

Statement of

**Timothy J. Scott
Chief Security Officer & Corporate Director,
Emergency Services & Security
The Dow Chemical Company**

On behalf of

**The Dow Chemical Company and the
American Chemistry Council**

Before the

**The House Homeland Security Committee,
Subcommittee on Cybersecurity,
Infrastructure Protection, and Security
Technologies**

**Oversight Hearing: “Preventing Chemical
Terrorism: Building a Foundation of Security
at Our Nation’s Chemical Facilities.”**

February 11, 2011

Chairman Lungren, ranking member Clarke and members of the Committee, I'm Timothy Scott, Chief Security Officer for the Dow Chemical Company. Dow is a member of the American Chemistry Council, and I'm speaking today on behalf of Dow and our industry association.

I would like to make three key points in my statement today that I think will demonstrate that we have a strong foundation in place to build from when it comes to securing the nation's chemical facilities:

First – The chemical industry is critical to our national economy as well as the quality of life of our people. We recognize the historical and current risks to our industry and have taken aggressive action to improve our security posture – voluntarily well before the creation of DHS and the Chemical Facility Anti-Terrorism Standards (CFATS) and continuing now with the ongoing implementation of CFATS.

Second - The implementation of CFATS to date is demonstrably achieving its objectives to reduce the number of high risk sites and lower the risk profile of remaining high risk sites.

And third – and most important – we need to continue on this successful path, maintain the momentum we've achieved and complete the task at hand without further delays or calls for change that would result in slowing the progress being made on chemical facility security by both DHS and the chemical industry..

Last month, President Obama issued an Executive Order which lays out a set of regulatory principles. These principles call for a system that promotes “economic growth, innovation, competitiveness and job creation.” They also call for regulations that promote predictability, and use the “best, most innovative and least burdensome tools for achieving regulatory ends.”

We couldn't agree more that we need strong, sound, efficient regulations that will not hinder the ability of American companies to compete and create jobs.

This is particularly important for an industry like ours. Chemistry is the source of many of the new technologies that will help create jobs in the future, drive economic growth and achieve the goals articulated by the President during his State of the Union including clean energy; improved infrastructure; efficient transportation options; medical advancements that bring down the cost of health care; and even a strong defense.

And the Business of Chemistry employs nearly 800,000 people directly in high-paying, high-skill jobs. These are the kind of jobs that not only put food on the table, but boost consumer spending, send kids to college, allow families to own homes, and save for retirement.

Because of our critical role in the economy and our responsibility to our employees, communities and shareholders - safety and security continues to be a top priority for Dow and the members of ACC. And, we have actively demonstrated the commitment to security. Throughout our history, the chemical industry has implemented innovative processes and technologies to enhance safety. Starting from the design and construction phase of new facilities – by far the most efficient and logical time to achieve the maximum value and process safety improvements – to measures that are implemented throughout the distribution chain, our focus on security is clear and evident.

In 2001, ACC members voluntarily adopted an aggressive security program – already in draft form before 9/11 -- that became the Responsible Care® Security Code (RCSC). The Security Code is a comprehensive security program that addresses both physical and cyber security vulnerabilities, and requires ACC members to perform an extensive assessment of its security risks. Implementation of the Code and regular independent review is mandatory for membership in the ACC. In fact, the strength of the Code has been recognized by DHS and is designated as a qualified anti-terrorism technology under the Safety Act.

Recognizing the important role of government to address the risk of and thwart terrorism, Dow, along with ACC, has been proactive in our support for a national regulatory program to address security across the chemical sector. We strongly supported the bipartisan legislation that gave DHS the authority to regulate chemical security and create the Chemical Facility Anti-Terrorism Standards (CFATS).

CFATS is by far the most robust, comprehensive and demanding chemical security regulatory program to date. It takes a well-designed risk-based approach, sets a high bar through performance-based standards, and holds high risk facilities accountable for meeting those standards.

The accountability within the program drives facilities to consider all potential risk-reduction options, including potential process safety improvements, when developing a site security plan. Just as important, it leaves the decision of how to meet the standards to the site's discretion and subject to DHS approval of the site security plan. The result is a security plan approved by DHS that is uniquely and appropriately designed by the site to address the specific risk issues of each individual facility and meet the performance standards of DHS.

While still in the initial implementation stages, these tough regulations are yielding measurable results to manage or in some cases eliminate security risks. DHS has screened chemical facilities across the country and identified all of the facilities it deems are a “high-risk” for a potential terrorist attack. These facilities have been notified of their regulatory obligations and many have already taken action. For example, DHS reports the number of “high—risk” facilities has already been reduced by more than 2,000.

It's important that we don't lose this momentum. Dow and ACC support the permanent reauthorization of CFATS because we believe it is a successful program that meets the regulatory principles outlined by the President. The program has laid a solid foundation to address security at chemical facilities while at the same time providing industry the flexibility it needs to remain competitive and provide the innovative products that are vital to the nation's economy.

We believe any changes to the program that would require implementation or even enhanced scrutiny of any single risk-reduction option that is available to industry, such as the mandatory consideration or implementation of inherently safer technology (or "IST"), are unnecessary. The program is predicated on the idea that performance standards are the regulatory tool of choice for ensuring security, as they can be met by the facility selecting from a variety of layered security measures that best suit that specific facility. Allowing for the imposition of a single type of risk-mitigation measure would only serve to undermine the success of the program to date and flies in the face of the goal of the Administration to establish the "best, most innovative and least burdensome tools for achieving regulatory ends." Such a change at this critical juncture would add an unacceptable degree of uncertainty to a program that is maturing, and place an unjustifiably large burden on chemical facilities and DHS. Accordingly, Dow and ACC do not support mandatory consideration or mandatory implementation of IST or any other single risk reduction tool.

As I have outlined in my testimony, Dow along with the members of the ACC are committed to continuing an aggressive approach in safeguarding America's chemical facilities. It is in this spirit that we look forward to working alongside DHS and this Committee. Thank you for this opportunity and I am happy to answer any questions at the appropriate time.