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ENERGY AND COMMERCE COMMITTEE

RANKING MEMBER  
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Congress of the United States  
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September 21, 2006

The Honorable Dennis Hastert  
Speaker, U.S. House of Representatives  
H 232, The Capitol

The Honorable Nancy Pelosi  
Minority Leader, U.S. House of  
Representatives  
H204, The Capitol

The Honorable Jerry Lewis  
Chairman, House Appropriations Committee  
H 218, The Capitol

The Honorable David R. Obey  
Ranking Democrat  
House Appropriations Committee  
**1016 Longworth House Office Building**

The Honorable Harold Rogers  
Chairman, Subcommittee on Homeland Security  
House Appropriations Committee  
B-307 Rayburn House Office Building

The Honorable Martin Olav Sabo  
Ranking Democrat, Subcommittee  
on Homeland Security  
House Appropriations Committee  
**1016 Longworth House Office Building**

Dear Speaker Hastert, Leader Pelosi, Chairman Lewis, Ranking Democrat Obey, Subcommittee  
Chairman Rogers, and Ranking Subcommittee Democrat Sabo:

We are writing to urge you not to undermine the authorization process by including inadequate chemical security provisions promoted by the chemical industry in the Homeland Security Appropriations Conference Report. We believe that the provisions currently under consideration are weak, incomplete, and in conflict with the provisions contained in H.R. 5695, the Chemical Facility Anti-Terrorism Act of 2006 which was reported out of the Homeland Security Committee in a bipartisan manner on July 28, 2006 but which has yet to be considered by all Committees of jurisdiction or acted on by the Full House.

As you may know, the chemical industry has been promoting so-called "consensus" language on chemical security (see Attachment A) that is reportedly also supported by the White House and Congressional Republicans. However, the provisions do not include numerous strengthening and enforcement measures that were agreed to by a bipartisan majority of the Homeland Security Committee and which earned the support of a broad coalition of labor and environmental groups (see Attachment B).

Besides these omissions, this special interest language also contains several troubling provisions. For example, the special interest language states that "nothing in this section

authorizes the Secretary, directly or indirectly to require any particular security measure,” rendering it completely toothless. Moreover, the protection of information section is deeply problematic. Treating all information submitted by the chemical industry to the Secretary as classified information would shield all this information – even information that is currently publicly available - from future disclosure. Automatic “classification” of all materials in an enforcement proceeding is not consistent with FOIA, the Sunshine Act, the Atomic Energy Act (AEA), Nuclear Regulatory Commission (NRC) regulations, and court interpretations.

As you also know, House Rule XXI, clause 2, prohibits legislation within a general appropriations bill. The chemical security provisions reportedly under consideration, if included in the conference report, would violate this Rule. We understand that the Department of Homeland Security has repeatedly stated that it needs the authority to regulate chemical facilities. We believe that the simple amendment proposed by Congressman Sabo in the House and accepted in the Senate after being offered by Senator Byrd would provide the Department with sufficient interim authority to regulate chemical facility security until comprehensive authorizing legislation can be enacted.

If the proposed language being supported by the chemical industry is enacted into law, it will not only undermine the Rules of the House, it will also undermine the future ability of the Authorizing Committees of jurisdiction to enact stronger, more comprehensive chemical security legislation to better protect our country.

Sincerely,

Edward J. Markey

John M. Blunt

James Langan

Sheila Jackson Lee

Bennie H. Thompson

Pete DeFazio

Norm Dicks

Cleanna H. Norton

Bill Parrett

Loretta Sanchez

Kendrick B. Meek

Jane Harman

cc: The Honorable Nita M. Lowey