

Written Statement of

**The Dow Chemical Company
and the American Chemistry Council**

To

**The United States Senate
Committee on Homeland Security and
Governmental Affairs**

On

**“Charting a Path Forward for the Chemical
Facilities Anti-Terrorism Standards Program”**

May 14, 2014

Introduction:

Chairman Carper, Ranking Member Coburn and members of the Committee, my name is Tim Scott and I'm the Chief Security Officer of The Dow Chemical Company. I'm speaking today on behalf of Dow and the American Chemistry Council, the nation's chemical industry trade group.

The chemical industry is an extremely diverse sector of the global economy which provides a broad range of products and services that improve the quality of life around the world. Some of essential products include chemicals that provide clean drinking water, medicines and medical products, fertilizers for the farming industry, key components and chemicals for use in the high tech manufacturing industry, light weight composite materials for use in the airline and transportation industries and critical items designed for top secret military applications. The chemical industry is a multi-billion dollar enterprise that provides high paying jobs and is growing. Chemical manufacturing is returning to the United States due to a boom in domestic natural gas production, increasing the number of well-paying paying jobs for American families and making the U.S. a global competitor once again.

An essential element for success of the business of chemistry is ensuring the security of our products and information and our people and the communities where we operate. For members of the ACC, the Responsible Care Program provides the framework and foundation for managing security risk across an organization by providing an integrated approach that encompasses all aspects of the chemical supply chain: (1) Physical Plant Security, (2) Cyber and IT Security, and (3) Transportation / Value Chain Security. When treated as a system, an organization can implement a comprehensive approach to managing security risk by looking at vulnerabilities across the organization in a holistic way, and developing sound solutions that minimize the risks while maximizing the value of the business operation and protecting the critical assets of the company.

Within months of the terrorist attacks of 9/11, ACC created a stringent, mandatory security program called the Responsible Care® Security Code. To date, ACC member companies have invested nearly \$13 billion to further enhance site, transportation, and cyber security at their facilities under the Security Code, which has become a gold standard for the industry and serves as a model for regulatory programs. Core elements of the Security Code include:

Cybersecurity:

Recognize that protecting information and information systems is a critical component of a sound security management system. Assess cybersecurity vulnerabilities and implement enhancements. Incorporate cybersecurity into training, drills and guidance, and all aspects of a Plan-Do-Check-Act security system. Take steps to protect against intrusion into facility systems and the diversion of products.

Facility Security:

Conduct comprehensive site security vulnerability assessments using recognized methods, such as the Sandia National Laboratories, Chemical Security Vulnerability Assessment Methodology. Implement and continuously improve site security measures within a well-defined timeline. Document security management programs, processes, and procedures.

Transportation/Supply Chain Security:

Conduct vulnerability assessments throughout the supply chain and implement security measures, including screening of transportation providers. Working with commercial partners to assess transport routing and monitor shipments. Secure access to transportation/distribution facilities.

Federal Security Programs and CFATS:

In addition to enhancing security through strong industry initiatives such as Responsible Care, ACC and its members support an array of federal programs currently in place that give multiple agencies the authority to take a smart approach to regulating chemical security, while minimizing the burden on its operations. Some of the key Agencies and programs include:

- The DHS Chemical Facilities Anti-Terrorism Standards.
- The Coast Guard Maritime Transportation Security Regulations.
- The TSA Rail Transportation Security Rule.
- The DOT Hazardous Transportation Security Plan.
- The CBP Customs and Transportation Partners against Terrorism.

Under these programs, the regulated community must submit security plans for review and approval and be subject to rigorous site inspections. Several agencies have the authority to fine or shut down a facility if it fails to be in compliance. ACC is committed to working with regulators to make these programs more effective and efficient through improved implementation and better use of private and public sector resources.

In 2006, ACC helped lead the charge in Congress to pass legislation to give the Department of Homeland Security (DHS) the authority to create CFATS, the Chemical Facilities Anti-Terrorism Standards. This stringent DHS program regulates security for a wide variety of chemical facilities that make, store, or use chemicals, including chemical manufacturers, farmers, hospitals and universities. CFATS allows facilities to tailor their security plans to meet their unique needs while providing DHS with clear authority to fine or shutdown facilities that do not meet the program's comprehensive security standards.

When DHS was given the authority to regulate chemical industry security, ACC and our members was an active and enthusiastic partner in the development of the risk-based performance standards model that is in place today. The ACC Responsible Care Security Code

is aligned in many areas and is a mandatory requirement for ACC membership. The launch of DHS, CFATS and the Responsible Care Security Code is a successful example of what defines a partnership – everyone working together on a common goal, to defeat a common foe. Despite some challenges along the way, we believe that CFATS has turned the corner and is moving in the right direction. The quality of inspections has vastly improved. The pace of implementation has picked up significantly and the partnership is working once again. The end result is that progress is being made and the security of the chemical industry is stronger today, more than ever before.

I would like to point out what Dow Chemical alone has done in terms of capital investments and security upgrades in an effort to lead the industry in compliance with the CFATS program. Dow has spent approximately \$250 million on security systems to ensure our facilities are as safe and secure as they can reasonably be and we have completed vulnerability assessments, audits and as needed security upgrades at our facilities worldwide – not just those regulated under CFATS in the US. We did this in part because we have a duty to our shareholders, employees, and communities but also because we find the CFATS program a good model – in harmony with the Responsible Care Security Code -- to secure our facilities. It's my understanding that Dow is the only chemical company to achieve SAFETY Act designation from DHS for both our site security and our distribution system security processes.

There have been many positive developments over the last few months for CFATS – with the most significant being the progress toward multi-year authorization. A multi-year authorization puts DHS and CFATS closer in line to the industry's capital planning process, and allows for some certainty for industry to take action. A multi-year authorization also brings stability to DHS – in planning and implementing CFATS and also staffing to be sure the necessary expertise is in place – and will remain in place – to accomplish the mission.

Maintaining the original premise of a risk-based performance standards model approach, which permits individual sites the flexibility to determine the local solution that will meet the standards, also spurs progress. No two sites are the same, but all must meet the same goal. This flexibility allows each unique site the flexibility to take individual ownership and identify the solution that meets the performance standard in the best manner possible for that site.

We are not done – industry is not done - DHS is not done - and Congress is not done. We are making progress, but more needs to be done. We need to fine tune the personnel surety process so that it adds value to all concerned. We need to ensure that risk is being determined in a fair and consistent manner. We need to ensure transparency about the people at the site who have access to sensitive areas and the transparency about the risk they are working so hard to mitigate. And we need to leverage the plethora of industry security programs that are in place today, such as the ACC Responsible Care Program. Put together, all these goals will establish a sound

regulatory framework that will ensure the security of our nation's chemical infrastructure for decades to come.

Communication has between DHS and the sites, but we need to do more – there are still some barriers there. DHS field Inspectors need to be viewed as an equal partner working together to defeat terrorism. We need to give the inspectors the training and resources they need so they can ensure compliance and they understand the regulations, understand how the industry works, and understand the sites in their area of responsibility, and visit those sites on a regular basis. And industry needs to challenge our peers – we need to self-regulate both upstream and downstream along the supply chain and especially those in our own back yard.

CFATS is making the chemical industry more secure, today. DHS is maturing and finding its way in reaching its goals. Industry is doing its share by partnering with the government at the federal and local levels. A multi-year reauthorization and a commitment to continue the partnership in a risk-based approach is essential. Just as important, we need to bring all the players to the table – we're not there yet on either the public or private sector sides. We're encouraged by the progress that is being made, but we need your help in maintaining the forward momentum.