

Methodology - Tracking Koch Lobbying Activities

Under current law any individual, lobbying firm, company, trade association, or special interest group that has spent or received funds for the purpose of influencing public policy must disclose information about these activities. The federal government requires that the total number of funds spent or received for lobbying activities, the area of lobbying (e.g., Clean Air and Water (Quality); Taxation/Internal Revenue Code; Government Issues), supplementary information on the individual legislation or legislative areas of interest, (e.g., "H.R. 2868, Chemical Facility Anti-Terrorism Act of 2009" or "chemical security") and the names of individual lobbyists employed be filed on a quarterly basis. These lobbying disclosure forms are then made publicly available on the Federal Government's Lobbying Disclosure Site in accordance with the current policy of the Clerk of the House.

The details which the government requires companies to disclose about their lobbying activities illuminate the broad range of stakes that corporations and public-interest groups have in the legislative process at any moment in time. For the purpose of this report, we have tracked the activities of Koch Companies Public Sector, the public policy arm of Koch Industries, on the issue of chemical security legislation. Our data collection is limited to lobbying activities that surround the Chemical Facilities Anti-Terrorism Standards (CFATS) legislation and any attempts at reauthorization or redefinition of this program in the period from January 2009 to the current day. Absent from this data set is information related to the transportation of hazardous chemicals such as chlorine gas by railroad or any other means. Although the security of chemicals in transit is an important issue with clear ramifications for CFATS, the legislative implications of the chemical transportation debate are beyond the scope of the current study.¹

In terms of lobbying disclosure forms, a lobbying organization may include the particular bill around which its lobbying efforts are directed as supplementary information. In several cases the data that lobbying firms have provided has required some interpretation as to whether or not the particular lobbying activity affects CFATS legislation. For the purpose of transparency, the following list represents the subject area and the supplementary terms used in the lobbying disclosure forms that we understand as relating to CFATS. These examples are taken from the forms filed by Koch Companies Public Sector and its contracted lobbying firms:

Cove Strategies:

Homeland Security – "issues related to chemical security legislation, including the Chemical Facility Anti-Terrorism Act of 2009 - entire bill"

Homeland Security – "the Chemical Facility Anti-Terrorism Act of 2009 (entire bill); Issues related to chemical security legislation"

¹ For further information on this topic see, "Hazardous Material Transportation," Association of American Railroads, accessed 05/18/11, <http://www.aar.org/Safety/Hazmat.aspx>

Homeland Security – “the Chemical Facility Anti-Terrorism Act of 2009 (H.R. 2868)- Issues related to chemical security legislation”

Hunton & Williams LLP:

Homeland Security – “Issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009”

Homeland Security – “Issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009 (H.R. 2868); S. 2996, Continuing Chemical Facilities Anti-Terrorism Act of 2010”

Koch Companies Public Sector LLP:

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR 1389 Ammonium Nitrate Security Acto (sic) of 2005”

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR1389 Ammonium Nitrate Security Act of 2005, HR5695 The Chemical Security Anti-Terrorism Act of 2006”

Chemicals/Chemical Industry – “S2145 Chemical Security Legislation, S1141 Secure Handling of Ammonium Nitrate Act of 2005; HR1389 Ammonium Nitrate Security Act of 2005, HR5695 The Chemical Security Anti-Terrorism Act of 2006, HR 5441 Department of Homeland Security Appropriations Bill.”

Chemicals/Chemical Industry – “H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act, 2008 - chemical facility security issues, H.R. 1591, S. 965 - FY2007 Supplemental Appropriations bill - chemical facility security issues.”

Budget/Appropriations - "H.R. 2764 - Omnibus Spending Bill -- climate related provisions (Senate)/ secure handling of ammonium nitrate; Chemical Security Appropriations: H.R. 1591/S. 965 - FY2007 Supplemental Appropriations Bill-- chemical security provisions; H.R. 2643 - Department of the Interior, Environment, and related Agencies Appropriations Act, 2008--chemical security provisions; H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act, 2008--chemical security provisions."

Homeland Security - "H.R. 5577 - Chemical Facility Anti-Terrorism Act of 2008 - Provisions related to chemical security, inherently safer technology, manufacturing, and refining."

Homeland Security - "HR 5577 Chemical Facility Anti-Terrorism Act of 2008 -- chemical plant security, issues related to Motor Vehicle Fuels, including renewable fuels, Appendix 2103(b)(2)(g) Inherent Safer Technology provisions, 2113 Maritime Transportation Security Act exemption..."

Homeland Security - "HR 5533 Chemical Security Act - Appendix 2103 (b)(2)(g) Inherently Safer Technology provisions, 2113 MTSAs exemption, Chemical Security, oppose environmental mandates on chemical industry-IST provisions. HR 5577 Chemical Facility Anti-Terrorism Act -- Appendix 2103 (b)(2)(g) Inherent

(sic) Safer Technology provisions, 2113 MTSA exemption, issues related to manufacturing and refining, and entire bill.”

Homeland Security – “Issues related to manufacturing and refining, including H.R. 5577”

Homeland Security – “issues related to chemical security legislation, including discussion draft of the Chemical Facility Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – “issues related to chemical security legislation, including discussion draft of H.R. 2868, the Chemical Facilities Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology. H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009.”

Homeland Security – “issues related to chemical security legislation, including discussion draft of H.R. 2868, the Chemical Facilities Anti-Terrorism Act of 2009. Legislative Proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology. H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009, entire bill.”

Homeland Security – “H.R. 2868, Chemical Facilities Anti-Terrorism Act of 2009, entire bill. S. 569, Incorporation on Transparency and Law Enforcement Assistance Act, entire bill. S. 2996 the Continuing Chemical Facility Anti-Terrorism Security Act of 2010, entire bill.”

Mehlman Vogel Castagnetti Inc:

Energy/Nuclear - "...H.R. 5577 Chemical Facility Anti-Terrorism Act of 2008..."

Energy/Nuclear – “chemical plant security.”

Energy/Nuclear – “H.R. 2868 The Chemical Facility Anti-Terrorism Act of 2009.”

Chemicals/Chemical Industry – “H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009”

Chemicals/Chemical Industry – “H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009, S. 3588 Secure Chemical Facilities Act”

Chemicals/Chemical Industry – “Chemical Plant Security and the Chemical Facility Anti-Terrorism Program”

Siff & Lake LLP:

Homeland Security - "Title V, H.R. 5441, Fiscal Year 2007 Homeland Security Appropriations Act, S. 2145, "the Chemical Facility Anti-Terrorism Act of 2005."

Homeland Security - "Regulations implementing Section 550 of the FY 2007 Department of Homeland Security Appropriations Act regarding chemical facility security."

Homeland Security - "HR 5577, Chemical Facility Anti-Terrorism Act, Entire Bill."

Homeland Security – “Legislative Proposals to reauthorize the Chemical Facility Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – “S. 2996 the 'Continuing Chemical Facility Anti-Terrorism Standards Act,' entire bill; legislative proposals to reauthorize the Chemical Facilities Anti-Terrorism Standards, provisions related to Inherently Safer Technology”

Homeland Security – S. 473 the "Continuing Chemical Facility Anti-Terrorism Act" legislation to extend the Chemical Facility Anti-Terrorism Standards security program of the Department of Homeland Security, entire bill; Legislative proposals to reauthorize the Chemical Facility Anti-Terrorism Standards, provisions related to Inherently Safer Technology."

Hogan and Hartson LLP:

Homeland Security - Chemical Security, H.R. 5577, H.R. 5533

Homeland Security - Chemical Security, H.R. 5577, H.R. 5533, and inherently safer technology.

Homeland Security - monitor chemical security issues, H.R. 5577, H.R. 5533, and inherently safer technology.

Perceptum Consulting LLC:

Chemicals/Chemical Industry - "S. 2145, Chemical Facility Anti-Terrorism Act of 2005, all provisions."

Peter Loughlin:

Transportation - "H.R. 5577 pertaining to MTSA facilities"

Energy/Nuclear "...H.R. 5577 Chemical Facility Anti-Terrorism Act of 2008..."

Pyle Consulting Inc.:

Chemicals/Chemical Industry – “H.R. 1591/S. 965 - FY 2007 Supplemental Appropriations Bill - chemical security provisions, H.R. 2643 - Department of Interior, Environment and Related Agencies Appropriations Act, 2008 - chemical security provisions, H.R. 2638/S. 1644 - Department of Homeland Security Appropriations Act - chemical security provisions.”

The Rhoads Group:

Chemicals/Chemical Industry - "S.2145 Chemical Facility Anti-Terrorism Act of 2005-all matters; H.R. 5659 Chemical Facility Anti-Terrorism Act of 2006-all matters; S.1141 Secure Handling of Ammonium Nitrate Act of 2005-all matters; H.R. 1389 Ammonium Nitrate Security Act of 2005-all matters."

Chemicals/Chemical Industry - "H.R. 1591 - FY 2007 Supplemental Appropriations bill - Matters pertaining to chemical security regulations. S. 965 - FY 2007 Supplemental Appropriations bill - Matters pertaining to chemical security regulations. H.R. 2638 -Department of Homeland Security Appropriations Act, 2008 - Matters pertaining to chemical security regulations. S. 1644-Department of Homeland Security Appropriations Act, 2008-Matters

pertaining to chemical security regulations. H.R. 2643, Department of the Interior, Environment and Related Agencies Appropriations Act, 2008-Matters pertaining to chemical security regulations."

Although lobbying firms, corporations, and public interest groups are required to report the amount of money spent or received for lobbying purposes, the federal government only requires that these organizations disclose the total number of funds spent across all lobbying areas in each quarter. It is therefore beyond the scope of this study to determine the exact amount of money that Koch Industries has paid to influence chemical security policy versus internal revenue code revision, for example. It is possible, however, to compare Koch Industries' total lobbying expenditures with those of other members of the chemical industry. For instance, by comparing Koch Industries' total number of lobbyists and lobbying expenditures against trade organizations such as the American Petroleum Institute or rival chemical companies such as the Dow Chemical Company. It is possible to gauge the relative investment of each organization in influencing public policy across all sectors.

There are other limitations to using the recorded number of funds on lobbying disclosure forms that may underestimate an entity's total lobbying expenditures. Foremost, the Internal Revenue Service (IRS) and the Lobbying Disclosure Act (LDA) of 1995 define lobbying activities differently. The LDA, for instance, excludes state-level and grassroots lobbying, whereas the IRS definition includes these activities. In practice, the lack of a single authoritative definition has allowed trade associations to record their lobbying activities by either definition. Dramatizing this loophole, in July of 2010 a story in the *Washington Post* described how BP reduced its reported lobbying expenditures by \$100,000 through switching from one definition to the other.² This example and other attendant issues precisely illustrate the difficulty of measuring total lobbying expenditures of any entity.

With expenditures excluded as a measure of Koch Industries' influence on chemical security legislation, there is a one item remaining: individual lobbyists. Because the federal government requires that the name of each lobbyist be associated with the area that he or she is lobbying in, it is possible to determine the total number of lobbyists that Koch Industries and its peer corporations employ to influence chemical security legislation.

² Farnam, T.W., "BP's changing lobbying disclosure amount? It figures," in *Washington Post*, 07/22/10, accessed 05/18/11, <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/21/AR2010072106271.html>