

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

(As prepared for delivery)

Good morning, Mr. Chairman, and thank you for yielding me this time.

I am glad you have decided to have an oversight hearing on the Chemical Facility Anti-Terrorism Standards program – or CFATS (pronounced ‘see-FATS’) which is a program the Committee has been overseeing since its inception. This hearing continues Energy and Commerce’s work this month on federal preparedness laws for deliberate events – like last week’s hearing on pandemic and health hazard preparedness and response and tomorrow’s hearing examining the federal reaction to biological attacks.

In the wake of the terrorist attacks of September 11th, Congress assessed Federal authority to address theft, diversion, and terrorism at chemical facilities and decided accident prevention and process safety laws were insufficient to tackle these malicious, and intentional acts. Instead, Congress decided a separate and distinct body of law and requirements were needed for security purposes. Leaving the Clean Air Act to address general safety and accident concerns, Congress used CFATS to fill legal gaps in addressing intentional acts against this critical infrastructure sector. In addition, to avoid overlapping with other federal programs, CFATS was designed to foster collaboration between the government and regulated parties.

Since each chemical facility faces different security challenges, CFATS established 18 layered, risk-based performance standards for security at chemical facilities. It is important to point out that CFATS is a program that not only covers huge chemical and petrochemical complexes, but also race tracks, wineries and breweries, universities and colleges, and hospitals and health care providers – 3,400 hundred facilities in all.

However, the CFATS program had to overcome some tough years. While there have not been any documented attacks on these facilities to date, the program has suffered in the past from poor accomplishment numbers, inadequate support from

senior DHS officials, management and workforce issues, and a lack of transparency about the program, especially with the stakeholder community. Since we last heard from DHS on the status of CFATS, the Department has had four years to correct the program and I understand DHS has been steadily making progress on these areas. I am eager to find out first-hand what that means, not just from DHS, but from some of its past critics – the Government Accountability Office and the regulated community.

CFATS must provide value to taxpayers, the federal government, and the facilities that could fall victim to intentional attacks. To do that, it needs to not just focus on its outputs and become highly proficient at those but stay in its lane and not try to emulate or replicate other laws whose primary purpose is safety, not security.

I want to welcome our witnesses for being with us today and thank them for sharing their views with us.

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