

Chemical Security Standards Bill Signed by President Bush

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On October 4, 2006, President Bush signed H.R. 5441, a fiscal year 2007 Department of Homeland Security ("DHS") appropriations bill. In addition to providing DHS with \$34.8 billion, the bill authorizes DHS to establish chemical security standards for high risk chemical plants and to mandate compliance with security requirements. It also requires DHS to establish risk- and performance-based standards to protect against terrorists. Chemical plants must create and implement site security plans after assessing their vulnerabilities and obtaining approval from DHS. The bill also requires DHS to issue interim final regulations. The 3,400 high-risk chemical plants subject to H.R. 5441's requirements would be subject to penalties or shut-downs for noncompliance.

The House and Senate both approved H.R. 5441 on September 29 – the House by a vote of 412-6 and the Senate by a voice vote. The bill's chemical security language was provided by the chairmen of the House and Senate Homeland Security Committees, following both committees' previous attempts to enact comprehensive security bills that eventually proved too controversial.

The chemical security language in the appropriations bill was criticized by environmental groups and some legislators for: failing to require inherently safer technology, safer chemicals and/or specific security measures; applying only to the highest risk facilities; failing to include deadlines for DHS to approve of security plans; omitting whistle-blower protection; and failing to require that workers help develop vulnerability assessments and plans. On the other hand, the chemical industry expressed approval of the bill as a good first step (prior to this year, no federal laws explicitly addressed the threat of terrorism activities at the nation's 15,000 chemical facilities), and other legislators believe that the provisions are reasonable and rightly exclude water utilities from coverage. Supporters are also pleased that the legislation is risk-based, eliminating the potential disparity of previous versions of the bill, which they say could have applied equally to small chemical users and large chemical plants.

We will be monitoring this legislation to determine how it may affect polyurethane manufacturers.

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