

Letter of **Principles for Toxic Chemical Regulatory Reform** to the Obama Transition government

**Dear President-Elect Obama,**

Congratulations on your victory in the election for President of the United States. We look forward to the positive changes you plan on making, and send you this letter to offer our support in that endeavor, especially for the urgently needed reform of our chemical regulatory policy.

Recent reports about industry influence and possible interference with our chemical regulatory policy on chemicals at the FDA, EPA and other agencies threaten the confidence of all consumers about American products, and about our government's role in protecting health. Controversy over chemicals in everything from shower curtains and lipstick, to baby bottles, infant formula, canned food, cars, toys and even pet food have increasingly unnerved anyone concerned about public health, especially parents.

Though its effects may not be as obvious as the deregulation of Wall Street, the deregulation of the chemical industry has hurt the United States just as much as the deregulation of Wall Street, with effects likely to last generations. Scientists, physicians, health advocates, worker organizations, parent groups, health-affected groups and many others view the fundamental reform to current chemical regulations and laws as urgent and necessary to protect children, workers, communities, and the environment now and in the future.

The economic costs of chemical contamination are often hidden, though they contribute significantly to reduced worker productivity, increased hospital costs, more expensive health insurance, and greater burdens on businesses for hazardous waste storage, disposal, and clean-up fees. Uncounted in the conventional cost-benefit analysis of our chemical regulatory policies is the price we pay for children with developmental disabilities or the toll on families with chemical exposure-linked illness, not to mention ecosystem impacts, made worse by global warming.

Increasing numbers of scientific studies link chemical exposure to human illness and unnecessary disabilities and chronic conditions. The most vulnerable include children, women, communities of color and those already stressed by depressed economic conditions and diminished access to health care and information. Spikes in rates of illness linked to chemical exposure include those of obesity, diabetes, thyroid disease, childhood cancers, breast cancer, prostate cancer, heart disease, asthma, neurodevelopmental problems, and learning disabilities in children that persist throughout life. Although chemical exposure knows no boundaries, communities located around chemical manufacturing areas and whose geographic location exposes them to high levels of chemical drift from applications elsewhere are at particular risk.

Tragically, these preventable illnesses and health effects linked to chemical exposure are on the rise, and the effects of some chemical exposure can last for generations. People all over the United States, including Mossville, Louisiana; Glynn County, Georgia; Dixon, Tennessee; Port

Arthur and Corpus Christie, Texas; agricultural communities in California, North Carolina, Washington, and Florida and elsewhere are suffering from chemical contamination. Arctic Indigenous communities are among the most highly exposed populations in the world. The Arctic has become a hemispheric sink for long-lasting chemical contaminants that travel long distances on oceanic and atmospheric currents. These chemicals accumulate up the food chain in fish, wildlife and peoples of the north.

Harm from chemical exposure from U.S. based and other chemical corporations is not limited to the U.S. Despite efforts by the international community to identify the most dangerous chemicals and phase them out, the U.S. government has obstructed this movement and has lost credibility with an international community suffering from the health effects of insidious chemical exposure caused, significantly, by U.S. corporations and their foreign allies. Ongoing efforts of the U.S. government to impede and obstruct major international policy advances such as the Stockholm Treaty and the European Union's REACH chemical policy (Registration, Evaluation and Authorisation of Chemicals) have had serious economic and political consequences.

The opportunity to eliminate toxic chemical exposure and build a new green economy that supports clean production of safe consumer goods is now at hand. By designing new, safer chemicals, products, and green production systems, American businesses will protect people's health and create healthy, sustainable jobs, and enhance our ability to compete in the international marketplace. Some leading companies are already on this path and the workers and neighboring communities benefit. They are creating safe products and new, green jobs by using clean, innovative technologies that benefit public health, the environment and the bottom line. But transforming entire markets will require policy change.

Please consider these five steps to improve the health and well being of Americans, to protect future generations, promote industry innovation and technological superiority in designing safer chemicals, products and manufacturing processes, reduce our dependence on foreign oil, and reward businesses that protect workers and lead the way to a new, green energy economy that will benefit all Americans.

### **1. Hire and Gather the Best and the Brightest for your Toxics Regulatory Team**

- Deploy thoughtful leaders on chemical exposure and environmental health, scientific and common sense solutions to the toxic chemical contamination problem, progress in business and industry with Green Chemistry development, and other innovative thinkers to advise the administration on toxic chemical exposure as a variable in all domestic and foreign policy as well as on new appointments to agencies and departments relevant to environmental health. One example would be forming a task force on chemical regulatory reform or some other multi-stakeholder process to help expedite immediate action. These experts should advise the administration on toxic chemical exposure as a variable in all domestic and foreign policy as well as on new appointments to agencies and departments relevant to environmental health and have no financial conflicts of

interest. It will be important for this group to see the interconnectivity of issues inherent to a healthy and prosperous future.

- Set a public interest research agenda that coordinates green chemistry with green energy and green engineering technologies being developed and supported.
- Adopt the position that the right to a clean and healthy environment is an inalienable right, and fill Circuit and Supreme Court vacancies with individuals sensitive to environmental health and justice issues.

## **2. U.S. Chemicals Policy Must Adhere to Principles and Guidelines for Ethical Chemical Regulatory Reform**

- All people have a fundamental right to protection from exposure to toxic substances, including from chemicals and nuclear radiation, in our environment and our bodies. The purpose of U.S. chemicals regulatory policy must be to protect its own citizens from these exposures, while preventing the export of toxic substances that could harm other countries.
- U.S. chemical regulatory policy must understand and implement the Precautionary Principle so that our policy resembles the modern chemical policies of other countries around the world. The Precautionary Principle forms the foundation of the European Union's REACH law on chemicals and international treaties such as the Stockholm Convention. This foundation for U.S. chemical policy mandates adequate scientific evidence that will help to insure that a substance is safe before it is allowed to be introduced in the marketplace.
- U.S. chemical regulatory policy must provide remedies for the injustice of unequal environmental protection based on race that has exposed communities of color to significant levels of toxic pollution. Such remedies must include a legal standard that requires a safe distance between a residential population and a chemical facility and a private right of action against a federal, state, or local regulatory agency whose decision or action results in a racially disproportionate pollution burden.
- In addition to aligning with REACH, U.S. chemical regulatory policy must regain U.S. leadership by respecting the intentions of international agreements, including Strategic Approach to International Chemicals Management (SAICM), the Stockholm Convention, Rotterdam Convention, Basel Convention, the Montreal Protocol, and a new global free standing legally binding agreement on mercury and other similar substances of concern.

## **3. Revamp the Chemical Evaluation Process**

- A gross lack of knowledge currently exists in the U.S. about the potential hazards of chemical substances produced, imported, exported, and used in the U.S. This serious data deficiency demands immediate adoption of a comprehensive process of identifying and assessing critical information for all substances before they can be produced, marketed or allowed for continued use. Of utmost priority are chemicals that are suspected of being mutagens, carcinogens, reproductive or neurodevelopmental toxicants, endocrine disruptors, and persistent bioaccumulative and toxic chemicals.

Examples include: phthalates, bisphenol A, perfluorinated chemicals, endosulfan, lindane, perchlorate, methyl bromide, methyl iodide, organophosphates, dioxins, furans, brominated and chlorinated flame-retardants, and non-persistent chemicals, such as benzene, which may be difficult to detect.

- Evaluation of the chemicals must be on the basis of their inherent hazards and toxicity, including threats of harm to workers who make them, the communities where they are made, the communities where the chemicals and chemical-induced products are used, disposed or destroyed, and where there is danger for impacting the health of the general public, now and in the future, as in the case of neurotoxins and many carcinogens, which can take years to trigger or manifest effects.
- Chemical evaluation processes also must be based on complete transparency and mandated data collection from the corporations that make the chemicals, removing "business security" shields from manufacturers of suspected dangerous substances. Health and safety information should not be considered confidential business information and a "No Data, No Market" rule should be implemented and enforced.
- Suspected materials must be phased out more rapidly where safer substitutes are already available.
- No U.S. government agency should be allowed to shield chemical corporations from being mandated to provide information under the guise of "national security," in regard to chemical production facilities or transportation of these chemicals.
- Evaluation of chemicals must be conducted by U.S. government scientists and academic colleagues in a manner that upholds the integrity of the evaluation, with public financial support as well as political support for independent research and protection for speaking freely about their findings. Scientists must be expected to report unbiased results, free from political and industry-driven influences, with all findings subject to fully transparent, independent peer review. Scientists must have support and protections to be able to conduct independent scientific study and speak freely about their findings – the "gag order" on U.S. federal scientists must be removed immediately.
- Immediate action to pursue permanent Chemical Security legislation that would require thousands of facilities, including all water treatment plants to require the use of safer chemical alternatives and processes. Millions of people inside the U.S. are at risk if an unintentional industrial chemical accident or intentional terrorist attack were to occur. The framework required includes improving standards for review of safer and more secure alternatives, worker involvement, and crucial government accountability. One immediate concern is the need for a structured review of federal facilities that pose the danger of an off-site chemical emergency release. The standards for these reviews must be focused on "alternatives assessment" rather than "risk assessment."

#### **4. Reform "Stakeholder" Influence in Decision-Making**

- U.S. chemical policy regulators, including non-scientist appointees and staff members, must be completely free of ties to the chemical industry or other entities that would attempt to influence their decisions or impact the integrity of chemical evaluations. Regulators may consult with the chemical industry, but we need a change from what

has become a conventional U.S. process in which the chemical industry dictates chemical regulatory policy and writes relevant legislation. The preferred "stakeholders" in this process must be the people of the United States, not the chemical corporations.

- The people of the United States need to have access and the ability to participate in the chemical evaluation process, which requires resources for capacity building and access to expertise to represent their interests.
- The Toxic Release Inventory rule and other tools for industry transparency must be strengthened, and the public's right to know chemical data should be guaranteed. There must be Executive and legislative support for mandating complete transparency for all data regarding chemical exposure in communities, including pesticide use data.
- Toxic chemical exposure must also be considered an Environmental Justice issue, and previously ignored and disenfranchised communities of color and of modest economic standing must be brought into the process of identifying vulnerable populations and implementing culturally respectful policies for empowerment to become safe from chemical exposure. This can only be accomplished through dedicated resources for capacity building at the community level.
- Resources must be immediately directed toward environmental monitoring of air, water, and soil where chemical exposure is suspected in order to prevent, not just manage, exposure to workers and communities.
- When toxic chemical exposure is identified, immediate action and resources must be available to halt the exposure and protect communities, especially children, honoring the cultural integrities of each community.
- Assessment of toxic chemical exposures must be an immediate mandated component of all relief efforts for communities in times of disaster, with protection mitigations in place to prevent additional and new exposures (as in the example of the FEMA trailers) compounding existing tragedy.

## **5. Create Economic Strength and Strategy Via Toxic Chemical Exposure Protections**

- A program of incentives must be developed to support the efforts of chemical, auto, oil and other relevant industries to develop less harmful substitutions for their products. No new products should be allowed into the marketplace without adequate scientific study on health effects. The responsibility must be on the producer to demonstrate no harm. Regulatory and financial barriers must be removed for companies seeking to develop and use less toxic products. The need to move away from reliance on petrochemicals, and reduce resource depletion in production, including use of water, should be addressed, and incentives provided for those corporations that demonstrate significant progress insuring that their workers, communities, and customers are protected.
- "Polluter pays," reverse onus, and other precautionary policies, in addition to the Rio Principles should be adopted as a foundation for U.S. environmental protections and for restoring confidence in U.S. corporations, their standing in the community, and the products they make. We must re-establish support and enforcement of Superfund policies.

- Support programs for farmers to transition to safer, less toxic means of food production must be instituted.
- Integrate Toxic Chemical Exposure Issues Throughout U.S. Government Agencies and Policies
- EPA must partner with the Centers for Disease Control and immediate resources need to be made available for biomonitoring and public health surveys of communities where chemical exposure impact is suspected. Monitoring should also include biota and human tissue contamination with the intention of tracing the sources of contamination. These agencies must develop and use a protocol for the evaluation of chemical exposure impact that is based on the Precautionary Principle
- Intentional dosing of human beings, especially children, with pesticides and other known toxic chemicals in experiments is unethical and must be prohibited.
- Chemical contamination knows no political boundaries. Testing of imported foods and other products for chemical contamination must be reinstated.
- The U.S. government must make it illegal for U.S. corporations to dump toxic waste or sell banned or restricted products outside of the country. U.S. corporations must be accountable and responsible for harm that befalls communities at home and overseas from chemical exposure caused by these corporations chemical manufacture, use (including in consumer products), and disposal. The U.S. must become a party to the Basel Treaty and uphold its principles.
- The U.S. government must define toxic substance hazard as a variable in all international trade, human rights, and other agreements and encourage and support other nations to reduce and eliminate toxic substance exposure.
- Toxic chemical exposure must be taken into account for all U.S. policies, including stimulus for the economy, job creation, the transition away from petrochemical fuels, education, and other urgent changes in U.S. economic and social enterprises.
- A timeline must be set for putting a modern chemical regulatory process and policy in place; time is of the essence with the health of hundreds of millions of people at stake.

Thank you.

The undersigned groups are eager to assist with designing and building support for transformational change to the U.S. chemical regulatory system and offer our recommendations as enthusiastic partners of the President-Elect's new administration to achieve necessary and timely change.

Sincerely,

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