

## SUPPORT THE GENERAL DUTY CLARIFICATION ACT

July 31, 2012

Dear Member of the U.S. House of Representatives:

We, the undersigned organizations, are writing in support of the General Duty Clarification Act, which would require the Environmental Protection Agency (EPA) to institute a transparent rulemaking process to clearly define facility obligations under the General Duty Clause of the Clean Air Act, and to ensure proper future application of the clause, based on Congressional intent. We have concerns about the EPA's arbitrary application of the General Duty Clause as well as the potential for future expansion of the General Duty Clause to regulate the security of chemical facilities.

In 1990, Congress passed the Clean Air Act amendments, which codified section 112(r)(1), commonly known as the General Duty Clause. The General Duty Clause requires owners and operators of stationary sources to work to identify and prevent accidental releases of hazardous substances. EPA has yet to issue any proposed rule detailing enforcement or compliance requirements.

Regardless of these ambiguities and lack of guidance, in recent years, EPA has increasingly used the General Duty Clause to impose substantial penalties on facilities. This situation has created uncertainty for industry, leaving questions about how compliance is measured and when compliance has been achieved.

In addition to the uncertainty created by EPA's recent enforcement of the General Duty Clause, certain interest groups are now calling on EPA to use the provision to regulate chemical facility security, regardless of the fact that the clause is clear in its application to accidental releases. Furthermore, in the Homeland Security Appropriations Act of 2007, Congress explicitly assigned jurisdiction over security to the Department of Homeland Security (DHS).

We urge you to support the General Duty Clarification Act. This legislation will provide much-needed regulatory certainty by requiring EPA to complete a transparent rulemaking on the General Duty Clause before finding any facility in violation of the provision. The legislation would also ensure proper application of the clause by affirming that jurisdiction of chemical facility security remains with DHS, as Congress intended.

Sincerely,

Agricultural Retailers Association  
American Chemistry Council  
American Forest & Paper Association  
American Fuel & Petrochemical Manufacturers  
American Petroleum Institute  
CropLife America  
Institute of Makers of Explosives  
International Association of Refrigerated Warehouses  
International Liquid Terminal Association

National Association of Chemical Distributors  
National Association of Manufacturers  
National Oilseed Processors Association  
National Pest Management Association  
Petroleum Marketers Association of America  
Society of Chemical Manufacturers & Affiliates  
The Fertilizer Institute  
U.S. Chamber of Commerce