

Statement of the Honorable John Shimkus
Subcommittee on the Environment
“The Chemical Facilities Anti-Terrorism Standards Program (CFATS) – A
Progress Report”
June 14, 2018

(As prepared for delivery)

The Subcommittee will now come to order; and the Chair recognizes himself for five minutes for the purposes of an opening statement.

Today, the Subcommittee will check in on the progress of the Chemical Facilities Anti-Terrorism Standards Program or CFATS, allowing our Subcommittee to review the progress of the CFATS program, including program implementation by the Department of Homeland Security (DHS) as well as overall achievement of benchmark objectives identified in the past by the Government Accountability Office (GAO).

This program, which Congress authorized in the fall 2006, was a continuation of congressional efforts since the terror attacks of September 11, 2001, to surgically and directly address gaps in Federal law regarding terrorism or other intentional acts against high-risk facilities due to their use or possession of chemicals of concern at levels of concern. The core of this new security-focused law was a process where DHS issued risk-based performance standards that required vulnerability assessments and site security plans by covered facilities. Most importantly, to avoid overlapping with other Federal programs, CFATS was designed to foster collaboration between the government and regulated parties. Having finally set up this program, many had great optimism about its possibilities. Unfortunately, the early years of CFATS program implementation were marked with several growing pains, some more hurtful than others. No one knows that more than our witness from the Department of Homeland Security, David Wulf. Very few people have demonstrated the courage, commitment, and longevity with the program that he has – he’s kind of the Cal Ripken of CFATS.

Based on this Subcommittee’s hearing in March of 2014, we know Mr. Wulf not only set many remedial goals to address issues he found in the CFATS program, but GAO also found areas that needed serious attention. GAO provided recommendations to DHS on how to correct these areas. I look forward to hearing about the progress DHS is making here from Mr. Wulf on our first panel, and from Christopher Currie at GAO, who is on the second panel.

I also look forward to a meaningful dialogue with our other witnesses representing CFATS regulated stakeholders as well as those of organized labor, environmental, and community advocacy interests.

Particularly, I am interested in knowing what steps DHS has taken to improve its risk assessment methodology and what that has meant for facility tiering, what DHS has done to become more effective and efficient carrying out the CFATS program, and, finally, what steps has DHS taken to improve CFATS program transparency and communication with regulated facilities – whether it relates to facility tiering or employee screening. In my opinion, CFATS has had four uninterrupted years to course correct and these are threshold questions that must be addressed in evaluating whether CFATS is a worthwhile investment for the United States taxpayer.

I know there are some who would like to see the CFATS universe expanded to also do EPA's job, or OSHA's job, or FEMA's job, or addressed some other way – and we have had lively discussions on the advisability of these changes in the past. My own thinking has been guided by two thoughts: (1) are these new requirements advisable as a legally enforceable part of this program, filling a security gap that does not exist, or are they merely an additive burden without security benefits, and (2) recognizing the challenges CFATS has faced in the past, CFATS must excel at its present obligations before being given new responsibilities.

I want to thank our witnesses for being with us today. We look forward to having your experience, wisdom, and ideas.

With that, I yield back the balance of my time.