

Opening Statement Chairman John Shimkus  
Evaluating Internal Operation and Implementation of the Chemical Facility Anti-Terrorism Standards program (CFATS) by the Department of Homeland Security  
February 3, 2012

In my time serving in Congress, I have learned it is often times the case that the initial problem isn't as big a deal to people as a poor explanation of a problem can be. Further, cover ups are the best hope of people who know they are in the wrong and the worst move for those who get found out. People who try to hide problems or minimize their existence usually face a swifter and more ferocious corrective response from Congress and the public than had they simply come clean.

It is with great surprise and disappointment that I read the internal memorandum about the operation of the division implementing the Chemical Facility Anti-Terrorism Standards Act (CFATS) and its program at the Department of Homeland Security.

I, for one, have historically been a strong supporter of this program. I believe the statute is sound and the regulations reasonable – in fact, the Anderson Memo calls for only one legislative change: long-term extension of the program.

The CFATS program was not meant to be another EPA-style program designed to fine people or a bureaucratic back door to over regulate chemicals. CFATS was meant to be a collaborative effort to secure “high risk” facilities with facility appropriate measures based upon the risks presented.

Congressional intent was that cooperation would get facilities into compliance, we did not intend to increase Federal revenues through enforcement actions. I hope DHS is not looking to abandon our original intent.

Last March, I acknowledged CFATS was a work in progress, but I felt security was being enhanced and significant public and private investments were being made to implement the program. I still believe security at facilities with chemicals is much better today than before Congress gave DHS this first ever regulatory authority. Unfortunately, my confidence in DHS and the substantial amounts Congress has given to it is not nearly as strong.

Someone compared CFATS to the unmanned police car positioned at the side of the highway – it wards off speeders, but not much else.

We need to be reassured that DHS's CFATS program has a plan and intends to focus solely on correcting its internal problems, implementing the CFATS program as drafted in law, and not suggesting the CFATS program should take on any additional responsibilities – whether that includes IST or taking drinking water security oversight away from EPA.

CFATS is an important component of this Subcommittee's jurisdiction, and the days of matador oversight of this program are over. I urge all members of this Committee to join me in that effort.

As a fellow U.S. military officer, I have tremendous respect for Undersecretary Beers' service to this country. That said, he and I have been taught that there are only three acceptable responses when questioned by an officer: "yes, sir," "no, sir," and "no excuse, sir." I expect no less than that today.

I want to welcome Undersecretary Beers and Deputy Director Wulf, who along with Director Penny Anderson showed great courage with the frankness of their memo.

Mr. Wulf, both of you should know that the Committee takes very seriously any evidence of undue pressure, influence, intimidation or retaliation whatsoever, because of your testimony today while we continue to investigate these important issues.

Please let my Committee Staff know right away if you have any concerns. Retaliation and intimidation of Congressional witnesses is illegal and will not be tolerated.

Mr. Beers, I trust you will ensure that you are in agreement with me that no retaliation should be tolerated, and we will hold you and any other White House officials accountable.