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on behalf of the
Society of Chemical Manufacturers and Affiliates

before the

Senate Committee on Homeland Security and Governmental Affairs

on

Chemical Security: Assessing Progress and Charting a Path Forward

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Good morning, Chairman Lieberman, Ranking Member Collins, and members of the Committee. My name is Stephen Poorman, and I am the International Environment, Health & Safety Manager for FUJIFILM Imaging Colorants Ltd. I am pleased to provide this testimony regarding the Chemical Facility Anti-Terrorism Acts Standards (CFATS). I speak before you today on behalf of the Society of Chemical Manufacturers and Affiliates (SOCMA), of which FUJIFILM is a member.

Less than four years ago, and working in a bipartisan manner, Congress enacted a strong chemical security regulatory program. It was this committee's sustained effort over two years that drove that legislation. Thanks to the bipartisan leadership shown by your committee, the U.S. Department of Homeland Security (DHS) and regulated facilities are deep in the middle of implementing this vital program in a focused, cooperative manner. We urge you not to upset – and further delay – this important process by sending DHS and regulated facilities back to the drawing board.

SOCMA strongly supports DHS's current CFATS program. This demanding program is now requiring over six thousand chemical facilities nationwide to develop and deploy meaningful security enhancements. It protects facilities against attack without impairing the industry's ability to remain innovative and maintains some of the nation's highest paid jobs in the manufacturing sector.

Congress can best assure the CFATS's program's success and forward momentum by passing S. 2996, the Continuing Chemical Facilities Antiterrorism Security Act of 2010, recently introduced by Ranking Member Collins, together with Senators Pryor, Voinovich, and Landrieu. This bill would reauthorize the CFATS program until 2015, thus allowing DHS and facilities to remain focused on successfully implementing that program as quickly as possible.

The House has taken a very different approach than the Senate so far to address the future of CFATS. First, it approved largely a partisan bill (H.R. 2868) with no support from the minority - - not a single vote in favor. That bill includes provisions that are fundamentally unwise and potentially counterproductive to our shared goal of preventing terrorist incidents at chemical facilities. The House bill was approved despite testimony from numerous witnesses who shared strong concerns regarding these provisions. After sharing with you what steps SOCMA and its members have taken before and within the CFATS program, I will explain why we support S. 2996 and why we respectfully, but strongly, oppose any mandate that facilities implement so-called inherently safer technology ("IST").

Despite what you will hear today about how the House's version of mandatory IST would not impact jobs, I ask that you take seriously our concerns about job impacts. As the voice of many small and large chemical manufacturers that employ thousands of employees in key manufacturing states such as Connecticut, Michigan, Arkansas, Delaware, and Missouri, we stand to lose greatly. It is a wonder why IST proponents still support such a provision when there is so much uncertainty about the concept and how DHS could apply it -- and during a historic economic recession in which our nation's unemployment rate still stands at nearly 10%.

I. SOCMA and the Current State of Chemical Facility Security

A. SOCMA

SOCMA is the leading trade association representing the batch, custom and specialty chemical industry. SOCMA's nearly 300 member companies employ more than 100,000 workers across the country and produce some 50,000 products – valued at \$60 billion annually – that make our standard of living possible. From pharmaceuticals to cosmetics, soaps to plastics and all manner of industrial and construction products, SOCMA members make materials that save lives, make our food supply safe and abundant, and enable the manufacture of literally thousands of other products. Over 80% of SOCMA's active members are small businesses.

ChemStewards® is SOCMA's flagship environmental, health, safety and security (EHS&S) continuous performance improvement program. It was created to meet the unique needs of the batch, custom, and specialty chemical industry, and reflects the industry's commitment to reducing the environmental footprint left by members' facilities. As a mandatory requirement for SOCMA members engaged in the manufacturing or handling of synthetic and organic chemicals, ChemStewards is helping participants reach for superior EHS&S performance.

B. SOCMA's Security Achievements to Date

Maintaining the security of our facilities has always been a priority for SOCMA members, and was so before September 11. After the tragic events of 9/11, SOCMA members did not wait for new government regulations before researching, investing in and implementing additional and far-reaching facility security measures to address these new threats. Under the ChemStewards initiative, SOCMA members were required to conduct security vulnerability assessments (SVAs) and to implement security measures.

SOCMA designed an SVA methodology specifically for batch, custom and specialty chemical facilities that was approved by the Center for Chemical Process Safety (CCPS) as meeting its requirements for an effective methodology. SOCMA members have spent billions of dollars and have devoted countless man-hours to secure their facilities and operations. These investments will naturally continue for the foreseeable future.

Many (though by no means all) SOCMA member company facilities are encompassed by the CFATS program. These facilities have completed and submitted their Top-Screens and SVAs and, as notified by DHS, have initiated or completed their Site Security Plans (SSPs).

These plants are implementing additional required security measures and are being (or will soon be) inspected by DHS to verify the adequacy of those plans and their conformance to them. Many of our member companies' other facilities comply with the Coast Guard's facility security requirements under the Maritime Transportation Security Act (MTSA).

Looking well beyond regulatory requirements, our members have also partnered with DHS on many important voluntary security initiatives and programs, including the Risk Assessment

Methodology for Critical Asset Protection (RAMCAP), the Buffer Zone Protection Plans, and the Homeland Security Information Network (HSIN). SOCMA is a founding member of the Chemical Sector Coordinating Council, which has served as a model for how critical infrastructure sectors should work together and with DHS.

Through these councils and other avenues, we and our members have developed close and open working relationships with DHS and other federal agencies, and with state and local governments, to exchange information and coordinate roles in maintaining the security of our critical chemical facility infrastructure. These actions have included holding joint training exercises and conducting annual security conferences that involve federal and state government officials with security expertise. Industry personnel from the largest companies to the smallest have shared best practices at association meetings and conferences.

C. Preserving the Progress under CFATS

While we will leave a detailed progress report on the CFATS program to DHS, SOCMA wants to emphasize that we regard the program thus far as a success. Almost 40,000 facilities have submitted Top-Screens, close to 7,000 have completed SVAs, and DHS has now requested SSPs from facilities in all four tiers of the program, including the great majority of Tiers 1-3. Top tier SSPs have undergone reviewed and inspections are now starting. Of perhaps greatest interest to many members of this panel, we understand that more than 1000 facilities – roughly 15 percent of the preliminarily tiered facilities- have changed processes or inventories in ways that have enabled them to screen out of the program. Thus, as predicted, CFATS is driving facilities to reduce inherent hazards, where doing so is in fact safer, does not transfer risk to some other point in the supply chain, and makes economic sense.

To fully gauge the effectiveness of the CFATS program, Congress should allow it to be fully implemented – for all tiered facilities to fully comply (or be brought into compliance). Thus, Congress should reauthorize the underlying statute for another five years – as S. 2996 would do – or simply make the current program permanent.

The House-approved bill, H.R. 2868, would jeopardize the progress that industry and DHS have made together under CFATS. The bill's requirement of mandatory implementation of IST would shift DHS's focus from securing our industry against terrorism to conducting engineering and chemistry assessments, while potentially phasing out legitimate products that improve our daily lives and enhance our safety.

II. SOCMA supports S. 2996

SOCMA strongly supports S. 2996. It will reauthorize the CFATS program until 2015, thus allowing DHS and facilities to remain focused on successfully implementing that program as quickly as possible.

SOCMA is also generally supportive of the bill's provisions to create voluntary chemical security training and exercise programs. Properly executed, such programs would enhance the capabilities of high-risk chemicals faculties to prevent, prepare and respond to acts of terrorism.

Similar to provisions in the SAFE Ports Act, these features of the bill would create valuable solutions to protect our nation’s critical infrastructure from a terrorist attack. Training and exercise programs would support a collaborative environment, involving federal, state, and local governments, facilities, and public and private universities, all dedicated to achieving the goals set forth in the National Infrastructure Protection Plan.

SOCMA does encourage the Committee to clarify three provisions of the bill:

- The language addressing both the training and exercise programs calls for an evaluation “against clear and consistent performance measures.” It is not evident, however, what sorts of performance measures are envisioned. Further guidance, either in bill or report language, would assist DHS and others in understanding Congress’s intent.
- The language regarding training calls for it to “[a]ddress[] security requirements under chemical facility security plans.” Chemical facility site security plans are protected Chemical–terrorism Vulnerability Information, which should not be disclosed to the public. Any training would need to ensure that such information is not compromised. An alternative formulation might be to call for training to enable facility personnel to assure attainment of applicable Risk-Based Performance Standards. A publically-available DHS guidance document provides additional detail on these standards.
- Finally, we ask the Committee to consider further the requirement of training programs to “individuals in neighborhoods around chemical facilities on how to observe and report security risks.” Again, it will be important that this training not create protected information problems.

III. Mandatory IST Is an Inherently Risky Proposition

As established by H.R. 2868, Section 2111 of the CFATS statute would require Tier 1 and 2 facilities to implement “methods to reduce the consequences of a terrorist attack” –i.e., IST – whenever DHS made specified findings about risk reduction and technical and economic feasibility. However common sense such a mandate might appear on the surface, it is fundamentally a bad idea in the security context. Inherent safety is a superficially simple but truthfully very complex concept, and one that is inherently unsuited to regulation. Any IST mandate is bound to create situations that will *actually increase or transfer overall risks*. It would also wreak economic havoc on regulated facilities, notwithstanding the findings DHS would have to make. Makers of active pharmaceutical ingredients, common fuels and other federally-regulated substances would be most at risk of such economic damage.

A. What Inherent Safety Really Is and Why Mandating It Is Not Inherently Better

First and foremost, it is important to clarify a common misunderstanding about inherent safety. Quite simply, IST is a process-related engineering concept, not a security one. It is premised on the belief that, if a particular chemical process hazard can be reduced, the overall risk associated with that process will also be reduced. In its simplicity, it is an elegant concept, but the reality is almost never that simple. A reduction in hazard will reduce overall risk if, and only if, that hazard is not displaced to another time or location, or result in the creation of some new hazard.

Inherent safety is only successful if the sum total of all risks associated with a process life cycle is reduced. This is rarely a simple calculation, and to some extent it is an irreducibly subjective one (for example, a substitute chemical that may reduce explosion risks may also pose chronic health risks).

The calculation becomes even more difficult when it is being done not solely for reasons of process safety (where accident probabilities can be estimated with some degree of confidence) but also for reasons of security (where the probability of terrorist attack is highly uncertain but certainly low). There is no agreed-upon methodology to measure whether one process is inherently safer than another process – something DHS's Science & Technology Directorate is attempting to address -- in a multi-million dollar, multi-year process that may or may not succeed. This is why the world's foremost experts in IST and chemical engineering consistently recommend against regulating inherent safety for security purposes.

Here are several examples of how difficult it can be to reduce overall risk when attempting to reduce hazard:

Eliminating the use of a hazardous catalyst

A chemical company wants to eliminate the use of a hazardous catalyst, which is typically used in small amounts. The catalyst serves as a booster to start a chemical reaction to make a building block for a drug used to treat cancer. Catalysts tend to be hazardous by nature, which reduces the number of available alternatives. The only way the company can initiate the reaction without using a hazardous catalyst is to increase the temperature and pressure of the system. The overall risk of the new system, aggravated by increasing the temperature and pressure, may actually be greater than the risk associated with use of the catalyst, because catalysts are typically used in small amounts and the likelihood of an accident is remote.

Reducing the amount of a chemical stored on site

A manufacturing plant is considering a reduction in the volume of a particular chemical stored on site. The chemical is used to manufacture a critical nylon additive, which is sold to another company and used to make seat belts stronger. Because it is a critical component for nylon strength and seatbelt production cannot be disrupted, the production schedule cannot change. If the amount stored on site is reduced, the only way to maintain the production schedule is to increase the number of shipments to the site. This leads to more deliveries (an increase in transportation risk) and more transfers of chemical from one container to another (an increase in transfer risk). Economic risks are also increased since there is now a greater chance that production could be disrupted by a late shipment.

How location and individual circumstance affect risk perception

It is difficult to describe a scenario in which moving a hazard does not result in a simple transfer of risk from one location to another. For example, location can highlight different risk perspectives, such as the use of chlorine, a hazardous gas that comes in various types of containers. A commonly used example compares the inherent safety of a rail car, which typically holds up to 90 tons, versus storage in one-ton cylinders. Residents near the facility would probably view the one-ton cylinder as inherently safer than a rail car.

On the other hand, workers who have to connect and disconnect the cylinders 90 times, instead of just once for the rail car, would probably consider the rail car inherently safer.

B. IST's Impact on Pharmaceuticals and Microelectronics

One of SOCMA's greatest concerns with Section 2111 is the real possibility that it will negatively restrict the production of active pharmaceutical ingredients (APIs), many of the key raw materials of which are included on DHS's Appendix A of covered chemicals.

APIs are used in prescription and generic drugs, life saving vaccines and over-the-counter medicines. They are thoroughly regulated by the FDA and must meet demanding quality and purity requirements. Substituting chemicals or processes used for the production of APIs would likely violate the conditions of their FDA approvals. Requiring IST could delay clinical trials while new replacement chemicals are identified or invented, and would force API manufacturers and their customer drug manufacturers to reapply for FDA approval of their products because of the significant change in the manufacturing.

The lengthy 1 - 4 year approval timeline for a new or equivalent replacement chemical would be a high price to pay for American consumers, many of whom rely on ready access to pharmaceuticals. To meet continuing consumer demand, API production would likely shift to foreign countries, where the FDA is less able to monitor conformance to quality standards.

Many SOCMA members' products are also vital to the manufacture of microelectronics. Below, we offer several examples, provided by SOCMA members, of how IST could cripple the pharmaceutical and microelectronics industries.

Lifesaving Antibiotics: Company A

Company A is a minority-owned small business regulated by DHS under CFATS. It produces an active pharmaceutical ingredient critical to specific antibiotics used in the treatment of a life-threatening bacterial infection. For this purpose, the company is also regulated by the FDA. Since the product's specifications are likely not to be attainable via any chemical substitution or altered process, if a "safer" manufacturing process alternative was mandated, the company would likely be forced to discontinue production, lay off workers and increase our nation's vulnerability to bacteriological threats. The impact of a mandatory alternative would thus be swift and direct.

Common Pain Reliever: Company B

Company B manufactures the active pharmaceutical ingredient Ibuprofen. Ibuprofen is a non-steroidal anti-inflammatory drug (NSAID) used to treat pain and relieves symptoms of arthritis such as inflammation, swelling, stiffness, and joint pain. It is one of the world's most successful and widely-used pain relievers, and is listed on the World Health Organization's model list of medicines.¹ Changing the raw materials, and consequently the process, used to manufacture it presents a risk to public health and a substantial cost for re-qualification from a technical, regulatory, and potentially clinical perspective.

¹ World Health Organization, *WHO Model List of Essential Medicines* (March 2005).

Company B's 31-year old process to manufacture Ibuprofen bulk active is well characterized and controlled, and consistently makes a safe and efficacious product. The process-characteristic impurity profile, specified under the prevailing USP and European Pharmacopoeia compendia, is proven to have no impact to public health by its use by millions of people worldwide. The costs derived from IST, if it impaired production quantities or product quality, would ultimately be felt by consumers.

Microelectronics: Company C

Company C manufactures two Appendix A chemicals of interest targeted by industry critics. First, Company C uses small amounts of hydrochloric acid (HCl) in a very high purity, aqueous form (37%) to manufacture a product that represents almost half of the company's revenue worldwide (~\$30 million/yr). The product is used in the microelectronics industry to manufacture integrated circuits and LCD displays. If HCl were not available, Company C would be unable to make its largest product, resulting in at least a 50% reduction in workforce, which would equate to losing 60 jobs. If the company chose to continue the business, alternatives would have to be developed and implemented to continue manufacture of those products, which could easily require billions of dollars of research, development and implementation, resources that small companies like Company C, which include many of SOCMA's members, do not have. Additionally, Company C uses HCl to protect the environment: its use brings the pH of the company's wastewater into the range dictated by its wastewater permit.

The company also uses small volume products using aqueous (49%) hydrofluoric acid (HF) that are sold into the microelectronics industry. Customers of Company C that need HF for their products require Company C to undergo specific certification standards as a product supplier. If Company C was forced to use a substitute, it would immediately be out of compliance with its customers' product standards, which (obviously) would negatively impact Company C's business. In some cases, the HF is being used as a safer alternative to replace hydroxylamine (HA), the use of which has been reduced due to the multiple explosions at HA manufacturing facilities. In some cases, anhydrous HF may be necessary as water may be incompatible with the manufacturing process. If manufacturers of microelectronics were denied a supply of HF, there would be a negative consequence to the domestic manufacture of integrated circuits and LCD displays.

SOCMA is aware that the Energy & Commerce Committee's report on H.R. 2996 opined that, where mandated IST "could result in a product that is less effective or less available to those who need it," or "forced the company to seek new regulatory approvals (such as from the Food and Drug Administration) that could take years to obtain, that could mean that the covered facility could not continue its business" and "the Department must consider such unintended consequences."² Respectfully, SOCMA's concerns are not alleviated by such non-binding language. Not only would DHS not be required to follow it, but DHS would also be free to conclude that the amount of delay required to get an FDA approval, or the degree to which the effectiveness of a product would be diminished, would *not* mean that the facility could not continue its business. After all, a sufficient large and flexible facility might well be able to stay in business even though it has lost an important product or market. But this Committee should

² H.R. Rep. No. 111-205, pt. 2, at 48 (Oct. 23, 2009).

not be encouraging the destruction of products and markets, for questionable benefits, in this economy (or any other).

C. IST's Impact on Jobs

It goes without saying that process or product changes will have a negative impact on the jobs at facilities forced to make these changes. There are multiple pressures on SOCMA's members, not just whether there is a market that can afford to purchase what they produce or whether they can compete with the lower wages and resource costs in foreign countries. Chemical manufacturers are required to comply with many state, local, and federal regulations. Regulatory requirements cost money, money that is used to hire workers, train them, to innovate, develop new products and to provide healthcare to them. The chemical industry is one of the most regulated industries in the United States. Spending money to comply with new regulations necessarily causes companies to assess how they will pay for it. There isn't much available capital these days for manufacturers to take on new regulations aimed at their very livelihood, especially small manufacturers.

Because they lack the economies of scale and resources of larger companies, small businesses will be the most vulnerable to the IST provisions of the House bill. The unintended consequences of this provision will not only affect chemical manufacturers, but also resonate throughout their value chain. Since the economic downturn, small businesses have been hit hard by the economic recession. While producer prices have risen at an annualized rate of 8.3 percent, consumer prices have barely moved (only rising an annualized 1.3 percent), suggesting that firms have been unable to pass along higher costs to their customers. Meanwhile, unemployment remains high, ending the year at 10 percent. The United States economy has lost 310,000 net jobs during the last quarter, on top of the 4.8 million lost during 2009. States in which chemical manufacturing is concentrated represent some of the hardest hit areas. For example, Michigan's unemployment rate at the end of 2009 was 14.6%, the highest in the nation. SOCMA has several manufacturing members in Michigan, most of which are small companies but which pay competitive wages. Missouri is not far behind at 9.6%, Delaware at 9.0%, and Connecticut at 8.9%.³ SOCMA members from most of these states have written to their Members of Congress, asking you to support the current CFATS program and oppose mandatory IST requirements.

D. Experts Agree IST Should Not Be Mandated

As these examples demonstrate, a "simple" reduction in hazard may not necessarily result in a reduction of overall risk, and a poorly constructed or incomplete analysis could result in a "safer" alternative producing more harm than good. That is why government agencies and experts who really understand inherent safety have consistently opposed giving government the power to mandate it. This includes:

- Neal Langerman, representing the American Chemical Society – the majority's

³ U.S. Bureau of Labor Statistics, December 2009.

own technical witness at the Homeland Security Committee hearing last June.⁴

- Sam Mannan, Director of the Mary Kay O'Connor Process Safety Center at Texas A&M University, in testimony before the Homeland Security Committee on December 12, 2007.⁵

- Dennis Hendershot, testifying on behalf of the Center for Chemical Process Safety before the Senate Environment & Public Works Committee on June 21, 2006.⁶

It is likewise instructive that the state of New Jersey, whose chemical facility security program is regularly contrasted with the CFATS program, only requires consideration of IST – *it does not require facilities to implement it*. It is even more telling that H.R. 2868 avoids the politically

⁴ See <http://homeland.house.gov/SiteDocuments/20090616103505-95857.pdf>, page 7:

In conclusion, the existing regulatory structure, under the U.S. EPA Risk Management program and the U.S. OSHA Process Safety Management standard, provide strong incentives to examine and implement IST. These programs work in natural conjunction with Homeland Security's mandate to enhance infrastructure security. The provisions of the Chemical Facility Antiterrorism Act of 2006 provide a sufficient legislative framework for this purpose. The most effective steps to further infrastructure protections will likely include incentives, rather than new regulations.

⁵ Go to <http://homeland.house.gov/Hearings/index.asp?ID=108>, click on "Dr. Mannan's testimony," pp. 6-7:

[I]n developing inherently safer technologies, there are significant technical challenges that require research and development efforts. These challenges make regulation of inherent safety very difficult. . . . Instead of prescriptive requirements for inherently safer technology and approaches, facilities should be allowed the flexibility of achieving a manageable level of risk using a combination of safety and security options. . . . Over the past 10-15 years, and more so after 9/11, consideration of Inherently Safer Technology (IST) options and approaches has effectively become part of industry standards, with the experts and persons with know-how assessing and implementing inherently safer options, without prescriptive regulations that carry risks (both as trumping other tools or potentially shifting risk). A better approach for applying IST in security is by allowing the companies to assess IST as part of their overall safety, security and environmental operations and therefore, cannot be prescriptive.

⁶ See http://epw.senate.gov/109th/Hendershot_Testimony.pdf, at 4-8, esp. 5-6:

There are tens of thousands of chemical products manufactured, most of them by unique and specialized processes. The real experts on these technologies, and on the hazards associated with the technology, are the people who invent the processes and run the plants. In many cases they have spent entire careers understanding the chemistry, hazards, and processes. They are in the best position to understand the best choices, rather than a regulator or bureaucrat with, at best, a passing knowledge of the technology

sensitive question of whether to require public drinking water systems and publicly-owned wastewater treatment works to implement IST by deferring the decision to EPA and the states.⁷ Congress should not require DHS to do what all these experts have concluded is unwise, and what it is unwilling to do directly when the public is picking up the tab.

E. Conditioning the IST Mandate Does Not Solve the Problem

SOCMA is aware that the House bill would only allow DHS to impose mandatory on Tier 1 and 2 facilities when it can make various findings about feasibility, cost impacts and risk transfers. But that approach does not address our fundamental objection to the concept, which is that it would take IST decisions away from the process safety experts who know their own processes the best and would allow their judgments to be second-guessed by busy government officials sitting miles away reviewing documents. While these officials may be sincerely trying to do their best, we simply do not trust that their judgments will be better than ours. We also fear the prospect of liability if a “safer” process or chemical that one of our member companies is compelled to use ends up causing an accident or some other harm. Will the federal government indemnify facilities in the cases where it overrules their judgments regarding inherent safety? And even if a facility ultimately succeeds in persuading DHS to allow it to retain its proposed approach, that process will inevitably have costs in time and resources.

Preceding all these concerns, moreover, is an even more basic one: no one knows how to compare the “inherent safety” of two processes. Here is what the experts have told Congress:

- I do not believe that the science currently exists to quantify inherent safety. . . . The first challenge is simply to measure the degree of inherent safety in a way that allows comparisons of alternative designs⁸
- Inherently safer design is not a specific technology or set of tools and activities at this point in its development. . . . Current books and other literature on inherently safer design . . . describe a design philosophy and give examples of implementation, but do not describe a methodology.⁹
- While scientists and engineers have made great strides in understanding the impacts of industrial processes and products over the past several decades, there is still no guaranteed formula for developing inherently safer production processes.¹⁰

The experts at the National Research Council concluded recently: “Inherently safer chemistry . . . offers the potential for improved safety at chemical facilities. While applications show promise

⁷ See H.R. 2868, § 202(a) (new 42 U.S.C. § 300i-2(g)(3)(B)), § 302(a) (new 33 U.S.C. § 1302(b)(3)(C)(ii)(I)).

⁸ Testimony of Sam Mannan, *supra* note 5, at 6.

⁹ Testimony of Dennis Hendershot, *supra* note 6, at 1-2.

¹⁰ Testimony of Neal Langerman, *supra* note 4, at 6-7.

and have found use within the chemical industry, these applications at present are still quite limited in scope.”¹¹

While it may be feasible to develop a technical consensus methodology for measuring and comparing inherent safety, none exists at present. Before Congress and the Administration could even consider mandating IST implementation, they would need to know that methodologies exist to compare various alternatives from the standpoint of inherent safety. As discussed above, DHS has launched a major effort to develop an IST database and to develop a consensus definition of IST. SOCMA members and staff have been participating in this effort and cautiously support it. It is too early to tell, however, how successful it will be. In fact, DHS just recently initiated a stakeholder process to achieve among experts a consensus on what IST is in a security regulatory context. However, at present, there appears to be little consensus. Congress might ask DHS also to study the over 1,000 facilities that have changed products or processes and thus reduced their risks sufficiently that they have been removed from the CFATS program. But Congress should otherwise avoid legislating in this area while that process is still ongoing.

IV. Conclusion

SOCMA supports permanent chemical site security standards that are risk-based and realistic, and we urge Congress to reauthorize the existing CFATS program. Mandating inherently safer technology as a security measure will inevitably create negative unintended consequences, and Congress should not require DHS to do so. SOCMA asks that you please support S. 2996 and maintain the same bipartisanship this committee demonstrated in 2005 when it initiated the process that led to CFATS.

On behalf of SOCMA, I appreciate this opportunity to present the association’s views on these important issues. I look forward to your questions.

¹¹ National Research Council, Board on Chemical Sciences & Technology, *Terrorism and the Chemical Infrastructure: Protecting People and Reducing Vulnerabilities* (2006), at 106.