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4 MARKUP ON H.R. 908, THE ``FULL IMPLEMENTATION OF THE CHEMICAL
5 FACILITY ANTI-TERRORISM STANDARDS ACT''
6 THURSDAY, MAY 26, 2011
7 House of Representatives,
8 Committee on Energy and Commerce
9 Washington, D.C.

10 The committee met, pursuant to call, at 9:40 a.m., in
11 Room 2123 of the Rayburn House Office Building, Hon. Fred
12 Upton [Chairman of the Committee] presiding.

13 Members present: Representatives Upton, Barton,
14 Stearns, Whitfield, Shimkus, Pitts, Bono Mack, Walden, Terry,
15 Rogers, Sullivan, Murphy, Burgess, Blackburn, Bilbray, Bass,
16 Gingrey, Scalise, Latta, McMorris-Rogers, Harper, Lance,
17 Cassidy, Guthrie, Olson, McKinley, Gardner, Pompeo,
18 Kinzinger, Griffith, Waxman, Dingell, Markey, Pallone, Rush,

19 Eshoo, Engel, Green, DeGette, Capps, Doyle, Schakowsky,
20 Gonzalez, Inslee, Baldwin, Ross, Weiner, Matheson,
21 Butterfield, Barrow and Matsui.

22 Staff present: Gary Andres, Staff Director; Charlotte
23 Baker, Press Secretary; Jim Barnette, General Counsel; Mike
24 Bloomquist, Deputy General Counsel; Anita Bradley, Senior
25 Policy Advisor to Chairman Emeritus; Allison Busbee,
26 Legislative Clerk; Andy Duberstein, Special Assistant to
27 Chairman Upton; Peter Kielty, Senior Legislative Analyst;
28 Dave McCarthy, Chief Counsel, Environment/Economy; Carly
29 McWilliams, Legislative Clerk; Chris Sarley, Policy
30 Coordinator, Environment & Economy; Kristin Amerling,
31 Democratic Chief Counsel and Oversight Staff Director; Phil
32 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
33 Chief Clerk; Jacqueline Cohen, Democratic Counsel; Greg
34 Dotson, Democratic Energy and Environment Staff Director;
35 Caitlin Haberman, Democratic Policy Analyst; Karen Lightfoot,
36 Democratic Communications Director and Senior Policy Advisor;
37 and Lindsay Vidal, Democratic Press Secretary.

|

38 H.R. 908

39 9:40 a.m.

40 The {Chairman.} The committee will come to order. The
41 chair reminds the committee that we are on H.R. 908, and the
42 bill is open for amendment at any point.

43 [H.R. 908 follows:]

44 ***** INSERT 1 *****

|

45 The {Chairman.} I also want to announce that in
46 consultation with my friend, Mr. Waxman, as to the votes on
47 this bill today, the way that we are going to proceed is
48 this. We are obviously going to be considering amendments to
49 the bill now. Any recorded votes on amendments will be
50 rolled until this afternoon. It is our understanding that we
51 are going to have a lengthy series of votes on the House
52 Floor to finish up the defense bill that will take us into
53 this afternoon, and at the point that the DOD authorization
54 bill is finished on the House Floor is when we will then vote
55 on the amendments ordered and hopefully at that point as well
56 have final passage on the bill itself, and the point that we
57 finish on H.R. 908, we will adjourn for the day, so we will
58 not do the CPSC bill today because of the votes on the House
59 Floor.

60 It is my understanding that we are going to be doing the
61 DOD bill on the House Floor. An agreement has been reached
62 on the Patriot Act extension. There will be a rule vote and
63 obviously debate on the bill itself, and it will be during
64 that rule debate that we will then take up the amendments
65 that are ordered on H.R. 908. So there will be no recorded
66 votes in committee this morning. Those votes again will be
67 rolled until this afternoon, and we will now entertain

68 amendments for consideration of H.R. 908.

69 In keeping with the chair's announced policies, I will
70 first recognize the sponsors of any bipartisan amendments.
71 Are there any bipartisan amendments to be offered at this
72 point to H.R. 908? If not, we will go to other--Mr. Waxman?

73 Mr. {Waxman.} Mr. Chairman, I have an amendment at the
74 desk.

75 The {Chairman.} Mr. Waxman has an amendment at the
76 desk. The clerk will read the title.

77 The {Clerk.} Mr. Waxman, is this the amendment, the big
78 substitute?

79 Mr. {Waxman.} Yes.

80 The {Clerk.} Amendment in the nature of a substitute to
81 H.R. 808 offered by Mr. Waxman of California.

82 [The amendment follows:]

83 ***** INSERT 2 *****

|
84 The {Chairman.} The amendment will be considered as
85 read, and the gentleman is recognized for 5 minutes in
86 support of his amendment.

87 Mr. {Waxman.} Mr. Chairman and my colleagues, we should
88 all have the same goal: ensuring that the Nation's chemical
89 facilities are not turned against us by terrorists. It is
90 well recognized that through theft or explosive device,
91 chemical facilities, a critical part of our industrial
92 infrastructure, could become weapons of mass destruction.

93 The CFATS program was established in 2006 by an
94 appropriations provisions to address this risk.
95 Unfortunately, the provision did not receive any scrutiny or
96 input from this committee. The result was slapdash
97 legislation that created dangerous loopholes, fails to
98 protect whistleblowers and involved workers, fails to ensure
99 that the effects of terrorist attacks are minimized through
100 readily available technology, and keeps important information
101 from those who need to know.

102 The law required the Department to issue an interim
103 final rule within 6 months of the law's passage. That
104 hastily developed interim final rule is still in effect 2
105 years after it was meant to expire. H.R. 908 in its current
106 form addresses none of these issues. It simply rubberstamps

107 the work of the Appropriations Committee and says good enough
108 for another 7 years.

109 Mr. Chairman, my amendment is a substitute for H.R. 908.
110 It would close the dangerous security gaps in the program and
111 finally establish a comprehensive security program for
112 chemical facilities. This amendment is based on H.R. 2868
113 from the last Congress. This amendment would ensure that
114 many high-risk facilities that are currently exempted from
115 the CFATS program would be covered by the program going
116 forward.

117 The program exempts facilities that are owned by the
118 Department of Defense but operated by the private sector, DOE
119 facilities, and an estimated 1,000 to 2,000 high-risk
120 chemical facilities because some part of the facility is
121 subject to regulation by the Nuclear Regulatory Commission.
122 My amendment would remove these exemption because they make
123 no sense. The threat posed by an insecure storage of a
124 chemical can be the same whether the chemical is stored at a
125 federal facility, a private facility or another facility
126 which is partially regulated by the NRC. I doubt very much
127 whether a terrorist will try to assess which facility it is
128 before they decide to attack it and use it against us.

129 My amendment would strengthen security at covered
130 facilities by requiring an assessment and in particular

131 circumstances adoption of safer chemicals processes or
132 technologies to reduce the consequences of a terrorist
133 attack. This provision was developed in close consultation
134 with the chemical industry to ensure that where cost-
135 effective and feasible, safer approaches are implemented.

136 My amendment would protect workers by ensuring that they
137 have a role in the development of site security plans and by
138 providing appeals and redress for employees adversely
139 affected by background-check errors.

140 My amendment would also create an important mechanism
141 for citizen petitions to assure the Department of Homeland
142 Security faithfully executes the law.

143 I should note that some provisions from H.R. 2868 are
144 not included in this amendment because they raise questions
145 of germaneness. For instance, this amendment does not
146 address the serious risk posed by chemical storage at
147 drinking-water facilities. It is of great concern that this
148 risk goes unaddressed today but I will look forward for
149 opportunities to address it going forward.

150 The risks we face as a Nation are real, and this
151 committee must address them by improving this program and
152 ensuring its implementation. I urge my colleagues to vote
153 yes on the amendment and yield back the balance of my time.

154 The {Chairman.} The gentleman yields back his time.

155 The gentleman from Illinois, Mr. Shimkus.

156 Mr. {Shimkus.} Thank you, Mr. Chairman. I seek
157 recognition in opposition to the amendment.

158 Thank you, Mr. Chairman. As many similar parts to what
159 was moved obviously in the last Congress, which I voted
160 against, and there are new challenges to this, especially in
161 the new majority.

162 First, this amendment authorizes \$900 million for
163 appropriation to DHS for the CFATS program. In fiscal year
164 2011, CFATS received around \$90 million. The amendment
165 authorizes \$810 million more than the immediate preceding
166 fiscal year, and the amendment makes no offsetting budgetary
167 cuts or revenue enhancements. If this amendment passes, this
168 bill probably would not be scheduled for the Floor and for
169 consideration.

170 Another major problem is the mandatory inherently safer
171 technology debate. We had this tremendous debate over the
172 last 3 years. This amendment requires all covered facilities
173 to perform a formal IST assessment and actually with some
174 exceptions make those changes if they are a tier one or tier
175 two level facility, and we have continued to hear ambiguous
176 testimony before our committee that IST is hard to quantify,
177 harder to enforce, and expensive to do in the first place.
178 The last thing we want to do is have inherently safer

179 technologies drive our manufacturing facilities overseas
180 where they are not going to have these standards, and it is
181 all about keeping these production facilities safe through a
182 CFATS program but not so safe that they move them overseas,
183 because obviously then we really don't have to worry about
184 chemical manufacturing if they are not in our country. We
185 just have to worry about the jobs that we have lost.

186 I have genuine concerns about the cost of the IST
187 assessments. Teams of people will conduct assessments with
188 multiple degrees from multiple disciplines. Just these
189 inspections and assessments are valued at a cost of \$10,000
190 to \$50,000 for a moderately sized holding tank. Employees
191 have argued strongly mandating IST now is the worst thing you
192 could do to chill investment in security upgrades and set back
193 the progress of the CFATS program.

194 Another problem with this amendment is the issue of
195 sharing protected information. This amendment makes serious
196 modifications to loosen the way that sensitive information
197 about a facility is protected from public disclosure. I have
198 been a Member for many, many years, and part of the concern
199 is making sure those who need access to information have it.
200 That is being done locally but not providing open access so
201 the terrorists know what is on site. DHS in a letter to
202 Senator Levin the last Congress asked that revisions be made

203 to similar language because of its permissible treatment in
204 judicial and administrative proceedings inclusion of
205 potential loopholes that would undermine the underlying
206 purpose of CVI.

207 And the last thing, this amendment creates many new
208 regulatory requirements and deadlines and even requires
209 persons who submitted their security vulnerable assessment or
210 site security plan early to resubmit all the paperwork again.
211 Because of this, going in an opposite direction of just
212 strengthening and moving this CFATS forward, I ask my
213 colleagues to oppose this amendment, and I yield back my
214 time.

215 The {Chairman.} The gentleman yields back.

216 The gentleman from Texas, Mr. Green.

217 Mr. {Green.} Mr. Chairman, strike the requisite number
218 of words and speak in favor of the Waxman amendment.

219 I want to express my support for the Waxman amendment.
220 This amendment represents a large portion of what was H.R.
221 2868, Continuing Chemical Facilities Antiterrorist Security
222 Act of 2010. That is germane to the current statute we are
223 addressing today. When H.R. 2868 was originally introduced
224 last Congress, I had several concerns with it that mostly
225 were addressed in the final bill by working with both at that
226 time Chairman Waxman and subcommittee Chairman Ed Markey, and

227 industry and labor officials. H.R. 2868 was not perfect when
228 it passed the House but it did pass on the suspension
229 calendar last year, and it included substantial compromises
230 on permanently extending chemical and water security
231 regulations while reducing duplicative regulatory standards,
232 increasing worker protections and providing important
233 safeguards in chemical facilities and water systems. That is
234 why I am supporting the Waxman amendment today before the
235 committee.

236 While I didn't agree with everything in H.R. 2868, it
237 was far superior to what we have today in H.R. 908. Most
238 notably, it included a reconsideration process by which
239 workers could petition DHS to make a determination as to
240 whether the worker poses an actual terrorist security risk as
241 well as included annual reports to Congress assessing much-
242 needed background check injurious process data. We are
243 unable to include that language in the background-check
244 language before the committee today because we could not come
245 to an agreement, and this along with many other provisions
246 including in 2868 would not be included in H.R. 908. The
247 current political reality and majority provisions of H.R.
248 2868 are not acceptable to the new House majority, making it
249 impossible for the provision I outlined or even something
250 like H.R. 2868, if it was reintroduced to pass the House.

251 I know how important this legislation was to the
252 stakeholders who worked on it last Congress, and I want to
253 reiterate my support for the compromise legislation even
254 though there is no path forward this year to move the bill,
255 but I do strongly support the Waxman amendment and I urge my
256 colleagues to do the same, and I yield back my time.

257 Mr. {Waxman.} Would the gentleman yield to me before he
258 yields back his time?

259 Mr. {Green.} I would be glad to.

260 Mr. {Waxman.} I thank you for yielding back to me. I
261 just want to respond to some of the statements made by the
262 gentleman from Illinois, Mr. Shimkus.

263 I think his view of the world is in the 19th century,
264 not the 21st century. He appears to be by his argument
265 afraid that if we ask industry to do anything to modernize,
266 clean up and be more efficient that they are going to pick up
267 and leave. Well, the world is changing very quickly, and
268 around the world they are moving in the direction of being
269 more efficient and more modern and cleaner. So if we stay
270 with the idea that we can't make any changes, we will lose
271 our industry because they won't be able to compete, and I
272 just think it is a different way of looking at things, that
273 we have to protect the status quo as if the world were not
274 changing in any way and we would be protected by holding onto

275 that status quo.

276 I wanted to give this point of view because I think it
277 is an important one to recognize when we hear over and over
278 again in the context of different issues that oh, we couldn't
279 ask that they do things that might be more conducive to a
280 better environment. Of course, in this bill, we are just not
281 talking about the environment, we are talking about
282 protecting our people from a terrorist attack, and if we can
283 require at minimum cost facilities to do things that make
284 them less vulnerable and make us less vulnerable to a
285 terrorist attack, I think it is reasonable to do so,
286 especially when you recognize that a terrorist is not going
287 to say, well, this is a publicly run facility, this is a
288 privately run facility, this one is regulated under CFATS,
289 this is not regulated CFATS. They are not going to choose
290 their targets based on that. And we ought to harden the
291 ability of all of our potential targets that could be used by
292 terrorists to use the methods that I don't think will hurt
293 them and in fact in the short run and long run even help them
294 be more competitive.

295 I thank the gentleman for yielding.

296 Mr. {Green.} Mr. Chairman, in the time I have left, I
297 want to congratulate our ranking member because I served many
298 years in the State legislature and I had a very conservative

299 Democrat from Bay City, Texas, who I accused him of running
300 headlong into the 13th century, and to this day he will come
301 up to me and say I still have my stone ax. At least
302 Congressman Shimkus is, you know, 700 years later.

303 Mr. {Shimkus.} Nineteenth might not be bad then.

304 Mr. {Green.} Yes, not too bad.

305 Mr. {Shimkus.} Versus the 13th.

306 Mr. {Green.} I yield back my time.

307 The {Chairman.} The gentleman's time is expired.

308 Do other members seek time on the amendment? The
309 gentlelady from California.

310 Ms. {Eshoo.} I move to strike the last word, Mr.
311 Chairman.

312 I support this amendment. This substitute reflects
313 months of bipartisan work and meetings with a range of
314 stakeholders in the last Congress, and that has a lot of
315 meaning to it. It is not just a bunch of words. Unlike the
316 bill before us, it includes carefully crafted consensus
317 solutions to many of the problems in the existing program
318 including information protection.

319 I want to talk briefly about the information protection
320 provisions in the substitute. This substitute identifies the
321 types of information that must be protected and the
322 procedures for safeguarding it. It gives the Secretary the

323 authority to promulgate regulations and issue orders in order
324 to prohibit the unauthorized disclosure of protected
325 information. I think that is a very important part of this
326 amendment. These provisions will ensure the appropriate
327 sharing of protected information with federal, state and
328 local governments, law enforcement and first responders and
329 designated chemical facility personnel. They would also
330 create significant and clear penalties for inappropriate
331 disclosure of protected information. Stakeholders supported
332 these provisions in the last Congress, and I think they are
333 exactly the type of consensus solutions that we should be
334 working on to include in this legislation. I am disappointed
335 that the negotiations on this bill didn't result in the
336 inclusion of this and similar provisions, but I hope that we
337 can join together to improve this program.

338 So I urge my colleagues to support this amendment, and I
339 thank Mr. Waxman for the work that he has done on this, and I
340 yield back.

341 The {Chairman.} The gentlelady yields back.

342 Are there other members wishing to speak on the
343 amendment? Mr. Markey is recognized.

344 Mr. {Markey.} Thank you, Mr. Chairman, very much.

345 During the opening statements yesterday, Ms. Bono Mack,
346 who I do not seek here, said she missed my singing and she

347 requested that I use that enormous God-given talent that I
348 have been given in order to deal with some of these issues
349 here today, and I really regret--

350 The {Chairman.} Is it true that you were in the Vienna
351 Boys Choir recently?

352 Mr. {Markey.} The boys choir singing the Gregorian
353 chants in Vienna. It is one of the most beautiful things.
354 They charge you \$50 to get in at the church but I recommend
355 this to any of you. The basis of the second collection at
356 Catholic church was always the key to the viability of the
357 institution.

358 So I do have a little song here in tribute to Ms. Bono
359 Mack, if you can communicate that to her that I complied with
360 her request. Don't know much about chemistry, don't know
361 much toxicology, don't know what's ammonium nitrate except
362 it's easy to detonate. But I do know that IST was used to
363 increase our security. What a much safer world this could
364 be. Don't know much about gas chlorine other than it makes
365 your water clean but it turns out that it can also kill, and
366 it's included in this bill. But I know when companies
367 convert, their bottom lines do not have to hurt. What a much
368 safer world this could be.

369 So I would just like to point out that--

370 Mr. {Barton.} There is our American Idol candidate next

371 year right there, folks.

372 The {Chairman.} Can you add a little tap dance with
373 that as well?

374 Mr. {Markey.} I would like to point out--

375 Mr. {Barton.} He still doesn't have the votes, though.

376 Mr. {Markey.} I would like to reclaim my time. Is
377 Simon here? No? Okay. We are done.

378 I would like to point out that Congress has enacted
379 legislation to upgrade security in sectors ranging from
380 aviation to rail to nuclear power plants but Congress has
381 been unable to enact comprehensive chemical safety
382 legislation. Instead, we have relied on an incomplete and
383 inadequate legislative rider that was inserted into an
384 appropriations bill in 2006 that amounted to little more than
385 a long run-on sentence.

386 That is why in the last Congress I worked with Mr.
387 Waxman and Bennie Thompson and Jim Oberstar to craft
388 legislation that addressed the weaknesses in current law. We
389 spent the better part of a year meeting with the
390 Administration, with Republicans and industrial and
391 environmental and labor stakeholders and incorporated much of
392 their input into our bill. Our final product, which was
393 reported out of this committee, closed the loopholes in the
394 Department of Homeland Security's existing authority by

395 ensuring that drinking water, wastewater and maritime
396 facilities that contained dangerous chemicals would no longer
397 be exempted from the regulations. We ensured that the
398 department and EPA would have the authority to require the
399 use of cost-effective safer chemicals or processes to reduce
400 the consequences of a terrorist attack at the most dangerous
401 facilities. We also included a number of important worker
402 safety and whistleblower protections.

403 Yet today the Republicans have proposed to merely extend
404 the expiration date for the existing inadequate law to 2018,
405 leaving open all of those loopholes that the Democratic
406 legislation closed. Mr. Waxman is making the proposal today
407 that would close those loopholes so that we do not have
408 inadequate, dangerous legislation that passes extending until
409 2018 those loopholes that can be exploited by al Qaeda. We
410 know that they are still targeting our country. We know that
411 they are out there and we know that we have a responsibility
412 given all of the information that we have just been able to
413 garner from that raid in Pakistan that they are alive, they
414 are well, they have in fact plans to attack us. We should
415 listen to those warnings and put these protections in place.
416 I yield back the balance of my time.

417 The {Chairman.} The gentleman yields back.

418 Are there other members wishing to speak? The gentleman

419 from Louisiana.

420 Dr. {Cassidy.} I wish I could sing, but I wish Mr.
421 Markey could too.

422 Mr. {Markey.} I do too. I stipulate to that.

423 Dr. {Cassidy.} But I admire the creativity.

424 Well, I was trying to understand the amendment, and
425 obviously there is concern that there may be loopholes where
426 CFATS governs and maybe also MTSA and NRC, and I can
427 appreciate that except the testimony we had from Mr. Beers
428 specifically said that they are working to develop a joint
429 task force for the U.S. Coast Guard working group to come up
430 and implement methods to harmonize CFATS and MTSA. I am also
431 told that the Department of Homeland Security has a similar
432 memorandum of understanding working with the Nuclear
433 Regulatory Commission to delineate what types of facilities
434 are and are not covered and also to develop a study regarding
435 how chemicals currently are being secured at the facilities,
436 regulated by NRC, risk-based tier, et cetera, et cetera, so
437 there is an interagency effort to harmonize these efforts.
438 We heard this in the testimony from the Department of
439 Homeland Security, and there was no challenge to that.
440 People agreed with that. So on the one hand, I said well,
441 wait a second, we are already addressing this, why do we have
442 to put it statute.

443 Secondly, I have to say, let us assume that we are going
444 to actually change how we do it. You know only four out of
445 221 tier one chemical facilities have gone entirely through
446 the process, and none of the other tiers have. So only four
447 of 221 have successfully gone through the process, and yet
448 now we are going to change the rules. I live in a place with
449 lots of petrochemical plants and near a nuclear facility, and
450 I am thinking to myself, I want my community safe, and just
451 when it seems we are about to bring it to completion, we are
452 going to change the rules. Frankly, that seems
453 counterproductive.

454 Lastly, I will point out that it may come down--because
455 I am told really the effort to bring everything under
456 Homeland Security is to make it easier to implement
457 inherently safer technology. You would have a central place,
458 and Washington loves central control, so we would have a
459 central place where we could just force this regulation upon
460 all the other agencies. And so let us consider inherently
461 safer technology. When Mr. Beers was here from Department of
462 Homeland Security, I asked him, Mr. Beers, do you really
463 think that inherently safer technology may be akin to the
464 Maginot Line. We are planning for the last war but the
465 offensive force is already thinking of the next. He smiled,
466 and he acknowledged that could potentially be an issue.

467 Now, I am a physician. I am always struck that by the
468 time the FDA will approve a new indication for a medicine, in
469 practice it is already being done, because by the time this
470 bureaucracy finally gets around to doing everything it needs
471 to do to finally approve, patients are benefiting
472 tremendously. Are we going to say wait a second, we have to
473 use IST or we are going to force you to use IST, we are going
474 to proscribe you from anything else by IST but we are going
475 to put it in the same bureaucratic process that we know can
476 be so dilatory and so counterproductive. Speaking of al
477 Qaeda, clearly our security systems were behind the times on
478 9/11.

479 Now, if are specifically thinking about such a risk, why
480 do we want to repeat history? Why not learn from it? Why
481 not have a dynamic, iterative process where Homeland
482 Security, the Nuclear Regulatory Commission and the Coast
483 Guard work with the industries which they regulate to not
484 have a library that you have to fit within the rulebook that
485 has been written but an iterative process where we can say
486 wait a second, we just have intelligence that this is coming
487 across, we haven't yet put it in a rule but we think that you
488 need to implement this. I think that would be more
489 effective. I say that as a person who has a tremendous
490 concentration, as does Mr. Green, of CFATS-related

491 facilities. I am much more confident in that process than to
492 think that we are going to build a Maginot Line, have the
493 Federal Government implement it and assume that we will be
494 safe behind it.

495 Mr. {Shimkus.} Will the gentleman yield?

496 Dr. {Cassidy.} I will yield.

497 Mr. {Shimkus.} Thank you. I want to thank you for
498 addressing the timeliness issue. I also want to thank you
499 for raising the issue of the perceived loopholes. There are
500 no loopholes as you understand correspondence will continue
501 to support, and raising the IST concerns, which is really the
502 devastating impact and makes a premise that these facilities
503 aren't going to be doing stuff to modernize and doing the
504 chemicals they need to get the job done, and I am sorry about
505 trying to fight to save jobs because that is what this is
506 about for me, and I yield back.

507 Mr. {Waxman.} Will the gentleman yield?

508 The {Chairman.} The gentleman's time has expired.

509 Mr. {Waxman.} I ask unanimous consent the gentleman be
510 given another 1 minute.

511 The {Chairman.} Go ahead.

512 Mr. {Waxman.} Thank you for yielding to me.

513 I just want to point out that even if there is a
514 memorandum of understanding as you pointed out, it wouldn't

515 be covered by this act. It wouldn't be enforceable. They
516 would have a memorandum of understanding but under the law,
517 section 550, it exempts facilities owned or operated by the
518 Department of Defense or the Department of Energy or any
519 facility subject to regulation by the Nuclear Regulatory
520 Commission. So they can reach an agreement as to what would
521 be a good way to resolve the matter but then no one would be
522 around to make sure that it is followed through.

523 Dr. {Cassidy.} Reclaiming my time. My understanding is
524 that only chemical facilities owned and operated by DOE are
525 exempt. Simply being regulated by DOE is not grounds for
526 exemption. And that Homeland Security and DOE are sharing
527 this information routinely regarding CFATS implementation at
528 facilities that would otherwise be exempt. So there does
529 seem to be an iterative process even between agencies that is
530 accomplishing the goal.

531 Mr. {Waxman.} I disagree with the gentleman's
532 interpretation. Thank you.

533 Dr. {Cassidy.} I yield back.

534 The {Chairman.} The gentleman's time has expired.

535 Are there other members wishing to speak on the
536 amendment? If not, the vote will occur on the amendment.

537 All those in favor, say aye. All those opposed, say no.

538 Mr. {Waxman.} Roll call vote.

539 The {Chairman.} Roll call is requested. In the pre-
540 announced discussion between Mr. Waxman and myself, the vote
541 will be rolled until this afternoon.

542 Are there other members wishing to offer an amendment to
543 the bill? Mr. Shimkus?

544 Mr. {Shimkus.} I have an amendment at the desk, Mr.
545 Chairman. It is Shimkus 08.

546 The {Chairman.} The clerk will report the title.

547 The {Clerk.} An amendment offered by Mr. Shimkus of
548 Illinois.

549 [The amendment follows:]

550 ***** INSERT 3 *****

|
551 The {Chairman.} The amendment will be considered as
552 read, and the staff will circulate the amendment, and the
553 gentleman is recognized for 5 minutes in support of his
554 amendment.

555 Mr. {Shimkus.} Thank you, Mr. Chairman. This amendment
556 addresses a concern that was first raised by our colleague,
557 Mr. Green, at our subcommittee hearing on H.R. 908.

558 The Department of Homeland Security has various
559 regulations and programs, each of which requires that
560 chemical facility employees pass background checks and carry
561 ID cards to prove it. It gets ridiculous and expensive when
562 some employees are required to carry more than one ID card
563 and to undergo more than one check just because the facility
564 they work in fits into more than one category. For example,
565 employees in a chemical plant located on the Houston ship
566 channel are required to carry the famous TWIC card, which is
567 issued by the Coast Guard under the Marine Transportation
568 Security Act, and also a separate card that is required under
569 the CFATS program. There are other cards as well. Can you
570 imagine if we required interstate truck drivers to carry a
571 driver's license for every State they drive through?

572 At first when we heard about streamlining the
573 requirement, we though it would mean trading in your various

574 State licenses and getting a single federal license to
575 replace them. It turns out that this bill is even simpler.
576 It says your Texas license is good in Illinois. So if an
577 employee wants to bid on a better job in another factory or
578 even in a different area of the same factory, he doesn't need
579 a new DHS background check or a new ID card. He won't lose
580 out in the job bid merely because of the cost and delay of
581 clearing another background check. We have been told that
582 some workers even have to pay for these background checks out
583 of their own pockets.

584 Sadly, it was to avoid this kind of bureaucratic
585 redundancy that we created the Department of Homeland
586 Security to begin with. Its job was to ensure coordination
587 among the various security agencies to make systems more
588 efficient and to ensure that the cost and burden of anti-
589 terrorism measures did not get out of hand, so here we are 9
590 years later using a statute to give DHS the streamlining that
591 we thought we gave them back in 2002. While this amendment
592 does not contain the exact wording that any of us preferred,
593 I think it provides a good break to both workers and
594 employers, and I urge its adoption.

595 Did the gentleman want to--

596 The {Chairman.} Mr. Waxman.

597 Mr. {Waxman.} Thank you, Mr. Chairman. I support this

598 amendment but I would like to take a moment to discuss the
599 committee process.

600 I am pleased that we are able to work out this
601 amendment. It is an example of a small implementation issue
602 that if enacted would make the law more workable. It will
603 make DHS less bureaucratic while easing the burden on workers
604 and industry alike. By recognizing the value of TWIC cards
605 for those who already have them, this amendment would prevent
606 unnecessary and burden background checks. This is a
607 provision that was championed by Representative Green and
608 supported by the stakeholders in the last Congress, and I am
609 happy to see it included here. But it does not address the
610 significant security gaps or many other issues in the
611 underlying statute that need to be addressed. That is why
612 the workers who are on the front lines at these facilities
613 remain opposed to H.R. 908, even with the adoption of this
614 amendment.

615 In the days following our legislative hearing on this
616 bill, Mr. Green and I approached our Republican colleagues
617 with proposals for a number of provisions to address the
618 deficiencies of the CFATS program, and I am disappointed that
619 the majority refused to work on these other issues. Many
620 have consensus solutions that would make our Nation better
621 off. The committee's failure to adopt solutions to these

622 problems does not reflect well on us.

623 This amendment does not protect people living around
624 high-risk drinking water facilities or port facilities or NRC
625 facilities. It does not protect whistleblowers or ensure
626 worker participation in the development of site security
627 plans. It does not provide tools for enforcement to
628 strengthen a program that 4 years in has failed to produce a
629 single approved sit security plan. Not a single plant has
630 completed the process set up by the statute but this bill
631 will do nothing to improve implementation. The list of
632 deficiencies goes on.

633 I support this amendment. I welcome this change to the
634 bill but I am disappointed that this small step is all we
635 could achieve. While this amendment is not enough to make me
636 urge my colleagues to support this bill, I do urge them to
637 support this amendment, and I yield back my time.

638 The {Chairman.} The gentleman yields back.

639 The gentleman from California is recognized for 5
640 minutes.

641 Mr. {Bilbray.} Thank you, Mr. Chairman.

642 I appreciate the fact that there is an effort here of
643 finding consensus on this amendment but I think this
644 amendment and the discussion brings up a really important
645 issue when it talks about the security of these facilities,

646 and too often committee separation of jurisdiction restricts
647 us from doing what we ought to be doing, is talking about how
648 issues like the Homeland Security Committee and the
649 department, especially the national department, abandoning
650 certain requirements that were set up by the 9/11 Commission
651 does affect not just homeland security in the purest sense
652 but all the security of the people in the United States, and
653 the author was talking about this repetitive identification
654 issue being a problem when at the same time we are talking,
655 this committee has not even considered or would consider
656 bringing up the fact that the Department of Homeland Security
657 has abandoned the implementation of the REAL ID bill, which
658 is one that set up federal standards for State IDs so that we
659 didn't have to have somebody carry 50 different documents
660 every time they crossed a State boundary.

661 And so what we have got now is that we have got an
662 opportunity to point out that the 9/11 Commission said it was
663 essential that we set up national standards for State IDs so
664 we didn't need to have a federal ID in everybody's pocket. A
665 minimum standard by the Federal Government for an ID should
666 be a standard across this country that all of us can agree
667 on, and believe me, both sides of the aisle would address
668 this issue if we were talking about mandating it on business,
669 but because we are talking about government needing to do the

670 right thing, we always find an excuse to say we will worry
671 about that later, and I think that this amendment is a step
672 in the right direction but I just want to make sure that we
673 point out that while we do this, this is only talking about a
674 segment of the population that has access across this country
675 to certain activities that could hurt and endanger the
676 American people. Well, mind you that it was not a private
677 sector that gave the identifications to the 9/11 terrorists
678 that they could use to get on the airplanes to kill 2,000
679 Americans. It was a government agency. That government
680 agency made a mistake, and we still have the possibility of
681 that kind of mistake going on now, and so as we go back and
682 forth, the Republican side doesn't like the mandate on local
683 and States, certain minimum standards.

684 The other side of the aisle doesn't like to mandate
685 anything on government but concentrate on the private sector,
686 and I hope that maybe we can get together and say one of the
687 gaping holes of this issue is not what we are not making the
688 businesses do but those of us in government are not doing to
689 address that, and that means not only State and locals doing
690 the right thing but the Department of Homeland Security not
691 retreating from a top priority by the American people and by
692 the 9/11 Commission, and that is to have secure documentation
693 for everybody so that you avoid those things of 9/11, and I

694 just think that as we go through this and discuss this
695 amendment, we have got to remember that we are only
696 addressing a small segment while this committee has looked
697 the other way while the Department of Homeland Security has
698 abandoned a major strategy that was really mandated and
699 encouraged by the 9/11 Commission, and maybe because it is 10
700 years later we have forgotten how that tragedy occurred and
701 it wasn't so much the fact that the private inspectors that
702 we have replaced with government people at the airports were
703 shown IDs that were given by a government agency and we still
704 have not avoided that problem.

705 So as we talk about national security, how it is
706 important that we get the private sector to do the right
707 thing, why don't both sides agree that we have not required
708 either federal government, State governments or local
709 governments to do their fair share of securing the
710 neighborhoods and the communities of this country, and I
711 yield back, Mr. Chairman.

712 The {Chairman.} The gentleman yields back.

713 The gentleman from Texas, Mr. Green.

714 Mr. {Green.} Thank you, Mr. Chairman. Strike the last
715 word.

716 When I agreed to cosponsor the legislation, I asked
717 Chairman Shimkus if we could work to bring a resolution to

718 the duplicative issue of background checks in the CFATS
719 program. Mr. Shimkus and Chairman Upton's staff had worked
720 diligently with my staff to come up with a resolution on this
721 issue. Employees that have already passed background checks
722 should not be required to undergo additional burdensome
723 background checks under CFATS, and their current personnel
724 surety requirements should be deemed sufficient, particularly
725 since employees with secure access at these facilities must
726 also receive a TWIC card, a transportation worker
727 identification card.

728 When the TWIC card was rolled out in our district, and I
729 have the biggest petrochemical complex in the country along
730 with the largest foreign tonnage port, they estimated there
731 would be about 60,000 TWIC cards issued in the Port of
732 Houston. Right now, there are over 260,000 TWIC cards issued
733 in the Port of Houston because of the number of people who
734 have to go on the waterside chemical plants, refineries,
735 docks, you name it, and we had some problem of trying to get
736 through the bureaucratic process. We worked through that
737 process in our district offices and helped numerous
738 individuals. What I would like to do is keep from having the
739 heartache of those folks. One of them worked at one refinery
740 for 30 years and had a problem in his background but it
741 wasn't enough not to get him a TWIC card, but on first site

742 it was. So not only that, but the TWIC card process costs an
743 individual \$130, and the costly process of this background
744 check and surety certification sufficient for workers at the
745 Port of Houston and should be more than valid under CFATS.
746 Again, a lot of employers would cover that \$130 but I know a
747 lot of them didn't so they actually worked with a payment
748 plan for their employees to do this.

749 This amendment ensures that workers who already have a
750 TWIC card would not be subject to additional background
751 checks to meet CFATS requirements. Additionally, the
752 amendment directs the Secretary to determine if alternative
753 background checks are sufficient to meet the risk-based
754 performance standards requirements under CFATS. This would
755 enable DHS to promulgate regulations saying that TWIC
756 credentials and possibly other credentials can be used to
757 satisfy CFATS requirements. Therefore, a CFATS facility who
758 wanted to accept a TWIC card and not do anything else could
759 potentially do so.

760 I also believe the amendment is especially important for
761 chemical facilities that have parsed facilities, one facility
762 regulated under MTSA and a separate facility regulated under
763 CFATS. The chemical facility should be able to transfer
764 workers from their marine facility to their CFATS facility
765 without performing additional background checks and security

766 requirements. The workers' current personal security
767 requirements such as the TWIC should be deemed sufficient.

768 I know Homeland Security testified before the committee
769 stating they are keenly aware of the duplicative nature of
770 the background checks in different facilities, especially
771 those regulated under MTSA and CFATS. This amendment would
772 provide DHS with the guidance and assure they continue to
773 find ways to avoid the duplicate unnecessary background
774 checks, and I urge my colleagues to support the amendment.

775 The {Chairman.} Other members wishing to speak on the
776 amendment? If not, the vote is on the amendment. All those
777 in favor, say aye. All those opposed, say no. The ayes have
778 it. The amendment is agreed to.

779 Are there other members wishing to offer an amendment to
780 the bill? Mr. Markey.

781 Mr. {Markey.} Number one.

782 The {Chairman.} The clerk will report the title.

783 The {Clerk.} An amendment offered by Mr. Markey of
784 Massachusetts.

785 [The amendment follows:]

786 ***** INSERT 4 *****

|
787 The {Chairman.} The amendment will be considered as
788 read. The staff will circulate the amendment, and the
789 gentleman is recognized for 5 minutes in support of his
790 amendment.

791 Mr. {Markey.} Thank you, Mr. Chairman, very much.

792 I have had two incidents with al Qaeda in my district
793 that are quite significant. One Abdul Meskini, he came
794 through, he was one of the millennium bombers. He came in in
795 an LNG tanker into Everett, Massachusetts, which is about 16,
796 18 blocks from my house. He was one of the key plotters in
797 the millennium bombing. And then Muhammad Atta and the other
798 nine who hijacked the two planes from Logan Airport were
799 cruising through my district for about a year before they
800 ultimately perpetrated that heinous crime against our
801 country, and many, many, many people from my Congressional
802 district were on those two planes that were hijacked. So I
803 take this subject very seriously and I think it is important
804 for us to ensure that we have done everything that we can to
805 guarantee there is no repetition of those events.

806 For chemical facilities, the risks are clear. There are
807 many facilities in this country whose toxic chemicals could
808 endanger millions of people in the event of a terrorist
809 attack or catastrophic accident. Just last year, we learned

810 that the Lashkar terrorist organization that committed the
811 2008 attacks in Mumbai asked one of its operatives to conduct
812 surveillance of an unnamed chemical plant in Maryland.
813 Chemical security is more than just guards and guns and gates
814 because it is often possible to dramatically reduce the
815 consequences of a terrorist attack and remove the need for
816 guards and guns and gates all together. The December 3,
817 1984, accident at a pesticide plant in Bhopal, India, now
818 owned by Dow, released 42 tons of toxic MIC gas, killing
819 thousands of people and injuring many more. Safer
820 substitutes existed even at that time but they were not used.

821 Several years ago, a chemical tank exploded at a Bayer
822 facility in West Virginia, sending a fireball into the sky
823 and killing two employees. That facility just like the Dow
824 facility in Bhopal also stored large quantities of toxic MIC
825 gas, and just like the Dow facility in Bhopal, Bayer knew it
826 could easily have used safer processes that eliminate or
827 greatly reduced the need for the toxic chemicals in the first
828 place. The West Virginia accident could have been much, much
829 worse, and it shouldn't have taken that accident for Bayer to
830 agree to implement safer processes.

831 For 7 years, I have been working to ensure that the
832 riskiest facilities that are able to cost-effectively reduce
833 or eliminate the vast quantities of toxic chemicals from

834 their sites would do so. Terrorists cannot blow up what is
835 no longer there. Now, the Republicans have already rejected
836 Mr. Waxman's excellent amendment to include the inherently
837 safer technology provisions we worked out with the American
838 Chemistry Council staff last year.

839 This amendment seeks to remedy one of the glaring
840 problem's the department's current authority. The law
841 actually prevents the Department of Homeland Security from
842 disapproving a chemical company's site security plan based on
843 the presence or absence of a particular security measure.
844 What this means is even if there was an egregious security
845 problem like a hole in the fence surrounding the toxic
846 chemicals, the Department of Homeland Security is not allowed
847 to disapprove the company's security plan just because of
848 that. And if a completely ignores the availability of cost-
849 effective and less dangerous chemicals or processes, the
850 department cannot require those either.

851 My amendment solves this problem by using the language
852 first suggested by Dow Chemical Company when it attempted to
853 negotiate a legislative compromise on the use of inherently
854 safer technology with Greenpeace 2 years ago, the very same
855 language that was then submitted with their approval to this
856 committee by the American Chemistry Council as part of our
857 negotiations with them. All my language does is untie the

858 Department of Homeland Security's hands and allows it to
859 disapprove a site security plan on the basis of the presence
860 or absence of a particular security measure only if no other
861 security measure can satisfy the chemical security standards
862 or address the vulnerabilities at the plant. It seems to me
863 that my amendment to empower the Department of Homeland
864 Security and allow it to order specific security measures to
865 correct specific security vulnerabilities is the least this
866 committee can do in order to make sure that we don't tie the
867 hands of the Homeland Security Department, and I urge support
868 for my amendment.

869 The {Chairman.} Members wishing to speak? Mr. Shimkus.

870 Mr. {Shimkus.} I speak in opposition to the amendment.

871 Thank you, Mr. Chairman.

872 Receiving this amendment at 7:30 for all the years of
873 being diligently working on this, obviously this is the first
874 time I have heard about this amendment or had a chance to do
875 additional research. Trying to summarize it, we are trying
876 to change what we have in here to a risk-based standard to an
877 undefined applicable risk-based standards. This amendment
878 changes existing provisions of law from prohibiting DHS from
879 rejecting a site security plan based upon the presence or
880 absence of a specific security measure proposed to be
881 implemented at a facility to conditioning the rejection on

882 whether the security measures or any other ideas a plant
883 owner has can satisfy CFATS risk-based performance standards,
884 regulations or allowing DHS to reject the site security plan
885 if it does not adequately address the vulnerabilities
886 outlined in a facility's vulnerability assessment.

887 This amendment is unnecessary and duplicates existing
888 CFATS regulations. Title VI, part 27.245 of the Code of
889 Federal Regulations outlines the criteria and process by
890 which DHS can reject a site security plan. Specifically,
891 this states that DHS may disapprove a site security plan that
892 fails to satisfy the risk-based performance criteria in Title
893 VI of the Code of Federal Regulations. Moreover, it requires
894 each submitted site security plan to address each
895 vulnerability identified in the facility security
896 vulnerability assessment and identify and describe the
897 security measures to address each such vulnerability. In
898 addition, the amendment strikes language, as I said in my
899 opening, trying to regulate definitions of what a ``risk-
900 based performance standard'' to requirement on the facility
901 owner/operator of a facility to meet an undefined applicable
902 risk-based standard.

903 With that, the intent is to continue to move working
904 with DHS to make sure our chemical plants are safe and
905 secure. Both sides need certainty. This creates another

906 level of uncertainty and challenges. I ask my colleagues to
907 reject this amendment, and I yield back my time.

908 The {Chairman.} Mr. Waxman is recognized for 5 minutes.

909 Mr. {Waxman.} Mr. Chairman and my colleagues, I support
910 this amendment.

911 According to the Department of Homeland Security, a
912 security risk is a function of the consequences of a
913 successful attack on a facility, the vulnerability of that
914 facility to attack, and the intent of a potential adversary.
915 If we want to lower overall risk, we must lower each of these
916 variables including consequences. The best way to do this is
917 to use safer chemicals or processes that would reduce the
918 consequences in the event of a terrorist attack and would
919 make the facility a less desirable target in the first place.
920 Many chemical facilities are doing this already voluntarily,
921 and they are improving the efficiency, safety and security of
922 their operations. But our national security cannot depend on
923 voluntary efforts by the best actors. Under the existing
924 statute, the Secretary cannot require the use of safer
925 chemicals or processes even if they are the only way to
926 ensure that a facility meets the risk-based performance
927 standards. That prohibition is a glaring weakness in this
928 statute. When that proviso was drafted by the appropriators,
929 the fear of process changes was allowed to override security

930 concerns.

931 This amendment corrects that weakness by allowing the
932 Secretary to require the use of safer chemicals or processes
933 where no other security measure can ensure that the standards
934 are met. It strikes a balance between our security needs and
935 the needs of regulated facilities, and ensures that no
936 changes will be required unless absolutely necessary. I
937 think this amendment makes a great deal of sense, and I would
938 like to yield to Mr. Markey.

939 Mr. {Markey.} I thank the gentleman very much.

940 First of all, we submitted this amendment 2 weeks ago
941 when the markup of this bill was originally scheduled, so you
942 have had the amendment for 2 weeks. We sent it over there
943 when we first scheduled it.

944 Secondly, al Qaeda has already warned us. They are
945 telling us at the top of their terrorist target lists are
946 nuclear power plants, chemical facilities and subways. We
947 know this. So we shouldn't be tying the hands of the
948 Department of Homeland Security to be able to put security
949 around the facilities that we know that they want to attack,
950 and I understand that the chemical industry, I understand
951 that the nuclear industry doesn't want to be bothered by the
952 Department of Homeland Security coming in and finding
953 specific problems and demanding that they have to correct

954 them because the Department of Homeland Security in all of
955 their expertise and they have dedicated their lives to doing
956 this are saying that this could be a huge risk that al Qaeda
957 could exploit.

958 So I just think that having this be so ambiguous, not
959 giving them the authority to be able to close down these
960 apertures through which al Qaeda can come and they arrested
961 another coven of al Qaeda in my district in Watertown just
962 last year. I am very concerned. I am very, very concerned.
963 And they are smart, they are well educated, they have
964 specific targets. We know what they are. We should not be
965 tying the hands of the police. We should tell the police do
966 what you have to do to protect us, and I just don't think
967 that the chemical industry is serving our country well in
968 objecting to this kind of protection.

969 I yield back to the gentleman.

970 Mr. {Waxman.} Mr. Chairman, I will yield back the
971 balance of my time.

972 Mr. {Shimkus.} [Presiding] The gentleman yields back
973 his time.

974 The chair recognizes the gentleman from Louisiana. For
975 what purpose?

976 Dr. {Cassidy.} Strike the last word.

977 Mr. {Shimkus.} The gentleman is recognized for 5

978 minutes.

979 Dr. {Cassidy.} I don't know this, and so I am asking
980 this out of kind of a desire to know. I am assuming that if
981 the Department of Homeland Security goes to a plant, you
982 mentioned Dow, Dow has a major facility in my district, but
983 let us pick another because it may be under the Coast Guard
984 part of it. And they do a site security plan and they see
985 that it is inadequate. Current law is that they may
986 disapprove, okay, so they disapprove. But I can also imagine
987 that in this complex place, there are 100 things on the
988 checklist, most important, number one, least important, 100.
989 They get 99 out of 100. The hundredth, they have a
990 commitment that they are going to fix, and so then they get
991 maybe a provisional approval, and that is actually an
992 efficient process. Again, only four out of 220 tier ones
993 have been approved. So I can accept that there would be some
994 desire for efficiency. Not having confronted that but
995 imagining that, does the author of the amendment feel like
996 that would not be allowed under his amendment or that it is
997 inappropriate to be allowed or that this sort of iterative
998 process is inadequate? I am asking.

999 Mr. {Markey.} I thank the gentleman for the question.
1000 Yes, the key language is the presence or absence of a
1001 particular security measure, so if the Homeland Security

1002 police say this is a vulnerability, it is an individual
1003 vulnerability but it is very important and we want to correct
1004 it before we approve it.

1005 Dr. {Cassidy.} Now, let me ask you, because you added
1006 ``very important.'' I can imagine that when Homeland
1007 Security--because I am very impressed when they come and
1008 testify--that they would go through and they would say, you
1009 know, here are some that are very important, we aren't going
1010 to approve you unless you get this fixed, and here is one
1011 that really is best practices. We want you to do it but we
1012 are going to give you an approval. Sure, it is important, it
1013 wouldn't be on the list, but remove ``very.'' Under the
1014 member's amendment, would that sort of iterative, cooperative
1015 process be allowed? Again, I just want to get these things
1016 approved tier one appropriately but only four out of 220 have
1017 been. Will this slow down that process?

1018 Mr. {Markey.} The department in my opinion should have
1019 the ability to be able to say as the police in a community
1020 trying to protect the community, you know, that they have
1021 found something that has not been remedied that is a problem.

1022 Dr. {Cassidy.} Now, let me ask you, once my wife was
1023 speeding. The cop stopped her. She jumped out, and she was
1024 a gastroenterologist. Let us just say she was having a
1025 gastroenterologic problem and she had to get home quickly.

1026 The cop let her go. Now, that actually gave the cop the
1027 discretion to prevent a very embarrassing situation. I hope
1028 my wife is not watching.

1029 My question is--

1030 Mr. {Markey.} No one is watching. Don't worry about
1031 it.

1032 Dr. {Cassidy.} After your song, they may be.

1033 But my question is, there was an appropriate use of
1034 judgment that allowed a warning but allowed something to take
1035 place. When the Department of Homeland Security, which I
1036 don't see as being soft on this issue, has the flexibility of
1037 ``may,'' do we add something by saying ``shall''?

1038 Now, Mr. Waxman suggested it might be inherently safer
1039 technology that the bill is really after. Is that the case?

1040 Mr. {Markey.} I think the issue really comes down to
1041 denying the Department of Homeland Security the ability to be
1042 able to order a specific change.

1043 Dr. {Cassidy.} No, no, because right now they may.
1044 Just reclaiming my time, they may--

1045 Mr. {Markey.} The way I view it is, I basically believe
1046 that that police officer exercised good judgment and I
1047 believe the Department of Homeland Security will exercise
1048 good judgment.

1049 Dr. {Cassidy.} But it seems like the ``may'' allows us

1050 to--

1051 Mr. {Markey.} And I would rather err on the side of
1052 giving the Department of Homeland Security the ability to
1053 order--

1054 Dr. {Cassidy.} But they have that. Is this really
1055 about--Mr. Waxman suggested it is actually about IST, so is
1056 it actually about IST or is it about forcing them to not
1057 approve a plan, even if it only a minor problem? And again,
1058 I am asking this because I want to know the intent of the
1059 legislation, not because I am trying to challenge.

1060 Mr. {Markey.} We are not giving them the authority to
1061 disapprove a plan no matter what. We have a ``may'' in the
1062 language, not a ``shall.'' On line five, it says ``may''
1063 disapprove, not ``shall.'' So it is discretionary, and on
1064 that basis I would give them that discretion.

1065 Dr. {Cassidy.} But they may disapprove now?

1066 Mr. {Markey.} They may.

1067 Dr. {Cassidy.} I am out of time, but I would like at
1068 some later point if I could address if this is actually about
1069 IST because the legislation doesn't say that but Mr. Waxman's
1070 comment suggested it is.

1071 Mr. {Shimkus.} The gentleman's time is expired.

1072 Dr. {Cassidy.} I yield back.

1073 Mr. {Shimkus.} Does anyone seek recognition on the

1074 amendment? If not, a vote will occur on the amendment
1075 offered by the gentleman from Massachusetts, Mr. Markey. All
1076 those in favor, say aye. All those opposed, no. In the
1077 opinion of the chair, the nos have it.

1078 Mr. {Markey.} Can I have a roll call, Mr. Chairman?

1079 Mr. {Shimkus.} As stated in the agreement, we will roll
1080 this vote until after the votes on the Floor.

1081 I would now like to call up the next amendment, the
1082 Shimkus amendment, number 10.

1083 The {Clerk.} Amendment to the committee print for H.R.
1084 908 offered by Mr. Shimkus.

1085 [The amendment follows:]

1086 ***** INSERT 5 *****

|
1087 Mr. {Shimkus.} And I recognize myself for 5 minutes in
1088 support of the amendment.

1089 When the Under Secretary of Homeland Security testified
1090 on H.R. 908 just a month ago, he said that he would prefer to
1091 make the program permanent. That means no sunset at all. I
1092 in essence agree with him. But reauthorization is always an
1093 important thing to look at provisions. And the witnesses who
1094 represented a wide variety of plant owners and operators
1095 agreed: extend the authority for as long as possible.

1096 We need the longest possible extension for three
1097 reasons. First, the program has barely gotten launched.
1098 Many facilities are still crafting their site security plans
1099 and the department is still refining its review and
1100 inspection processes. This will take more than a few years
1101 to get going. The last thing we need is to interrupt the
1102 programs by going back to square one and starting over.

1103 The second issue is the compliance with CFATS takes a
1104 lot of time and costs a lot of money. One trade group
1105 estimated \$8 billion just for themselves. A shorter sunset
1106 date triggers uncertainty for business. Much investment is
1107 in long-term capital that may be amortized over many years.
1108 Accountants and investors get nervous when a cost appears to
1109 be spread over more years than the law requires it for

1110 compliance and investor planning. If the program expires,
1111 what will replace it? Something even more costly? To reduce
1112 these risks for the people who are carrying the cost burden
1113 of compliance, we need to extend the authority as long as we
1114 can. Under current House practice, that is 7 years.

1115 On the third issue is let us remember the program's
1116 purpose: securing us against terrorists. Why risk
1117 interrupting that effort any sooner than we have to.

1118 And with that, I yield back my time.

1119 Anyone else who would like to speak on the amendment?

1120 The chair recognizes Mr. Waxman for 5 minutes.

1121 Mr. {Waxman.} Mr. Chairman, I oppose this amendment.
1122 This bill extends a flawed program with almost no substantive
1123 changes. Section 550, which established the CFATS program,
1124 was meant to expire in 2009 and it was never meant to be a
1125 comprehensive or long-term approach to our national security.
1126 Four and a half years after section 550 was passed, we have
1127 still failed to address this issue in a comprehensive way.

1128 We tried last Congress. This committee worked
1129 diligently with the Homeland Security Committee and the
1130 Committee on Transportation and Infrastructure to pass
1131 comprehensive legislation that passed the House of
1132 Representatives. That legislation would have addressed the
1133 significant security gaps in section 550, protected workers

1134 and whistleblowers, provided enforcement and moved us towards
1135 safer chemicals and processes to reduce the consequences of
1136 potential terrorist attacks. This bill does none of those
1137 things.

1138 The primary thing this bill does is to encourage
1139 Congress not to revisit this important issue for years.
1140 Extending through 2017 is unwise, extending through 2018 even
1141 more so. The interests at stake are too great. I urge my
1142 colleagues to oppose this amendment.

1143 I would like to say further that the way we should look
1144 at this issue is, this program was authorized in an
1145 appropriations bill. It didn't come through our committee.
1146 It was expected it would be in place for a short while, and
1147 then our committee, Homeland Security, Infrastructure and
1148 Transportation Committee would develop a more comprehensive
1149 approach, and I could see that thinking. But now to say that
1150 what they did was good enough and we are going to extend it
1151 all the way to 2018 is pushing the can down the road, kicking
1152 the rock to the side, not facing the decisions we need to
1153 make.

1154 Mr. {Shimkus.} If the gentleman would yield?

1155 Mr. {Waxman.} Yes.

1156 Mr. {Shimkus.} As I said, our concern is that since
1157 there is still a lot of work to be done and a lot of these

1158 facilities haven't been inspected, that to change the rules
1159 when folks are--that is our focus on why we would want
1160 longer, and I would just thank you for yielding.

1161 Mr. {Waxman.} I respect that position but I disagree
1162 with it. I think that when we have deadlines, we are forced
1163 to make decisions sometimes. We are not being forced to make
1164 a decision on this bill at this time but I think it is too
1165 long a deadline, and I wanted to express that view and
1166 therefore oppose the gentleman's amendment. Yield back my
1167 time.

1168 Mr. {Shimkus.} The gentleman yields back.

1169 For what purpose does the gentleman from Texas rise?

1170 Mr. {Green.} Mr. Chairman, I have a second-degree
1171 amendment at the desk.

1172 Mr. {Shimkus.} The clerk will report the amendment.

1173 The {Clerk.} An amendment offered by Mr. Green.

1174 [The amendment follows:]

1175 ***** INSERT 6 *****

|
1176 Mr. {Shimkus.} The gentleman is recognized for 5
1177 minutes in support of his amendment as we distribute the
1178 secondary amendment.

1179 Mr. {Green.} Thank you, Mr. Chairman. When I agreed to
1180 cosponsor the legislation, I asked Chairman Shimkus if we
1181 could limit the authorization to a 5-year authorization.
1182 Fiscal year 2011 C.R. recently signed into law authorized the
1183 current CFATS appropriations until the end of the fiscal
1184 year. That ensures the program is funded for 1 year.
1185 Pushing out the authorization to 2018 gives the program one
1186 additional year without Congress having to revisit the
1187 program. The majority has cited jurisdictional issues with
1188 Homeland Security Committee as justification for pushing the
1189 authorization date to 2018. This has taken precedence over
1190 more moderate authorization length.

1191 I also want to maintain Energy and Commerce jurisdiction
1192 of CFATS but I have reservations about authorizing this
1193 program for 8 years instead of 7 or even 5, which I
1194 originally requested.

1195 I agree with the majority that a year-to-year
1196 authorization which can be held up by political budget debate
1197 does not offer safety assurances or assurances to the
1198 industry that their investment is a safe or wise investment.

1199 H.R. 908 does offer some continuity to the system but 8
1200 years, which is essentially what this bill does with the
1201 additional year provided by the C.R., is too long for
1202 Congress to go without revisiting the program.

1203 I urge my colleagues to support this amendment that
1204 would limit the extension of this program to 5 years. The 5-
1205 year extension provided by my amendment would give this
1206 committee the time we need to evaluate any potential
1207 successes or flaws in the program and still provide industry
1208 the assurances they need to make prudent investments in the
1209 safety of their facilities.

1210 Mr. Chairman, unless there are questions, I will yield
1211 back my time.

1212 Mr. {Shimkus.} The gentleman yields back his time.

1213 Now I recognize myself for 5 minutes in opposition to
1214 the amendment. Let me first say that my colleague has been a
1215 great ally and a great opponent in the same bill. As we walk
1216 through this process, you know, I agree with the Under
1217 Secretary of Homeland Security that we ought to have a
1218 permanent bill. So if I were to agree with him, we would
1219 make it permanent, but because of the way we work and have in
1220 essence, 7 years is as far as we usually go out. You know,
1221 my perspective is, I came back from the permanency to seven.
1222 You again have been very diligent in expressing your opinion

1223 on where you want to be and have that and appreciate the
1224 struggle we have had to maintain but because of wanting to,
1225 for the reasons I had talked to you and shared with Chairman
1226 Waxman, and a little commentary, it is important for there to
1227 be some certainty, and the longer certainty time out,
1228 especially with the huge capital investments that could come
1229 on and actuary planning and being able to borrow money to
1230 meet these changes, I would like to stick to the time as the
1231 amendment, so with that, I ask my colleagues to reject the
1232 secondary amendment.

1233 Does anyone wish to speak? The chair recognizes Mr.
1234 Waxman for 5 minutes.

1235 Mr. {Waxman.} Thank you. I want to support this
1236 amendment.

1237 I thank Mr. Green for offering it, to limit the
1238 extension of this program. It is an important program, but
1239 it is an insufficient program in the form in which it is at
1240 the present time, and therefore I would want to limit the
1241 authorization period further. That is why this amendment is
1242 a step in the right direction.

1243 Industry says that a multiyear extension is necessary to
1244 encourage investment in security and development of
1245 technology. In the last Congress, we responded to that need
1246 by passing comprehensive legislation to establish a strong,

1247 effective and long-term chemical security program. That bill
1248 like the substitute I offered today would have closed
1249 critical security gaps in the existing program, strengthened
1250 security requirements, protected workers and increased
1251 enforcement. A longer authorization period gives the
1252 American people the false impression that we have done our
1253 job and do not need to revisit this issue for years to come,
1254 but we haven't done our job.

1255 H.R. 908 doesn't address the critical problems of this
1256 program. Security of water facilities is not addressed.
1257 Security at federally owned contractor-operated facilities is
1258 not addressed. The use of safer chemicals or processes
1259 cannot be required even if they are the only way to secure a
1260 facility. Workers and whistleblowers are not protected, and
1261 enforcement tools are still lacking. We must work to address
1262 these shortcomings to ensure our national security.

1263 I therefore urge my colleagues to support this amendment
1264 and limit the extension of this program. Yield back the
1265 balance of my time.

1266 Mr. {Shimkus.} The gentleman yields back his time.
1267 Anyone seeking time on the amendment? If not, the chair will
1268 call a vote on the secondary amendment offered by the
1269 gentleman from Texas, Mr. Green. All those in favor, say
1270 aye. All those opposed, no. The nos have it. The amendment

1271 is not agreed to.

1272 Mr. {Green.} Mr. Chairman, we need a roll call vote.

1273 Mr. {Shimkus.} And I need clarification because of the
1274 agreement so that the roll call vote will be conducted after
1275 the Floor votes, and if that fails, then there will be a roll
1276 call vote on the primary or first amendment, if it is
1277 requested at the time. Very good. And the gentleman's
1278 rights will be preserved.

1279 Anyone else seeking--the chair recognizes the gentleman,
1280 Mr. Butterfield from North Carolina.

1281 Mr. {Butterfield.} Thank you, Mr. Chairman. I have an
1282 amendment at the desk.

1283 Mr. {Shimkus.} Will the gentleman suspend for a minute?
1284 I apologize to my colleague. The gentleman from North
1285 Carolina is recognized.

1286 Mr. {Murphy.} Mr. Chairman, I reserve a point of order
1287 on this amendment.

1288 Mr. {Shimkus.} The point of order is reserved.

1289 Mr. {Butterfield.} Thank you, Mr. Chairman. I have an
1290 amendment at the desk.

1291 Mr. {Shimkus.} Let the clerk report the amendment.

1292 The {Clerk.} Amendment to the committee print for H.R.
1293 908 offered by Mr. Butterfield.

1294 [The amendment follows:]

1295 ***** INSERT 7 *****

|
1296 Mr. {Shimkus.} The gentleman is recognized for 5
1297 minutes in support of his amendment.

1298 Mr. {Butterfield.} Thank you very much, Mr. Chairman.
1299 While the clerks are passing out the amendment, I will go
1300 ahead and try to explain it very briefly to my colleagues.

1301 This amendment is a whistleblower amendment. The
1302 amendment would protect whistleblowers from retaliation if
1303 they report security problems at chemical facilities.
1304 Specifically, Mr. Chairman, whistleblowers are protected
1305 under this amendment when they report an alleged violation to
1306 the Department of Homeland Security or when they refuse to
1307 perform duties that they believe violate the law or when they
1308 testify before Congress or in another official proceeding.
1309 Information about security flaws or violations of CFATS
1310 requirements will be essential to the success of this program
1311 and our national security. Providing protection to
1312 whistleblowers will ensure that people with essential
1313 information are able to share it with Congress and regulators
1314 without fear of retaliation.

1315 This amendment, Mr. Chairman, is nearly identical to the
1316 whistleblower provisions we have included in practically all
1317 of our laws over time such as the Clean Air Act and the Safe
1318 Drinking Water Act and the Toxic Substances Control Act and

1319 the Solid Waste Disposal Act, Superfund and Consumer Product
1320 Safety Commission, and the list goes on and on.
1321 Whistleblowers concerned about chemical plant security
1322 deserve the same protections as employees under any of these
1323 other laws. This amendment will make chemical plants safer
1324 by allowing employees to alert the Secretary to urgent
1325 problems.

1326 Mr. Chairman, I am going to urge my colleagues to vote
1327 yes on this amendment. Thank you for listening. I yield
1328 back.

1329 Mr. {Shimkus.} The gentleman yields back.

1330 Does the gentleman from Pennsylvania insist on his point
1331 of order?

1332 Mr. {Murphy.} Mr. Chairman, I insist on a point of
1333 order. The amendment violates clause 7, rule 16 of the Rules
1334 of the House because it is not germane to the underlying
1335 bill, so the amendment is not within the committee's
1336 jurisdiction.

1337 Mr. {Shimkus.} Would anyone--the gentleman from
1338 California, Mr. Waxman.

1339 Mr. {Waxman.} I would like to be heard on this issue.

1340 Mr. {Shimkus.} The gentleman is recognized.

1341 Mr. {Waxman.} I understand that the amendment offered
1342 by Mr. Butterfield may provide the basis for the Education

1343 and Workforce Committee to claim a jurisdictional interest
1344 but our committee also has a jurisdictional claim to these
1345 provisions as they would be an integral component of a
1346 program squarely within the jurisdiction of the Energy and
1347 Commerce Committee. Given the importance of ensuring
1348 appropriate protections for whistleblowers, I urge that the
1349 committee refrain today from pursuing procedural objections
1350 and incorporate this language into the text the committee
1351 reports. After we report the legislation from the committee,
1352 there could be consultation with the Committee on Education
1353 and Workforce as the bill moves to the Floor but such
1354 consultation is routine. It is what we do with many bills in
1355 every Congress.

1356 If we want to protect whistleblowers and make our
1357 facilities safer, we can adopt the amendment, and I want to
1358 point out that there are many laws that already have
1359 whistleblower protections including a list of 38 of those
1360 eight reported out of our committee that had whistleblower
1361 protections. So while the gentleman has what appears to be a
1362 legitimate point of order, if it were the committee's will
1363 not to assert the germaneness objection, I think we could go
1364 forward with this amendment and then consult with the
1365 Education and Workforce Committee and then perhaps reach an
1366 agreement with them without having a whole bill held up by

1367 them.

1368 Mr. {Shimkus.} Would the gentleman yield for a minute?

1369 Mr. {Waxman.} Certainly.

1370 Mr. {Shimkus.} I think the counterargument could also
1371 be made that if we think we have a possibility of going
1372 through the germaneness issue, we could ask the gentleman to
1373 withdraw the amendment and as the process moves forward to
1374 the Floor in consultation with the committee of jurisdiction
1375 maybe through the rules process there will be something in
1376 line with that.

1377 Mr. {Waxman.} Reclaiming my time. I appreciate what
1378 you are saying. If you are not going to allow the amendment
1379 to go forward here, then that will be the decision, but I
1380 hope that the chairman is also saying that if that is the
1381 case, we will continue to look at this issue and see if we
1382 can get an agreed-upon whistleblower protection that we can
1383 negotiate with the Education and Workforce Committee. Is the
1384 chairman willing to agree to that?

1385 Mr. {Shimkus.} The ranking member knows that I am
1386 always open to discussions on policy and assistance. We do
1387 want to talk with the committee of jurisdiction. We are
1388 always willing to talk.

1389 Mr. {Waxman.} The other committee of jurisdiction.

1390 Mr. {Shimkus.} Well, we want to make sure that they are

1391 in line as we move forward, so--

1392 Mr. {Green.} Mr. Chairman, would you yield?

1393 Mr. {Shimkus.} I will.

1394 Mr. {Green.} I find it interesting, though, that we
1395 have jurisdiction over chemical security and yet we don't
1396 have jurisdiction over what we can do with that. I think
1397 that most of us who serve on this committee and are proud to
1398 be here would love to expand our jurisdiction and so maybe if
1399 we push the envelope, that we ought to have jurisdiction over
1400 it, and maybe have Education and Workforce to conduct us
1401 after we do it.

1402 With that, I thank you for yielding.

1403 Mr. {Shimkus.} Anyone else seeking time on this?

1404 The chair will now rule on the point of order. Clause 7
1405 of rule 16 of the Rules of the House prohibits the committee
1406 from considering non-germane amendments. The precedents of
1407 the House set forth several general tests for germaneness.
1408 These include the jurisdiction test. Having reviewed the
1409 amendment, consulted with the House parliamentarian, the
1410 chair finds jurisdiction over this type of whistleblower
1411 protection rests with the Committee on Education and
1412 Workforce because the amendment introduces a matter outside
1413 the jurisdiction of the committee. The amendment is non-
1414 germane.

1415 Mr. {Butterfield.} Mr. Chairman.

1416 Mr. {Shimkus.} The gentleman from North Carolina.

1417 Mr. {Butterfield.} Are you declaring that jurisdiction
1418 is exclusively in Education and Workforce or that we share
1419 the jurisdiction with that committee?

1420 Mr. {Shimkus.} The chair is not a parliamentarian. I
1421 will not issue an advisory opinion. You can check with the
1422 parliamentarian for that.

1423 Mr. {Butterfield.} To interpret what you just ruled a
1424 moment ago, and certainly I will accept your ruling, but one
1425 could infer from your statement that we are ceding
1426 jurisdiction on this type of issue.

1427 Mr. {Shimkus.} I will inform the gentleman that we have
1428 consulted with the House parliamentarian on this amendment
1429 and the germaneness aspect of it.

1430 Mr. {Waxman.} Will the gentleman from North Carolina
1431 yield to me?

1432 Mr. {Butterfield.} I will yield to the ranking member.

1433 Mr. {Waxman.} I think the chairman's ruling is correct
1434 as I understand the parliamentary situation, but I would hope
1435 it not be interpreted that we are ceding the jurisdiction to
1436 them. We could have asserted our jurisdiction because we do
1437 have jurisdiction over the matter as does the Education and
1438 Workforce Committee. So while the chairman won't give you an

1439 advisory opinion, I would assert that it is my view that this
1440 should not be interpreted as ceding the jurisdiction of the
1441 issue to that other committee.

1442 Mr. {Butterfield.} Reclaiming my time. And at the very
1443 least, let us declare it to be an open question and let us
1444 continue to work on it.

1445 Thank you, Mr. Chairman. I yield back.

1446 Mr. {Shimkus.} Are there further amendments to the
1447 pending bill? The gentleman from Texas.

1448 Mr. {Green.} Mr. Chairman, I have an amendment at the
1449 desk.

1450 Mr. {Shimkus.} The clerk will report the amendment.

1451 The {Clerk.} Amendment to the committee print for H.R.
1452 908 offered by Mr. Green of Texas.

1453 [The amendment follows:]

1454 ***** INSERT 8 *****

|
1455 Mr. {Shimkus.} The gentleman is recognized for 5
1456 minutes in support of his amendment.

1457 Mr. {Green.} Thank you, Mr. Chairman.

1458 I offer this amendment to ensure that workers and
1459 employees are at the table when site security plans are
1460 developed. The goal of this legislation is to protect the
1461 public from the threat posed by dangerous facilities. This
1462 amendment would include the best qualified people and efforts
1463 to accomplish this goal. Workers have an unmatched knowledge
1464 of the facilities in which they work. The employees are the
1465 ones who are most familiar with the hazards and
1466 vulnerabilities of the facilities in which they work. They
1467 would play an integral part in detecting suspicious activity
1468 and responding to it. Employees of a facility that is a
1469 potential terrorist target would be hurt first and worst in
1470 the case of an attack. They would be the last line of
1471 defense and the first affected by an attack. If employees
1472 are excluded from site security planning, vulnerabilities
1473 could be missed with catastrophic consequences.

1474 By including workers in the development of site security
1475 plans, this amendment would improve these plans and increase
1476 security. I believe it is not only a smart policy for
1477 protecting our workers but it also makes smart business

1478 sense, and I have experience in helping manage a business for
1479 many years, that the best folks who understand your business
1480 are the folks who are producing your product out on the line.
1481 Including workers in the development of plans is just good
1482 business practice.

1483 I urge my colleagues to adopt the amendment. It should
1484 be practiced without it being in the law. In cases of a
1485 bargaining unit, it is part of their bargaining agreement,
1486 but a lot of our plants don't have bargaining amendments and
1487 I think they should involve their employees and particularly
1488 something that is as important as protecting a plant from
1489 attack.

1490 If there are no questions, I will yield back my time.

1491 Mr. {Shimkus.} The gentleman yields back his time.

1492 The chair recognizes himself in opposition to the
1493 amendment, and again, stating that my colleague from Texas
1494 has been rabidly on the back of the chairman of the
1495 subcommittee on a couple of issues, this being one of them,
1496 and so I don't question his intensity and his support for not
1497 only the industry but the workers that are in the facilities.

1498 You know, I break this debate up into two issues, the
1499 chemical vulnerability training and security site selection
1500 and the workers' response drills, kind of two different
1501 issues, and I probably would agree with him on the workers'

1502 response drill but the old saying is, loose lips sink ships,
1503 and the security analysis is such a highly contained list.
1504 Having more people know it than less raises obviously
1505 concerns of security breaches.

1506 The amendment requires owners or operators subject to
1507 CFATS to include at least one supervisory and one non-
1508 supervisory employee as well as a worker representative in
1509 developing, revisiting, updating or implementing a chemical
1510 facility vulnerability assessment or site security plan.
1511 This amendment raises a couple serious questions. In
1512 paragraph I(q), it requires at least one union representative
1513 to be able to see the vulnerability assessment and the site
1514 security plan. This union representative does not actually
1515 have to work on site, which seems counterintuitive if we are
1516 trying to keep secrets contained within the plant.

1517 Moreover, existing information protections extend to
1518 persons who have past CVI training and have a need to know.
1519 Under this amendment, it is not clear that CVI training
1520 expertise in the area or a need to know would be required.
1521 Even in the bill the committee reported last Congress as well
1522 as the Democrat substitute that was made available at
1523 subcommittee, the persons participating needed to possess
1524 knowledge, experience, training or education relevant to the
1525 portion of the security vulnerability assessment or site

1526 security plan on which the person is participating. This
1527 provision does not contain an out clause for facilities that
1528 are non-union and is taken from past bill language defining
1529 employee representatives as union representatives.

1530 Also of concern is that this amendment requires a
1531 facility in order to have a valid security vulnerability
1532 assessment or site security plan to involve specific workers
1533 in their developing of these documents. To date, DHS has
1534 received 6,848 security vulnerability assessments and 4,136
1535 site security plans from individual facilities. If this
1536 amendment becomes law, that almost 11,000 legally required
1537 submissions to DHS would become invalid because these
1538 documents may never have been certified that they included
1539 specified workers.

1540 I have other issues with the amendment. I would just
1541 ask my colleagues to vote against the Green amendment, and I
1542 yield back my--

1543 Mr. {Green.} Does the gentleman yield?

1544 Mr. {Shimkus.} I would yield.

1545 Mr. {Green.} There are some concerns, but again, this
1546 reauthorization would only go from here forward, so I don't
1547 think there is a question about having to amend, although if
1548 they have a site security plan in some future amendment, this
1549 would be a requirement going into the future, so I don't know

1550 if it would require my facilities to have to go back and
1551 amend just based on this. I guess it is a philosophical
1552 issue that someone is working on the plant site. If they
1553 don't have the skill and experience on security, they are the
1554 ones that ought to be contacted first and say okay what do we
1555 have involved in it, and all this would do is require that.
1556 So I appreciate the gentleman for yielding.

1557 Mr. {Shimkus.} My time is expired.

1558 Does anyone else seek time on the amendment? If not, we
1559 will call the vote on the second Green amendment. All those
1560 in favor, say aye. All those opposed, no. In the opinion of
1561 the chair, the nos have it. The nos have it. The amendment
1562 is not agreed to. The gentleman has requested a roll call
1563 vote. A roll call vote will be conducted after we return
1564 from votes.

1565 The gentleman from California, why do you seek
1566 recognition?

1567 Mr. {Waxman.} I have an amendment at the desk, number
1568 18.

1569 Mr. {Shimkus.} The clerk will report the amendment.

1570 The {Clerk.} Amendment to the committee print for H.R.
1571 908 offered by Mr. Waxman.

1572 [The amendment follows:]

1573 ***** INSERT 9 *****

|
1574 Mr. {Shimkus.} The amendment will be considered as
1575 read. The gentleman is recognized for 5 minutes in support
1576 of his amendment.

1577 Mr. {Waxman.} Mr. Chairman, I offer this amendment to
1578 ensure that this important program is actually implemented
1579 and the American public safeguarded.

1580 At the hearing on this bill, the Department of Homeland
1581 Security testified that in the 4-1/2 years since this program
1582 was created, not a single facility has completed the CFATS
1583 process. That means that not a single facility in this
1584 country has an approved site security plan in place. The
1585 department testified that they have repeatedly missed
1586 internal implementation deadlines and lag behind on
1587 inspection timeliness. This failure to implement CFATS in a
1588 timely manner puts people at risk and is unacceptable.

1589 My amendment would address this problem and require that
1590 submitted site security plans be approved or disapproved in a
1591 timely manner. It would require plans to be approved or
1592 disapproved within 18 months of submission to the DHS. If we
1593 are going to rubberstamp the existing program, the least we
1594 can do as a committee is ensure that it is implemented, and I
1595 would contrast this with another bill that is moving through
1596 our committee where an application by Shell Oil for drilling

1597 off the shore in Alaska has been hung up for a very long
1598 period of time, and our committee is considering putting a
1599 deadline on EPA action so that we would force them to do
1600 something rather than sit on it. Four and a half years
1601 without a single plan approved is not a good record, doesn't
1602 speak well for the program is being implemented. I think 18
1603 months is enough time for them to finally make a decision,
1604 and I would add this provision to the bill and I would hope
1605 my colleagues would accept it.

1606 Dr. {Cassidy.} Would the gentleman yield?

1607 Mr. {Waxman.} I would be happy to.

1608 Dr. {Cassidy.} I actually share your concern on this
1609 issue, and I have tried to investigate it to learn what the
1610 causes might be, and I guess I am exploring this with you to
1611 learn if you think what I have been told is valid, that they
1612 started from scratch in 2006. They had to hire trainers.
1613 They had to train the trainers. They had to come up with an
1614 iterative process that would work with industry that would
1615 satisfy the provisions of the law, and that there is now
1616 4,000 of those seeking but the top tier is 220. I have heard
1617 they have done four. So in yours, would they have do all
1618 4,000 over the next 18 months? In which case 100 inspectors
1619 just seems inadequate.

1620 Mr. {Waxman.} Well, reclaiming my time. I just think

1621 that we need to put a deadline on them. To let these things
1622 sit, there may be reasons for slow movement in the beginning
1623 but if somebody is coming in and they are trying to get an
1624 approved plan, something as serious as our security, then we
1625 ought to say let us move on it. If it takes them 18 months,
1626 then they ought to come here and ask us for the funds or
1627 decide that they have to reform the way they operate even
1628 more than the years it has taken them to start up.

1629 So I would submit that this is not an unreasonable thing
1630 to require the bureaucracy to get moving.

1631 Dr. {Cassidy.} But as I do the math, if we go all four
1632 tiers, there are 4,600 facilities remaining to be done.
1633 There are 100 inspectors. I could do the math in my head,
1634 but 18 months you have got X number of workdays, man, they
1635 would just be--I just don't ever see bureaucracy work like
1636 that.

1637 Mr. {Waxman.} Yes, but they are not starting from
1638 scratch. A lot of things have been pending there. They have
1639 been working on these applications that are there.

1640 Dr. {Cassidy.} Is that true for the bottom tier? I
1641 don't know that. I am asking. So there is, what, four tiers
1642 and the 220 at the top seems to where they focused attention.

1643 Mr. {Waxman.} If they haven't been submitted, the
1644 timeline doesn't run. For those that have been submitted,

1645 that would be 18 months prospectively in which to respond.
1646 For those that will be submitted, they have 18 months. If
1647 you think 18 months is not enough time for the bureaucracy to
1648 act, give me an alternative period of time.

1649 Dr. {Cassidy.} No, I was actually--

1650 Mr. {Waxman.} Leaving it open-ended is--

1651 Dr. {Cassidy.} Agreed.

1652 Mr. {Waxman.} --is troublesome because I think we need
1653 some decisions to be made just as you would argue to me, I am
1654 sure, that in the Shell Oil case we needed a decision to be
1655 made.

1656 Dr. {Cassidy.} I agree totally, if I may, and I was
1657 thinking of doing something to have 50 percent done within 2
1658 years or something, and so--

1659 Mr. {Waxman.} Well, we can look at it further, but let
1660 us set a deadline and then see what response we get.

1661 Dr. {Cassidy.} I am good with that.

1662 Mr. {Shimkus.} The gentleman's time is expired. The
1663 chair recognizes himself in opposition to the amendment.

1664 Although in policy there is some agreement that we need
1665 to get folks to get these jobs done, and I think there has
1666 already been staff discussion on trying to get to language
1667 where we could agree to as we move something forward, and we
1668 could have time during the break while we are going to the

1669 floor to have staff try to--I think there are some valid
1670 concerns of 18 months. Some should be done faster than 18
1671 months and some based upon whatever mitigating factors may go
1672 over, so if we have these new applicants and they are just
1673 right on the edge and they don't get done 18 months in one
1674 day, then those would then kick back.

1675 So you are correct in identifying that we do push for
1676 accountability and timelines and so we are accepting that
1677 part of this debate.

1678 Mr. {Waxman.} Would the gentleman yield?

1679 Mr. {Shimkus.} Yes, I would yield.

1680 Mr. {Waxman.} I know we can always continue to talk
1681 about amendments and I won't take it personally that you
1682 would oppose this amendment, but I would suggest let us do 50
1683 percent in 2 years, 100 percent in 4 years. Let us just do
1684 something and then we can continue to refine it. But just to
1685 oppose any deadline in the committee--

1686 Mr. {Shimkus.} Well, reclaiming my time, I think I
1687 stated pretty carefully that we are willing to look at, and
1688 you raise a pretty good issue that we need to have some
1689 accountability in time. We are just saying that now let us
1690 allow the staff to work, and we are not going to cast these
1691 votes until after we come back from the Floor. Maybe there
1692 is going to be some agreement that we can then add at the end

1693 of this bill.

1694 We are not disagreeing with you. Eighteen months may
1695 not be it. It may be 24. It may be some percentage. But
1696 let us work on that. You know, if asked to vote on this
1697 amendment, I would ask my colleagues to vote no but that
1698 doesn't stop the process of my sincere position that you have
1699 raised a valid point about some accountability in getting
1700 these done.

1701 Mr. {Green.} Mr. Chairman, would you yield?

1702 Mr. {Shimkus.} I would.

1703 Mr. {Green.} One of our concerns and the reason I am a
1704 cosponsor of the bill is to provide certainty for these
1705 plants, and I agree that there needs to be some kind of time
1706 frame, and being a cosponsor to the bill that would set some
1707 time limits on EPA responding to the Shell issue in Alaska I
1708 think is a good example and hopefully between now and the
1709 time we come back after a series of votes, I don't know when
1710 they will be but we can look at that and set Homeland
1711 Security some deadlines that say, you know, those companies
1712 need that and, again, representing a district, I would like
1713 to have that certainty so they know what they are dealing
1714 with now instead of having an application sitting over there
1715 without getting permits.

1716 I am encouraged by you being willing to sit down and say

1717 let us work on some language and see what we can do to push
1718 Homeland Security. They are going to have a long-term
1719 authorization but we don't want somebody to show up 8 years
1720 from now and say well, we still don't have a review of our
1721 site.

1722 Mr. {Shimkus.} And reclaiming my time, I would agree
1723 with you that this does provide certainty as we have always
1724 talked about in this process for the major facilities.

1725 Mr. {Waxman.} Mr. Chairman, would you yield to me?

1726 Mr. {Shimkus.} Yes, sir, I would.

1727 Mr. {Waxman.} I would like to make a unanimous consent
1728 request that we don't vote on this but we hold it until
1729 later, and I am open to either formulation or any other
1730 formulation and we try to work out a position when we
1731 actually vote on the series of amendments that have been
1732 offered.

1733 Mr. {Shimkus.} The chair would ask the ranking member
1734 if at this time he is withdrawing the amendment.

1735 Mr. {Waxman.} No, I want us to vote on it, but not now,
1736 that we not have a vote now and none of us vote on it now but
1737 that this be held over for a vote.

1738 Mr. {Shimkus.} Why don't we voice vote without
1739 prejudice and that still keeps us in the process of--we are
1740 going to be calling these votes anyway. You are looking at

1741 me like I know what I just said but I have been told that is
1742 the right thing to say.

1743 Mr. {Waxman.} Well, that is one thing to say. You
1744 could have a voice vote or we can wait until we get a quorum
1745 and act. We have been very nice in not asking for a quorum.
1746 Or you could just accede to my request which is not that big
1747 a deal. Just give me something here. I get a feeling like
1748 your staff whispers in your ear: if he asks for time, don't
1749 give it to him.

1750 So I am making this request that this amendment be put
1751 over for a roll call vote when we proceed to the roll call
1752 votes in the hopes that we can work an amendment out. If
1753 not, we will ask for a roll call vote on the amendment as it
1754 is.

1755 Mr. {Shimkus.} Reserving the right to object, and I am
1756 not sure I am going to.

1757 Again, first of all, the ranking member knows having
1758 served on the committee for many, many years, I hold him in
1759 great respect and we worked very hard and we have been
1760 diligent opponents most of the time, but we still have great
1761 camaraderie. So my objection is always policy, not personal,
1762 and having said that, I would then ask if there is an
1763 objection to the ranking member's unanimous consent request.
1764 Hearing none, the ranking member has won one.

1765 Are there any other amendments? The chair recognizes
1766 the gentlelady from California to offer an amendment.

1767 Mrs. {Capps.} Thank you, Mr. Chairman, and I do have an
1768 amendment at the desk. It's number five.

1769 Mr. {Shimkus.} Will the clerk report the amendment?

1770 The {Clerk.} Amendment offered by Mrs. Capps.

1771 [The amendment follows:]

1772 ***** INSERT 10 *****

|
1773 Mr. {Shimkus.} The amendment is open and considered as
1774 ready. The chair recognizes the gentlelady for 5 minutes.

1775 Mrs. {Capps.} Thank you, and Mr. Chairman, I won't take
1776 5 minutes because this amendment has just one word in it,
1777 switching a ``may'' to a ``shall'', and I offer this
1778 amendment because it closes a glaring security gap.

1779 For some reason, when this section was created by the
1780 Appropriations Committee, the Secretary of Homeland Security
1781 was given discretion to approve plans, in other words, given
1782 the option to approve or disapprove plans that failed to meet
1783 risk-based security standards. To me, this is an oxymoron.
1784 It is simply unacceptable. The department has spent years
1785 developing risk-based standards to ensure our security. They
1786 have spent years evaluating the risk to facilities across the
1787 country. These facilities must address those risks and meet
1788 those standards.

1789 This amendment would ensure that the standards are met
1790 by requiring the Secretary to disapprove plans that fall
1791 short, in other words, takes the discretion away from the
1792 Secretary's ability to decide one way or the other one on
1793 something that the department has deemed to be essential for
1794 security in these facilities across the country. Surely our
1795 national security is too important to leave this to the

1796 discretion of one person, and to allow the approval of site
1797 security plans that do not meet these risk-based standards
1798 that have taken years to develop, that have been developed by
1799 a team and so I don't think I need to spend any more time
1800 explaining it, just to make sure that when the professional
1801 work has been done to determine the risk-based standards in
1802 order that the security of this country be met around the
1803 facilities that we make sure that those plans are put into
1804 place rather than giving a loophole or an opt-out to the
1805 Secretary.

1806 And so I urge my colleagues to support this vital
1807 amendment which just changes one word in the bill. Thank you
1808 very much, and I will yield back my time.

1809 Mr. {Shimkus.} The gentlelady yields back her time.
1810 The chair recognizes himself in opposition to the amendment.

1811 Politics and public policy sometimes makes strange
1812 bedfellows. I now rise in support of the Administration,
1813 which I don't do that often, because the Department of
1814 Homeland Security really wants this discretion. They want
1815 the ability to be able to work with facilities and correct
1816 things, and that is what they have asked for. We think that
1817 they are well intended to do all they can and help protect
1818 the safety of the people in and around the chemical
1819 facilities. So in that respect, I am going to side with the

1820 Administration.

1821 Mrs. {Capps.} Would the gentleman yield?

1822 Mr. {Shimkus.} I would be happy to yield.

1823 Mrs. {Capps.} Because in this case, and maybe this is a
1824 difference, especially given the majority at present, that I
1825 want to exercise that the Congress of the United States has
1826 an obligation as well to contain the responsibility of the
1827 Administration, if you will, if you want to put it that way,
1828 when it comes to the safety of our constituents, of the
1829 citizens of this country, and that we evaluate, that we give
1830 authority to a department to spend years to develop
1831 standards, and those standards should not be subject to
1832 political whim or whatever it is that you think is going to
1833 be inserted here. And I know you didn't mean political in
1834 that sense of the word but when you want to do it that way,
1835 to me it smacks of playing politics with something that
1836 should be above politics in what we do in terms of the safety
1837 of the communities that we represent, and I know this is
1838 tough because there is a lot of pressure that could come from
1839 some of these facilities.

1840 Mr. {Shimkus.} Reclaiming my time. I want to support
1841 the Executive Branch request that they have the flexibility.
1842 To imply that it is industry manipulation of the Executive
1843 Branch that would invade their decision-making on the

1844 security of their citizens, I reject that premise. I mean,
1845 that is what they are paid for. They run the everyday
1846 options, they are professionals, and I would just hope we
1847 would debate this on the merits and not on implied--

1848 Mrs. {Capps.} Could I just ask, Mr. Chairman, I know
1849 that your time has run out, could I just make the question to
1850 you: what if these standards fail? What if these plans fail
1851 to meet the standards? Isn't that a fairly black and white
1852 issue?

1853 Mr. {Shimkus.} My time is expired. I would ask
1854 unanimous consent for 1 minute to respond. Is there
1855 objection? No objection.

1856 You know, I find myself in a curious position of
1857 supporting the Administration and Homeland Security, who
1858 wants the discretion, and that is what I am going to side
1859 with in this case.

1860 The chair recognizes the ranking member, Mr. Waxman.

1861 Mr. {Waxman.} I will not take my full time. I just
1862 want to say that the compromises that we could reach could be
1863 achieved by just thinking together without saying that
1864 everything has to be worked out later by staff. We can think
1865 it through. How we can not say that the Secretary shall
1866 disapprove a plan that doesn't work? To say that the
1867 Secretary has the authority to do it, we don't want them to

1868 ignore their authority, we want them to use their authority
1869 because ultimately this is the protection of the people from
1870 a terrorist attack. So we want them to act. We want them to
1871 do something. We want them to do it in a timely manner, and
1872 if the plan is not adequate, we want them to say no. Why is
1873 it suddenly you have such great faith in the bureaucracy that
1874 you are letting them use their discretion? Put some
1875 parameters on the bureaucracy. That always made a lot of
1876 sense to me when I heard it from Democrats and Republicans.

1877 So I would urge my colleagues to support this amendment.
1878 I yield to Mr. Green.

1879 Mr. {Green.} I would like to thank our ranking member
1880 for yielding.

1881 I agree with the amendment. I would like to have a
1882 process, and we don't have jurisdiction over the Department
1883 of Interior but I am really familiar with their process on
1884 permitting. They have a permit time that they don't deem an
1885 application is complete. Our complaint is that they have
1886 hundreds of permits sitting there that they haven't deemed
1887 complete and it is hard to get information back from them. I
1888 don't want Homeland Security to put my plants in the same
1889 situation where they are continuously trying to get some
1890 certainty in that permit and it is a ping pong back and forth
1891 because the agency is not being responsive, and if it is not

1892 part of this bill, maybe we need to have an oversight hearing
1893 on our jurisdiction on this and say I want to know why you
1894 haven't issued a permit in 4 years. I mean, I have
1895 facilities that have been in our district for 60 years, well,
1896 longer than that, some of them are celebrating their 100th
1897 anniversary, that they need that certainty of a permit and
1898 maybe we need to look at that, and even if it a joint hearing
1899 between us and Homeland Security, once we deal with this
1900 bill, we ought to find out why is Homeland Security not doing
1901 that.

1902 I guess I am fortunate in that I have a district that
1903 our State legislature with approval of both our government
1904 agencies and our industry created a port security district.
1905 They tasked themselves to come up with funds to bring down
1906 federal money because of the volatility, and we are still
1907 tier one in threat, and we have a good working relationship
1908 together but we still need that certainty with Homeland
1909 Security.

1910 Mr. {Waxman.} Will the gentleman yield?

1911 Mr. {Green.} I would be glad to.

1912 Mr. {Waxman.} I want to just reclaim my time. You know
1913 what it sounds like to me? That if an industry needed the
1914 government to act, this committee is very anxious to ensure
1915 that there is action, but if the industry doesn't care

1916 because the status quo means that they can just do whatever
1917 they are doing, they don't care if it ever acts or not.
1918 Well, that doesn't make sense. It sounds to me that the only
1919 time we get attention in this committee is when an industry
1920 is asking for something but there is no industry that is
1921 going to say to the members of this committee what the public
1922 believes that we are supposed to be doing, and that is to
1923 protect them from the consequences of a terrorist attack.

1924 So I would urge you to look at it from this different
1925 perspective, and I am going to yield to my colleague from
1926 California. Don't you think the government bureaucracy ought
1927 to be forced to act rather than let sit in limbo, whatever it
1928 is?

1929 Mr. {Bilbray.} I would say the action, though, as
1930 somebody who has done oversight with the private sector, the
1931 action should be working with the private sector so that we
1932 are not killing the foundation of everything that makes those
1933 of us in government possible and that is the private sector,
1934 the economic prosperity. There is a way of doing it, and I
1935 have run into that. The difference between my environmental
1936 health department and my air district, I had an environmental
1937 health department that worked with industry, worked with the
1938 community, worked with the private sector to get an outcome.
1939 I had another department head who was just punitive. And the

1940 fact is, the two agencies were protecting the public with a
1941 totally different mindset. You can protect jobs and the
1942 health at the same time but if you attitude is, I don't care
1943 or my priority isn't to protect the jobs, I only worry about
1944 this department, not only is not the job issue--

1945 Mr. {Waxman.} Reclaiming my time--

1946 Mr. {Bilbray.} --but the protection--

1947 Mr. {Waxman.} I agree with you, but let us not assume
1948 that this is that attitude. We want government to operate by
1949 talking to the private sector, working it out, but acting,
1950 and that is why I support this amendment.

1951 Mr. {Shimkus.} The gentleman's time is expired.

1952 The chair recognizes the gentleman from Pennsylvania.

1953 Mr. {Pitts.} I yield to Mr. Shimkus.

1954 Mr. {Shimkus.} Thank you.

1955 How many times have you been to--even in the military
1956 when the IG comes and inspects a unit, they say I am from the
1957 IG, I am here to help you. So this debate of whether
1958 government is helpful in helping industry move in the
1959 direction that we want it to or it is just viewed as
1960 punitive. This debate is not disassociated from the debate
1961 about jobs.

1962 You know, if you don't have employers, you don't have
1963 employees, and if we continue to raise the bar to a point

1964 where these individuals manufacture and produce chemical
1965 operations overseas, which is a real risk, that community
1966 will be a lot safer, I grant you, but they will be
1967 unemployed. So to disassociate this debate with what the
1968 industry has to do, and I quoted in one of the opening
1969 statements, one industry, \$8 billion of capital that has to
1970 be raised to make the changes to comply with CFATS. That is
1971 \$8 billion. That is \$8 billion more than association would
1972 have to do in Southeast Asia. That is \$8 billion more than
1973 an industry would have to do in South America. And so where
1974 is the cost of goods and that relationship when we are
1975 already in a position of having challenges based upon
1976 environmental regs which they don't comply with and OSHA and
1977 all those other rules and regs.

1978 This amendment assumes that for all these there is a
1979 one-size-fits-all, and that is not necessarily true, and that
1980 is why we want the Department of Homeland Security to say we
1981 are here from the Department of Homeland Security, we are
1982 going to inspect you on CFATS, we want you to have a secure
1983 facility, and we are here to help you obtain those goals.
1984 And I know my colleague from Louisiana is requesting time so
1985 I would yield to him.

1986 Dr. {Cassidy.} I reject that this is actually going to
1987 make things safer. In fact, in my interchange with Mr.

1988 Markey, I never got the clear answer. If we have a checklist
1989 of one to 100 and one is very important that they have got to
1990 fill and 100 is kind of best practices but not important,
1991 come back and we expect to have it done within a year but
1992 this is really not going to make or break it, under your
1993 amendment as far as I can tell, the whole plan is thrown out.

1994 Now, there is a restriction of resources. There are 100
1995 inspectors to do 100 tier one, 220 or something like that,
1996 and 4,000 chemical facilities in general. Under yours, there
1997 is just going to be this constant sort of oh, my gosh, you
1998 didn't hit best practices 100 criteria so therefore we have
1999 to come inspect you, and we have limited ability to actually
2000 complete the others.

2001 Now, I actually think that the people in Homeland
2002 Security are smart people who actually are good Americans,
2003 who are patriotic, who actually want to protect us against a
2004 terrorist attack. I don't think you are giving them the same
2005 credit. If they can't have some discretion to say as they do
2006 under the current law, as I gather, listen, one through 99
2007 are very important but 100 is best practices and we will come
2008 back to you--

2009 Mrs. {Capps.} Would the gentleman yield?

2010 Dr. {Cassidy.} In just a second.

2011 Mrs. {Capps.} Sure.

2012 Dr. {Cassidy.} Then I just don't think we are giving
2013 them the capability.

2014 I will say, lastly, you know, I came to Congress 3 years
2015 ago. I had to live under laws passed by this Congress and
2016 others, not the 112th but previous, and sometimes there would
2017 be no common sense, and you would ask the person checking the
2018 box, why in the heck are we doing this, and they would say it
2019 is in the law. I am thinking I am trying to see uninsured
2020 patients, having to waste my time on this piece of paper
2021 because someone in Congress said that there wasn't anybody
2022 smart enough on the front line to do it correctly. This
2023 actually, no offense, kind of reminds me of that.

2024 It is not my time to yield, but I yield back to the--

2025 Mr. {Shimkus.} The gentleman yields back to the chair
2026 and the chair will now yield to the gentlelady from
2027 California.

2028 Mrs. {Capps.} Thank you.

2029 I was going to appeal to my colleague, I know your
2030 background as a physician, and just say if the hospital team
2031 that sets the quality standards for the operating room sets
2032 these standards, shouldn't those be approved at the
2033 discretion so that you can do your surgery?

2034 Dr. {Cassidy.} May I respond to this?

2035 Mr. {Shimkus.} Would the gentlelady yield back to me

2036 and I will yield to the gentleman?

2037 Mrs. {Capps.} Sure, I will yield back.

2038 Dr. {Cassidy.} When a hospital is certified, they come
2039 and they go through and if there is a major problem, they
2040 will decertify the hospital.

2041 Mrs. {Capps.} And that is exactly what we are talking
2042 about.

2043 Dr. {Cassidy.} On the other hand, if there is a minor
2044 little glitch, the hospital will not lose its ability to bill
2045 Medicaid and Medicare, but rather the minor glitch is fixed.
2046 That is common sense. This is not.

2047 Mr. {Shimkus.} My time is expired. I just want to let
2048 people know that they are getting close to the point of
2049 calling votes on the Floor. We would like to at least make
2050 sure we have a vote on this, and any others before we have to
2051 come back. I am assuming this is the last one. It may be a
2052 bad assumption.

2053 The gentleman from California.

2054 Mr. {Waxman.} Thank you, Mr. Chairman.

2055 I think this is the last amendment, and it is just
2056 remarkable to me that rather than find a problem, if you find
2057 a problem and you cannot correct it, you act on it, not if
2058 you feel like it you may act on it.

2059 Just taking the hospital analogy, I wouldn't want the

2060 people that run the hospital if they see a dangerous
2061 situation to have the discretion to ignore it, and if you
2062 have some distrust of bureaucracy, and I have a lot of
2063 distrust of bureaucracy, I don't want to give them that much
2064 latitude. I want them at some point to say this isn't right,
2065 this is a dangerous facility, we are not going to allow this
2066 to continue.

2067 Dr. {Cassidy.} Will the gentleman yield?

2068 Mr. {Waxman.} Not yet.

2069 So I want them to act and I want them to act within a
2070 certain period of time. It doesn't force them to act. It
2071 says that except when they find this problem and they still
2072 have ways of operating without closing somebody down and not
2073 working with the private sector and all of that. I think you
2074 leave them in a situation where they can be in a state of
2075 inertia forever, and if that is the case, why do we need this
2076 program to start with?

2077 I will yield to the gentleman.

2078 Dr. {Cassidy.} If JCAHO finds a hospital with a
2079 dangerous situation, they will close it down, but I promise
2080 you, any hospital you have been treated in has most likely
2081 had a citation. Now, the hospital is still approved but
2082 there is going to be a citation. Now, if we are going to say
2083 wait a second, if any hospital has any problem, you are not

2084 going to be able to be approved, no one is going to get
2085 health care, similarly in this.

2086 Mr. {Waxman.} Well, let me reclaim my time because
2087 there is no checklist but the Department of Homeland Security
2088 determines whether a facility is so risky that it exceeds the
2089 risk-based standard. If there is a minor glitch, that could
2090 only trigger a disapproval if it resulted in the facility
2091 being too risky to terrorist attack. That is the standard.

2092 Dr. {Cassidy.} And so if that is the standard, why are
2093 we changing it? I mean, right now they may disapprove and if
2094 they find that--I am sorry. Will the gentleman yield?

2095 Mr. {Waxman.} Yes, certainly.

2096 Dr. {Cassidy.} If there is a problem as I gather under
2097 current law, they may disapprove and yet for some reason we
2098 are--

2099 Mr. {Waxman.} But I want them to disapprove. I don't
2100 want them to have that much discretion. If they think that
2101 this is the situation, then I don't want them to sit on it
2102 forever, I want them to act, and the amendment says they
2103 shall enforce the law. If I look at this amendment, it says
2104 that it is amended by striking ``may'' disapprove to insert
2105 they ``shall'' disapprove. So they shall act. They don't
2106 have to take the ultimate penalty but they can do something.
2107 They can give a warning, and if it gets to the point where it

2108 meets this standard, that it is too risky to a terrorist
2109 attack, I don't want them to sit on that and not act because
2110 they have got a lot of other applications and they got a
2111 letter from a Congressman saying don't act too quickly and
2112 things like that.

2113 So this is the difference we have. It is not a big one
2114 except in the real world, and if you want to trust a
2115 bureaucracy to act or not act when the industry doesn't care,
2116 that is fine but--

2117 Dr. {Cassidy.} Will the gentleman yield?

2118 Mr. {Waxman.} -- when industry cares you certainly want
2119 them to act and you want them to act quickly, and I think it
2120 ought to go both ways because the purpose of acting or
2121 inacting is for the public, not for the industry.

2122 So I would be happy to yield further. Otherwise we
2123 could take the vote on the last issue before us. I would be
2124 happy to yield to Mr. Green.

2125 Mr. {Green.} I agree with what Mr. Cassidy said, but if
2126 we have an agency that has been doing this for 4 years and
2127 they haven't issued a permit, somewhere along the way there
2128 needs to be a very good checklist, and I know dealing with
2129 our industries, you have a fencing issue, you have a
2130 monitored security, you have a video, real-time video and
2131 there are things to be done. I don't think this amendment

2132 precludes working with someone to say these are your
2133 checklists and if you don't do them, you are not going to
2134 have this permit to continue to operate.

2135 Dr. {Cassidy.} Will the gentleman yield?

2136 Mr. {Green.} Yes.

2137 Dr. {Cassidy.} Because it is not clear to me that that
2138 is the case. It is not clear to me from the amendment. And
2139 what I am hearing is that the intent is not to provide
2140 latitude, not to provide discretion.

2141 Mr. {Green.} Well, I think maybe the current law
2142 provides way too much discretion because if it has been 4
2143 years and they haven't issued a permit, and that is what you
2144 said and I verified it, somewhere along the way--now, I know
2145 a gross pattern because I have some very large plants that
2146 they have always had fencing. Now, that is why my other
2147 amendment, the folks know who actually have to work out there
2148 say oh, I can sneak through that fence. They need to deal
2149 with that. But Homeland Security needs to do it.

2150 I have to admit, there are great people in Homeland
2151 Security but I have had constituents complain now for over a
2152 year on personal pat-downs. I had my first one at
2153 Intercontinental Airport in Houston and the next time he does
2154 it, he is going to at least have to buy me dinner. So
2155 Homeland Security may not be so perfect as we think they are.

2156 They need oversight from their board of directors, and that
2157 is what this Congress is.

2158 Mr. {Waxman.} I would like to reclaim my time.

2159 Mr. {Shimkus.} The gentleman's time is expired.

2160 Anyone else seeking time on the amendment? If not, the
2161 vote will be conducted on the Capps amendment. It is going
2162 to be roll called anyway so let us just voice it. All
2163 morning we have been voicing and then we are going to come
2164 back and have a roll call vote on it. All those in favor of
2165 the Capps amendment say aye. All those opposed, no. In the
2166 opinion of the chair, the nos have it. The nos have it. And
2167 as per the amendment, the vote will be cast on return after
2168 the votes on the Floor.

2169 Are there any other amendments? Having no other
2170 amendments, the chair recesses the markup until 10 minutes
2171 after the last vote on the Floor.

2172 [Recess.]

2173 The {Chairman.} The committee is going to come to
2174 order.

2175 When the committee recessed, we had completed debate on
2176 amendments to H.R. 908, the full implementation of the
2177 Chemical Facility Anti-Terrorism Standards, and by agreement,
2178 we will now proceed with a series of roll call votes that
2179 were ordered on seven different amendments.

2180 First up is the substitute offered by Mr. Waxman, which
2181 we considered as the first amendment, and the clerk will call
2182 the roll on the Waxman amendment.

2183 The {Clerk.} Mr. Barton?

2184 Mr. {Barton.} No.

2185 The {Clerk.} Mr. Barton, nay.

2186 Mr. Stearns?

2187 [No response.]

2188 The {Clerk.} Mr. Whitfield?

2189 [[No response.]

2190 The {Clerk.} Mr. Shimkus?

2191 Mr. {Shimkus.} No.

2192 The {Clerk.} Mr. Shimkus, nay.

2193 Mr. Pitts?

2194 [No response.]

2195 The {Clerk.} Mrs. Bono Mack?

2196 Mrs. {Bono Mack.} No.

2197 The {Clerk.} Mrs. Bono Mack, nay.

2198 Mr. Walden?

2199 Mr. {Walden.} No.

2200 The {Clerk.} Mr. Walden, nay.

2201 Mr. Terry?

2202 Mr. {Terry.} Aye.

2203 The {Clerk.} Mr. Terry, aye.

2204 Mr. Rogers?
2205 [No response.]
2206 The {Clerk.} Mrs. Myrick?
2207 [No response.]
2208 The {Clerk.} Mr. Sullivan?
2209 Mr. {Sullivan.} No.
2210 The {Clerk.} Mr. Sullivan, nay.
2211 Mr. Murphy?
2212 [No response.]
2213 The {Clerk.} Mr. Burgess?
2214 [No response.]
2215 The {Clerk.} Mrs. Blackburn?
2216 Mrs. {Blackburn.} No.
2217 The {Clerk.} Mrs. Blackburn, nay.
2218 Mr. Bilbray?
2219 [No response.]
2220 The {Clerk.} Mr. Bass?
2221 Mr. {Bass.} No.
2222 The {Clerk.} Mr. Bass, nay.
2223 Mr. Gingrey?
2224 Dr. {Gingrey.} Nay.
2225 The {Clerk.} Mr. Gingrey, nay.
2226 Mr. Scalise?
2227 Mr. {Scalise.} No.

- 2228 The {Clerk.} Mr. Scalise, nay.
- 2229 Mr. Latta?
- 2230 Mr. {Latta.} No.
- 2231 The {Clerk.} Mr. Latta, nay.
- 2232 Mrs. McMorris Rodgers?
- 2233 Mrs. {McMorris Rodgers.} Nay.
- 2234 The {Clerk.} Mrs. McMorris Rodgers, nay.
- 2235 Mr. Harper?
- 2236 Mr. {Harper.} Nay.
- 2237 The {Clerk.} Mr. Harper, nay.
- 2238 Mr. Lance?
- 2239 Mr. {Lance.} Nay.
- 2240 The {Clerk.} Mr. Lance, nay.
- 2241 Mr. Cassidy?
- 2242 Dr. {Cassidy.} Nay.
- 2243 The {Clerk.} Mr. Cassidy, nay.
- 2244 Mr. Guthrie?
- 2245 Mr. {Guthrie.} No.
- 2246 The {Clerk.} Mr. Guthrie, nay.
- 2247 Mr. Olson?
- 2248 [No response.]
- 2249 The {Clerk.} Mr. McKinley?
- 2250 Mr. {McKinley.} No.
- 2251 The {Clerk.} Mr. McKinley, nay.

2252 Mr. Gardner?

2253 Mr. {Gardner.} No.

2254 The {Clerk.} Mr. Gardner, nay.

2255 Mr. Pompeo?

2256 Mr. {Pompeo.} No.

2257 The {Clerk.} Mr. Pompeo, nay.

2258 Mr. Kinzinger?

2259 Mr. {Kinzinger.} No.

2260 The {Clerk.} Mr. Kinzinger, nay.

2261 Mr. Griffith?

2262 Mr. {Griffith.} Nay.

2263 The {Clerk.} Mr. Griffith, nay.

2264 Mr. Waxman?

2265 [No response.]

2266 The {Clerk.} Mr. Dingell?

2267 [No response.]

2268 Mr. Markey?

2269 Mr. {Markey.} Aye.

2270 The {Clerk.} Mr. Markey, aye.

2271 Mr. Towns?

2272 [No response.]

2273 The {Clerk.} Mr. Pallone?

2274 Mr. {Pallone.} Aye.

2275 The {Clerk.} Mr. Pallone, aye.

2276 Mr. Rush?

2277 Mr. {Rush.} Aye.

2278 The {Clerk.} Mr. Rush, aye.

2279 Ms. Eshoo?

2280 Ms. {Eshoo.} Aye.

2281 The {Clerk.} Ms. Eshoo, aye.

2282 Mr. Engel?

2283 [No response.]

2284 The {Clerk.} Mr. Green?

2285 Mr. {Green.} Aye.

2286 The {Clerk.} Mr. Green, aye.

2287 Ms. DeGette?

2288 Ms. {DeGette.} Aye.

2289 The {Clerk.} Ms. DeGette, aye.

2290 Mrs. Capps?

2291 Mrs. {Capps.} Aye.

2292 The {Clerk.} Mrs. Capps, aye.

2293 Mr. Doyle?

2294 Mr. {Doyle.} Yes.

2295 The {Clerk.} Mr. Doyle, aye.

2296 Ms. Schakowsky?

2297 Ms. {Schakowsky.} Aye.

2298 The {Clerk.} Ms. Schakowsky, aye.

2299 Mr. Gonzalez?

2300 [No response.]

2301 The {Clerk.} Mr. Inslee?

2302 Mr. {Inslee.} Aye.

2303 The {Clerk.} Mr. Inslee, aye.

2304 Ms. Baldwin?

2305 Ms. {Baldwin.} Aye.

2306 The {Clerk.} Ms. Baldwin, aye.

2307 Mr. Ross?

2308 Mr. {Ross.} Aye.

2309 The {Clerk.} Mr. Ross, aye.

2310 Mr. Weiner?

2311 Mr. {Weiner.} Aye.

2312 The {Clerk.} Mr. Weiner, aye.

2313 Mr. Matheson?

2314 Mr. {Matheson.} Aye.

2315 The {Clerk.} Mr. Matheson, aye.

2316 Mr. Butterfield?

2317 [No response.]

2318 The {Clerk.} Mr. Barrow?

2319 Mr. {Barrow.} Aye.

2320 The {Clerk.} Mr. Barrow, aye.

2321 Ms. Matsui?

2322 Ms. {Matsui.} Aye.

2323 The {Clerk.} Ms. Matsui, aye.

2324 Ms. Christensen?

2325 [No response.]

2326 The {Clerk.} Mr. Upton?

2327 The {Chairman.} Votes no.

2328 Are there other members wishing to cast their votes?

2329 The {Clerk.} Mr. Upton, nay.

2330 The {Chairman.} Mr. Whitfield?

2331 Mr. {Whitfield.} Nay.

2332 The {Clerk.} Mr. Whitfield, nay.

2333 The {Chairman.} Dr. Burgess?

2334 Dr. {Burgess.} No.

2335 The {Clerk.} Dr. Burgess, nay.

2336 The {Chairman.} How is Mr. Terry recorded?

2337 The {Clerk.} Mr. Terry is recorded aye.

2338 Mr. {Terry.} Nay.

2339 The {Clerk.} Mr. Terry off aye, on nay.

2340 The {Chairman.} Mr. Butterfield?

2341 Mr. {Butterfield.} Yes.

2342 The {Clerk.} Mr. Butterfield, aye.

2343 The {Chairman.} Other members wishing to cast a vote?

2344 Mr. {Waxman.} Mr. Chairman.

2345 The {Chairman.} Mr. Waxman?

2346 Mr. {Waxman.} I vote aye.

2347 The {Clerk.} Mr. Waxman, aye.

2348 The {Chairman.} Are there other members? Seeing none,
2349 the clerk will report the tally. How is Mr. Stearns
2350 recorded?

2351 The {Clerk.} The gentleman is not recorded.

2352 Mr. {Stearns.} Nay.

2353 The {Clerk.} Mr. Stearns, nay.

2354 The {Chairman.} And how is Mr. Murphy recorded?

2355 The {Clerk.} The gentleman is not recorded.

2356 Mr. {Murphy.} Votes nay.

2357 The {Clerk.} Mr. Murphy, nay.

2358 The {Chairman.} The clerk will report the tally.

2359 The {Clerk.} Mr. Chairman, 18 aye, 26 nay.

2360 The {Chairman.} Eighteen aye, 26 nay. The amendment in
2361 the nature of a substitute is not agreed to.

2362 Next up is the Markey amendment on disapproval of site
2363 security plans. The clerk will call the roll.

2364 The {Clerk.} Mr. Barton?

2365 Mr. {Barton.} No.

2366 The {Clerk.} Mr. Barton, nay.

2367 Mr. Stearns?

2368 Mr. {Stearns.} No.

2369 The {Clerk.} Mr. Stearns, nay.

2370 Mr. Whitfield?

2371 [[No response.]

- 2372 The {Clerk.} Mr. Shimkus?
- 2373 Mr. {Shimkus.} No.
- 2374 The {Clerk.} Mr. Shimkus, nay.
- 2375 Mr. Pitts?
- 2376 [No response.]
- 2377 The {Clerk.} Mrs. Bono Mack?
- 2378 Mrs. {Bono Mack.} No.
- 2379 The {Clerk.} Mrs. Bono Mack, nay.
- 2380 Mr. Walden?
- 2381 Mr. {Walden.} No.
- 2382 The {Clerk.} Mr. Walden, nay.
- 2383 Mr. Terry?
- 2384 Mr. {Terry.} Nay.
- 2385 The {Clerk.} Mr. Terry, nay.
- 2386 Mr. Rogers?
- 2387 [No response.]
- 2388 The {Clerk.} Mrs. Myrick?
- 2389 [No response.]
- 2390 The {Clerk.} Mr. Sullivan?
- 2391 Mr. {Sullivan.} No.
- 2392 The {Clerk.} Mr. Sullivan, nay.
- 2393 Mr. Murphy?
- 2394 Mr. {Murphy.} No.
- 2395 The {Clerk.} Mr. Murphy, nay.

- 2396 Mr. Burgess?
- 2397 Dr. {Burgess.} Nay.
- 2398 The {Clerk.} Mr. Burgess, nay.
- 2399 Mrs. Blackburn?
- 2400 Mrs. {Blackburn.} No.
- 2401 The {Clerk.} Mrs. Blackburn, nay.
- 2402 Mr. Bilbray?
- 2403 [No response.]
- 2404 The {Clerk.} Mr. Bass?
- 2405 Mr. {Bass.} No.
- 2406 The {Clerk.} Mr. Bass, nay.
- 2407 Mr. Gingrey?
- 2408 Dr. {Gingrey.} Nay.
- 2409 The {Clerk.} Mr. Gingrey, nay.
- 2410 Mr. Scalise?
- 2411 Mr. {Scalise.} No.
- 2412 The {Clerk.} Mr. Scalise, nay.
- 2413 Mr. Latta?
- 2414 Mr. {Latta.} No.
- 2415 The {Clerk.} Mr. Latta, nay.
- 2416 Mrs. McMorris Rodgers?
- 2417 Mrs. {McMorris Rodgers.} Nay.
- 2418 The {Clerk.} Mrs. McMorris Rodgers, nay.
- 2419 Mr. Harper?

2420 Mr. {Harper.} Nay.

2421 The {Clerk.} Mr. Harper, nay.

2422 Mr. Lance?

2423 Mr. {Lance.} Nay.

2424 The {Clerk.} Mr. Lance, nay.

2425 Mr. Cassidy?

2426 Dr. {Cassidy.} Nay.

2427 The {Clerk.} Mr. Cassidy, nay.

2428 Mr. Guthrie?

2429 Mr. {Guthrie.} No.

2430 The {Clerk.} Mr. Guthrie, nay.

2431 Mr. Olson?

2432 [No response.]

2433 The {Clerk.} Mr. McKinley?

2434 Mr. {McKinley.} No.

2435 The {Clerk.} Mr. McKinley, nay.

2436 Mr. Gardner?

2437 Mr. {Gardner.} No.

2438 The {Clerk.} Mr. Gardner, nay.

2439 Mr. Pompeo?

2440 Mr. {Pompeo.} No.

2441 The {Clerk.} Mr. Pompeo, nay.

2442 Mr. Kinzinger?

2443 Mr. {Kinzinger.} No.

2444 The {Clerk.} Mr. Kinzinger, nay.
2445 Mr. Griffith?
2446 Mr. {Griffith.} Nay.
2447 The {Clerk.} Mr. Griffith, nay.
2448 Mr. Waxman?
2449 Mr. {Waxman.} Aye.
2450 The {Clerk.} Mr. Waxman, aye.
2451 Mr. Dingell?
2452 [No response.]
2453 Mr. Markey?
2454 Mr. {Markey.} Aye.
2455 The {Clerk.} Mr. Markey, aye.
2456 Mr. Towns?
2457 [No response.]
2458 The {Clerk.} Mr. Pallone?
2459 Mr. {Pallone.} Aye.
2460 The {Clerk.} Mr. Pallone, aye.
2461 Mr. Rush?
2462 Mr. {Rush.} Aye.
2463 The {Clerk.} Mr. Rush, aye.
2464 Ms. Eshoo?
2465 Ms. {Eshoo.} Aye.
2466 The {Clerk.} Ms. Eshoo, aye.
2467 Mr. Engel?

2468 Mr. {Engel.} Aye.
2469 The {Clerk.} Mr. Engel, aye.
2470 Mr. Green?
2471 Mr. {Green.} Nay.
2472 The {Clerk.} Mr. Green, nay.
2473 Ms. DeGette?
2474 Ms. {DeGette.} Aye.
2475 The {Clerk.} Ms. DeGette, aye.
2476 Mrs. Capps?
2477 Mrs. {Capps.} Aye.
2478 The {Clerk.} Mrs. Capps, aye.
2479 Mr. Doyle?
2480 Mr. {Doyle.} Yes.
2481 The {Clerk.} Mr. Doyle, aye.
2482 Ms. Schakowsky?
2483 Ms. {Schakowsky.} Aye.
2484 The {Clerk.} Ms. Schakowsky, aye.
2485 Mr. Gonzalez?
2486 [No response.]
2487 The {Clerk.} Mr. Inslee?
2488 Mr. {Inslee.} Aye.
2489 The {Clerk.} Mr. Inslee, aye.
2490 Ms. Baldwin?
2491 Ms. {Baldwin.} Aye.

- 2492 The {Clerk.} Ms. Baldwin, aye.
- 2493 Mr. Ross?
- 2494 Mr. {Ross.} Nay.
- 2495 The {Clerk.} Mr. Ross, nay.
- 2496 Mr. Weiner?
- 2497 Mr. {Weiner.} Aye.
- 2498 The {Clerk.} Mr. Weiner, aye.
- 2499 Mr. Matheson?
- 2500 Mr. {Matheson.} Nay.
- 2501 The {Clerk.} Mr. Matheson, nay.
- 2502 Mr. Butterfield?
- 2503 Mr. {Butterfield.} Aye.
- 2504 The {Clerk.} Mr. Butterfield, aye.
- 2505 Mr. Barrow?
- 2506 Mr. {Barrow.} Nay.
- 2507 The {Clerk.} Mr. Barrow, nay.
- 2508 Ms. Matsui?
- 2509 Ms. {Matsui.} Aye.
- 2510 The {Clerk.} Ms. Matsui, aye.
- 2511 Ms. Christensen?
- 2512 [No response.]
- 2513 The {Clerk.} Mr. Upton?
- 2514 The {Chairman.} Votes no.
- 2515 The {Clerk.} Mr. Upton, nay.

2516 The {Chairman.} Are there other members wishing to cast
2517 their vote? Mr. Dingell?

2518 Mr. {Dingell.} Aye.

2519 The {Clerk.} Mr. Dingell, aye.

2520 The {Chairman.} No other members seeking to vote? The
2521 clerk will report the tally. Oh, wait. Mr. Whitfield, are
2522 you recorded?

2523 Mr. {Whitfield.} Votes no.

2524 The {Clerk.} Mr. Whitfield, nay.

2525 The {Clerk.} Mr. Chairman?

2526 The {Chairman.} Yes?

2527 The {Clerk.} On that, there were 16 ayes, 30 nays.

2528 The {Chairman.} Sixteen ayes, 30 nays. The amendment
2529 is not agreed to.

2530 We now move to the Green second-degree amendment to the
2531 Shimkus amendment on the length of the authorization period.
2532 The clerk will call the roll.

2533 The {Clerk.} Mr. Barton?

2534 Mr. {Barton.} No.

2535 The {Clerk.} Mr. Barton, nay.

2536 Mr. Stearns?

2537 Mr. {Stearns.} No.

2538 The {Clerk.} Mr. Stearns, nay.

2539 Mr. Whitfield?

2540 Mr. {Whitfield.} No.

2541 The {Clerk.} Mr. Whitfield, nay.

2542 Mr. Shimkus?

2543 Mr. {Shimkus.} No.

2544 The {Clerk.} Mr. Shimkus, nay.

2545 Mr. Pitts?

2546 [No response.]

2547 The {Clerk.} Mrs. Bono Mack?

2548 Mrs. {Bono Mack.} No.

2549 The {Clerk.} Mrs. Bono Mack, nay.

2550 Mr. Walden?

2551 Mr. {Walden.} No.

2552 The {Clerk.} Mr. Walden, nay.

2553 Mr. Terry?

2554 Mr. {Terry.} Nay.

2555 The {Clerk.} Mr. Terry, nay.

2556 Mr. Rogers?

2557 [No response.]

2558 The {Clerk.} Mrs. Myrick?

2559 [No response.]

2560 The {Clerk.} Mr. Sullivan?

2561 Mr. {Sullivan.} No.

2562 The {Clerk.} Mr. Sullivan, nay.

2563 Mr. Murphy?

2564 Mr. {Murphy.} No.
2565 The {Clerk.} Mr. Murphy, nay.
2566 Mr. Burgess?
2567 Dr. {Burgess.} Nay.
2568 The {Clerk.} Mr. Burgess, nay.
2569 Mrs. Blackburn?
2570 Mrs. {Blackburn.} No.
2571 The {Clerk.} Mrs. Blackburn, nay.
2572 Mr. Bilbray?
2573 [No response.]
2574 The {Clerk.} Mr. Bass?
2575 Mr. {Bass.} No.
2576 The {Clerk.} Mr. Bass, no.
2577 Mr. Gingrey?
2578 Dr. {Gingrey.} Nay.
2579 The {Clerk.} Mr. Gingrey, nay.
2580 Mr. Scalise?
2581 Mr. {Scalise.} No.
2582 The {Clerk.} Mr. Scalise, nay.
2583 Mr. Latta?
2584 Mr. {Latta.} No.
2585 The {Clerk.} Mr. Latta, nay.
2586 Mrs. McMorris Rodgers?
2587 Mrs. {McMorris Rodgers.} Nay.

2588 The {Clerk.} Mrs. McMorris Rodgers, nay.
2589 Mr. Harper?
2590 Mr. {Harper.} Nay.
2591 The {Clerk.} Mr. Harper, nay.
2592 Mr. Lance?
2593 Mr. {Lance.} Nay.
2594 The {Clerk.} Mr. Lance, nay.
2595 Mr. Cassidy?
2596 Dr. {Cassidy.} Nay.
2597 The {Clerk.} Mr. Cassidy, nay.
2598 Mr. Guthrie?
2599 Mr. {Guthrie.} No.
2600 The {Clerk.} Mr. Guthrie, nay.
2601 Mr. Olson?
2602 [No response.]
2603 The {Clerk.} Mr. McKinley?
2604 Mr. {McKinley.} No.
2605 The {Clerk.} Mr. McKinley, nay.
2606 Mr. Gardner?
2607 Mr. {Gardner.} No.
2608 The {Clerk.} Mr. Gardner, nay.
2609 Mr. Pompeo?
2610 Mr. {Pompeo.} No.
2611 The {Clerk.} Mr. Pompeo, nay.

2612 Mr. Kinzinger?

2613 Mr. {Kinzinger.} No.

2614 The {Clerk.} Mr. Kinzinger, nay.

2615 Mr. Griffith?

2616 Mr. {Griffith.} Nay.

2617 The {Clerk.} Mr. Griffith, nay.

2618 Mr. Waxman?

2619 Mr. {Waxman.} Aye.

2620 The {Clerk.} Mr. Waxman, aye.

2621 Mr. Dingell?

2622 Mr. {Dingell.} Votes aye.

2623 The {Clerk.} Mr. Dingell, aye.

2624 Mr. Markey?

2625 Mr. {Markey.} Aye.

2626 The {Clerk.} Mr. Markey, aye.

2627 Mr. Towns?

2628 [No response.]

2629 The {Clerk.} Mr. Pallone?

2630 Mr. {Pallone.} Aye.

2631 The {Clerk.} Mr. Pallone, aye.

2632 Mr. Rush?

2633 Mr. {Rush.} Aye.

2634 The {Clerk.} Mr. Rush, aye.

2635 Ms. Eshoo?

2636 Ms. {Eshoo.} Aye.
2637 The {Clerk.} Ms. Eshoo, aye.
2638 Mr. Engel?
2639 Mr. {Engel.} Aye.
2640 The {Clerk.} Mr. Engel, aye.
2641 Mr. Green?
2642 Mr. {Green.} Aye.
2643 The {Clerk.} Mr. Green, aye.
2644 Ms. DeGette?
2645 Ms. {DeGette.} Aye.
2646 The {Clerk.} Ms. DeGette, aye.
2647 Mrs. Capps?
2648 Mrs. {Capps.} Aye.
2649 The {Clerk.} Mrs. Capps, aye.
2650 Mr. Doyle?
2651 Mr. {Doyle.} Yes.
2652 The {Clerk.} Mr. Doyle, aye.
2653 Ms. Schakowsky?
2654 Ms. {Schakowsky.} Aye.
2655 The {Clerk.} Ms. Schakowsky, aye.
2656 Mr. Gonzalez?
2657 Mr. {Gonzalez.} Aye.
2658 The {Clerk.} Mr. Gonzalez, aye.
2659 Mr. Inslee?

2660 Mr. {Inslee.} Aye.
2661 The {Clerk.} Mr. Inslee, aye.
2662 Ms. Baldwin?
2663 Ms. {Baldwin.} Aye.
2664 The {Clerk.} Ms. Baldwin, aye.
2665 Mr. Ross?
2666 Mr. {Ross.} Nay.
2667 The {Clerk.} Mr. Ross, nay.
2668 Mr. Weiner?
2669 Mr. {Weiner.} Aye.
2670 The {Clerk.} Mr. Weiner, aye.
2671 Mr. Matheson?
2672 Mr. {Matheson.} Aye.
2673 The {Clerk.} Mr. Matheson, aye.
2674 Mr. Butterfield?
2675 Mr. {Butterfield.} Aye.
2676 The {Clerk.} Mr. Butterfield, aye.
2677 Mr. Barrow?
2678 Mr. {Barrow.} Aye.
2679 The {Clerk.} Mr. Barrow, aye.
2680 Ms. Matsui?
2681 Ms. {Matsui.} Aye.
2682 The {Clerk.} Ms. Matsui, aye.
2683 Ms. Christensen?

2684 [No response.]

2685 The {Clerk.} Mr. Upton?

2686 The {Chairman.} Votes no.

2687 The {Clerk.} Mr. Upton, nay.

2688 The {Chairman.} How is Mr. Ross recorded?

2689 The {Clerk.} The gentleman is recorded nay.

2690 Mr. {Ross.} Aye.

2691 The {Clerk.} Mr. Ross off nay, on aye.

2692 The {Chairman.} Are there other members wishing to cast

2693 their vote? Mr. Olson, how are you recorded?

2694 The {Clerk.} The gentleman is not recorded.

2695 Mr. {Olson.} No.

2696 The {Clerk.} Mr. Olson, nay.

2697 The {Chairman.} Are there other members wishing to cast

2698 their vote? Seeing none, the clerk will report the tally.

2699 The {Clerk.} Mr. Chairman, on that, there were 21 ayes,

2700 27 nays.

2701 The {Chairman.} Twenty-one ayes, 27 nays. The

2702 amendment is not agreed to.

2703 So the question now occurs on the Shimkus amendment for

2704 an authorization of 7 years. All those in favor, say aye.

2705 Those opposed, say no. The ayes appear to have it.

2706 Mr. {Waxman.} Roll call.

2707 The {Chairman.} Roll call is requested. The clerk will

2708 call the roll.

2709 The {Clerk.} Mr. Barton?

2710 Mr. {Barton.} Aye.

2711 The {Clerk.} Mr. Barton, aye.

2712 Mr. Stearns?

2713 Mr. {Stearns.} Aye.

2714 The {Clerk.} Mr. Stearns, aye.

2715 Mr. Whitfield?

2716 [[No response.]

2717 The {Clerk.} Mr. Shimkus?

2718 Mr. {Shimkus.} Aye.

2719 The {Clerk.} Mr. Shimkus, aye.

2720 Mr. Pitts?

2721 [No response.]

2722 The {Clerk.} Mrs. Bono Mack?

2723 Mrs. {Bono Mack.} Aye.

2724 The {Clerk.} Mrs. Bono Mack, aye.

2725 Mr. Walden?

2726 Mr. {Walden.} Aye.

2727 The {Clerk.} Mr. Walden, aye.

2728 Mr. Terry?

2729 Mr. {Terry.} Aye.

2730 The {Clerk.} Mr. Terry, aye.

2731 Mr. Rogers?

2732 [No response.]

2733 The {Clerk.} Mrs. Myrick?

2734 [No response.]

2735 The {Clerk.} Mr. Sullivan?

2736 Mr. {Sullivan.} Yes.

2737 The {Clerk.} Mr. Sullivan, aye.

2738 Mr. Murphy?

2739 Mr. {Murphy.} Aye.

2740 The {Clerk.} Mr. Murphy, aye.

2741 Mr. Burgess?

2742 Dr. {Burgess.} Aye.

2743 The {Clerk.} Mr. Burgess, aye.

2744 Mrs. Blackburn?

2745 Mrs. {Blackburn.} Aye.

2746 The {Clerk.} Mrs. Blackburn, aye.

2747 Mr. Bilbray?

2748 [No response.]

2749 The {Clerk.} Mr. Bass?

2750 Mr. {Bass.} Aye.

2751 The {Clerk.} Mr. Bass, aye.

2752 Mr. Gingrey?

2753 Dr. {Gingrey.} Aye.

2754 The {Clerk.} Mr. Gingrey, aye.

2755 Mr. Scalise?

2756 Mr. {Scalise.} Aye.
2757 The {Clerk.} Mr. Scalise, aye.
2758 Mr. Latta?
2759 Mr. {Latta.} Aye.
2760 The {Clerk.} Mr. Latta, aye.
2761 Mrs. McMorris Rodgers?
2762 Mrs. {McMorris Rodgers.} Aye.
2763 The {Clerk.} Mrs. McMorris Rodgers, aye.
2764 Mr. Harper?
2765 Mr. {Harper.} Aye.
2766 The {Clerk.} Mr. Harper, aye.
2767 Mr. Lance?
2768 Mr. {Lance.} Aye.
2769 The {Clerk.} Mr. Lance, aye.
2770 Mr. Cassidy?
2771 Dr. {Cassidy.} Aye.
2772 The {Clerk.} Mr. Cassidy, aye.
2773 Mr. Guthrie?
2774 Mr. {Guthrie.} Aye.
2775 The {Clerk.} Mr. Guthrie, aye.
2776 Mr. Olson?
2777 Mr. {Olson.} Aye.
2778 The {Clerk.} Mr. Olson, aye.
2779 Mr. McKinley?

2780 Mr. {McKinley.} Aye.

2781 The {Clerk.} Mr. McKinley, aye.

2782 Mr. Gardner?

2783 Mr. {Gardner.} Aye.

2784 The {Clerk.} Mr. Gardner, aye.

2785 Mr. Pompeo?

2786 Mr. {Pompeo.} Aye.

2787 The {Clerk.} Mr. Pompeo, aye.

2788 Mr. Kinzinger?

2789 Mr. {Kinzinger.} Aye.

2790 The {Clerk.} Mr. Kinzinger, aye.

2791 Mr. Griffith?

2792 Mr. {Griffith.} Aye.

2793 The {Clerk.} Mr. Griffith, aye.

2794 Mr. Waxman?

2795 Mr. {Waxman.} No.

2796 The {Clerk.} Mr. Waxman, nay.

2797 Mr. Dingell?

2798 Mr. {Dingell.} Votes no.

2799 The {Clerk.} Mr. Dingell, nay.

2800 Mr. Markey?

2801 Mr. {Markey.} No.

2802 The {Clerk.} Mr. Markey, nay.

2803 Mr. Towns?

2804 [No response.]
2805 The {Clerk.} Mr. Pallone?
2806 Mr. {Pallone.} No.
2807 The {Clerk.} Mr. Pallone, nay.
2808 Mr. Rush?
2809 Mr. {Rush.} No.
2810 The {Clerk.} Mr. Rush, nay.
2811 Ms. Eshoo?
2812 Ms. {Eshoo.} No.
2813 The {Clerk.} Ms. Eshoo, nay.
2814 Mr. Engel?
2815 Mr. {Engel.} No.
2816 The {Clerk.} Mr. Engel, nay.
2817 Mr. Green?
2818 Mr. {Green.} Nay.
2819 The {Clerk.} Mr. Green, nay.
2820 Ms. DeGette?
2821 Ms. {DeGette.} No.
2822 The {Clerk.} Ms. DeGette, nay.
2823 Mrs. Capps?
2824 Mrs. {Capps.} No.
2825 The {Clerk.} Mrs. Capps, nay.
2826 Mr. Doyle?
2827 Mr. {Doyle.} No.

- 2828 The {Clerk.} Mr. Doyle, nay.
- 2829 Ms. Schakowsky?
- 2830 Ms. {Schakowsky.} No.
- 2831 The {Clerk.} Ms. Schakowsky, nay.
- 2832 Mr. Gonzalez?
- 2833 Mr. {Gonzalez.} No.
- 2834 The {Clerk.} Mr. Gonzalez, nay.
- 2835 Mr. Inslee?
- 2836 Mr. {Inslee.} Nay.
- 2837 The {Clerk.} Mr. Inslee, nay.
- 2838 Ms. Baldwin?
- 2839 Ms. {Baldwin.} No.
- 2840 The {Clerk.} Ms. Baldwin, nay.
- 2841 Mr. Ross?
- 2842 Mr. {Ross.} Nay.
- 2843 The {Clerk.} Mr. Ross, nay.
- 2844 Mr. Weiner?
- 2845 Mr. {Weiner.} No.
- 2846 The {Clerk.} Mr. Weiner, nay.
- 2847 Mr. Matheson?
- 2848 Mr. {Matheson.} Nay.
- 2849 The {Clerk.} Mr. Matheson, nay.
- 2850 Mr. Butterfield?
- 2851 Mr. {Butterfield.} No.

2852 The {Clerk.} Mr. Butterfield, no.
2853 Mr. Barrow?
2854 Mr. {Barrow.} Nay.
2855 The {Clerk.} Mr. Barrow, nay.
2856 Ms. Matsui?
2857 Ms. {Matsui.} No.
2858 The {Clerk.} Ms. Matsui, nay.
2859 Ms. Christensen?
2860 [No response.]
2861 The {Clerk.} Mr. Upton?
2862 The {Chairman.} Votes aye.
2863 The {Clerk.} Mr. Upton, aye.
2864 The {Chairman.} Mr. Whitfield?
2865 Mr. {Whitfield.} Aye.
2866 The {Clerk.} Mr. Whitfield, aye.
2867 The {Chairman.} Are there other members wishing to cast
2868 their vote? Seeing none, the clerk will report the tally.
2869 The {Clerk.} On that, there were 27 ayes, 21 nays.
2870 The {Chairman.} Twenty-seven ayes, 21 nays. The
2871 amendment is agreed to.
2872 The next vote is on the Green amendment dealing with
2873 employee participation. The clerk will call the roll.
2874 The {Clerk.} Mr. Barton?
2875 Mr. {Barton.} No.

- 2876 The {Clerk.} Mr. Barton, nay.
- 2877 Mr. Stearns?
- 2878 Mr. {Stearns.} No.
- 2879 The {Clerk.} Mr. Stearns, nay.
- 2880 Mr. Whitfield?
- 2881 Mr. {Whitfield.} Nay.
- 2882 The {Clerk.} Mr. Whitfield, no.
- 2883 Mr. Shimkus?
- 2884 Mr. {Shimkus.} No.
- 2885 The {Clerk.} Mr. Shimkus, nay.
- 2886 Mr. Pitts?
- 2887 [No response.]
- 2888 The {Clerk.} Mrs. Bono Mack?
- 2889 Mrs. {Bono Mack.} No.
- 2890 The {Clerk.} Mrs. Bono Mack, nay.
- 2891 Mr. Walden?
- 2892 Mr. {Walden.} No.
- 2893 The {Clerk.} Mr. Walden, nay.
- 2894 Mr. Terry?
- 2895 Mr. {Terry.} Nay.
- 2896 The {Clerk.} Mr. Terry, nay.
- 2897 Mr. Rogers?
- 2898 [No response.]
- 2899 The {Clerk.} Mrs. Myrick?

2900 [No response.]

2901 The {Clerk.} Mr. Sullivan?

2902 Mr. {Sullivan.} No.

2903 The {Clerk.} Mr. Sullivan, nay.

2904 Mr. Murphy?

2905 Mr. {Murphy.} No.

2906 The {Clerk.} Mr. Murphy, nay.

2907 Mr. Burgess?

2908 Dr. {Burgess.} Nay.

2909 The {Clerk.} Mr. Burgess, nay.

2910 Mrs. Blackburn?

2911 Mrs. {Blackburn.} No.

2912 The {Clerk.} Mrs. Blackburn, nay.

2913 Mr. Bilbray?

2914 [No response.]

2915 The {Clerk.} Mr. Bass?

2916 Mr. {Bass.} No.

2917 The {Clerk.} Mr. Bass, nay.

2918 Mr. Gingrey?

2919 Dr. {Gingrey.} Nay.

2920 The {Clerk.} Mr. Gingrey, nay.

2921 Mr. Scalise?

2922 Mr. {Scalise.} No.

2923 The {Clerk.} Mr. Scalise, nay.

- 2924 Mr. Latta?
- 2925 Mr. {Latta.} No.
- 2926 The {Clerk.} Mr. Latta, nay.
- 2927 Mrs. McMorris Rodgers?
- 2928 Mrs. {McMorris Rodgers.} Nay.
- 2929 The {Clerk.} Mrs. McMorris Rodgers, nay.
- 2930 Mr. Harper?
- 2931 Mr. {Harper.} Nay.
- 2932 The {Clerk.} Mr. Harper, nay.
- 2933 Mr. Lance?
- 2934 Mr. {Lance.} Nay.
- 2935 The {Clerk.} Mr. Lance, nay.
- 2936 Mr. Cassidy?
- 2937 Dr. {Cassidy.} Nay.
- 2938 The {Clerk.} Mr. Cassidy, nay.
- 2939 Mr. Guthrie?
- 2940 Mr. {Guthrie.} No.
- 2941 The {Clerk.} Mr. Guthrie, nay.
- 2942 Mr. Olson?
- 2943 Mr. {Olson.} No.
- 2944 The {Clerk.} Mr. Olson, nay.
- 2945 Mr. McKinley?
- 2946 Mr. {McKinley.} No.
- 2947 The {Clerk.} Mr. McKinley, nay.

2948 Mr. Gardner?

2949 Mr. {Gardner.} No.

2950 The {Clerk.} Mr. Gardner, nay.

2951 Mr. Pompeo?

2952 Mr. {Pompeo.} No.

2953 The {Clerk.} Mr. Pompeo, nay.

2954 Mr. Kinzinger?

2955 Mr. {Kinzinger.} No.

2956 The {Clerk.} Mr. Kinzinger, nay.

2957 Mr. Griffith?

2958 Mr. {Griffith.} Nay.

2959 The {Clerk.} Mr. Griffith, nay.

2960 Mr. Waxman?

2961 Mr. {Waxman.} Aye.

2962 The {Clerk.} Mr. Waxman, aye.

2963 Mr. Dingell?

2964 Mr. {Dingell.} Aye.

2965 The {Clerk.} Mr. Dingell, aye.

2966 Mr. Markey?

2967 Mr. {Markey.} Aye.

2968 The {Clerk.} Mr. Markey, aye.

2969 Mr. Towns?

2970 [No response.]

2971 The {Clerk.} Mr. Pallone?

2972 Mr. {Pallone.} Aye.

2973 The {Clerk.} Mr. Pallone, aye.

2974 Mr. Rush?

2975 Mr. {Rush.} Aye.

2976 The {Clerk.} Mr. Rush, aye.

2977 Ms. Eshoo?

2978 Ms. {Eshoo.} Aye.

2979 The {Clerk.} Ms. Eshoo, aye.

2980 Mr. Engel?

2981 Mr. {Engel.} Aye.

2982 The {Clerk.} Mr. Engel, aye.

2983 Mr. Green?

2984 Mr. {Green.} Aye.

2985 The {Clerk.} Mr. Green, aye.

2986 Ms. DeGette?

2987 Ms. {DeGette.} Aye.

2988 The {Clerk.} Ms. DeGette, aye.

2989 Mrs. Capps?

2990 Mrs. {Capps.} Aye.

2991 The {Clerk.} Mrs. Capps, aye.

2992 Mr. Doyle?

2993 Mr. {Doyle.} Yes.

2994 The {Clerk.} Mr. Doyle, aye.

2995 Ms. Schakowsky?

2996 Ms. {Schakowsky.} Aye.
2997 The {Clerk.} Ms. Schakowsky, aye.
2998 Mr. Gonzalez?
2999 Mr. {Gonzalez.} Aye.
3000 The {Clerk.} Mr. Gonzalez, aye.
3001 Mr. Inslee?
3002 Mr. {Inslee.} Aye.
3003 The {Clerk.} Mr. Inslee, aye.
3004 Ms. Baldwin?
3005 Ms. {Baldwin.} Aye.
3006 The {Clerk.} Ms. Baldwin, aye.
3007 Mr. Ross?
3008 Mr. {Ross.} Aye.
3009 The {Clerk.} Mr. Ross, aye.
3010 Mr. Weiner?
3011 Mr. {Weiner.} Aye.
3012 The {Clerk.} Mr. Weiner, aye.
3013 Mr. Matheson?
3014 Mr. {Matheson.} Aye.
3015 The {Clerk.} Mr. Matheson, aye.
3016 Mr. Butterfield?
3017 Mr. {Butterfield.} Aye.
3018 The {Clerk.} Mr. Butterfield, aye.
3019 Mr. Barrow?

3020 Mr. {Barrow.} Aye.

3021 The {Clerk.} Mr. Barrow, aye.

3022 Ms. Matsui?

3023 Ms. {Matsui.} Aye.

3024 The {Clerk.} Ms. Matsui, aye.

3025 Ms. Christensen?

3026 [No response.]

3027 The {Clerk.} Mr. Upton?

3028 The {Chairman.} Votes no.

3029 The {Clerk.} Mr. Upton, nay.

3030 The {Chairman.} Are there other members wishing to cast
3031 their vote? If not, the clerk will report the tally.

3032 The {Clerk.} Mr. Chairman, On that, there were 21 ayes,
3033 27 nays.

3034 The {Chairman.} Twenty-one ayes, 27 nays. The
3035 amendment is not agreed to.

3036 The next vote is on the Waxman amendment on deadlines
3037 for approval of site security plans, and the clerk will call
3038 the roll.

3039 The {Clerk.} Mr. Barton?

3040 Mr. {Barton.} No.

3041 The {Clerk.} Mr. Barton, nay.

3042 Mr. Stearns?

3043 Mr. {Stearns.} No.

3044 The {Clerk.} Mr. Stearns, nay.
3045 Mr. Whitfield?
3046 Mr. {Whitfield.} No.
3047 The {Clerk.} Mr. Whitfield, nay.
3048 Mr. Shimkus?
3049 Mr. {Shimkus.} No.
3050 The {Clerk.} Mr. Shimkus, nay.
3051 Mr. Pitts?
3052 [No response.]
3053 The {Clerk.} Mrs. Bono Mack?
3054 Mrs. {Bono Mack.} No.
3055 The {Clerk.} Mrs. Bono Mack, nay.
3056 Mr. Walden?
3057 Mr. {Walden.} No.
3058 The {Clerk.} Mr. Walden, nay.
3059 Mr. Terry?
3060 Mr. {Terry.} Nay.
3061 The {Clerk.} Mr. Terry, nay.
3062 Mr. Rogers?
3063 [No response.]
3064 The {Clerk.} Mrs. Myrick?
3065 [No response.]
3066 The {Clerk.} Mr. Sullivan?
3067 Mr. {Sullivan.} No.

- 3068 The {Clerk.} Mr. Sullivan, nay.
- 3069 Mr. Murphy?
- 3070 Mr. {Murphy.} No.
- 3071 The {Clerk.} Mr. Murphy, nay.
- 3072 Mr. Burgess?
- 3073 Dr. {Burgess.} Nay.
- 3074 The {Clerk.} Mr. Burgess, nay.
- 3075 Mrs. Blackburn?
- 3076 Mrs. {Blackburn.} No.
- 3077 The {Clerk.} Mrs. Blackburn, nay.
- 3078 Mr. Bilbray?
- 3079 [No response.]
- 3080 The {Clerk.} Mr. Bass?
- 3081 Mr. {Bass.} No.
- 3082 The {Clerk.} Mr. Bass, nay.
- 3083 Mr. Gingrey?
- 3084 Dr. {Gingrey.} No.
- 3085 The {Clerk.} Mr. Gingrey, nay.
- 3086 Mr. Scalise?
- 3087 Mr. {Scalise.} No.
- 3088 The {Clerk.} Mr. Scalise, nay.
- 3089 Mr. Latta?
- 3090 Mr. {Latta.} No.
- 3091 The {Clerk.} Mr. Latta, nay.

- 3092 Mrs. McMorris Rodgers?
- 3093 Mrs. {McMorris Rodgers.} Nay.
- 3094 The {Clerk.} Mrs. McMorris Rodgers, nay.
- 3095 Mr. Harper?
- 3096 Mr. {Harper.} Nay.
- 3097 The {Clerk.} Mr. Harper, nay.
- 3098 Mr. Lance?
- 3099 Mr. {Lance.} Nay.
- 3100 The {Clerk.} Mr. Lance, nay.
- 3101 Mr. Cassidy?
- 3102 Dr. {Cassidy.} Nay.
- 3103 The {Clerk.} Mr. Cassidy, nay.
- 3104 Mr. Guthrie?
- 3105 Mr. {Guthrie.} No.
- 3106 The {Clerk.} Mr. Guthrie, nay.
- 3107 Mr. Olson?
- 3108 Mr. {Olson.} No.
- 3109 The {Clerk.} Mr. Olson, nay.
- 3110 Mr. McKinley?
- 3111 Mr. {McKinley.} Nay.
- 3112 The {Clerk.} Mr. McKinley, nay.
- 3113 Mr. Gardner?
- 3114 Mr. {Gardner.} No.
- 3115 The {Clerk.} Mr. Gardner, nay.

3116 Mr. Pompeo?
3117 Mr. {Pompeo.} No.
3118 The {Clerk.} Mr. Pompeo, nay.
3119 Mr. Kinzinger?
3120 Mr. {Kinzinger.} No.
3121 The {Clerk.} Mr. Kinzinger, nay.
3122 Mr. Griffith?
3123 Mr. {Griffith.} Nay.
3124 The {Clerk.} Mr. Griffith, nay.
3125 Mr. Waxman?
3126 Mr. {Waxman.} Aye.
3127 The {Clerk.} Mr. Waxman, aye.
3128 Mr. Dingell?
3129 Mr. {Dingell.} Aye.
3130 The {Clerk.} Mr. Dingell, aye.
3131 Mr. Markey?
3132 Mr. {Markey.} Aye.
3133 The {Clerk.} Mr. Markey, aye.
3134 Mr. Towns?
3135 [No response.]
3136 The {Clerk.} Mr. Pallone?
3137 Mr. {Pallone.} Aye.
3138 The {Clerk.} Mr. Pallone, aye.
3139 Mr. Rush?

3140 Mr. {Rush.} Aye.
3141 The {Clerk.} Mr. Rush, aye.
3142 Ms. Eshoo?
3143 Ms. {Eshoo.} Aye.
3144 The {Clerk.} Ms. Eshoo, aye.
3145 Mr. Engel?
3146 Mr. {Engel.} Aye.
3147 The {Clerk.} Mr. Engel, aye.
3148 Mr. Green?
3149 Mr. {Green.} Aye.
3150 The {Clerk.} Mr. Green, aye.
3151 Ms. DeGette?
3152 Ms. {DeGette.} Aye.
3153 The {Clerk.} Ms. DeGette, aye.
3154 Mrs. Capps?
3155 Mrs. {Capps.} Aye.
3156 The {Clerk.} Mrs. Capps, aye.
3157 Mr. Doyle?
3158 Mr. {Doyle.} Yes.
3159 The {Clerk.} Mr. Doyle, aye.
3160 Ms. Schakowsky?
3161 Ms. {Schakowsky.} Aye.
3162 The {Clerk.} Ms. Schakowsky, aye.
3163 Mr. Gonzalez?

3164 Mr. {Gonzalez.} Aye.
3165 The {Clerk.} Mr. Gonzalez, aye.
3166 Mr. Inslee?
3167 Mr. {Inslee.} Aye.
3168 The {Clerk.} Mr. Inslee, aye.
3169 Ms. Baldwin?
3170 Ms. {Baldwin.} Aye.
3171 The {Clerk.} Ms. Baldwin, aye.
3172 Mr. Ross?
3173 Mr. {Ross.} Aye.
3174 The {Clerk.} Mr. Ross, aye.
3175 Mr. Weiner?
3176 Mr. {Weiner.} Aye.
3177 The {Clerk.} Mr. Weiner, aye.
3178 Mr. Matheson?
3179 Mr. {Matheson.} Aye.
3180 The {Clerk.} Mr. Matheson, aye.
3181 Mr. Butterfield?
3182 Mr. {Butterfield.} Aye.
3183 The {Clerk.} Mr. Butterfield, aye.
3184 Mr. Barrow?
3185 Mr. {Barrow.} Votes aye.
3186 The {Clerk.} Mr. Barrow, aye.
3187 Ms. Matsui?

3188 Ms. {Matsui.} Aye.

3189 The {Clerk.} Ms. Matsui, aye.

3190 Ms. Christensen?

3191 [No response.]

3192 The {Clerk.} Mr. Upton?

3193 The {Chairman.} Votes no.

3194 The {Clerk.} Mr. Upton, nay.

3195 The {Chairman.} Are there other members wishing to cast
3196 their vote? Seeing none, the clerk will report the tally.

3197 The {Clerk.} Mr. Chairman, on that, there were 21 ayes,
3198 27 nays.

3199 The {Chairman.} Twenty-one ayes, 27 nays. The
3200 amendment is not agreed to.

3201 The last amendment vote occurs on the Capps amendment
3202 dealing with disapproval of site security plans. The clerk
3203 will call the roll.

3204 The {Clerk.} Mr. Barton?

3205 Mr. {Barton.} No.

3206 The {Clerk.} Mr. Barton, nay.

3207 Mr. Stearns?

3208 Mr. {Stearns.} No.

3209 The {Clerk.} Mr. Stearns, nay.

3210 Mr. Whitfield?

3211 Mr. {Whitfield.} No.

- 3212 The {Clerk.} Mr. Whitfield, nay.
- 3213 Mr. Shimkus?
- 3214 Mr. {Shimkus.} No.
- 3215 The {Clerk.} Mr. Shimkus, nay.
- 3216 Mr. Pitts?
- 3217 [No response.]
- 3218 The {Clerk.} Mrs. Bono Mack?
- 3219 Mrs. {Bono Mack.} No.
- 3220 The {Clerk.} Mrs. Bono Mack, nay.
- 3221 Mr. Walden?
- 3222 Mr. {Walden.} No.
- 3223 The {Clerk.} Mr. Walden, nay.
- 3224 Mr. Terry?
- 3225 Mr. {Terry.} Nay.
- 3226 The {Clerk.} Mr. Terry, nay.
- 3227 Mr. Rogers?
- 3228 [No response.]
- 3229 The {Clerk.} Mrs. Myrick?
- 3230 [No response.]
- 3231 The {Clerk.} Mr. Sullivan?
- 3232 Mr. {Sullivan.} No.
- 3233 The {Clerk.} Mr. Sullivan, nay.
- 3234 Mr. Murphy?
- 3235 Mr. {Murphy.} No.

- 3236 The {Clerk.} Mr. Murphy, nay.
- 3237 Mr. Burgess?
- 3238 Dr. {Burgess.} Nay.
- 3239 The {Clerk.} Mr. Burgess, nay.
- 3240 Mrs. Blackburn?
- 3241 Mrs. {Blackburn.} No.
- 3242 The {Clerk.} Mrs. Blackburn, nay.
- 3243 Mr. Bilbray?
- 3244 [No response.]
- 3245 The {Clerk.} Mr. Bass?
- 3246 Mr. {Bass.} No.
- 3247 The {Clerk.} Mr. Bass, nay.
- 3248 Mr. Gingrey?
- 3249 Dr. {Gingrey.} No.
- 3250 The {Clerk.} Mr. Gingrey, nay.
- 3251 Mr. Scalise?
- 3252 Mr. {Scalise.} No.
- 3253 The {Clerk.} Mr. Scalise, nay.
- 3254 Mr. Latta?
- 3255 Mr. {Latta.} No.
- 3256 The {Clerk.} Mr. Latta, nay.
- 3257 Mrs. McMorris Rodgers?
- 3258 Mrs. {McMorris Rodgers.} Nay.
- 3259 The {Clerk.} Mrs. McMorris Rodgers, nay.

3260 Mr. Harper?
3261 Mr. {Harper.} Nay.
3262 The {Clerk.} Mr. Harper, nay.
3263 Mr. Lance?
3264 Mr. {Lance.} Nay.
3265 The {Clerk.} Mr. Lance, nay.
3266 Mr. Cassidy?
3267 Dr. {Cassidy.} Nay.
3268 The {Clerk.} Mr. Cassidy, nay.
3269 Mr. Guthrie?
3270 Mr. {Guthrie.} No.
3271 The {Clerk.} Mr. Guthrie, nay.
3272 Mr. Olson?
3273 Mr. {Olson.} No.
3274 The {Clerk.} Mr. Olson, nay.
3275 Mr. McKinley?
3276 Mr. {McKinley.} Nay.
3277 The {Clerk.} Mr. McKinley, nay.
3278 Mr. Gardner?
3279 Mr. {Gardner.} No.
3280 The {Clerk.} Mr. Gardner, nay.
3281 Mr. Pompeo?
3282 Mr. {Pompeo.} No.
3283 The {Clerk.} Mr. Pompeo, nay.

3284 Mr. Kinzinger?

3285 Mr. {Kinzinger.} No.

3286 The {Clerk.} Mr. Kinzinger, nay.

3287 Mr. Griffith?

3288 Mr. {Griffith.} Nay.

3289 The {Clerk.} Mr. Griffith, nay.

3290 Mr. Waxman?

3291 Mr. {Waxman.} Aye.

3292 The {Clerk.} Mr. Waxman, aye.

3293 Mr. Dingell?

3294 Mr. {Dingell.} Aye.

3295 The {Clerk.} Mr. Dingell, aye.

3296 Mr. Markey?

3297 Mr. {Markey.} Aye.

3298 The {Clerk.} Mr. Markey, aye.

3299 Mr. Towns?

3300 [No response.]

3301 The {Clerk.} Mr. Pallone?

3302 Mr. {Pallone.} Aye.

3303 The {Clerk.} Mr. Pallone, aye.

3304 Mr. Rush?

3305 Mr. {Rush.} Aye.

3306 The {Clerk.} Mr. Rush, aye.

3307 Ms. Eshoo?

3308 Ms. {Eshoo.} Aye.
3309 The {Clerk.} Ms. Eshoo, aye.
3310 Mr. Engel?
3311 Mr. {Engel.} Aye.
3312 The {Clerk.} Mr. Engel, aye.
3313 Mr. Green?
3314 Mr. {Green.} Aye.
3315 The {Clerk.} Mr. Green, aye.
3316 Ms. DeGette?
3317 Ms. {DeGette.} Aye.
3318 The {Clerk.} Ms. DeGette, aye.
3319 Mrs. Capps?
3320 Mrs. {Capps.} Aye.
3321 The {Clerk.} Mrs. Capps, aye.
3322 Mr. Doyle?
3323 Mr. {Doyle.} Yes.
3324 The {Clerk.} Mr. Doyle, aye.
3325 Ms. Schakowsky?
3326 Ms. {Schakowsky.} Aye.
3327 The {Clerk.} Ms. Schakowsky, aye.
3328 Mr. Gonzalez?
3329 Mr. {Gonzalez.} Aye.
3330 The {Clerk.} Mr. Gonzalez, aye.
3331 Mr. Inslee?

3332 Mr. {Inslee.} Aye.

3333 The {Clerk.} Mr. Inslee, aye.

3334 Ms. Baldwin?

3335 Ms. {Baldwin.} Aye.

3336 The {Clerk.} Ms. Baldwin, aye.

3337 Mr. Ross?

3338 Mr. {Ross.} Aye.

3339 The {Clerk.} Mr. Ross, aye.

3340 Mr. Weiner?

3341 Mr. {Weiner.} Aye.

3342 The {Clerk.} Mr. Weiner, aye.

3343 Mr. Matheson?

3344 Mr. {Matheson.} Aye.

3345 The {Clerk.} Mr. Matheson, aye.

3346 Mr. Butterfield?

3347 Mr. {Butterfield.} Aye.

3348 The {Clerk.} Mr. Butterfield, aye.

3349 Mr. Barrow?

3350 Mr. {Barrow.} Aye.

3351 The {Clerk.} Mr. Barrow, aye.

3352 Ms. Matsui?

3353 Ms. {Matsui.} Aye.

3354 The {Clerk.} Ms. Matsui, aye.

3355 Ms. Christensen?

3356 [No response.]

3357 The {Clerk.} Mr. Upton?

3358 The {Chairman.} Votes no.

3359 The {Clerk.} Mr. Upton, nay.

3360 The {Chairman.} Are there other members wishing to cast
3361 their vote? Seeing none, the clerk will report the tally.

3362 The {Clerk.} Mr. Chairman, on that, there were 21 ayes,
3363 27 nays.

3364 The {Chairman.} Twenty-one ayes, 27 nays. The
3365 amendment is not agreed to.

3366 The question now occurs on favorably reporting the bill
3367 as amended. All those in favor, say aye. All those opposed,
3368 say no.

3369 Mr. {Waxman.} Roll call vote.

3370 The {Chairman.} Roll call is requested. The clerk will
3371 call the roll.

3372 The {Clerk.} Mr. Barton?

3373 Mr. {Barton.} Aye.

3374 The {Clerk.} Mr. Barton, aye.

3375 Mr. Stearns?

3376 Mr. {Stearns.} Aye.

3377 The {Clerk.} Mr. Stearns, aye.

3378 Mr. Whitfield?

3379 Mr. {Whitfield.} Aye.

3380 The {Clerk.} Mr. Whitfield, aye.
3381 Mr. Shimkus?
3382 Mr. {Shimkus.} Aye.
3383 The {Clerk.} Mr. Shimkus, aye.
3384 The {Clerk.} Mr. Pitts?
3385 [No response.]
3386 The {Clerk.} Mrs. Bono Mack?
3387 Mrs. {Bono Mack.} Aye.
3388 The {Clerk.} Mrs. Bono Mack, aye.
3389 Mr. Walden?
3390 Mr. {Walden.} Aye.
3391 The {Clerk.} Mr. Walden, aye.
3392 Mr. Terry?
3393 Mr. {Terry.} Aye.
3394 The {Clerk.} Mr. Terry, aye.
3395 Mr. Rogers?
3396 [No response.]
3397 The {Clerk.} Mrs. Myrick?
3398 [No response.]
3399 The {Clerk.} Mr. Sullivan?
3400 Mr. {Sullivan.} Aye.
3401 The {Clerk.} Mr. Sullivan, aye.
3402 Mr. Murphy?
3403 Mr. {Murphy.} Aye.

3404 The {Clerk.} Mr. Murphy, aye.
3405 Mr. Burgess?
3406 Dr. {Burgess.} Aye.
3407 The {Clerk.} Mr. Burgess, aye.
3408 The {Clerk.} Mrs. Blackburn?
3409 Mrs. {Blackburn
3410 The {Clerk.} Mrs. Blackburn, aye.
3411 Mr. Bilbray?
3412 [No response.]
3413 The {Clerk.} Mr. Bass?
3414 Mr. {Bass.} Aye.
3415 The {Clerk.} Mr. Bass, aye.
3416 Mr. Gingrey?
3417 Dr. {Gingrey.} Aye.
3418 The {Clerk.} Mr. Gingrey, aye.
3419 Mr. Scalise?
3420 Mr. {Scalise.} Aye.
3421 The {Clerk.} Mr. Scalise, aye.
3422 Mr. Latta?
3423 Mr. {Latta.} Aye.
3424 The {Clerk.} Mr. Latta, aye.
3425 Mrs. McMorris Rodgers?
3426 Ms. {McMorris Rodgers.} Aye.
3427 The {Clerk.} Mrs. McMorris Rodgers, aye.

3428 Mr. Harper?
3429 The {Clerk.} Mr. Harper, aye.
3430 Mr. Lance?
3431 Mr. {Lance.} Aye.
3432 The {Clerk.} Mr. Lance, aye.
3433 Mr. Cassidy?
3434 Dr. {Cassidy.} Aye.
3435 The {Clerk.} Mr. Cassidy, aye.
3436 Mr. Guthrie?
3437 Mr. {Guthrie.} Aye.
3438 The {Clerk.} Mr. Guthrie, aye.
3439 Mr. Olsen?
3440 Mr. {Olson.} Aye.
3441 The {Clerk.} Mr. Olson, aye.
3442 Mr. McKinley?
3443 Mr. {McKinley.} Aye.
3444 The {Clerk.} Mr. McKinley, aye.
3445 Mr. Gardner?
3446 Mr. {Gardner.} Aye.
3447 The {Clerk.} Mr. Gardner, aye.
3448 Mr. Pompeo?
3449 Mr. {Pompeo.} Aye.
3450 The {Clerk.} Mr. Pompeo, aye.
3451 Mr. Kinzinger?

3452 Mr. {Kinzinger.} Aye.

3453 The {Clerk.} Mr. Kinzinger, aye.

3454 Mr. Griffith?

3455 Mr. {Griffith.} Aye.

3456 The {Clerk.} Mr. Griffith, aye.

3457 Mr. Waxman?

3458 Mr. {Waxman.} No.

3459 The {Clerk.} Mr. Waxman, nay.

3460 Mr. Dingell?

3461 Mr. {Dingell.} Aye.

3462 The {Clerk.} Mr. Dingell, aye.

3463 Mr. Markey?

3464 Mr. {Markey.} Votes no.

3465 The {Clerk.} Mr. Markey, nay.

3466 Mr. Towns?

3467 [No response.]

3468 The {Clerk.} Mr. Pallone?

3469 Mr. {Pallone.} No.

3470 The {Clerk.} Mr. Pallone, nay.

3471 Mr. Rush?

3472 Mr. {Rush.} No.

3473 The {Clerk.} Mr. Rush, nay.

3474 Ms. Eshoo?

3475 Ms. {Eshoo.} No.

3476 The {Clerk.} Ms. Eshoo, nay.
3477 Mr. Engel?
3478 Mr. {Engel.} No.
3479 The {Clerk.} Mr. Engel, nay.
3480 Mr. Green?
3481 Mr. {Green.} Yes.
3482 The {Clerk.} Mr. Green, aye.
3483 Ms. DeGette?
3484 Ms. {DeGette.} No.
3485 The {Clerk.} Ms. DeGette, nay.
3486 Mrs. Capps?
3487 Mrs. {Capps.} No.
3488 The {Clerk.} Mrs. Capps, nay.
3489 Mr. Doyle?
3490 Mr. {Doyle.} No.
3491 The {Clerk.} Mr. Doyle, nay.
3492 Ms. Schakowsky?
3493 Ms. {Schakowsky.} No.
3494 The {Clerk.} Ms. Schakowsky, nay.
3495 Mr. Gonzalez?
3496 Mr. {Gonzalez.} No.
3497 The {Clerk.} Mr. Gonzalez, no.
3498 Mr. Inslee?
3499 Mr. {Inslee.} No.

3500 The {Clerk.} Mr. Inslee, nay.
3501 Ms. Baldwin?
3502 Ms. {Baldwin.} No.
3503 The {Clerk.} Ms. Baldwin, nay.
3504 Mr. Ross?
3505 Mr. {Ross.} Aye.
3506 The {Clerk.} Mr. Ross, aye.
3507 Mr. Weiner?
3508 Mr. {Weiner.} No.
3509 The {Clerk.} Mr. Weiner, nay.
3510 Mr. Matheson?
3511 Mr. {Matheson.} Aye.
3512 The {Clerk.} Mr. Matheson, aye.
3513 Mr. Butterfield?
3514 Mr. {Butterfield.} No.
3515 The {Clerk.} Mr. Butterfield, no.
3516 Mr. Barrow?
3517 Mr. {Barrow.} Aye.
3518 The {Clerk.} Mr. Barrow, aye.
3519 Ms. Matsui?
3520 Ms. {Matsui.} No.
3521 The {Clerk.} Ms. Matsui, nay.
3522 Ms. Christensen?
3523 [No response.]

3524 The {Clerk.} Mr. Upton?
3525 Mr. {Upton.} Votes aye.
3526 The {Clerk.} Mr. Upton, aye.
3527 Mr. {Walden.} Mr. Chairman?
3528 The {Chairman.} Mr. Walden.
3529 Mr. {Walden.} Can I inquire as to how I am recorded?
3530 The {Clerk.} The gentleman is recorded aye.
3531 Mr. {Walden.} Thank you.
3532 The {Chairman.} Ms. Bono Mack?
3533 The {Clerk.} The gentlelady is recorded aye.
3534 The {Chairman.} Mr. Murphy?
3535 Mr. {Murphy.} What bill was this?
3536 The {Chairman.} Are there members wishing to cast a
3537 vote? How is Mr. Rogers recorded?
3538 The {Clerk.} The gentleman is not recorded.
3539 Mr. {Rogers.} The gentleman would like to be recorded
3540 as aye, Mr. Chairman.
3541 The {Clerk.} Mr. Rogers, aye.
3542 Mr. {Murphy.} Then I will be too, Mr. Chairman.
3543 The {Clerk.} Mr. Chairman?
3544 The {Chairman.} Yes.
3545 The {Clerk.} On that, there are 33 ayes, 16 nays.
3546 The {Chairman.} Thirty-three ayes, 16 nays. The bill
3547 is favorably reported. Without objection the staff is

3548 authorized to make technical and conforming changes to the
3549 bill as passed. So ordered.

3550 The chair would recognize Mr. Waxman.

3551 Mr. {Waxman.} I want to assert our privileges and
3552 rights to file minority reports in the appropriate number of
3553 days.

3554 The {Chairman.} Without objection.

3555 The chair thanks all members and staff and wishes them a
3556 good holiday weekend. The committee stands adjourned.

3557 [Whereupon, at 3:33 p.m., the committee was adjourned.]