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Q&A on Safer Technologies Requirements in Sec. 2110 of H.R. 5577 “Chemical Facility Anti-Terrorism Act of 2008”

Does the bill require ALL chemical facilities to adopt methods “to reduce the consequences of a terrorist attack”?

No. This requirement only covers the high-risk (Tier 1) chemical facilities selected by the Department of Homeland Security (DHS). The bill also exempts facilities that can show that safer methods to reduce the consequences of an attack at their facility:

*** Will not significantly reduce the risk of death or injury or shift risks

*** Are not technically feasible

*** Will be too costly and impair the business of the plant

Will wastewater and drinking water facilities be included and therefore required to implement safer methods or technologies?

Yes. The bill does include wastewater and drinking water facilities. Only those water facilities that were designated in the highest risk tier by the DHS would be required to implement safer methods or technologies but even these would not be required unless there was federal funding to pay for the conversion. The bill authorizes \$100 million for fiscal year 2010 to implement safer methods and technologies with priority to be given to publicly owned water systems.

Will this requirement burden facilities with unacceptable costs?

No. A survey by the Center for American Progress identified 284 facilities that switched to safer methods since 1999. They found that 87 percent spent less than \$1 million, and one half reported spending less than \$100,000. And 34% of facilities expected “*cost savings or improved profitability.*” Washington, D.C. converted its sewage treatment plant within 90 days after the 9/11 attacks for less than \$0.50 per water customer per year.

Will this requirement result in job losses?

No. Plants that invest in the safety and security of their infrastructure invest in American communities and eliminate or reduce their: liability, regulatory costs and improve workplace safety. Major trade unions, such as the United Steelworkers, United Auto Workers, International Chemical Workers/UFCW and Communication Workers of America support the bill.

Will the use of safer technologies shift risks elsewhere?

No. The bill specifically prohibits the shifting of risks to other facilities.

Does the bill micro-manage chemical facilities by requiring them to adopt a specific safer technology?

No. Each high-risk facility is free to choose “any technology or process” that will reduce the consequences of a terrorist attack. The bill lists 12 different categories as examples but they are free to choose “any” method that reduces the consequences of an attack.

Should government require safer design and safer technologies to be used in the private sector?

Yes. The Federal Aviation Administration (FAA) has required airplane security and safety standards for decades. The feasibility and cost-effectiveness are balanced against security and safety needs. After 9/11 all commercial airliners were required to harden cockpit doors and X-ray machines for airline baggage were installed at hundreds of airports.

Is this requirement more appropriate for environmental legislation than security legislation?

No. In a February 27, 2008 statement the Association of American Railroads said, “It’s time for the big chemical companies to do their part to help protect America. They should stop manufacturing dangerous chemicals when safer substitutes are available. And if they won’t do it, Congress should do it for them in the Chemical Facility Anti-Terrorism Act of 2008.”

In 2006 the GAO (GAO-06-150), concluded that “Implementing inherently safer technologies potentially could lessen the consequences of a terrorist attack by reducing the chemical risks present at facilities, thereby making facilities less attractive targets.” And a June 2006 National Academy of Sciences study endorsed the adoption of safer technologies as “the most desirable solution to preventing chemical releases” from a terrorist attack.

Can different types of chemical facilities use safer methods to reduce the consequences of risks?

Yes. Eighty-nine percent of hazardous chemical facilities are users of chemicals rather than chemical makers. Users of hazardous chemicals can often switch to safer methods faster than makers of hazardous chemicals.

The DHS testified on February 26, 2008 that they expect their regulations to cover approximately 6,000 chemical facilities. Is it possible to address so many risks with safer methods?

Yes. According to the EPA, only four substances account for 55 percent of the processes that pose off-site consequences to communities. These substances are chlorine, ammonia, hydrogen fluoride and sulfur dioxide. All of these are among the 284 plants that have already converted since 1999 according to EPA data.