

Statement of
Ranking Member Senator Susan M. Collins

Guarding America's Chemical Facilities

Committee on Homeland Security and Governmental Affairs
March 3, 2010

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More than 70,000 products are created through the use of chemicals, helping to supply the consumer, industrial, construction, and agricultural sectors of our economy. The United States is home to thousands of facilities that manufacture, use, or store chemicals.

This industry is vital to our economy, with annual sales of nearly half a trillion dollars, exports of \$174 billion, and employees exceeding 850,000 people.

But after Sept. 11, 2001, we realized that chemical facilities were vulnerable to terrorist attack. Given the hazardous chemicals present at many locations, terrorists could view them as attractive targets, yielding a terrible loss of life, significant injuries, and major destruction if successfully attacked.

In 2005, as Chairman of this Committee, I held a series of hearings on chemical security. Following these hearings, Senators Lieberman, Carper, Levin, and I introduced bipartisan legislation authorizing the Department of Homeland Security to set and enforce security standards at high-risk chemical facilities. That bill was incorporated into the homeland security appropriations act and signed into law in 2006.

To implement this new authority, DHS established the Chemical Facility Anti-Terrorism Standards program, or CFATS. The program sets 18 risk-based performance standards that high-risk chemical facilities must meet. These security standards cover a range of threats, such as perimeter security, access control, theft, internal sabotage, and cybersecurity.

High-risk chemical facilities covered by the program must conduct mandatory vulnerability assessments, develop site security plans, and invest in protective measures.

The Department must approve these assessments and site security plans, using audits and inspections to ensure compliance with the

performance standards. The Secretary is empowered to shut down facilities that are non-compliant.

This risk-based approach has made the owners and operators of chemical plants partners with the federal government in implementing a successful, collaborative security program.

This landmark law has been in place slightly more than three years. Taxpayers have invested nearly \$300 million in the program. Chemical plants also have invested hundreds of millions more to comply with the law. As a direct result, security at our nation's chemical facilities is much stronger than it was five years ago.

Now we are at a juncture where we must reauthorize the program or – as some have proposed – scrap what has been a clear success and set off in a different direction. I firmly believe that we should reauthorize the law.

Simply put, the program works and should be extended.

Proposals to drastically change this successful law would discard what is working for an unproven and burdensome plan.

We must not undermine the substantial investments of time and resources already made in CFATS implementation by both DHS and the private sector. Worse would be requiring additional expenditures with no demonstrable increase to the overall security of our nation.

Last November, the House of Representatives passed legislation that would alter the fundamental nature of CFATS. It would require the Department to completely rework the program. I am concerned about several aspects of the House bill, not the least of which is the authority to mandate the use of so-called “inherently safer technology,” or IST.

What is IST? It is an approach to process engineering. It is not, however, a *security* measure.

An IST mandate may actually *increase* or unacceptably *transfer* risk to other points in the chemical process or elsewhere in the supply chain.

For example, many drinking water utilities have determined that chlorine remains their best and most effective drinking water treatment option. Their decisions were not based solely on financial considerations, but also on many other factors, such as the characteristics of the region's climate, geography, and source water supplies, the size and location of the utility's facilities, and the risks and benefits of chlorine use compared to the use of alternative treatment processes.

According to one water utility located in an isolated area of the Northwest, if Congress were to force it to replace its use of gaseous chlorine with sodium hypochlorite, then the utility would have to use as much as seven times the current quantity of treatment chemicals to achieve comparable water quality results. In turn, the utility would have to arrange for many more bulk chemical deliveries, by trucks, into the watershed. The greater quantities of chemicals and increased frequency of truck deliveries would heighten the risk of an accident resulting in a chemical spill into the watershed. In fact, the accidental release of sodium hypochlorite into the watershed would likely cause greater harm to soils, vegetation and streams than a gaseous chlorine release in this remote area.

Currently, DHS cannot dictate specific security measures, like IST. Nor should it. The federal government should set performance standards, but leave it up to the private sector to decide precisely how to achieve those standards.

Forcing chemical facilities to implement IST could cost jobs at some facilities and affect the availability of many vital products.

Last year, the Society of Chemical Manufacturers and Affiliates testified that mandatory IST would restrict the production of pharmaceuticals and microelectronics, hobbling these industries. The increased cost of a mandatory IST program may force chemical companies to simply transfer their operations overseas, costing American workers thousands of jobs.

To be clear, some owners and operators of chemical facilities may *choose* to use IST. But that decision should be theirs - not that of Washington.

Congress should not dictate specific industrial processes under the guise of security when a facility could choose other alternatives that meet the nation's security needs.

A straight-forward, common-sense reauthorization of this program is critical. The "Continuing Chemical Facilities Antiterrorism Security Act of 2010," which Senators Pryor, Voinovich, Landrieu and I recently introduced, would extend CFATS for five more years.

No one is more conscious than I of the risks our nation faces through an attack on a chemical facility. That is why I authored this law in the first place and battled considerable opposition to get it enacted. We should support the continuation of this successful security program without the addition of costly, unproven federal mandates.

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