

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
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July 16, 2018

Mr. Steve Roberts
Principal
Chemical Security Group, LLC
2234 Richmond Avenue
Houston, TX 77098

Dear Mr. Roberts:

Thank you for appearing before the Subcommittee on Environment on June 14, 2018, to testify at the hearing entitled "The Chemical Facilities Anti-Terrorism Standards Program (CFATS) – A Progress Report."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Monday, July 30, 2018. Your responses should be mailed to Kelly Collins, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to kelly.collins@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus
Chairman
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment

Attachment — Additional Questions for the Record

The Honorable John Shimkus

1. Mr. Roberts, your written testimony notes that since DHS initiated the Chemical Security Assessment Tool (CSAT) 2.0 process in September 2016, the number of CFATS-affected facilities has increased from approximately 2,962 as of September 2016 to approximately 3,389 as of May 2018. Can you walk us through why that is?
2. Mr. Roberts, your written testimony states that the Chemical Security Assessment Tool 2.0 risk tiering process has resulted in an increase in the number of facilities regulated for a release of a chemical of interest and that the nature of the security enhancements necessary to meet the applicable Risk-Based Performance Standards (RBPSs) may be larger or more complex. Would you help us understand why that is?
 - a. Your testimony specifically points out that under the new process security projects are more complex, costly, and often can take one year or more to complete. Why is that?
 - b. Is this a good thing for security at these facilities?
3. Mr. Roberts, Congress directed DHS to develop a risk assessment approach and corresponding tiering methodology that incorporates all of the elements of risk, including threat, vulnerability, and consequence. In your experience, what challenges has that posed both for DHS and for regulated entities?
4. Mr. Roberts, why is it important that Congress reauthorize CFATS?
5. Mr. Roberts, your written testimony points out that the new methodology implemented by DHS has also improved the transparency of its risk determination process to help the regulated community better understand why a facility may be tiered. Why is that?
6. Mr. Roberts, your written testimony points out that the CFATS regulation does not permit a facility to appeal a tiering decision. Why is it important that regulated facilities be able to appeal this decision by DHS?
7. Your written testimony directs Congress to accelerate the rulemaking process by directing DHS to publish proposed and final CFATS rules – or a determination that no changes are necessary – by dates certain. Why is this necessary?
8. Mr. Roberts, your testimony raises the issue that the CFATS regulation states that, “[i]f a covered facility makes material modifications to its operations or site, the covered facility must complete and submit a revised Top-Screen to the Department within 60 days of the material modification.” What constitutes a “material modification”?

9. Your testimony points out that the ability of facilities to commit capital for CFATS security measures would be impeded if the underlying CFATS program lapsed, expired, or otherwise had an uncertain future.
 - a. Since the majority of facilities have already gone through the initial round of CFATS compliance, why is that?
 - b. Do you have specific examples?
10. Your testimony mentions inconsistency across the program and DHS regions with regard to the CFATS inspector cadre. Could you please provide some examples for me?
 - a. Would additional training help and what areas would you recommend that DHS focus on?
11. Recently, it was suggested that CFATS is not robustly addressing a cyber security component at these facilities.
 - a. Do you agree that the CFATS program is insufficiently addressing cyber issues?
 - b. Do inspectors need additional training to address cyber security issues at CFATS regulated facilities?
12. Do you think DHS is doing a good job of promoting security without presenting risk vs. risk trade-offs for companies with chemicals of interest?
13. You mentioned that there is no appeal to tiering under CFATS. Please explain the trade-offs of an appeal process and the proposal you suggested?