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Capitol Hill Aides: Chemical Security Legislation Unlikely for Now

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A Missouri chemical plant, shown in 2005. Capitol Hill staffers on Wednesday said lawmakers are unlikely in the "foreseeable future" to permanently authorize the Homeland Security Department's chemical security program (AP Photo/Rogelio Solis)

BALTIMORE -- Congress is unlikely to permanently authorize the Homeland Security Department's chemical security initiative for the "foreseeable future," despite recent reports that the program has made strides toward correcting problems with the program that have emerged over the past year, key Capitol Hill staffers said on Wednesday (see [GSN](#), Aug 1).

The DHS Chemical Facility Antiterrorism Standards program is meant to protect manufacturing plants and other U.S. sites from attacks that could release potentially lethal chemicals into the surrounding area.

The program has been under fire from the Republican-controlled House since an internal DHS memo detailing problems -- including a failure by department officials to conduct site security plan reviews -- was leaked to the news media late last year.

Prior to the internal memo being publicized, two House panels -- the Homeland Security Committee and the Energy and Commerce Committee -- approved two separate pieces of legislation that would have authorized the effort for seven years. So far, the initiative has

been renewed annually through the appropriations process.

However, efforts to extend the program long term lost momentum after news about the memo broke. House Republicans, particularly those on the Energy and Commerce Committee -- through which all chemical security legislation must pass -- expressed a reluctance to authorize the program for longer than a year until the issues identified in the memo were addressed (see [GSN](#), March 16).

The nonpartisan Government Accountability Office last week released a [report](#) that said the department had made strides toward correcting the issues identified in the memo, but concluded that it was too early to assess the results. As of June, the department had completed 38 of 94 actions deemed necessary in light of the memo, the report said.

On Tuesday, David Wulf, deputy director for the DHS infrastructure security compliance division, said at a chemical security conference here that the department had now made progress 59 of the 94 items. He and other DHS officials also touted the department having resumed site inspections -- a step in the security plan review process -- on July 16.

On Wednesday, Jerry Couri, a Republican aide to the Energy and Commerce Committee, told the same conference that Wulf "is doing a good job and should be commended." Nonetheless, the chemical security program "had a pretty rough year," he said.

"Congress wants to know the program is operating in a useful manner," Couri said. "Until we reach that spot, I think we're probably going to be looking at one-year [extensions.] That's my personal view."

Monica Sanders, Republican counsel to the Homeland Security Committee, made similar remarks.

"Earlier in this Congress, we thought CFATS had reached a point where it had become a mature program," said Sanders, referring to the chemical standards effort. The internal memo was "a bit of a game changer" and "will make the congressional environment very difficult to do anything multiyear for the foreseeable future. That's just the reality of it."

Industry officials have raised concerns about the lack of long term authorization for the program, saying it creates uncertainty regarding the types of regulations with which they will have to comply from year to year and how much that compliance will cost.

Labor and environmental groups, meanwhile, have argued that the DHS program does not have enough authority to require adequate security measures and say that the U.S. Environmental Protection Agency should step in to fill the perceived gaps. Last week such organizations -- including the United Steelworkers and Greenpeace -- formally petitioned EPA officials to develop stricter chemical security rules under the Clean Air Act.

Both Republican aides on Wednesday spoke against the idea of EPA involvement, arguing that DHS officials were better suited to handle chemical security. Sanders said EPA officials should "defer to the security agency on a security issue."

Couri referenced a May letter that Energy and Commerce panel Republicans sent to EPA Administrator Lisa Jackson, asking her to reject requests for her agency to get involved.

"Congress has already enacted specific legislation to address security and terrorism threats at facilities with chemicals," the lawmakers' [letter](#) said. "Proposals to promulgate new, additional EPA regulations under the [Clean Air Act] to address terrorist threats at chemical facilities would result in duplicative and conflicting regulation."

EPA officials have not taken a public position on the competing requests, but are reportedly reviewing the issue (see [GSN](#), June 13). Industry officials strongly oppose EPA developing chemical security rules, fearing they would be too onerous.