

Comments of Michele L. Roberts on “Protecting and Securing Chemical Facilities From Terrorist Attacks”

September 11, 2019

Dear Members the of the House Energy & Commerce Committee, Energy and Climate Change Subcommittee,

Subcommittee Chairman Tonko, Chairman Pallone, Ranking Members Shimkus and Walden, members of the Environment & Climate Change Subcommittee, first I want to thank you for holding this hearing today and for the opportunity to testify on this important issue.

My name is Michele Roberts. I am the National Co-Coordinator of the Environmental Justice Health Alliance for Chemical Policy Reform. EJHA for short. EJHA is a national collective of grassroots groups throughout the country working to achieve Environmental and Economic Justice.

As recent industrial disasters in Wisconsin (Husky), Texas (ITC, Exxon, among others) and Pennsylvania (Philadelphia Energy Solutions) illustrate, a major industrial chemical release, fire, or explosion can injure workers, endanger communities and cause the abrupt closure of important industrial facilities.

While those specific incidents were not terrorism-related, they show the serious vulnerability at facilities located in communities around the country. CFATS is a critical program to defend against these incidents. Reauthorizing CFATS represents an important opportunity to strengthen its effectiveness.

The existing statute must be improved in several areas. To name a few specific examples, it should include water treatment and maritime facilities, include clear protections against cybersecurity threats, and require that the Department of Homeland Security verify statements submitted by facilities that claim to no longer fall within the jurisdiction of CFATS.

In addition to those points, I refer you to the letter submitted to the Committee from a Coalition of health, worker, environmental justice and ally organizations by the Blue Green Alliance on August 23, 2019.

More broadly, Environmental Justice communities like those affiliated with EJHA have issues with the following areas of the current insufficient CFATS program:

Frankly, the entire CFATS program is secretive and confusing. Even experienced advocates are sometimes unsure about aspects of CFATS. Because it's impossible to know for sure what facilities are even required to participate in CFATS, it's impossible for community members or advocates to fully understand the level of danger, planning, preparedness (or lack there of) etc.

in their neighborhoods. The best way to guess that a facility might be a CFATS facility is if it is an RMP facility, but that's not a sure thing.

The emergence of new technologies and cybersecurity threats, coupled with this administration's attacks on the other foundational policies and programs that protect workers and communities from catastrophic events at hazardous facilities, means that a really strong and important CFATS bill and program are more important now than ever. **The CFATS program is absolutely critical to protect the financial interests of these facilities, as well as the health and safety of their workers and the surrounding communities, particularly in light of the total failure of the EPA's Risk Management Program to do so.**

EJHA strongly supported and advocated for the 2017 modest but deeply important improvements to the RMP rule. While the improvements didn't go far enough to be fully protective, they added critical elements that EPA is now trying to roll back. Though not the subject of this particularly hearing, we need each of the members of this committee to join us in strongly calling on EPA to fully implement the 2017 improvements to the Risk Management Program.

Further:

- **The CFATS program should focus reducing and eliminating potential terrorist targets** by requiring facilities to take steps to prevent disasters by doing things like minimizing the quantity of dangerous chemicals stored on sight and switching to safer chemicals and processes where feasible. "Risk management" steps like fencing, security guards, et cetera. can also be helpful, but "**risk reduction**" should be the primary objective.
- Where facilities have been able to "tier out" of the program (and their claims are verified by DHS), **best practices, information and lessons learned** about how they were able to do so **should be shared and used to guide the standard-setting for other similar facilities.**
- **The CFATS program should account for overburdened communities** (such as communities with multiple concentrated facilities and/or other environmental and health stressors) **and vulnerable populations** (such as hospitals, daycares, senior citizen homes et cetera). The bill should require that the unique risks facing these communities be incorporated into the CFATS program and used in making tiering and site planning decisions.
- **The CFATS program and site planning decisions absolutely must be more inclusive of and and transparent to workers at CFATS facilities.** We support the comments of the United Steelworkers comments on this topic and thank them for their work and commitment to protecting the health and safety of plant workers, who are often also members of Environmental Justice communities.

Thank you again for the opportunity to comment. I am happy to answer any questions you might have and EJHA looks forward to continuing to work with you all to make this program as strong, preventative and protective as it can be.

Sincerely,

Michele L. Roberts
National Co-Coordinator
Environmental Justice Health Alliance for Chemical Policy Reform