverse human health and environmental effects.”

Respect State Measures to Protect Health

Many states are already taking action to regulate POPs, including California, Hawaii, Illinois, Maine, Massachusetts, Michigan, New Jersey, New York, and Washington.

- The Gillmor bill would not only make it difficult for EPA to regulate a newly listed POP chemical, but would also preempt all state and local POPs regulations and prohibit states from taking regulatory action in the future. This sweeping preemption

language could void state and local measures to control POPs even when the EPA ultimately fails to regulate the chemical.

- The Solis bill respects state and local efforts to protect public health from POPs by specifically allowing stricter state standards.

Our organizations support strong, vibrant U.S. participation in the Stockholm Convention. We ask you to join us in realizing that vision by supporting implementing legislation that is true to the letter and the spirit of the POPs agreement, as represented by the Solis bill. At the same time, we reaffirm our commitment to ensure that the flawed approach of the Gillmor bill, an approach that will undermine health and environmental protections, is not enacted into U.S. law.

Sincerely,

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The Honorable Saxby Chambliss, The Honorable Tom Harkin
The Honorable Richard G. Lugar, The Honorable Joseph R. Biden
The Honorable Bob Goodlatte, The Honorable Collin Peterson

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