



**WRITTEN STATEMENT OF THE  
AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS (AFPM)  
AS SUBMITTED TO THE  
SUBCOMMITTEE ON ENVIRONMENT AND THE ECONOMY  
Committee on Energy and Commerce  
United States House of Representatives  
For a Hearing entitled,  
“The Chemical Facility Anti-Terrorism Standards  
(CFATS) Program – A Progress Update.”  
March 14, 2013**

## **Testimony Summary of Charles Drevna, president of the American Fuel & Petrochemical Manufacturers (AFPM)**

House Committee on Energy and Commerce – Subcommittee on Environment & the Economy,  
Hearing on “The Chemical Facility Anti-Terrorism Standards (CFATS) Program –  
A Progress Update.”

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America’s refining and petrochemical companies play a pivotal role in ensuring and maintaining the security of America’s energy and petrochemical infrastructure. Nothing is more important to AFPM’s member companies than the safety and security of our employees, facilities and communities. Our members have worked extensively with the Department of Homeland Security (DHS) – and have invested millions of dollars – toward strengthening facility security. Our industry recognizes that protection of critical infrastructure against potential threats or terrorist attacks should be a shared responsibility between government and stakeholders.

AFPM appreciates that DHS conducted an internal review to identify administrative problems that need fixing immediately and that the agency developed an action plan for improving CFATS implementation. AFPM believes that DHS has made progress over the past year fixing the problems identified in the DHS leaked internal report.

It is important to recognize that the structure of the CFATS framework itself is sound. Nonetheless, it is clear that DHS needed to better manage its resources and set priorities to make progress in areas that need immediate attention, including faster approval of site security plans (SSPs) and finalizing a workable personnel surety program. Such measures would work to strengthen the program and our national security.

To assist DHS in addressing these CFATS implementation challenges, continued stakeholder input is needed. It is encouraging that since the internal report leaked, DHS has met with stakeholders much more than in recent years. Areas that industry and DHS continue to focus on include risk tier modeling, personnel surety and tool-related issues that were identified in the DHS internal review. DHS has also started taking steps to improve the approval process of SSPs and is reviewing risk tier modeling.

AFPM is pleased that DHS withdrew the Personnel Surety Proposal (PSP) from the Office of Management & Budget (OMB) and then held numerous meetings with industry to take another look at the personnel surety issue. AFPM remains hopeful that we can come to a workable solution soon on personnel surety and hopes that collaboration will yield a less burdensome, yet still protective PSP for CFATS sites. Additionally, as DHS works to resubmit a PSP proposal, it is important that any proposal follows Congressional intent and be written as a risk-based performance standard. The PSP program must be fixed soon and we hope that DHS will honor the Transportation Worker Identification Credential (TWIC) and other Federal credentials at CFATS sites. Facilities should have the option to use established federally secure vetting programs, such as the TWIC, to satisfy CFATS without submitting additional personnel information to DHS.

## **I. Introduction**

Chairman Shimkus, Ranking Member Tonko and Members of the Subcommittee, thank you for providing the opportunity to testify at today's hearing on a progress report of the Chemical Facility Anti-Terrorism Standards (CFATS) program. I'm Charlie Drevna, and I serve as president of AFPM, the American Fuel & Petrochemical Manufacturers.

AFPM is a 111-year old trade association representing high-tech American manufacturers that use oil and natural gas liquids as raw materials to make virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life. AFPM members make modern life possible while keeping America moving and growing as we meet the needs of our nation and local communities, strengthen economic and national security, and support 2 million American jobs.

America's refining and petrochemical companies play a pivotal role in ensuring and maintaining the security of America's energy and petrochemical infrastructure. Nothing is more important to AFPM's member companies than the safety and security of our employees, facilities and communities. Our members have worked extensively with the Department of Homeland Security (DHS) – and have invested millions of dollars – toward strengthening facility security. Our industry recognizes that protection of critical infrastructure against potential threats or terrorist attacks should be a shared responsibility between government and stakeholders.

## **II. DHS and CFATS Program**

AFPM appreciates that DHS conducted an internal review to identify administrative problems that need fixing immediately and that the agency developed an action plan for improving CFATS implementation. It is important to recognize that the structure of the CFATS framework itself is sound. Since the beginning of the CFATS program, DHS and industry, including some AFPM members, worked together and developed robust, risk-based performance standards (RBPS) that avoid being too prescriptive for an industry as diverse in size and function as the chemical sector, but that also include strict enforcement penalties for noncompliance. For example, each site develops a unique and appropriate Site Security Plan to address the specific risk issues of the facility, while meeting DHS-established risk-based performance standards. Since the inception of CFATS, facilities have proactively invested in security to comply with, and indeed exceed, requirements of the regulations.

Since the development of the CFATS program AFPM's members have also partnered with DHS on many important security initiatives and programs, including the Risk Assessment Methodology for Critical Asset Protection (RAMCAP), Site Vulnerability Assessments (SVAs), Site Security Plans (SSPs), and by our participation in the Chemical Sector Coordinating Council (CSCC) and the Oil and Natural Gas Sector Coordinating Council (ONGSCC).

America's critical infrastructure facilities are secure and there have been no terrorist attacks on chemical facilities since the development of the CFATS program. Nonetheless, it is clear that DHS needed to better manage its resources and set priorities to make progress in areas that need immediate attention, including faster approval of site security plans and finalizing a workable personnel surety program. Such measures would work to strengthen the program and our national security.

To assist DHS in addressing these CFATS implementation challenges, continued stakeholder input is needed. It is encouraging that since the internal report leaked, DHS has met with stakeholders much more than in recent years. Areas that industry and DHS continue to focus on include risk tier modeling, personnel surety and tool-related issues that were identified in the DHS internal review.

AFPM recognizes that there are internal personnel and financial issues within DHS that must be addressed administratively where industry has no role. However, DHS could continue to make improvements by addressing the following issues quickly, with the help of industry, in order to enhance the effectiveness of CFATS implementation in the short-term.

- **Personnel Surety Program (PSP)** – Congress intended that the Risk-Based Performance Standard 12 on Personnel Surety, which governs access to high-risk facilities, to allow facilities the flexibility to determine the most efficient manner to meet the standard. Instead, DHS *initially* proposed a personnel surety program that failed to recognize, and actually would have duplicated, already established federal vetting programs. Such a program would have been burdensome to both DHS and industry and would be a wasteful and ineffective use of agency and industry resources. DHS should remain focused on fixing the current problems and not expand beyond the scope of the core CFATS program.

AFPM is encouraged and applauds DHS for withdrawing the PSP proposal from OMB in July 2012. Moreover, AFPM is pleased that DHS decided to hold a series of stakeholder meetings with industry to take another look at the personnel surety issue, and hopes that collaboration will yield a less burdensome, yet still protective PSP for CFATS sites. Additionally, as DHS works to resubmit a PSP proposal, it is important that any proposal follows Congressional intent and be written as a performance standard. The PSP program must be fixed soon and we hope that DHS will honor the Transportation Worker Identification Credential (TWIC) and other Federal credentials at CFATS sites. Facilities should have the option to use established federally secure vetting programs, such as the TWIC, to satisfy CFATS without submitting additional personnel information to DHS.

- **Site Security Plans** - DHS should focus on the Tier 1 Site Security Plan (SSP) approvals, as they are considered the highest risk sites and have had their SSPs submitted to DHS the longest. DHS is currently holding a series of outreach meetings around the country to

discuss with owners and operators how to improve the SSP. AFPM applauds recent efforts, however, as we suggested to DHS, we think it should have been done years ago.

DHS should also consider approving alternative security plans (ASPs) for a variety of CFATS sites. DHS should work with all sectors governed by CFATS to develop ASPs. For sites that are smaller or contain fewer chemicals of interest (COIs) an ASP makes sense and would result in review and approval time for ASPs not taking as long as for a regular SSP.

- **Inspections** - Inspections are a key part of the Site Security Plan approval process. Like SSPs, DHS should focus on Tier 1 sites. DHS recently started up CFATS inspector training courses and developed new inspection guidelines for inspectors. AFPM offered multiple times for DHS to have our members speak at the inspector training classes to provide an overview of the chemical and oil and natural gas industry and the CFATS applicability issues at those sites. To date, DHS has yet to take us up on this offer. AFPM believes this would be an invaluable opportunity for new inspectors to learn about security practices at CFATS sites prior to going to a site. AFPM hopes that DHS will consider this offer.
- **Risk Modeling**—AFPM is strongly concerned that the DHS risk modeling used for setting risk tier levels for facilities in CFATS is seriously flawed. AFPM continues to ask DHS to be more transparent regarding DHS risk modeling and risk tier level determinations.

The risk modeling of the CFATS sites is the foundation of the CFATS program and AFPM is encouraged that DHS established a peer review panel to resolve the modeling issues. However—we again question why this was not done sooner as flaws in the risk modeling have been brought to DHS numerous times.

- **Stakeholder Input** - Stakeholder input is important for security awareness and creating the best plans to secure our critical infrastructure. The framework of the CFATS program is sound and was developed with industry's input. Securing the nation's critical infrastructure must be done with industry at the table or the unfortunate implementation issues the program has experienced to date could be repeated.

Many of the implementation delays have resulted from the lack of knowledge and experience within DHS' Infrastructure Security Compliance Division (ISCD). For example, the Top Screen process did not work for many companies during the beginning of the CFATS program. In this instance, ISCD did not know that the oil and natural gas sector stores millions of pounds of materials, not thousands. The data field in the web page simply did not include enough digits to record actual volumes and required several weeks to correct. It is worth noting, however, that the level of stakeholder outreach has vastly improved in the past year. AFPM encourages DHS to continue this positive trend.

- **Transparency** - Informed discussions with stakeholders will lead to less confusion and quicken implementation for all parties. In particular, in the National Academies of

Science's (NAS) 2010 "Review of the Department of Homeland Security's Approach to Risk Analysis," the NAS comments multiple times on the significance of stakeholder involvement and transparency in effective risk modeling. While NAS is commenting on risk assessment practices within DHS, the comment is directly applicable to CFATS implementation. The NAS recommendations for transparency and stakeholder input would provide benefit not only for the risk assessment practices within the ISCD, but also provide substantial improvement on rule implementation.

### **III. Conclusion**

In summary, AFPM believes that DHS has made progress over the past year fixing the problems identified in the DHS leaked internal report. AFPM acknowledges that there has been far greater outreach and much more detailed discussions by DHS with industry this past year than previously. DHS has also started taking steps to improve the approval process of site security plans and is reviewing the risk tier modeling. AFPM is pleased that DHS withdrew the Personnel Surety Proposal from OMB and then held numerous meetings with industry to take another look at the personnel surety issue. AFPM remains hopeful that we can come to a workable solution soon on personnel surety and hopes that collaboration will yield a less burdensome, yet still protective PSP for CFATS sites.

Thank you again for the opportunity to testify before the Committee today. I look forward to working with you as Congress continues oversight on the progress of CFATS implementation.