

Toxic Koch: Keeping Americans at Risk of a Poison Gas Disaster

In 2010 Koch Industries and the billionaire brothers who run it were exposed as a major funder of front groups spreading denial of climate change and a key backer of efforts to roll back environmental, labor, and health protections at the state and federal levels. Through enormous campaign contributions, an army of lobbyists, and funding of think tanks and front groups, David and Charles Koch push their agenda of a world in which their company can operate without regard for the risks they pose to communities, workers, and the environment. This report, Toxic Koch: Keeping Americans at risk of a Poison Gas Disaster, examines how Koch Industries has quietly played a key role in blocking yet another effort to protect workers and vulnerable communities; comprehensive chemical security legislation.

Since before the September 11, 2001 attacks, security experts have warned of the catastrophic risk that nearly every major American city faces from the bulk storage of poison gasses at dangerous chemical facilities such as oil refineries, chemical manufacturing facilities, and water treatment plants. Nevertheless, ten years later, thousands of facilities still put more than 100 million Americans at risk of a chemical disaster. According to the company's own reports to the EPA, Koch Industries and its subsidiaries Invista, Flint Hills, and Georgia Pacific operate 57 dangerous chemical facilities in the United States that together put 4.4 million people at risk.

A coalition of more than 100 labor, environmental, and health organizations has advocated for comprehensive chemical security legislation that would help remove the threat of a poison gas disaster by requiring the highest risk facilities to use safer processes where feasible. Koch Industries and other oil and chemical companies have lobbied against legislation that would prevent chemical disasters, despite repeated requests from the Department of Homeland Security (DHS) and the Environmental Protection Agency (EPA) for disaster prevention. Instead Koch favors an extension of the current, weak Chemical Facility Anti-Terrorism Standards (CFATS) that exempt most facilities and actually prohibit the authority of DHS to require safer processes. As in other policy areas, Koch's huge efforts have gone largely unnoticed. An analysis of lobbying disclosure records reveals that since 2005, Koch has hired more lobbyists who lobbied on chemical security issues than the largest chemical companies such as Dow and Dupont. Koch lobbyists even outnumber those at trade associations including the Chamber of Commerce and American Petroleum Institute - only the American Chemistry Council hired more.

Koch campaign contributions also reveal the company's influence over the chemical security debate in Washington DC. All of the key Senators and Representatives who have taken a lead role during the last year in pushing legislation that supports Koch's chemical security agenda have received Koch campaign contributions. The House members who introduced two bills that would

extend CFATS without improvements and block the DHS from requiring safer processes for seven years have all taken KochPAC contributions over the last three election cycles, including Representatives Tim Murphy (R-PA), Gene Green (D-TX), Peter King (R-NY) and Dan Lungren (R-CA). And all of the cosponsors of similar legislation in the Senate - Senators Susan Collins (R-ME), Rob Portman (R-OH), Mary Landrieu (D-LA), Mark Pryor (R-AR), and before his retirement, George Voinovich (R-OH) - received KochPAC contributions during their most recent elections. As Congress debates how to protect Americans from dangerous chemical facilities, Koch is once again opposing disaster prevention legislation, despite the enormous risk its facilities pose to communities, workers, and the environment.

1. The Problem

As of July 2011, the Department of Homeland Security (DHS) has identified 4,069 “high risk” domestic chemical facilities. Many of these facilities are located in densely populated areas with stockpiles of hazardous chemicals that threaten hundreds, thousands, or, in some cases, millions of people with unnecessary risks.

As an interim measure, in 2006 Congress directed the DHS to establish a stopgap chemical security program until comprehensive legislation could be enacted. As a result the DHS created the Chemical Facilities Anti-Terrorism Standards (CFATS) in the fall of 2007. The program was meant to expire after three years and since then major flaws have been identified including:

- (1) Hundreds of “port facilities” and 2,400 water treatment plants are exempt from regulation;
- (2) Facilities are not required to consider safer chemical processes where feasible because the DHS cannot require that specific security measures be implemented at chemical facilities;
- (3) Chemical facility workers are not included in the site security assessment process.

In part, the chemical industry’s lock-step opposition to changing the program has frustrated lawmakers who would add teeth to CFATS. Chemical trade associations and individual companies have flooded Capitol Hill with lobbyists and campaign donations in an effort to deter any such action. This report documents the activities of one of these companies, Koch Industries, and its unique role in blocking comprehensive chemical security legislation. Koch Industries is also a private corporation meaning that it is not subject to stockholder accountability.

This report shows how Koch Industries has helped to derail the enactment of a prevention oriented chemical security program with targeted lobbying activities and campaign donations. Where the company could have feasibly implemented safer chemical processes, many of Koch Industries’ facilities continue to stockpile ultra hazardous chemicals. Koch Industries not only refuses to use safer

available chemical processes, but it also pressures Congress to perpetuate weak security standards that do not require the use of safer chemical processes.

2. Koch Industries' Dangerous Chemical Facilities

Koch Industries operates 57 dangerous chemical facilities nation-wide (Appendix A). These facilities are dangerous because they stockpile huge quantities of toxic gases and flammable chemicals that put entire communities outside the fence-line at risk of death or injury in the event of a release.¹ In most cases, the risk is preventable, as there is a growing universe of proven safer alternatives for dangerous chemical processes (see CAP's Preventing Toxic Terrorism report)² Implementing these safer alternatives can reduce or even eliminate the number of people threatened by a facility's toxic chemicals.

A few chemical companies have taken steps to move away from their dangerous processes. One example is the Clorox Company, which announced in 2009 that it would convert all of its bleach manufacturing processes from using elemental chlorine gas, to high-strength bleach.³ With this change Clorox will no longer endanger approximately 13 million Americans (Chemical Security 101, pp. 29-45).⁴ Koch Industries, whose chemical facilities currently endanger over 4.4 million Americans, has not embraced this view and openly opposes inherently safer technologies (IST) requirements.⁵ Koch claims that the implementation of safer chemical process requirements will put the industry at a "competitive disadvantage".⁶

The implementation of safer processes is especially relevant for Koch as one of its facilities puts 1.8 million people at risk of injury or death and another seven put more than 100,000 people at risk each. (See Appendix A for a full list of Koch's facilities). This section profiles dangerous chemical facilities operated by Koch Industries and its subsidiaries Flint Hills, Georgia-Pacific and Invista.

Koch Industries' Flint Hills:

¹ Orum, Paul, "Chemical Security 101: What You Don't Have Can't Leak, or Be Blown Up by Terrorists," *Center for American Progress*. (November 2008), accessed 05/03/11
http://www.americanprogress.org/issues/2008/11/pdf/chemical_security.pdf

² Orum, Paul, "Preventing Toxic Terrorism: How Some Chemical Facilities Are Removing Danger to American Communities," *Center for American Progress* (April 2006), accessed 05/03/11
http://www.americanprogress.org/issues/2006/04/b681085_ct2556757.html/chem_survey.pdf

³ "Clorox Announces Plans to Begin Transitioning U.S. Operations to High-Strength Bleach," *The Clorox Company*, (11/02/09), accessed 05/03/11
<http://investors.thecloroxcompany.com/releasedetail.cfm?releaseid=420583>

⁴ Orum, Paul, "Chemical Security 101: "What You Don't Have Can't Leak, or Be Blown Up by Terrorists."

⁵ "Chemical Safety," Koch Industries, accessed 05/03/11
<http://www.kochind.com/ViewPoint/chemicalSafety.aspx>

⁶ *ibid.*: "if CFATS is not extended and an IST mandate is put in place, the nation's manufacturing industry would be placed at a significant competitive disadvantage. Any legislation considered by the Committee on Homeland Security or on the Senate floor needs to take into account the regulatory and economic impact on the manufacturing industry in the U.S."

Koch Industries operates ten high-risk chemical facilities under its Flint Hills subsidiary (Appendix A). Nine of these facilities stockpile flammable chemicals such as butadiene, butane, and/or propylene. One, the Flint Hills Resources, LP-CC West Refinery in Corpus Christi, TX stores hydrofluoric acid (HF), a Toxic Inhalation Hazard (TIH) chemical. The plant's stockpiles of HF endanger 350,000 people.

The community that lives with this disaster risk is made up of historically marginalized citizens. According to the Political Economy Research Institute (PERI), 84.5% of residents in the immediate vicinity of the plant identify as a "minority" and 36.4% live below the poverty line.⁷ For comparison, in 2006 the percentage of the US population that identified as a "minority" was 31.8% while those living below the poverty line were estimated at 12.9% of the population (PERI Technical Notes: Top 100 Air Polluters Index).⁸

Flint Hills uses HF to refine gasoline. In February of 2011, the Center for Public Integrity (CPI) and ABC News jointly released a series on hydrofluoric acid and the danger that the chemical poses to workers and communities. CPI noted that among the country's aging refineries, "over the past five years authorities have cited 32 of the 50 refineries using HF for willful, serious or repeat violations of rules designed to prevent fires, explosions, and chemical releases."⁹ In 2001, Koch Industries was fined \$20 million for criminal violations of the Clean Air Act at its Corpus Christi refinery for releasing enormous quantities of Benzene, a known human carcinogen and then conspiring to cover it up.¹⁰

In a release scenario at the Flint Hills facility, those exposed to HF would experience symptoms of varying severity. Ingestion, inhalation, or extensive exposure to the skin can result in the lungs filling with fluid (pulmonary edema) and/or death. Other side effects can include severe damage to the eyes, vomiting, abdominal pain, painful lesions, throat irritation, cough, and lung injury.¹¹¹² For an in depth look at human exposure to HF (see Appendix F).

⁷ "Koch Industries," Political Economy Research Institute (PERI), accessed 05/18/11 <http://data.rtknet.org/tox100/2010/index.php?search=yes&database=t1&detail=1&dtype=T&reptype=a&company1=&company2=13671&chemfac=fac&advbasic=bas&sortp=nonwhite>

⁸ "Technical Notes: Toxic 100 Air Polluters Index," Political Economy Research Institute (PERI), accessed 05/18/11 http://www.peri.umass.edu/tech_notes

⁹ Morris, Jim and Hamby, Chris. "Use of Toxic Acid Puts Millions at Risk," in *iWatch News* (Center for Public Integrity 02/24/11), accessed 05/18/11

<http://www.iwatchnews.org/2011/02/24/2118/use-toxic-acid-puts-millions-risk/page/0/1>

¹⁰ "Koch Pleads Guilty to Covering Up Environmental Violations at Texas Oil Refinery," U.S. Justice Department, (04/09/01), accessed 08/03/11

<http://www.justice.gov/opa/pr/2001/April/153enrd.htm>

¹¹ "Hydrofluoric Acid: Chemical Safety Information," Environmental Health and Safety (University of North Carolina), accessed 05/18/11 <http://ehs.unc.edu/environmental/docs/hydrofluoricacid.pdf>

¹² "Hydrogen fluoride is a corrosive colorless fuming liquid or gas with a strong irritating odor. It is used in etching glass and in making other chemicals and refining gasoline. Breathing the vapor causes extreme respiratory irritation (with cough, fever, chills, and tightness) that may be fatal. Contact can severely burn the skin and eyes, resulting in permanent eye damage or blindness. Long-term exposure may damage the liver and kidneys, and causes fluorosis, with symptoms of weight loss, malaise, anemia, and osteosclerosis." Orum, Paul, "Chemical Security 101: What You Don't Have Can't Leak, or Be Blown Up by Terrorists," *Center for American Progress*. (November 2008) p.50

By transitioning to an alternative chemical process, Koch Industries can reduce the danger that the Flint Hills refinery poses to the La Porte community. The best option currently available is a solid acid catalyst, such as the InAlk¹³ product, that eliminates the need for HF.¹⁴ Transitioning to this alternative would eliminate the risk of a catastrophic release of the HF catalyst. If this Flint Hills refinery along with the 49 other refineries that use HF were to convert to these alternatives, millions of lives would no longer be at risk from a release of this chemical. This technology is on the market by more than one company and yet Koch is unwilling to change its process to make its facility more secure.

Georgia-Pacific Corporation: The Georgia-Pacific Corporation, acquired by Koch Industries in 2005, is a producer and distributor of paper products. Georgia Pacific operates nineteen hazardous facilities (Appendix A). Of these nineteen, three facilities each put more than 100,000 Americans at-risk:

Georgia Pacific Operation	Number of people at Risk
Palatka Operations (Palatka, FL)	148,315
Consumer Products (Camas, WA)	400,000
Port Hudson Operations (Zachary, LA)	520,000

At these three facilities, Georgia Pacific stores large amounts of chlorine dioxide used in the paper bleaching process, which puts workers and nearby communities at risk.¹⁵

Chlorine dioxide can affect people in a variety of ways. In lower workplace exposures the Occupational Safety and Health Administration (OSHA) warns that:

Chlorine dioxide is a severe respiratory and eye irritant... Inhalation can produce coughing, wheezing, respiratory distress, and congestion in the lungs... Irritating effects in humans was intense at concentration levels of 5 ppm. Accidental exposure at 19 ppm of the gas inside a bleach tank resulted in the death of one worker (time of exposure is not specified).

These side effects were observed at only ambient workplace levels. In a catastrophic release of chlorine dioxide, the gas could be more concentrated leading to more severe reactions. Skin irritation, tissue and/or cellular damage,

¹³ Hamby, Chris, "New Oil Refinery in South Dakota Says it will Use Alternative to Toxic Acid," in *iWatch News* (Center for Public Integrity, 03/28/11), accessed 05/03/11 <http://www.iwatchnews.org/2011/03/28/3798/new-oil-refinery-south-dakota-says-it-will-use-alternative-toxic-acid>

¹⁴ "alkylation," The Honeywell Company, accessed 08/03/11 <http://www.uop.com/processing-solutions/refining/gasoline/#alkylation>

¹⁵ For more information on the use of Chlorine Dioxide in paper bleaching see, Thornton, Joe, *Pandora's Poison* (MIT Press: Cambridge 2000) pp. 264, 321-324, 378-382 http://www.amazon.com/Pandoras-Poison-Chlorine-Environmental-Strategy/dp/0262700840/ref=sr_1_1?ie=UTF8&qid=1314131563&sr=8-1

visual disturbances, the lungs filling with fluid (pulmonary edema), and death are all in the realm of possible reactions.¹⁶

There are safer chemical processes that can mitigate or prevent catastrophic releases of chlorine dioxide. Paper can be bleached with an oxygen-based process using ozone or hydrogen peroxide.¹⁷ These processes can be completed without chlorine dioxide, which could eliminate the risk of a catastrophic disaster at these Georgia Pacific facilities.¹⁸

INVISTA S.a.r.l.:

Invista, another Koch company, is a producer of resin and fibers intermediaries. The company was founded as a DuPont subsidiary in 2003 and acquired by Koch soon afterwards in 2004. Invista operates four dangerous facilities, the most dangerous of which is the INVISTA Intermediates Plant in LaPorte, TX. This facility puts an estimated 1,889,251 people at risk with its use of a formaldehyde process.

In its short corporate existence, Invista has earned a reputation for poor environmental stewardship. In April of 2009, for example, the Justice Department and EPA ordered Invista to pay \$1.7 million for an estimated 680 water, air, hazardous waste, emergency planning and preparedness, and pesticide violations. It was estimated that the company would have to spend an additional \$500 million to correct these violations.¹⁹

The La Porte, TX plant uses formaldehyde in the production of spandex fibers. Aside from its acute risk, studies have indicated that workers exposed to formaldehyde on a regular basis are at an increased risk of cancer.²⁰ Koch Industries is a high-profile critic of these studies and any government regulation of formaldehyde.²¹

Symptoms of formaldehyde exposure can vary based on factors such as the gas' concentration level. At low exposure rates, .1-5 ppm, formaldehyde can cause eye irritation, skin irritation, or respiratory tract irritation. At more elevated concentrations, 5-20 ppm, can cause burning of the eyes, tears, and breathing problems. In even higher concentrations, 20-100 ppm, formaldehyde can cause

¹⁶ "Material Safety Data Sheet: Chlorine Dioxide," Resonant Bio Sciences, accessed 05/18/11, <http://www.puremash.com/pdfs/MaterialDataSheetClO2.pdf>

¹⁷ Orum, Paul, "Chemical Security 101, What You Don't Have Can't Leak, or Be Blown Up by Terrorists." p.15

¹⁸ "Pulp Fiction: Chemical Hazard Reduction at Pulp and Paper Mills," U.S. PIRG, accessed 08/23/11 <http://www.uspirg.org/home/reports/report-archives/healthy-communities/healthy-communities/pulp-fiction-chemical-hazard-reduction-at-pulp-and-paper-mills>

¹⁹ Wolters, Levi, "Invista to correct EPA violations," in *Wichita Business Journal*, 04/03/09, accessed 05/18/11, <http://www.bizjournals.com/wichita/stories/2009/04/13/daily13.html>

²⁰ "Formaldehyde and Cancer Risk," National Cancer Institute at the National Institutes of Health, accessed 05/18/11 <http://www.cancer.gov/cancertopics/factsheet/Risk/formaldehyde>

²¹ Grandia, Kevin, "Koch Industries Funds Attack on Science Linking Formaldehyde and Cancer," *the Huffington Post* (08/07/10), accessed 05/18/11, http://www.huffingtonpost.com/kevin-grandia/koch-industries-funds-att_b_707616.html

the chest to tighten, an irregular heartbeat, severe lung irritation, the lungs to fill with fluid (pulmonary edema), and death.^{22/23}

The danger that Invista's La Porte plant poses to the community is unnecessary. Koch can reduce the overall risk to the community by improving the plant's pipeline delivery capabilities. In this arrangement, formaldehyde can be synthesized on an as-needed basis, eliminating the need for bulk storage of the chemical and the accompanying risks.

3. Koch lobbying on Chemical Security Legislation

On its website, Koch Industries clearly states its position on chemical security legislation (Appendix C). Koch unambiguously advocates for a permanent extension of the flawed Chemical Facility Anti-Terrorism Standards (CFATS), and against comprehensive legislation that the House of Representatives passed in 2009 (H.R. 2868). In delivering its criticisms the company has used misleading information and made factual errors.

Koch falsely claims that in the House passed bill "the IST ["inherently safer technologies"] provision would require manufacturers to use certain products and processes without regard for practicality, availability or cost." Koch's first error is that the term "inherently safer technologies" does not appear anywhere in the legislation. Instead, the bill refers to the implementation of safer processes as "methods to reduce the consequences (MRC) of a terrorist attack on [a] chemical facility."²⁴ H.R. 2868 represented a compromise that would have made only the highest risk plants subject to conditional requirements to use safer processes where feasible and cost effective. Other conditions in H.R. 2868 include that MRC must reduce the risk to human health; must not shift the risk of a chemical release to another facility; can be practically applied to a facility and do not cause the chemical facility undue economic strain. In other words, the bill explicitly allows owners and operators of chemical facilities to factor in practicality, cost, and availability before transitioning to safer chemical processes of their choosing.

Koch also makes the unsupported claim that "mandating IST would result in even more job losses and higher consumer prices as American manufacturers struggle to comply with the new regulations and compete with overseas manufacturers." (Appendix C) Koch references no study or academic analysis to support this assertion. However, Greenpeace tested Koch's concern over

²² "Formaldehyde Safety Fact Sheet," SafetyDirectory.com, August 2004, accessed 05/18/11, http://www.safetydirectory.com/hazardous_substances/formaldehyde/fact_sheet.htm

²³ "Formaldehyde is a flammable, colorless gas with a pungent, suffocating odor. It is used in manufacturing plastics and other chemicals, such as adhesive resins in particleboard plywood, foam insulation, and other products. Acute exposure irritates and burns the skin, eyes, nose, mouth, and throat. Higher levels can cause a build-up of fluid in the lungs (pulmonary edema) or a spasm in the windpipe, either of which may be fatal. Chronic exposure may cause both an asthma-like allergy and bronchitis with symptoms of coughing and shortness of breath. Formaldehyde causes cancer of the nasal passages in animals and is a probably carcinogen. Orum, Paul, "Chemical Security 101, What You Don't Have Can't Leak, or Be Blown Up by Terrorists." p. 49

²⁴ The Chemical and Water Security Act of 2009, H.R. 2868, 111th Cong. (2009), available via Thomas: <http://thomas.loc.gov/cgi-bin/query/F?c111:3:./temp/~c111dGKAkq:e665>:

employment by commissioning an independent economic analysis of H.R. 2868, performed by Management Information Services, Inc. (MISI).²⁵ The analysis projects the effects of H.R. 2868 on the job market and economy as a whole. The firm drew two conclusions: “we estimate that H.R. 2868 will create a total gross sales impact of almost \$2 billion in the first year of 2011 and account for about 8,000 jobs.” To put it more simply, H.R. 2868 would produce a moderate economic stimulus and result in job creation not loss.²⁶

Another misleading claim from Koch Industries’ chemical security policy statement is that, “during this time not one incident of terrorism has occurred” (Appendix C). The danger of this argument is that it directs attention away from the real issue: terrorists are actively seeking opportunities to attack our chemical infrastructure, and a single successful attack could be catastrophic for millions of Americans. . In the immediate aftermath of 9/11, for example, it was discovered that the hijackers’ ringleader, Mohammed Atta, may have been interested in staging an attack on a chemical facility that stockpiled 250 tons of Sulfur Dioxide, a chemical of interest regulated under CFATS.²⁷ More recently, the Lashkar-i-Taiba terrorist network, the group responsible for the 2008 Mumbai attacks, had terrorists conduct surveillance operations on a high-risk chemical facility in Maryland.²⁸ Information from the journal of Osama Bin Laden has revealed Al Qaeda’s interest in attacking the American rail system, the most common method used to transport hazardous chemicals throughout the country.²⁹ The Department of Homeland security has also issued a warning to utilities, including water treatment facilities that use chlorine gas, that their facilities may be victims of an insider attack.³⁰ The assumption that because terrorists have not yet attacked a U.S. chemical facility, they will not do so is simply wishful thinking.³¹ To truly end the catastrophic threat that chemical facilities pose to communities we must eliminate any possibility of a chemical disaster, terrorist induced or accidental.

²⁵ “Select Publications,” Management Information Services, Inc., accessed 05/03/11 <http://www.misi-net.com/publications.html>

²⁶ “Economic and Employment Benefits of the Chemical and Water Security Act of 2009 (H.R. 2868),” Management Information Services, Inc., accessed 05/03/11 <http://www.misi-net.com/publications/HR2868-0710.pdf>

²⁷ Grimaldi, James V. and Gugliotta, Guy, “Chemical Plants Feared as Targets,” *Washington Post* (12/16/01), accessed 05/03/11 <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A49430-2001Dec15>

²⁸ Rotella, Sebastian, “The Man Behind Mumbai,” *Pro Publica* (11/13/10), accessed 05/03/11 <http://www.propublica.org/article/the-man-behind-mumbai>

²⁹ Dozier, Kimberly, “Osama Bin Laden Journal Seized During Raid,” *Huffington Post* (05/11/11), accessed 05/11/11 http://www.huffingtonpost.com/2011/05/11/bin-laden-journal-seized-us-raid_n_860662.html

³⁰ Ross, Brian and Schwartz Rhonda, and Chuchmach, Megan, “New Terror Report Warns of Insider Threat to Utilities,” *ABC News* (07/20/11), accessed 07/21/11 <http://abcnews.go.com/Blotter/terror-alert-warns-insider-threat-infrastructure/story?id=14118119>

³¹ In 2007, thefts of 150-lb. chlorine tanks were reported. The Chlorine Institute warned U.S. government officials that these tanks could be used as terrorist weapons. Hall, Mimi “Chlorine Bombs Pose New Terror Risks,” *USA Today* (04/24/07), accessed 08/23/11 http://www.usatoday.com/news/washington/2007-04-23-chlorine-truck-bomb_N.htm

Koch Industries' Toxic Lobbyists:

To achieve its goal of extending the weak CFATS program, Koch Industries uses its in-house lobby shop, Koch Companies Public Sector, to pressure Congress directly. The company has also hired eleven other firms (at a total of forty-five individuals) to lobby on chemical security legislation since 2005. An analysis of lobbying disclosure records from major companies and industry groups reveals that Koch Industries has played a central role in stalling chemical security legislation. Indeed, Koch has hired more lobbyists who worked on chemical security than its largest peer companies, including chemical industry heavyweights such as Dow and Dupont. Koch's chemical security lobbyists outnumbered even industry trade groups such as the Chamber of Commerce and American Petroleum Institute; the only group that listed more lobbyists on chemical security was the American Chemistry Council, which purports to represent the entire chemical industry sector.

All data are taken from publicly available lobbying disclosure forms available at the Clerk of the House of Representatives' website (Appendix B).³²

(Chart 1.0 number of lobbyists employed in a given year.)

	2005	2006	2007	2008	2009	2010	2011
ACC	1	16	23	21	25	22	25
Koch Industries	11	17	10	27	25	20	16
Chamber of Commerce	0	0	0	11	19	19	11
API	0	5	2	5	18	15	16
NPRA	7	9	3	7	7	6	3
SOCMA	4	6	4	6	9	7	3
Dow	1	8	3	2	1	7	5
BASF	1	10	6	3	2	3	0
DuPont	0	5	2	7	4	4	3
NACD	3	3	1	1	2	2	1

Chart 1.0 shows the number of lobbyists that a company or trade association hired each year to influence chemical security legislation. The data indicates that the American Chemistry Council (ACC) typically hires the most lobbyists on this policy matter. One important qualification is that the ACC is a chemical industry trade association and purports to represent the collective interests of chemical manufacturers. According to its website, more than 150 distinct chemical companies pay membership dues for the ACC's services (including household names such as Dow Chemical and DuPont).

Koch Industries, a single corporation, is consistently a close second in the number of lobbyists that it sends to Capitol Hill on chemical security. In some cases, Koch actually out-lobbies the ACC, as was the case in 2008. By comparison, peer companies of Koch Industries such as BASF, the Dow

³² "Lobbying Disclosure" *Office of the Clerk (U.S. House of Representatives)*, accessed 05/03/11 <http://lobbyingdisclosure.house.gov/>

Chemical Company, and DuPont have never reported an equivalent lobbying force.

Aside from the ACC, Chart 1.0 shows the lobbying forces of five other trade associations. These are the American Petroleum Institute (API), the Society of Chemical Manufacturers and Affiliates (SOCMA), the Chamber of Commerce, the National Petrochemical Refiners Association (NPRA), and the National Association of Chemical Distributors (NACD). Each of these organizations, like ACC, purports to represent the policy interests of its chemical and petrochemical industry members.

Koch leaves no room for interpretation of its lobbying activities. The company is engaged in efforts to extend the flawed CFATS program for as long as possible, and avoid any requirements that its facilities make changes that would protect nearby communities from a poison gas disaster. The fact that Koch as a single corporation sends more lobbyists to Capitol Hill than chemical industry trade associations and its peer companies is indicative of the investment the company has made in stalling comprehensive legislation. American communities remain at risk of a chemical disaster in no small part because Koch has used its vast resources to stall disaster prevention legislation.

4. Koch Industries' Toxic Money

In conjunction with its direct lobbying efforts, Koch Industries also exerts influence over lawmakers with campaign contributions to members of Congress and candidates who will support the company's opposition to protective environmental and worker safety standards (Appendix A). Among the politicians that Koch funds is a bipartisan group of well-placed lawmakers with sway over chemical security legislation. These politicians generally sit on one of the three primary committees with jurisdiction over chemical security policy; these are the Energy and Commerce and Homeland Security Committees (in the House of Representatives) and Homeland Security and Governmental Affairs Committee (in the Senate).

Each of the key Senators and Representatives who have taken a lead role over the last year in pushing legislation that supports Koch's agenda of blocking comprehensive chemical security legislation have received Koch campaign contributions. In 2010, Senators Susan Collins (R-ME), George Voinovich (R-OH), Mary Landrieu (D-LA), and Mark Pryor (D-AR) introduced legislation that would extend the flawed temporary CFATS law and fail to require any disaster prevention at the highest risk chemical plants, while leaving thousands of hazardous oil refineries and water treatment plants exempted. In March 2011, the legislation was reintroduced with minor changes, and Senator Rob Portman (R-OH) replaced Senator Voinovich as a cosponsor, who retired in 2010. Koch Industries' praised the 2010 legislation as an "encouraging effort."

All five Senators who sponsored this Koch-backed legislation received KochPAC campaign contributions in their most recent election. Since 2005, KochPAC has given Senator Landrieu and her PAC \$36,500, Senator Pryor and his PAC \$30,000, and Senator Voinovich's PAC \$15,000. Senator Collins

received \$6,000 from KochPAC during her 2008 reelection campaign, while Senator Portman's 2010 election campaign enjoyed contributions from both KochPAC and the Koch Brothers' families; \$10,000 from KochPAC and \$2400 each from David and Charles Koch, their wives Julia and Elizabeth, and Charles' son Chase and his wife Annie, for a total of \$24,400.

In the House of Representatives, the members who introduced legislation in line with Koch's chemical security policy objectives have each received tens of thousands of dollars from KochPAC. In the House Homeland Security Committee, HR 901 was introduced by Rep. Peter King (R-NY), the Chairman of the House Homeland Security Committee, and Dan Lungren (R-CA), Chairman of the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies, which has primary jurisdiction over chemical security policy. In the Energy and Commerce Committee, HR 908 was introduced by Rep. Tim Murphy (R-PA) and Rep. Gene Green (D-TX). The influence of Koch campaign contributions on chemical security legislation can also be seen in the May 26, 2011 Energy and Commerce Committee vote on HR 908. Twenty-nine of the thirty-three Energy and Commerce members whose votes supported Koch's agenda, including all five Democrats, have received contributions from KochPAC.³³

4.1 – House Committee on Homeland Security (Appendix H)

Total Koch Donations to HCHS Members (112th Congress - 2006-2010):
\$273,000

Koch Campaign Donations to Republican: \$237,500

Koch Campaign Donations to Democrats: \$35,500

(1) Representative Peter King (R-NY) –\$37,000 from KochPAC (2006-2010)
Chairman of the House Committee on Homeland Security (HCHS).³⁴

King put his weight behind a measure to extend the flawed CFATS program for seven years, H.R. 901, as the bill's cosponsor.³⁵ H.R. 901 will not require the most hazardous facilities to implement safer chemical processes where feasible.

Interestingly, King has not always been against disaster prevention. In 2006, King was quoted in Congressional Quarterly as saying that legislation "should not

³³ Hamburger, Tom, and Hennessey, Kathleen, and Banerjee, Neela, "Koch Brothers Now at Heart of GOP Power," *Los Angeles TIMES* (02/06/11), accessed 08/23/11
<http://articles.latimes.com/2011/feb/06/nation/la-na-koch-brothers-20110206>

³⁴ "Committee on Homeland Security," *U.S. House of Representatives*, accessed 08/23/11
<http://homeland.house.gov/>

³⁵ "H.R. 901, Cosponsors," *The Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:HR00901:@@P>. "H.R. 901, Bill Text" *The Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.901:>

preclude chemical conversions to inherently safer technology, or IST”³⁶ and voted along with his committee for H.R. 5695 which became the basis for the compromise adopted by the House in 2009 (H.R. 2868).

(2) Representative Dan Lungren (R-CA) –\$22,500 from KochPAC (2006-2010) Chairman of the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies.³⁷

Early in the 112th Congress Lungren wrote the seven-year extension of the flawed CFATS program, H.R. 901.³⁸ In Subcommittee, Lungren led the Republican majority to vote against Democratic amendments that would require facilities to assess their ability to convert to safer chemical processes, close regulatory loopholes, and involve non-management level workers in the chemical security process.³⁹ In 2006, however, he voted in committee for H.R. 5695 which became the basis for the compromise adopted by the House in 2009 (H.R. 2868).

4.2 – House Committee on Energy and Commerce (Appendix H)

Total Koch Donations to E&C Members (112th Congress – 2006-2010): \$622,100
Koch Campaign Donations to Republicans: \$523,100
Koch Campaign Donations to Democrats: \$99,000

(1) Representative John Shimkus (R-IL) – \$50,000 from KochPAC (2006-2010) Chairman of the Subcommittee on Energy and the Environment⁴⁰

Shimkus assured the passage of the flawed CFATS extension, H.R. 908, through his Subcommittee on May 4, 2011.⁴¹ In full mark-up Shimkus proposed an amendment to increase H.R. 908’s authorization from six to seven years.⁴²

³⁶ Deans, John, “Peter King: Chemical Security Hijacker,” *Greenpeace* (06/22/11), accessed 08/23/11 <http://www.greenpeace.org/usa/en/news-and-blogs/campaign-blog/peter-king-chemical-security-hijacker/blog/35413/>

³⁷ “Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies,” *U.S. House of Representatives*, accessed 08/23/11 <http://homeland.house.gov/subcommittee-3>

³⁸ “H.R. 901, Bill Text”

³⁹ “Mark Up: H.R. 901, ‘Chemical Facility Anti-Terrorism Security Authorization Act of 2011,’” *Committee on Homeland Security*, accessed 08/23/11 <http://homeland.house.gov/markup/markup-hr-901-chemical-facility-anti-terrorism-security-authorization-act-2011/>

⁴⁰ “Subcommittee on Energy and Environment” *U.S. House of Representatives*, accessed 08/23/11 <http://science.house.gov/subcommittee-energy-and-environment>

⁴¹ “Committee Votes: Environment and the Economy Subcommittee Markup on H.R. 908,” *U.S. House of Representatives*, accessed 08/23/11 <http://energycommerce.house.gov/news/PRArticle.aspx?NewsID=8544>

⁴² “Amendment to the Committee Print for H.R. 908, Offered by M_. Shimkus” *Library of Congress* accessed 08/23/11 http://republicans.energycommerce.house.gov/Media/file/Markups/FullCmte/052511/Shimkus_R10.pdf

Shimkus has opposed conditionally requiring dangerous chemical facilities to implement safer technologies even when feasible.⁴³ He has also voted against whistleblower protections and measures to close CFATS' regulatory loopholes.⁴⁴

(2) Representative Gene Green (D-TX) –\$18,500 from KochPAC (2006-2010)
Ranking Member of the Subcommittee on Energy and the Environment⁴⁵

Green cosponsored H.R. 908, a measure to extend the flawed CFATS program for a period of seven years.⁴⁶ Green's Houston area district, Texas-29, is home to 16 chemical facilities that each put more than one million people at risk. One of those facilities, Koch Industries' INVISTA plant in La Porte, puts 1.8 million people at risk of a catastrophic formaldehyde release (Appendix A).

In the 111th Congress Green voted for H.R. 2868, a comprehensive overhaul of CFATS that would have closed the regulatory gaps, conditionally required the implementation of safer processes, and involved workers in site security planning.⁴⁷ Green is one of only 11 other Democrats serving in the current House to receive campaign donations from Koch Industries in the 2010 election cycle (Appendix H).

(3) Representative Tim Murphy (R-PA) - \$15,000 from KochPAC (2008-2010)

Vice Chair of the Subcommittee on Energy and the Environment

Murphy introduced H.R. 908, a seven-year extension of the critically flawed CFATS program, along with Representative Gene Green. Murphy has opposed granting authority to the Department of Homeland Security to require specific security measures at chemical facilities, including safer chemical processes.

(4) Koch Democrats: \$79,000 from KochPAC (2006-2010)

Jim Matheson (D-UT) - \$25,500; John Dingell (D-MI) - \$10,000; Mike Ross (D-AR) – \$17,500; John Barrow (D-GA) - \$8,000

⁴³ "Washington Report: Legislative Affairs," American Water Works Association (12/28/10), accessed

<http://www.awwa.org/publications/StreamlinesArticle.cfm?itemnumber=55813&showLogin=N>

⁴⁴ "Committee on Energy and Commerce – 112th Congress Roll Call Vote, Waxman Amendment 1," *U.S. House of Representatives*, accessed 08/23/11

<http://republicans.energycommerce.house.gov/Media/file/Markups/Energy/052411/Recorded%20Votes/Waxman2718.pdf>

⁴⁵ "Subcommittee on Energy and Environment"

⁴⁶ "Bill Text, H.R. 908," *Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.908>:

⁴⁷ "House Vote on Passage: H.R. 2868 [111th]: Continuing Chemical Facilities Antiterrorism Security...", *GovTrack*, accessed 08/23/11

<http://www.govtrack.us/congress/vote.xpd?vote=h2009-875>

Representatives Matheson, Dingell, Ross, and Barrow broke rank with their fellow Democrats to vote for H.R. 908 in the Energy and Commerce Markup.⁴⁸ All four have received campaign funding from Koch Industries over the last three election cycles. In contrast, sixteen other Democrats voted against H.R. 901; of these sixteen only one member had received funding from Koch sources (Appendix H).

Representative Mike Ross has two dangerous Koch chemical facilities in his district (Appendix A).

4.3 – Senate Homeland Security and Governmental Affairs Committee (Appendix H)

Total Koch Donations to HSGAC Members (112th Congress –2006-2010):
\$224,300

Koch Campaign Donations to Republicans: \$121,800

Koch Campaign Donations to Democrats: \$92,500

Koch Campaign Donations to Independent: \$10,000

(1) Senator Susan Collins (R-ME) - \$6,000 from KochPAC (2006-2010)
Ranking Member of the Homeland Security and Government Affairs Committee (HSGAC).⁴⁹

Collins has introduced multiple bills backed by the oil and chemical industries that would significantly extend the flawed chemical security program.⁵⁰ Her most recent attempt, S. 473, is a three-year extension that will not address the fatal flaws with the CFATS chemical security program.⁵¹ Collins vehemently opposes any attempt to include even conditional requirements for dangerous chemical facilities to implement safer chemical processes.⁵²

Koch Industries has publicly endorsed Collins' chemical security legislation in the past (Appendix C).

⁴⁸ "Committee on Energy and Commerce – 112th Congress, Roll Call Vote, Final Passage," *Committee on Energy and Commerce*, accessed 08/23/11 <http://republicans.energycommerce.house.gov/Media/file/Markups/Energy/052411/Recorded%20Votes/FinalPassage.pdf>

⁴⁹ "Senate Committee on Homeland Security and Government Affairs," *U.S. Senate*, accessed 08/23/11 <http://hsgac.senate.gov/public/>

⁵⁰ "Bill Text, S. 2996," *Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/query/z?c111:S.2996.IS>:

⁵¹ "Bill Text, S. 473," *Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/query/z?c112:S.473>:

⁵² Collins, Susan, "Statement on Introduction of Continuing Chemical Facilities Antiterrorism Security Act of 2011," Senate Committee on Homeland Security and Governmental Affairs (03/03/11), accessed 08/23/11 http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=db43ceff-f3d4-417a-810d-36d2c5645fad

(2) Senators Mary Landrieu (D-LA) - \$35,000 from KochPAC and Mark Pryor (D-AR) - \$30,000 from KochPAC

Joining Sen. Susan Collins in her attempts to extend the weak chemical security program, CFATS, are Senators Mary Landrieu (D-LA) and Mary Pryor (D-AR) as cosponsors.⁵³ Senator Landrieu has received \$5,000 in direct campaign contributions with an additional \$30,000 to her leadership PAC from Koch Industries, since 2006. Senator Pryor has received \$10,000 to his campaign and an additional \$20,000 to his leadership PAC. Landrieu and Pryor rank second and third respectively on HSGAC in terms of campaign funding from KochPAC (Appendix H).

Pryor has two Koch facilities in his district that threaten 6,651 people and 36,129 people respectively with their holdings of chlorine dioxide and formaldehyde (Appendix A). Landrieu's district has three Koch facilities that put 49,500, 81,210, and 230,263 Louisianans at risk from an Anhydrous Ammonia or Chlorine Dioxide release (Appendix A).

(3) Senator Rob Portman (R-OH) - \$24,400

Soon after his election to the Senate, Senator Portman joined Collins as a cosponsor of S 473, aiming to extend the weak chemical security program.

Senator Portman received \$10,000 from KochPAC, and \$2400 each from David and Charles Koch, their wives Julia and Elizabeth, and Charles' son Chase and his wife Annie, for a total of \$24,400.

⁵³ "Cosponsors, S.473," *Library of Congress*, accessed 08/23/11 <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:SN00473:@@@P>

5. Conclusion

Koch Industries is engaged in activities to prevent the Department of Homeland Security (DHS) from using the best security methods of preventing poison gas disasters at dangerous chemical facilities. Koch's lobbying efforts speak to the substantial investment that the company has made in blocking the implementation of a truly protective chemical security program. Also campaign contributions from KochPAC and the Koch Brothers themselves are directed at the election campaigns of politicians who are now spearheading the company's chemical security agenda. Meanwhile, Koch Industries' facilities continue to put 4.4 million Americans at risk of a disaster at one of their chemical facilities.

Despite Koch's political machine working at full force, other members of Congress have introduced legislation that can fix the systemic problems in the CFATS program. Provisions in this legislation include:

- (1) conditional requirements for the most dangerous chemical facilities to implement safer chemical processes;
- (2) language that closes the regulatory loopholes which exempt arbitrary classes of chemical and petrochemical facilities
- (3) measures to include non-management level workers in the site security planning process, whistleblower protections, and safeguards against background check abuses
- (4) the necessary discretion for DHS to require specific security measures at chemical facilities

These provisions are necessary in any bill that would truly protect Americans from chemical disasters, and lawmakers must stop allowing Koch Industries and other oil and chemical companies to stand in the way of effective, comprehensive chemical security legislation.

Appendix A:
List of Koch Industries' High-Risk Chemical Facilities
[SEE ATTACHMENTS]

Appendix B

Methodology - Tracking Koch Lobbying Activities

Under current law any individual, lobbying firm, company, trade association, or special interest group that has spent or received funds for the purpose of influencing public policy must disclose information about these activities. The federal government requires that the total number of funds spent or received for lobbying activities, the area of lobbying (e.g., Clean Air and Water (Quality); Taxation/Internal Revenue Code; Government Issues), supplementary information on the individual legislation or legislative areas of interest, (e.g., “H.R. 2868, Chemical Facility Anti-Terrorism Act of 2009” or “chemical security”) and the names of individual lobbyists employed be filed on a quarterly basis. These lobbying disclosure forms are then made publicly available on the Federal Government’s Lobbying Disclosure Site in accordance with the current policy of the Clerk of the House.

The details which the government requires companies to disclose about their lobbying activities illuminate the broad range of stakes that corporations and public-interest groups have in the legislative process at any moment in time. For the purpose of this report, we have tracked the activities of Koch Companies Public Sector, the public policy arm of Koch Industries, on the issue of chemical security legislation. Our data collection is limited to lobbying activities that surround the Chemical Facilities Anti-Terrorism Standards (CFATS) legislation and any attempts at reauthorization or redefinition of this program in the period from January 2009 to the current day. Absent from this data set is information related to the transportation of hazardous chemicals such as chlorine gas by railroad or any other means. Although the security of chemicals in transit is an important issue with clear ramifications for CFATS, the legislative implications of the chemical transportation debate are beyond the scope of the current study.⁵⁴

In terms of lobbying disclosure forms, a lobbying organization may include the particular bill around which its lobbying efforts are directed as supplementary information. In several cases the data that lobbying firms have provided has required some interpretation as to whether or not the particular lobbying activity affects CFATS legislation. For the purpose of transparency, the following list represents the subject area and the supplementary terms used in the lobbying disclosure forms that we understand as relating to CFATS. These examples are taken from the forms filed by Koch Companies Public Sector and its contracted lobbying firms:

Cove Strategies:

Homeland Security – “issues related to chemical security legislation, including the Chemical Facility Anti-Terrorism Act of 2009 - entire bill”

Homeland Security – “the Chemical Facility Anti-Terrorism Act of 2009 (entire bill); Issues related to chemical security legislation”

⁵⁴ For further information on this topic see, “Hazardous Material Transportation,” *Association of American Railroads*, accessed 05/18/11 <http://www.aar.org/Safety/Hazmat.aspx>

Homeland Security – “the Chemical Facility Anti-Terrorism Act of 2009 (H.R. 2868)- Issues related to chemical security legislation”

Hunton & Williams LLP:

Homeland Security – “Issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009”

Homeland Security – “Issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009 (H.R. 2868); S. 2996, Continuing Chemical Facilities Anti-Terrorism Act of 2010”

Koch Companies Public Sector LLP:

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR 1389 Ammonium Nitrate Security Acto (sic) of 2005”

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR1389 Ammonium Nitrate Security Act of 2005, HR5695 The Chemical Security Anti-Terrorism Act of 2006”

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR1389 Ammonium Nitrate Security Act of 2005, HR5695 The Chemical Security Anti-Terrorism Act of 2006, HR 5441 Department of Homeland Security Appropriations Bill.”

Chemicals/Chemical Industry – “H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act, 2008 - chemical facility security issues, H.R. 1591, S. 965 - FY2007 Supplemental Appropriations bill - chemical facility security issues.”

Budget/Appropriations - "H.R. 2764 - Omnibus Spending Bill -- climate related provisions (Senate)/ secure handling of ammonium nitrate; Chemical Security Appropriations: H.R. 1591/S. 965 - FY2007 Supplemental Appropriations Bill-- chemical security provisions; H.R. 2643 - Department of the Interior, Environment, and related Agencies Appropriations Act, 2008--chemical security provisions; H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act, 2008--chemical security provisions."

Homeland Security - "H.R. 5577 - Chemical Facility Anti-Terrorism Act of 2008 - Provisions related to chemical security, inherently safer technology, manufacturing, and refining."

Homeland Security - "HR 5577 Chemical Facility Anti-Terrorism Act of 2008 -- chemical plant security, issues related to Motor Vehicle Fuels, including renewable fuels, Appendix 2103(b)(2)(g) Inherent Safer Technology provisions, 2113 Maritime Transportation Security Act exemption..."

Homeland Security - "HR 5533 Chemical Security Act - Appendix 2103 (b)(2)(g) Inherently Safer Technology provisions, 2113 MTSAs exemption, Chemical Security, oppose environmental mandates on chemical industry-IST provisions. HR 5577 Chemical Facility Anti-Terrorism Act -- Appendix 2103 (b)(2)(g) Inherent

(sic) Safer Technology provisions, 2113 MTSA exemption, issues related to manufacturing and refining, and entire bill.”

Homeland Security – “Issues related to manufacturing and refining, including H.R. 5577”

Homeland Security – “issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – “issues related to chemical security legislation, including discussion draft of H.R. 2868, the Chemical Facilities Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology. H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009.”

Homeland Security – “issues related to chemical security legislation, including discussion draft of H.R. 2868, the Chemical Facilities Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology. H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009, entire bill.”

Homeland Security – “H.R. 2868, Chemical Facilities Anti-Terrorism Act of 2009, entire bill. S. 569, Incorporation on Transparency and Law Enforcement Assistance Act, entire bill. S. 2996 the Continuing Chemical Facility Anti-Terrorism Security Act of 2010, entire bill.”

Mehlman Vogel Castagnetti Inc:

Energy/Nuclear - "...H.R. 5577 Chemical Facility Anti-Terrorism Act of 2008..."

Energy/Nuclear – “chemical plant security.”

Energy/Nuclear – “H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009.”

Chemicals/Chemical Industry – “H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009”

Chemicals/Chemical Industry – “H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009, S. 3588 Secure Chemical Facilities Act”

Chemicals/Chemical Industry – “Chemical Plant Security and the Chemical Facility Anti-Terrorism Program”

Siff & Lake LLP:

Homeland Security - "Title V, H.R. 5441, Fiscal Year 2007 Homeland Security Appropriations Act, S. 2145, "the Chemical Facility Anti-Terrorism Act of 2005."

Homeland Security - "Regulations implementing Section 550 of the FY 2007 Department of Homeland Security Appropriations Act regarding chemical facility security."

Homeland Security - "HR 5577, Chemical Facility Anti-Terrorism Act, Entire Bill."

Homeland Security – “Legislative Proposals to reauthorize the Chemical Facility Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – “S. 2996 the 'Continuing Chemical Facility Anti-Terrorism Standards Act,' entire bill; legislative proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – S. 473 the "Continuing Chemical Facility Anti-Terrorism Act" legislation to extend the Chemical Facility Anti-Terrorism Standards security program of the Department of Homeland Security, entire bill; Legislative proposals to reauthorize the Chemical Facility Anti-Terrorism Standards, provisions related to Inherently Safer Technology."

Hogan and Hartson LLP:

Homeland Security - Chemical Security, H.R. 5577, H.R. 5533

Homeland Security - Chemical Security, H.R. 5577, H.R. 5533, and inherently safer technology.

Homeland Security - monitor chemical security issues, H.R. 5577, H.R. 5533, and inherently safer technology.

Perceptum Consulting LLC:

Chemicals/Chemical Industry - "S. 2145, Chemical Facility Anti-Terrorism Act of 2005, all provisions."

Peter Loughlin:

Transportation - "H.R. 5577 pertaining to MTSA facilities"

Energy/Nuclear "...H.R. 5577 Chemical Facility Anti-Terrorism Act of 2008..."

Pyle Consulting Inc.:

Chemicals/Chemical Industry – “H.R. 1591/S. 965 - FY 2007 Supplemental Appropriations Bill - chemical security provisions, H.R. 2643 - Department of Interior, Environment and Related Agencies Appropriations Act, 2008 - chemical security provisions, H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act - chemical security provisions.”

The Rhoads Group:

Chemicals/Chemical Industry - "S.2145 Chemical Facility Anti-Terrorism Act of 2005-all matters; H.R. 5659 Chemical Facility Anti-Terrorism Act of 2006-all matters; S.1141 Secure Handling of Ammonium Nitrate Act of 2005-all matters; H.R. 1389 Ammonium Nitrate Security Act of 2005-all matters."

Chemicals/Chemical Industry - "H.R. 1591 - FY 2007 Supplemental Appropriations bill - Matters pertaining to chemical security regulations. S. 965 - FY 2007 Supplemental Appropriations bill - Matters pertaining to chemical security regulations. H.R. 2638 -Department of Homeland Security Appropriations Act, 2008 - Matters pertaining to chemical security regulations. S. 1644-Department of Homeland Security Appropriations Act, 2008-Matters

pertaining to chemical security regulations. H.R. 2643, Department of the Interior, Environment and Related Agencies Appropriations Act, 2008-Matters pertaining to chemical security regulations."

Although lobbying firms, corporations, and public interest groups are required to report the amount of money spent or received for lobbying purposes. The federal government only requires that these organizations disclose the total number of funds spent across all lobbying areas in each quarter. It is therefore beyond the scope of this study to determine the exact amount of money that Koch Industries has paid to influence chemical security policy versus internal revenue code revision, for example. It is possible, however, to compare Koch Industries' total lobbying expenditures with those of other members of the chemical industry. For instance, by comparing Koch Industries' total number of lobbyists and lobbying expenditures against trade organizations such as the American Petroleum Institute or rival chemical companies such as the Dow Chemical Company. It is possible to gauge the relative investment of each organization in influencing public policy across all sectors.

There are other limitations to using the recorded number of funds on lobbying disclosure forms that may underestimate an entity's total lobbying expenditures. Foremost, the Internal Revenue Service (IRS) and the Lobbying Disclosure Act (LDA) of 1995 define lobbying activities differently. The LDA, for instance, excludes state-level and grassroots lobbying, whereas the IRS definition includes these activities. In practice, the lack of a single authoritative definition has allowed trade associations to record their lobbying activities by either definition. Dramatizing this loophole, in July of 2010 a story in the *Washington Post* described how BP reduced its reported lobbying expenditures by \$100,000 through switching from one definition to the other.⁵⁵ This example and other attendant issues precisely illustrate the difficulty of measuring total lobbying expenditures of any entity.

With expenditures excluded as a measure of Koch Industries' influence on chemical security legislation, there is one item remaining: individual lobbyists. Because the federal government requires that the name of each lobbyist be associated with the area that he or she is lobbying in, it is possible to determine the total number of lobbyists that Koch Industries and its peer corporations employ to influence chemical security legislation. In order to draw conclusions from the data related to lobbyists, we have assumed that the number of lobbyists that a company employs in the area of chemical security is indicative of the company's interest in influencing chemical security legislation relative to other companies.

⁵⁵ Farnam, T.W., "BP's changing lobbying disclosure amount? It figures," *Washington Post* (07/22/10), accessed 05/18/11 <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/21/AR2010072106271.html>

Appendix C
Koch Industries
Policy Statement
<http://www.kochind.com/ViewPoint/chemicalSafety.aspx>

CHEMICAL SAFETY

Chemicals play an important role in many Koch companies' products and processes. From petrochemicals made by Flint Hills Resources that are key ingredients in plastics and packaging, to chemicals used by Georgia-Pacific to make building materials and paper, and INVISTA intermediates used for carpeting, apparel and more, chemicals are at the heart of many of our businesses.

While chemicals improve the quality of our lives, adding to our comfort, safety and security, the ones used in our facilities are handled with care and by trained professionals. By choosing to work with chemicals, Koch companies accept the responsibility and are committed to providing a safe, secure and healthy environment for our employees, our neighbors, our contractors and our customers.

Chemical Facility Anti-Terrorism Standards

Whether a company is manufacturing, storing or transporting chemicals, its processes and facilities can be vulnerable to human error, acts of nature, theft and sabotage. Although it is impossible to completely eliminate every threat, Koch companies' commitment to Principled Entrepreneurship™ places compliance and safety before profit and demands that we take appropriate precautions, in full cooperation with government authorities, to limit our vulnerability.

In 2007, the Department of Homeland Security under authority provided by Congress, set strict standards for chemical facility security through a regulation known as Chemical Facility Anti-Terrorism Standards or CFATS.

The CFATS regulation prompted a review of chemicals stored at nearly 40,000 facilities across the United States including warehouses and university laboratories. This review will determine whether these sites would present a high security risk because they possess or plan to possess chemicals that terrorists may use or target for acts of terrorism. As DHS completes its determination of which sites will be regulated, CFATS inspectors will inspect facilities to ensure compliance and will be empowered to apply strict penalties for regulatory violations. As of November 2009, nearly 2,000 facilities across the United States have been designated as presenting a high level of security risk, and more than 4,000 others are under final consideration for inclusion in the program.

Legislative Update

In November 2009, the House of Representatives narrowly passed new legislation that would fundamentally alter the CFATS program and increase cost and regulatory burden while shifting focus away from security and toward environmental considerations. Despite House approval, many members of Congress expressed concern about the cost

of this legislation to businesses, and the impact on manufacturing jobs. The Senate did not take action on this bill in 2009 and Congress approved and the President signed legislation providing a one-year extension of current CFATS authorities and regulations.

In 2010, Congress will again be forced to consider this issue due to the expiration of the one-year extension. An encouraging effort has emerged in the Senate with bi-partisan legislation sponsored by members of the Senate Homeland Security and Government Affairs Committee to extend the current CFATS program for five years. This is in sharp contrast to the House bill which would have given government the authority to mandate product substitution through a vague concept known as "inherently safer technology."

The IST provision would require manufacturers to use certain products and processes without regard for practicality, availability or cost. Mandating IST would result in even more job losses and higher consumer prices as American manufacturers struggle to comply with the new regulations and compete with overseas manufacturers. The bill will also restructure, and likely add additional cost to security programs currently in place for Koch companies' facilities whose security has been monitored and overseen by the United States Coast Guard since 2004. During this time not one incident of terrorism has occurred. The bill will also allow citizens or special interest groups to sue federal agencies in an effort to challenge security decisions made by the Department of Homeland Security.

Our position on chemical safety

In the current economic environment, regulatory and policy certainty is more critical than ever. Senate Bill 2996, "The Continuing Chemical Facilities Anti-Terrorism Standards Act of 2010," currently being considered will provide regulatory and policy certainty while building on the success of the current CFATS model in strengthening the safety and security of chemical facilities.

Koch companies supported the one-year extension of the current CFATS regulations signed by President Obama in 2009. We also support Senate Bill 2996 which would extend CFATS through October 2015 without imposing dramatic and costly interruptions to ongoing implementation efforts by business and government. This bill does not mandate onerous security measures such as IST, which fail to produce a marginal benefit relative to their significant cost. It also preserves the current exemption for facilities already regulated under the Maritime Transportation Security Act (MTSA), allowing the U.S. Coast Guard to continue their effective and robust implementation of that program.

If CFATS is not extended and an IST mandate is put in place, the nation's manufacturing industry would be placed at a significant competitive disadvantage. Any legislation considered by the Committee on Homeland Security or on the Senate floor needs to take into account the regulatory and economic impact on the manufacturing industry in the U.S.

Appendix D: SUMMARY

ECONOMIC AND EMPLOYMENT BENEFITS OF THE CHEMICAL AND WATER SECURITY ACT OF 2009 (H.R. 2868)

By Management Information Services, Inc June, 2010

- **2011: Creates 8,000 jobs with a total gross sales impact of almost \$2 billion**
- **2012-2020: Maintains 8,000 jobs each year with economic impact staying close to the \$1.9 to \$1.8 billion estimate**

Table 1. Economic and Employment Impacts Attributable to H.R. 2868

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Gross sales impact (million dollars)	1,953	1,870	1,779	1,813	1,813	1,813	1,813	1,813	1,813	1,813
Gross employment impact (thousands)	8	8	8	8	8	8	8	8	8	8
Net employment impact (thousands)	<1	<1	<1	<1	<1	<1	<1	<1	<1	<1

- **Top two sectors with positive economic impacts:**
 - ◆ **Chemical products: 14% of the economic impact**
 - ◆ **State and local government: 9% of the economic impact**
- **How: This bill acts as a stimulus through the public and private expenditures outlined below**

Table 2. Direct Annual Expenditures Attributable to H.R. 2868 (millions of dollars)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Title 1										
Conversion grants	100	75	50	50	50	50	50	50	50	50
DHS expenditures	225	225	225	233	233	233	233	233	233	233
Private matching and other expenditure	100	75	50	50	50	50	50	50	50	50
Total	425	375	325	333						
Title 2										
EPA/State government expenditures	30	31	31	32	32	32	32	32	32	32
Conversion assistance	125	128	130	133	133	133	133	133	133	133
Training grants	160	164	167	172	172	172	172	172	172	172
Owner matching and other expenditure	25	25	25	25	25	25	25	25	25	25
Total	340	347	354	362						
Title 3										
Conversion grants	150	150	150	150	150	150	150	150	150	150
Assistance and training grants	50	50	50	50	50	50	50	50	50	50
Owner matching and other expenditure	25	25	25	25	25	25	25	25	25	25
Total	225									
Programmatic Total	840	823	783	830						

Appendix E Koch Industries' Chemical Security Lobbyists

Koch Lobbyists registered on chemical security in period from 1/1/05 to 3/31/11:

Alex McGee (Georgia-Pacific Corp; Koch Companies Public Sector)
Alex Vogel (Mehlman, Vogel, Castagnetti, inc.)
Allen Thompson (Mehlman, Vogel, Castagnetti, inc.)
Andrew Siff (Siff & Cerda LLP; Siff & Lake LLP; Siff & Associates LLP)
Barry Rhoads (The Rhoads Group)
Brian Henneberry (Koch Companies Public Sector)
Brian Wild (Mehlman, Vogel, Castagnetti, inc.)
Bruce Mehlman (Mehlman, Vogel, Castagnetti, inc.)
Candida Perotti Wolff (Hogan & Hartson LLP)
Catherine Haggett (Koch Companies Public Sector)
Charles Wagner (Blank & Rome LLP)
Chris Granberg (Siff & Cerda LLP; Siff & Lake LLP; Siff & Associates LLP)
Colette Desmarais (Mehlman, Vogel, Castagnetti, inc.)
Colin Chapman (The Rhoads Group)
Cynthia Brown (Mehlman, Vogel, Castagnetti, inc.)
David Castagnetti (Mehlman, Vogel, Castagnetti, inc.)
David Thomas (Mehlman, Vogel, Castagnetti, inc.)
Dean Rosen (Mehlman, Vogel, Castagnetti, inc.)
Desiree Westby (Blank & Rome LLP; Koch Companies Public Sector)
Duncan Smith III (Blank & Rome LLP)
Elise Finley Pickering (Mehlman, Vogel, Castagnetti, inc.)
Foster Hasseldon (Siff & Lake LLP)
Heather Podesta (Blank & Rome LLP)
Jamie Hantman neé Brown (Mehlman, Vogel, Castagnetti, inc.)
Jane Barrett (Blank & Rome LLP)
Jeanne Grasso (Blank & Rome LLP)
Jeffrey W. Munk (Hogan & Hartson LLP)
Jonathan Hoganson (Mehlman, Vogel, Castagnetti, inc.)
Jonathan Waldron (Blank & Rome LLP)
Joseph C. Stanko jr. (Hunton & Williams, LLP)
Karin Hudson (Mehlman, Vogel, Castagnetti, inc.)
Kelly Bingel (Mehlman, Vogel, Castagnetti, inc.)
Mark Palazzo (Flint Hills Resources, LP)
Matthew Schlapp (Koch Companies Public Sector)
Peter Loughlin (Peter Loughlin)
Philip Ellender (Koch Companies Public Sector)
Rachel Kelly (Blank & Rome LLP)
Raymond Paul (Koch Companies Public Sector)
Rebecca Hawes (Koch Companies Public Sector)
Reid P. F. Stuntz (Hogan & Hartson, LLP)
Robert P. Hall (Invista)
Sean O'Neill (Siff & Lake LLP)
Stacey Rampy (Mehlman, Vogel, Castagnetti inc.)
Tanya Morrison (The Rhoads Group)
Thomas Pyle (Perceptum Consulting; The Rhoads Group; Koch Industries; Pyle Consulting)

Appendix F:
Effect of HF on Human Skin (PowerPoint Presentation)
[SEE ATTACHMENT]

Appendix H:
Koch Donations to Politicians
[SEE ATTACHMENT]