



State of New Jersey

OFFICE OF THE GOVERNOR

PO Box 001

TRENTON, NJ 08625-0001

JON S. CORZINE
GOVERNOR

**Testimony of Governor Jon S. Corzine
Senate Environment and Public Works Committee
Subcommittee on Transportation Safety, Infrastructure Security and Water Quality
“The Importance of State and Local Authorities in Ensuring Chemical Plant Security”
Rutgers School of Law, Newark, New Jersey
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Chairman Lautenberg – I like the way that sounds... Chairman Lautenberg, Ranking Member Vitter, Senators Cardin, Klobuchar and Whitehouse, Senator Menendez, Congressman Pallone, Congressman Payne, fellow witnesses, I am pleased to appear before the Senate Environment and Public Works Subcommittee on Transportation Safety, Infrastructure Security and Water Quality. I am especially pleased to do so here in New Jersey and I welcome the Subcommittee to our Great State. I appreciate you accommodating my schedule today, so that I can be here to talk about an issue about which I care deeply – the importance of state and local authorities in ensuring chemical plant safety and security.

I have long fought to ensure the public safety by addressing the security of our nation’s chemical facilities. As you know, as Senator, I championed federal legislation on this issue, and I am pleased that the once and again Senior Senator from New Jersey has continued that effort.

We know how dangerous these places can be because of the terrible accidents that occur at them. In September 2001, an accident at a chemical plant in France caused 300 tons of nitrates to explode, killing 29, injuring thousands, and damaging 10,000 houses. And we have certainly had our share of these problems right here in New Jersey. In 1995, an explosion at the Napp Technologies facility in Lodi resulted in the death of five workers. In addition, al-Qaeda affiliated insurgent groups in Iraq have targeted chemical facilities to enhance the lethality of their attacks. Today, a plausible threat remains that a successful attack against chemical facilities has the potential to meet terrorist goals.

As you know, last October federal legislation addressing this important issue was signed into law as part of the Homeland Security Appropriations Act. However, that legislation did not go as far as I would have liked, and I am particularly concerned about DHS' claim of preemption authority in the proposed regulations despite no clear grant of authority from Congress. We have, and will continue to, forcefully oppose any claim of preemption which impacts New Jersey's ability to protect its citizens.

Since becoming Governor, my Administration has been committed to ensuring that New Jersey's pioneering chemical security, public safety, and environmental protection laws are successfully implemented; and to identifying any gaps that the state must address.

September 11th shocked us into the realization that our assets can be turned against us by terrorists. New Jersey's critical infrastructure concentration and high population density may have no comparison in the United States. Our robust chemical industry also presents us with unique advantages and challenges.

According to EPA data, there are a number of plants here in New Jersey where a worst case release of toxic chemicals – accidental or otherwise – could threaten more than a million people. You'd better believe this is an issue we take seriously here.

Since January 1986, New Jersey has had in place the Toxic Catastrophe Prevention Act (TCPA), an environmental statute that requires facilities that handle extraordinarily hazardous substances (EHS) above certain thresholds to prepare and implement risk management plans to prevent potentially catastrophic releases. And in 2003, the TCPA rules were updated to specifically require that owners and operators evaluate inherently safer technology (IST) for newly designed and constructed covered processes.

Since 1990, New Jersey has also had the Discharge Prevention, Containment and Countermeasures (DPCC) program, which regulates facilities storing petroleum and/or hazardous substances to protect from accidental discharges to the environment.

In September 2003, New Jersey adopted Best Practices for the Chemical Sector. These represent a risk-based approach to security consisting of a site-specific vulnerability assessment that evaluates threats to a facility's operation, its particular vulnerabilities and likely consequences of a chemical release, and the physical and procedural security measures already in place and those which should be taken to remediate vulnerabilities.

And since November 2005, Best Practices Standards have been in place, clarifying that Best Security Practices are "mandatory" for TCPA/DPCC chemical sites. They:

- Require the development of "prevention, preparedness, and response plans"
- Require facilities management to afford employees a "reasonable opportunity" to identify issues that should be addressed in the security assessment and plans, including emergency response plans;
- Require covered TCPA facilities to produce a review report regarding the adoption of "Inherently Safer Technology (IST);"
- Define IST as: 1) reducing the amount of material that could be released; 2) substituting less hazardous materials; 3) using hazardous materials in the least dangerous process condition or form; 4) designing equipment and processes to minimize equipment or human error.

Just this Friday, we announced proposed changes to our TCPA rules to more than double the number of facilities affected by IST requirements – all 94 TCPA facilities will now have to

review the possibility of making materials substitution or equipment or process changes for the sake of public safety.

To date, as a result of our TCPA requirements there are many New Jersey IST success stories:

- Over 20 wastewater treatment facilities have switched from using chlorine to sodium hypochlorite for disinfection of their treated wastewater.
- Four electric generation and cogeneration plants substituted anhydrous ammonia with aqueous ammonia for use in their air pollution control systems.
- One facility switched from chlorine to bromochlorohydrantoin for use as an algicide in treating cooling water.
- One facility switched from bulk storage of liquid sulfur trioxide to on-site generation of gaseous sulfur trioxide for direct consumption into the process.
- One facility switched from bulk storage of chlorine to on-site generation of ozone for disinfection of potable water.
- Another facility is proposing to switch from bulk storage of chlorine to on-site generation of chlorine dioxide for bleaching paper.

As we implement these policies and work with facilities on site-by-site review of security vulnerabilities, we have seen positive compliance with the Best Practices Standards, which have now been in place over a year. Overall, 62 percent of the facilities demonstrated compliance with the Standards. Facilities were given 30 days to satisfactorily resolve any outstanding compliance issues. Our Department of Environmental Protection anticipates compliance with the all of the above requirements to exceed 98 percent.

We are proud of the work that we have done in New Jersey. I want to recognize that most of this work has been done cooperatively with the chemical industries. To date, the chemical industry in New Jersey has invested hundreds of millions of dollars to improve safety and security at their plants. We appreciate these efforts and will continue to work cooperatively whenever we can.

For example, New Jersey has invested in developing a worker-training curriculum based on extensive collaboration between industry leaders, workers and their advocates, academia, and homeland security and safety experts. AFL-CIO, Rutgers University, the Steelworkers, the Teamsters, the chemical industry and others played a key role in developing and promoting our “train the trainer” program to ensure workers and managers at chemical plants are prepared to make their workplaces the safest places possible. We recently reached out to the chemical industry to ensure timely implementation and look forward to making progress with them on this issue.

While New Jersey has taken major steps, this is far from a New Jersey-only issue. I have long argued that federal standards are necessary to protect all of our citizens from the potential dangers of an attack on, or accident at, a chemical plant, and to ensure a level playing field for security throughout the nation. This need must be balanced with the flexibility for states to take action beyond the federal standards to address unique state circumstances.

I have been very vocal about my opposition to federal preemption of state chemical security laws. As Senator, I proposed legislation that was deferential to state’s efforts to go beyond federal standards to protect their citizens. And last month, I sent a letter to Secretary Chertoff

expressing my opposition, and asked New Jersey's Director of Homeland Security and Preparedness Richard Cañas and Department of Environmental Protection Commissioner Lisa Jackson to submit detailed formal comments to the Department of Homeland Security expressing these sentiments as part of the public comment period.

Our citizens will be most secure when all levels of government work closely together to ensure their safety. It would be a terrible mistake to undermine the great work that New Jersey has done, or the future flexibility to implement additional security measures. Thank you for your time today.