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UNDER A CLOUD:

After it leaked from a factory in July 2000, hazardous nitric acid painted the sky orange over Chicago's West Side.

Security Leak

BY MARGARET KRIZ ■

In a Rose Garden ceremony in July 2002, President Bush unveiled his strategy for preventing terrorist attacks on American soil. Flanked by key lawmakers from both major parties, he announced plans to create a Department of Homeland Security and released a report identifying the federal agencies designated to protect particularly vulnerable industries. The Environmental Protection Agency's assignments included safeguarding the chemical industry and its hazardous materials.

CHEMICAL PLANTS MAKE TEMPTING TARGETS FOR TERRORISTS, THE BUSH TEAM WARNS. YET IT IS DOING ALMOST ZERO TO PROTECT THEM.

"All of us agree," the president declared at the time, "that protecting Americans from attack is our most urgent national priority, and that we must act on that priority."

Then, in February of this year, his administration specifically warned that terrorists "may attempt to launch conventional attacks against the U.S. nuclear/chemical industrial infrastructure to cause contamination, disruption, and terror. Based on information, nuclear power plants and industrial chemical plants remain viable targets."

But despite the Bush administration's public promises and alarms, the White House has taken almost no action to improve security at any of the nation's 15,000 facilities—including chemical manufacturing plants, petroleum tank farms, and pesticide companies—that contain large quantities of potentially deadly chemicals. For that matter, the administration has done virtually nothing even to assess those facilities' vulnerability, even though the dangers are far from theoretical: An accidental leak at a Union Carbide pesticide plant in Bhopal, India, immediately killed between 3,800 and 8,000 people in 1984 and, according to some reports, has since claimed an additional 12,000 lives. Closer to home, an accidental chlorine gas leak at a Honeywell refrigeration plant in Baton Rouge, La., on July 20 sent four workers to the hospital and forced 600 residents to stay indoors. (See box, p. 2478.)

Counter-terrorism experts shudder to think about the number of deaths an intentional release of a toxic chemical could cause. And the Bush administration's inertia heightens their worries.

"These chemical plants have a vulnerability which has a catastrophic characteristic ... that could approximate the World Trade Center," Rand Beers, a White House counter-terrorism adviser for 30 years, told *National Journal*. Dissatisfied with the Bush administration's approach to security, Beers resigned in March and now advises the presidential campaign of Sen. John Kerry, D-Mass.

Even though the EPA is the only federal regulatory agency with expertise in chemical safety, early this year the White House shifted responsibility for the chemical industry to the Homeland Security Department. That transfer followed industry complaints that the EPA, which was attempting to toughen federal security requirements, had become too demanding. Still struggling to get on its feet, Homeland Security has no authority to require the chemical industry to adopt stricter security measures. It also doesn't have the money or personnel to inspect industrial plants for potential security problems.

Thus, the Bush administration is relying solely on voluntary safety programs developed by chemical-industry trade associations. But even if every member of those associations faithfully abided by the voluntary guidelines, two-thirds of the facilities that use or store high volumes of toxic chemi-

cals would still be unaccounted for because they don't belong to those groups, according to EPA officials.

The industry's voluntary efforts do not satisfy Homeland Security Secretary Tom Ridge, who along with then-EPA Administrator Christie Whitman declared in an October 2002 letter to *The Washington Post* that "voluntary efforts alone are not sufficient to provide the level of assurance Americans deserve." In a February 2003 letter to the General Accounting Office, the Justice Department warned, "The risk of terrorists' attempting in the foreseeable future to cause an industrial chemical release is both real and credible."

But the administration has given only half-hearted support to legislative efforts to force the industry to make itself less vulnerable. Since shortly after 9/11, Sen. Jon Corzine, D-N.J., whose state is dotted with facilities that use or manufacture vast quantities of hazardous chemicals, has been pushing legislation to require such companies to assess and improve their security. Corzine's bill would also mandate that companies consider using safer alternatives to their current practices for manufacturing and storing chemicals.

During the previous Congress, the Senate Environment and Public Works Committee unanimously voted for the Corzine measure. But the proposal died on the Senate floor after the chemical industry fought hard to block it.

This year, the panel's new chairman, Sen. James Inhofe, R-

Okla., is offering a less stringent chemical-industry security bill, which he wrote with the help of the Bush administration. The White House, however, has invested no political capital in getting it passed, and the bill has languished. Meanwhile, Rep. Joe Barton, R-Texas, who chairs the House Energy and Commerce subcommittee with jurisdiction over toxic chemicals, contends that new regulations aren't need-

ed. "I don't see a burning need to legislate," Barton said in an interview. He stresses the difficulty of defending industrial plants against terrorism and the slim chance that any particular facility would end up being a terrorist target.

CALLING OFF THE WATCHDOGS

Two weeks after 9/11, Whitman met with leaders of the chemical industry for a frank discussion about their industry's vulnerability to terrorist attacks. EPA regulators already had some idea of the scope of the problem. Under the Clean Air Act, every company that uses or stores extremely hazardous chemicals is required to file an annual report explaining the steps it's taking to prevent accidental releases of toxic chemicals and to protect the environment and nearby residents if a release does occur.

Based on reports from the 15,000 facilities required to

RICHARDA. BLOOM



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submit that worst-case-scenario information, the EPA warned that a terrorist attack on any one of the 123 chemical facilities located in densely populated areas could expose 1 million people to toxic chemicals. An attack on one of 700 other facilities could threaten at least 100,000 people. And an attack at one of 3,000 other chemical sites could affect 10,000 people.

In the months after Whitman's meeting, the EPA began developing guidelines for companies to assess their vulnerability to terrorism. Agency officials also seriously considered issuing new regulations to require the owners of all 15,000 of its "worst-case" sites to evaluate and improve security. Regulators planned to issue those rules under a provision of the Clean Air Act that authorizes the agency to control accidental chemical releases. Ultimately, though, the EPA feared that the chemical industry would sue and decided not to stretch the Clean Air Act to cover potential terrorist attacks. The EPA opted instead to go the legislative route



JON CORZINE:

"If you take a boat ride up Arthur Kill, between New York and New Jersey, you'd be shocked at how little security there is on the water side of those plants."

and ask for more authority to mandate that the chemical plants better protect themselves.

EPA officials spent nearly a year working on a legislative proposal with the White House, the Office of Management and Budget, and various federal agencies. The major sticking point was whether the legislation should require companies to consider using safer chemicals and technologies.

"EPA initially said that one of the things facilities ought to at least look at as part of a comprehensive vulnerability assessment is whether there are steps they can take to reduce the hazards that are present at the site," recalls a

former EPA official who was involved in the debate. "If they're storing a six-month supply of a hazardous chemical, would they be less vulnerable to attack if they only kept a one-month supply on site? If they were using a highly toxic chemical, is there a less toxic replacement?"

Industry lobbyists forcefully fought the idea of a law requiring companies to consider safer alternatives. "It creates too big a door for federal micromanagement of the decisions that facility operators are making on a day-to-day level," said Rob McArver, director of government relations at the Synthetic Organic Chemical Manufacturers Associa-

■ JUST ACCIDENTS ...

What would happen if terrorists attacked a chemical facility in the United States?

The damage would depend on a host of variables, including whether a toxic chemical was released into the atmosphere, the physical properties and toxicity of the chemical, the population density of the area, the weather conditions, and whether the attack occurred at night or during the day.

The notorious 1984 chemical accident in Bhopal, India, occurred on a still December night in a highly populated region of the country. Nearby residents sleeping in their homes were sitting ducks for the 40-metric-ton cloud of toxic methyl isocyanate gas that spilled out of a Union Carbide pesticide factory. According to CorpWatchIndia, a corporate watchdog group, some 8,000 people died immediately, and another 12,000

have died since. (The Indian government estimates that at least 3,800 died and 11,000 were disabled as an immediate result of the accident.)

In the United States, smaller-scale chemical accidents occur with surprising frequency. In the early hours of July 20, chlorine gas leaked from a Honeywell refrigerant plant in Baton Rouge, La. Four plant workers were hospitalized, and 600 nearby residents were ordered to stay indoors with their air conditioners off until the hazardous chemical dissipated. Chlorine gas, used in World War I with deadly effect, can cause respiratory failure.

In February, a cloud of toxic anhydrous ammonia leaked from a chemical plant in Gulfport, Miss., when an intruder broke into a fenced compound in an attempt to steal the chemical, apparently to make the illegal drug crystal methamphetamine.

The resulting chemical leak forced local officials to close the Gulfport-Biloxi International Airport temporarily and to evacuate eight hotels.

Another anhydrous ammonia leak occurred in May 2002, when thieves broke into an Arlington, Wash., food-processing plant. The toxic release forced the evacuation of 1,500 people.

A chemical safety alert issued by the Environmental Protection Agency in March 2000 listed five other leaks of anhydrous ammonia, which is used commercially as a fertilizer ingredient and as an industrial refrigerant.

In July 2000, Baltimore got a hint of what a terrorist attack might look like when a CSX train carrying tanker cars of hydrochloric acid and other toxic chemicals derailed in a downtown tunnel. The resulting fires paralyzed parts of the city for five days while the chemicals burned off or

tion, a trade group representing 300 fairly small companies.

“Chemical companies make dangerous things,” added Greg Lebedev, president of the American Chemistry Council, which represents 180 giants of the chemical manufacturing industry. “Getting into the technology of what you make and how you make it is a subject for an environmental or technology context, not security. I don’t want us to wander down an exotic path here.”

In late 2002, the EPA further enraged industry by announcing plans to inspect the chemical plants it considered most vulnerable to an attack. The agency asked more than 30 companies to voluntarily allow EPA inspectors to tour their sites. At least two refused. The inspections that were undertaken, EPA officials say, found that safeguards varied widely. Some companies were aggressively improving security; others were doing nothing.

The EPA’s attempts to lay the groundwork for an aggressive security program proved to be its undoing. In early 2003, the White House responded to industry protests by pulling the EPA off the chemical site security beat. The administration quietly shifted oversight to Homeland Security.

LIZ LYNCH



RAND BEERS:

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ty. Since then, industry officials and administration sources say, the federal government has done little to gauge the security at chemical plants.

The only concerted action on chemical plant safety is coming from the industry’s trade associations. The American Chemistry Council has been widely praised for a voluntary program in which it asks members to assess and upgrade security and to hire an independent auditor to judge their success. Complying with the council’s plan is now a prerequisite for membership in the group and in the Synthetic Organic Chemical Manufacturers Association. The American Petroleum Institute and several other trade associations have endorsed the approach, but aren’t requiring members to follow it.

Despite the laurels the American Chemistry Council program won, industry association officials say more needs to be done—even if not by their members. “We have a bit of a vacuum,” Lebedev says. “The EPA doesn’t do anything because that’s not what they do. DHS is still pulling itself



AP/THANG

THE SLAUGHTER:

The infamous 1984 leak of methyl isocyanate from a pesticide plant in Bhopal, India, killed livestock along with thousands of people.

seeped into storm drains that flow into the Inner Harbor.

What are the chances of terrorists’ targeting a facility that manufactures or stores vast quantities of a potentially lethal chemical?

Chemical industry executives play down the dangers. And government officials are loath to provide details about the terrorist threats gathered by the federal intelligence community. But the Justice Department reports that in the late 1990s, federal officials discovered a plot by domestic terrorists to attack a San Diego facility that housed millions of gallons of propane. In a February letter to the General Accounting Office, Justice described the incident as “credible evidence that chemical facilities presented an attractive target to terrorists.” —M.K.

together from all sides of Washington just to make itself into a reasonably homogeneous agency. No doubt it isn't doing very much there." Lebedev said his group now supports legislation to give Homeland Security the power to require chemical companies to conduct vulnerability assessments and improve their security. But he wants Congress to essentially exempt companies that have adopted the American Chemistry Council's plan.

Oil industry officials argue that most petroleum companies don't need—and haven't waited for—a federal mandate to guard against terrorism. "There is no government agency now that can go in and order people to do these assessments," said American Petroleum Industry spokesman Michael Shanahan. "But it's in the self-interest of industry to protect itself."

said, are "lulling the Bush administration into complacency or overconfidence. So while the world seems to be gaining in reasons to hate us, we seem to be ignoring an entire sector of our infrastructure that sticks out like a sore thumb to terrorists."

On July 23, Corzine offered an amendment to the Homeland Security appropriations bill that would have provided \$80 million for the department to assess the security at chemical facilities nationwide. The amendment was tabled on the Senate floor.

SOFT SPOTS?

Corzine says he is frustrated that Congress has balked at ensuring the safety of plants that use and store vast quantities of potentially lethal chemicals. "It strikes me," he said in

an interview, "that there is just no willingness to move here. Almost two years after September 11, it's hard to believe that if we're committed to homeland security, we have not addressed something that everybody recognizes is among the top threats." Corzine said he's looking for "every possible avenue" for getting his proposal written into law. For example, he might offer it as an amendment to the Senate energy bill, which is now on the Senate floor.

Last year, industry lobbyists blocked Corzine's bill after they rallied trade groups—ranging from the Chlorine Chemistry Council to the Agricultural Retailers Association—to fight the measure as unnecessary government interference. Corzine describes that defeat and industry's continuing effort to water down his bill as "a classic case of the special

interests trumping the public interest."

Early this year, Corzine reintroduced his bill with Sen. James Jeffords, I-Vt., the ranking minority member on the Environment and Public Works Committee. Meanwhile, Chairman Inhofe drew up his own chemical-security legislation with input from the administration. In May, Inhofe announced plans to mark up his measure. But he didn't have the committee votes to pass his version, which critics say wouldn't go far enough to protect chemical facilities sites. Inhofe's bill would not require companies to submit vulnerability or security-improvement plans to Homeland Security. It also would not require companies to consider using alternatives to current chemicals and practices.

After a short, unsuccessful flurry of negotiations between Democrats and Republicans, Inhofe's version was shoved onto a back burner until the committee completes work on the transportation reauthorization bill, which is considered a top priority because it will bring political pork to lawmakers' financially strapped home states. The White House is pushing Inhofe to take up its proposed rewrite of the Clean Air Act immediately after Congress's summer recess. If the



WAITING IT OUT:

Residents of a nearby trailer park had to be evacuated last August after chlorine leaked from a railroad tank car in Crystal City, Mo.

Perhaps so. Several recent reports, however, raise questions about how aggressively corporate America is responding to the threat of another major terrorist attack. A July 9 survey by the Conference Board, a New York City-based business research group, found that since 9/11, U.S. companies have increased their spending on security an average of only 4 percent. Other studies by the Brookings Institution, Rand, the Congressional Research Service, and the Progressive Policy Institute also raised serious questions about security problems at chemical plants and other high-risk facilities with large amounts of hazardous material.

Environmentalists are suspicious of the chemical industry's assurances that its facilities are doing enough. They cite dozens of instances in which news reporters or activists were able to walk into a chemical plant site or oil refinery without being stopped by a guard or barrier.

"We won't have a complete picture of the safety at these facilities until the DHS has the resources and inclination to require all facilities to submit their security plans and then analyzes those plans," said Jon Devine of the Natural Resources Defense Council.

Rick Hind, legislative director of Greenpeace's toxics campaign, belittles the American Chemistry Council program as "PR eyewash." The chemical industry's promises, he

AP/DAVID KENNEDY

chairman agrees, action on his chemical security measure could be delayed yet again.

Meanwhile, Corzine's bill has gone through several iterations since he introduced it. His first proposal would have put the EPA in charge of chemical-plant security. Inhofe strongly objected to that provision, arguing that the agency is "notorious" for failing to keep the chemical industry's secrets.

"The whole idea is security," Inhofe said in an interview. "And we can cite a lot of examples where people inside EPA leaked information. Ultimately, it could fall into the hands of the wrong people."

Corzine's current version would give Homeland Security responsibility for the chemical-security program. But the battle continues over Corzine's desire to encourage industry to use inherently safer technology at the chemical facilities. Inhofe and industry lobbyists strongly oppose that approach.

Corzine sees that mandate as critical. "I'm staying with it," he said in an interview. But he added, "You know, at some point I'd just like to see fences put up and be certain that they're being monitored. I'd like to make sure that chemical facilities on waterfronts have some control over access from the water.

"If you take a boat ride up Arthur Kill, between New York and New Jersey, you'd be shocked at how little security there is on the water side of those plants. It strikes me as absolutely an abject failure to address one of the serious soft spots in our communities."

Republicans, however, tend to be inclined to give the chemical industry the benefit of the doubt on security issues. Several current and former Bush administration staffers said that the White House simply isn't interested in creating a massive program for inspecting chemical plants. And House Energy and Commerce Committee Chairman Barton said that although he's monitoring the situation, he sees no need for tough new chemical security requirements in the aftermath of 9/11.

"The problem you have in an open society is that it's physically impossible to make any large industrial site terrorist-proof," Barton said in an interview. "If there are enough terrorists who are dedicated enough and equipped well enough, they're going to overwhelm everything that you put up short of some sort of Fort Knox—which doesn't make much sense, given the cost and the relatively remote possibility that any specific site is going to be targeted."

Security experts counter that while it might be unlikely that any particular chemical facility will be attacked, it is not unrealistic to think that some chemical facility will be targeted. At a June summit on chemical-industry security, FBI spe-

KSDK-TV VIA AP



THE CULPRIT:

A ruptured hose on a train car spewed chlorine gas last year, making dozens of people ill and closing two Missouri highways.

cial agent Troy Morgan, a specialist on weapons of mass destruction, warned that chemical tank farms risk being turned into a "poor man's atomic bomb."

"You've heard about sarin and other chemical weapons in the news," Morgan was quoted as saying in the *Pittsburgh Tribune-Review*. "But it's far easier to attack a railcar full of toxic industrial chemicals than it is to compromise the security of a military base and obtain these materials."

Former White House counter-terrorism adviser Beers contends that the Bush administration ought to enhance security at chemical plants. "There are so many possible vulnerabilities that to some degree it's a very difficult task to try to sort among them all," he said. But he suggested that government mandates would level the playing field between companies that are investing in security and those that are gaining a competitive edge by not spending the money. "This is one problem they can do something about," he said. "Why isn't it being done?" ■

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