



House Passes Chemical Site Security Rules

by Mickey McCarter
Monday, 09 November 2009

Thompson hails bill as protecting US citizens

Stringent chemical facility security standards passed the House of Representatives Friday, 230-193, in a bill (HR 2868) that would require chemical manufacturers to evaluate the use of inherently safer technology to make their plants safer for people and the environment and that would extend the standards to drinking water and wastewater facilities.

House Homeland Security Committee Chairman Bennie Thompson (D-Miss.), the lead sponsor of the bill, hailed its passage as a means to ensure the safety of American citizens living near chemical facilities, which are attractive terrorist targets due to the wide fallout an explosion could cause at them.

"In the wake of the September 11th attacks, security experts immediately identified the threat of an attack on a chemical facility as one of the greatest security vulnerabilities facing the nation," Thompson said in a statement. "After four years of hard work, this Congress finally got the opportunity to consider and pass this landmark homeland security bill."

The bill would mandate new standards for the Chemical Facility Anti-Terrorism Standards (CFATS), enacted by the Bush administration in 2007. Those standards are set to expire on Sept. 30, 2010, as the Homeland Security Appropriations Act of 2010 (Public Law 111-083) extended the current CFATS law for one year beyond their original sunset.

The Chemical and Water Security Act of 2009 further would requires the Environmental Protection Agency (EPA) to set up programs to rate security efforts at drinking water and wastewater facilities, thereby closing a "major security gap," Thompson argued.

Republicans and the chemical industry adamantly opposed the measure, saying it went too far in requiring chemical facilities to spend massive amounts of money to convert their facilities to use inherently safer technology, alternatives to chemical processing that would cause less damage to surrounding people and environments if chemicals were to leak during a terrorist attack.

Rep. Charlie Dent (R-Pa.) led the Republican counter-charge against the bill, attempting to replace it with a three-year reauthorization of current CFATS standards and then attempting to strip language that would compel the use of inherently safer technology from the bill.

Dent argued that the cost of complying with a mandate to switch production processes under inherently safer technology (IST) could range from tens of thousands of dollars to millions of dollars per facility--costs that would drive up the prices of products for consumers and could force layoffs when facilities could not afford to comply.

"IST is a subjective engineering concept that focuses on safety as opposed to security" Dent said in a Nov. 6 statement. "The Department does not employ any IST experts, and it doesn't plan to hire any to meet the demands of this legislation according to DHS officials."

"But the worst part of the IST mandate, is that nowhere in the current bill is the Secretary required to consider the impact on the local economy and on the local workforce before imposing these unnecessary requirements," he added.

Chemical facilities, many of which are small businesses, would have to let go workers if forced to comply with inherently safer technology measures, thereby contributing to the growing unemployment rate, which now stands at 10.2 percent nationally, Dent protested.

The American Chemistry Council, which provided extensive feedback on the bill during two markups in the House Homeland Security Committee and the House Energy and Commerce Committee this summer, opposes the bill due to its inherently safer technology requirements. But ACC still appreciated that markups incorporated some protections for the chemical industry in the bill, ACC President and CEO Cal Dooley said.

"[W]e were encouraged by changes that ensure proper protections for sensitive information and a civil lawsuit provision that bolsters oversight while still protecting private companies from frivolous lawsuits," Dooley said in a statement.

The Senate does not yet have its own version of the bill, but it is scheduled to receive the House bill Monday. Sources say Sen. Frank Lautenberg (D-NJ), a staunch supporter of stricter chemical facility standards, will introduce a Senate version of the bill this year.