

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

March 27, 2015

The Honorable Mark Griffon  
Board Member  
U.S. Chemical Safety Board  
2157 K Street, NW, Suite 400  
Washington, DC 20037

The Honorable Manuel Ehrlich  
Board Member  
U.S. Chemical Safety Board  
2157 K Street, NW, Suite 400  
Washington, DC 20037

The Honorable Rick Engler  
Board Member  
U.S. Chemical Safety Board  
2157 K Street, NW, Suite 400  
Washington, DC 20037

Dear Board Members Griffon, Ehrlich, and Engler:

Recent events and investigations have called into question management and governance decisions by the U.S. Chemical Safety and Hazard Investigation Board (CSB). The board will soon have new leadership, but its challenges may go beyond particular personnel. As the leaders of the Committee on Energy and Commerce, which has jurisdiction over the CSB, we are seeking information necessary to ensure that the board will achieve its important mission going forward.

Pursuant to the Clean Air Act Amendments of 1990, the CSB serves an important mission to investigate the causes of chemical accidents, report to the public the results of its work, and make recommendations when necessary to reduce the risk of accidents and improve safety. However, controversies surrounding board and senior-staff management and decision-making raise serious questions about CSB's current ability to accomplish this mission.

Investigations by the Inspector General of the Environmental Protection Agency into records management, contracting, and personnel actions, and questions of management and leadership highlighted by House Committee on Oversight and Government Reform hearings,<sup>1</sup> have indicated a fundamental breakdown in management and governance at CSB. In fact, evidence of misconduct recently prompted the bipartisan leadership of that committee to request

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<sup>1</sup> See, most recently, the hearing by the Committee on Oversight & Government Reform, March 4, 2015, entitled: "Rebuilding the Chemical Safety Board: Finding a Solutions to CSB's Governance and Management Challenges."

that President Obama use his statutory authority to immediately remove current leadership. The President requested the resignation of the Chairman, and received it yesterday evening.<sup>2</sup> While this resignation is a significant development, we seek to ensure new board leadership will appropriately address remaining challenges to the proper functioning of this agency.

Of particular concern are reports regarding a vote on January 28, 2015, that resulted in a major restructuring of CSB governance that appears to restrict board oversight of the Chairman's decisions.<sup>3</sup> It is alleged that this vote came without any advance notice, analysis, or discussion involving the full board, and that the motion was made in the last several minutes of a public meeting on an entirely different topic and, according to the transcript of the meeting, was not shared with all board members prior to the meeting, constraining full board deliberation on the matter.

We request your assistance to help the committee understand recent board actions and related decisions to assess how they comport with CSB statutory authorities, how they may affect future CSB mission performance, and what should be done to ensure the appropriate governance of the agency. Accordingly, and pursuant to Rules X and XI of the U.S. House of Representatives, we request a full response to each of the following by April 10, 2015:

1. On January 28, 2015, the CSB adopted a motion that rescinded 18 board orders and adopted Board Order 2015-01.
  - a. Explain the process, including timelines, for development and drafting of Board Order 2015-01 and the rescission of 18 existing board orders.
  - b. Identify who on the board, among the CSB staff, or any outside parties, was involved in any analysis, recommendations, drafting or decisions concerning the development of the motion concerning Board Order 2015-01 and the rescission of the existing board orders.
  - c. Provide all documents including, but not limited to, communications among CSB staff, board members, and any other parties, relating to analyses, development, drafting, or timing of Board Order 2015-01 and the rescission of the existing board orders.
2. Was the motion concerning Board Order 2015-01 made with or without advance public notice about the topic of the motion? Was the motion shared in advance with all other board members?
  - a. Please identify which board members were made aware of the development of Board Order 2015-01, the date and manner by which they were made aware, and when they were provided a copy of any draft of the proposed order and when they were provided a copy of the final proposed order.
  - b. What steps were taken by any board member or CSB staff to ensure other CSB members were briefed on the proposed order and had sufficient time to review and comment upon Board Order 2015-01?

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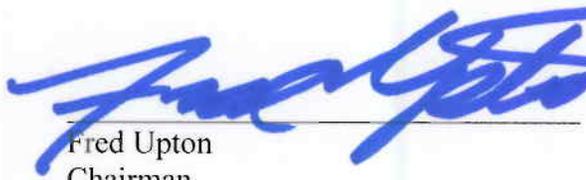
<sup>2</sup> See March 18, 2015 [letter to the President](#), signed by 14 members of the Committee on Oversight and Government Reform, and "[Under Pressure Chemical Safety Head Resigns](#)," *National Journal*, March 26, 2015

<sup>3</sup> See, for example, "[From Bad to Worse at Scandal-Ridden Safety Agency](#)," *National Journal*, February 9, 2015.

- c. Provide all documents relating to the timing and noticing of the motion to adopt Board Order 2015-01.
3. Explain whether and how Board Order 2015-01 in any way affects the following board functions:
  - a. Approval and submittal of the CSB's budget request to Congress;
  - b. Approval of the use and distribution of funds appropriated to the CSB;
  - c. Approval of appointments of the heads of major administrative components of CSB; and
  - d. Approval of the general policies, regulatory decisions, findings, and determinations by which the Chairman of the CSB shall carry out his or her duties.
4. Explain how the actions on January 28, 2015 comport with board rules and procedures for deliberation and voting.
  - a. Provide all rules, internal procedures, and guidance for board deliberations and voting, for determining the subject matter and scheduling of meetings, and for information sharing between and among the staff and individual board members.
5. What are the functions and responsibilities of the board and the functions and responsibilities of the Chairman, as currently established?
6. Explain the analyses and deliberations surrounding the cancellation of three CSB investigations cited in the January 28, 2015 motion.
  - a. Provide all such analyses.
  - b. Explain how these decisions reflect board input and relate to initial scoping and planning concerning these investigations.
7. On May 2, 2014, then Ranking Member of the Energy and Commerce Committee Rep. Henry Waxman made a series of constructive recommendations to the CSB to address his concerns over governance issues at the CSB. Among the recommendations was that you convene "a weekly leadership meeting" involving board members and CSB staff and that you should, with board consultation, develop an investigations plan and protocol.
  - a. Explain whether and how you implemented each of the recommendations in the May 2, 2014 document.
8. What plans or proposals have been developed for improving board oversight and management of CSB operations and the conduct, scoping, and prioritizing of investigations?
  - a. Provide all such plans and proposals, including draft proposals.

Instructions for responding to the committee's document requests are included as an attachment to this letter. In your written responses, please certify that you have fully complied with this information and document request. Should you have any questions you may contact Peter Spencer of the Majority committee staff at (202) 225-2927 or Chris Knauer of the Minority committee staff at (202) 225-3641.

Sincerely,



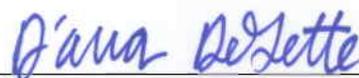
Fred Upton  
Chairman



Frank Pallone  
Ranking Member



Tim Murphy  
Chairman  
Subcommittee on Oversight  
and Investigations



Diana DeGette  
Ranking Member  
Subcommittee on Oversight  
and Investigations

Attachment