

# United States Senate

WASHINGTON, DC 20510

February 5<sup>th</sup>, 2014

Dear Senator Vitter,

We are writing to you today about the ongoing efforts to reform the outdated Toxic Substances Control Act. The failure of this statute was heartbreakingly demonstrated last month in West Virginia, when government officials could not obtain basic health information about a chemical that contaminated drinking water for hundreds of thousands of people.

Since the introduction of the Chemical Safety Improvement Act of 2013, we have been encouraged by the efforts that you and your staff have made to work towards addressing the concerns that have been expressed by Democratic Senators.

We understand that important discussions are ongoing to seek agreement on the appropriate relationship between state and federal law in monitoring and regulating chemical substances, an area of critical importance. In the meantime, we would like to take the opportunity to weigh in on environmental and health protective provisions that are a part of the bill.

As we understand it, there is a recent draft proposal to revise S.1009 that incorporates changes to the underlying bill in an effort to make the bill more protective of health and the environment, as well as to address concerns relating to private rights of action for victims of harm from toxic exposure. We sincerely appreciate all that you and your staff have done to try to address those issues and the progress that has been made to date.

Nonetheless, there are still significant issues that need to be addressed for the bill to create a workable program that can protect the public. In particular, we would like to see the following changes made in addition to those that were already agreed to in principle last year:

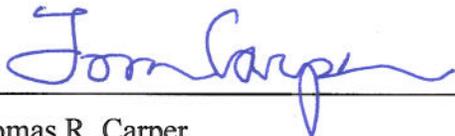
1. Further clarify the definition of the safety standard to ensure that all chemical safety decisions are made solely on considerations of risk to human health and the environment, and do not take into account considerations of cost or economic factors;
2. Ensure that protection of vulnerable populations, such as children, pregnant women, the elderly, and workers are analyzed when assessing chemicals and are taken into account when making risk management decisions to provide adequate protection;
3. Ensure that there is an enforceable schedule for issuing the initial priority list of chemicals that EPA will assess and that a mechanism is in place to ensure that a sufficient number of substances will be prioritized and assessed from the date of enactment into the future;
4. Ensure that EPA has the authority to order testing of existing chemicals where adequate information is lacking;

5. Ensure that procedural and scientific requirements for the prioritization, assessment, and management of risk of chemical substances can be efficiently implemented and are balanced, attainable, and not overly prescriptive;
6. Ensure that aggressive but achievable deadlines for all major processes under the law are statutorily mandated;
7. Ensure the federal government has the authority to prohibit articles from entry into the United States when the EPA has banned or regulated a chemical;
8. Ensure that only final agency actions are subject to judicial review with explicit designation of what is considered final agency action; and
9. Ensure that EPA has the adequate resources, including a fair share from the regulated community, to carry out the necessary activities at an aggressive pace.

Additionally, in light of the recent spill in West Virginia and the fact that even basic toxicological data for the chemicals in question was not available, we need to consider ways to ensure that such information exists and is accessible, especially to public health officials, medical professionals, and first responders. As part of this we believe that the issue of Confidential Business Information also deserves further deliberation.

Along with what has already been agreed to in principle in the most recent draft proposal, if an appropriate amount of improvement can be achieved on these areas, we would be inclined to support a revised proposal.

Sincerely,



Thomas R. Carper  
United States Senator



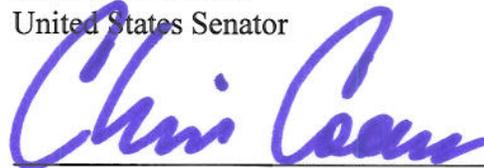
Sherrod Brown  
United States Senator



Martin Heinrich  
United States Senator



Michael F. Bennet  
United States Senator



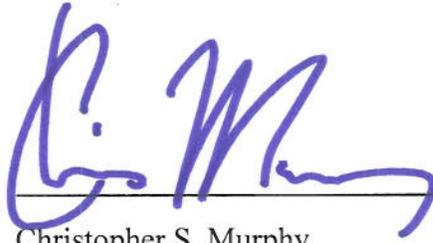
Christopher A. Coons  
United States Senator



Carl Levin  
United States Senator



Claire McCaskill  
United States Senator



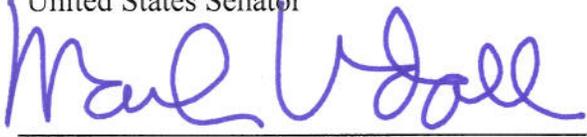
Christopher S. Murphy  
United States Senator



Jeanne Shaheen  
United States Senator



Debbie Stabenow  
United States Senator



Mark E. Udall  
United States Senator