



COMMITTEE ON HOMELAND SECURITY

FOR IMMEDIATE RELEASE

Hearing Statement of Chairman Bennie G. Thompson (D-MS)

Securing U.S. Surface Transportation from Cyber Attacks

February 27, 2019

Since 2007, the Department of Homeland Security has administered a regulatory program that covers security measures at “high risk” chemical facilities to protect against the threat of terrorist attack. Through CFATS, DHS works with chemical facility owners and operators to make sure they have safeguards in place to prevent a bad actor from gaining access to dangerous chemicals stored onsite.

In the past, this program has enjoyed broad, bipartisan support on and off the Hill. Officials in the Bush Administration, including former Homeland Security Secretary Michael Chertoff, were among the first to call for a federal rule to secure chemical facilities. And, officials from the Trump Administration are among the most recent.

Last November, DHS Secretary Kirstjen Nielsen wrote to Congress urging us to reauthorize CFATS: “[W]e continue to face one of the most serious terrorist threat environments since 9/11. Foreign terrorist organizations are urging recruits to use simple weapons, including toxic chemicals, to target public spaces and events.”

Clearly, this threat has not abated.

Yet, the Department’s authority to carry out CFATS came very close to lapsing last month – until this Committee to pass a short-term bill extending the program until April 2020.

For eight years, CFATS was tied to annual appropriations cycles. Lacking the certainty of a multi-year authorization, DHS struggled to keep staff, develop long-term policies, and work with a regulated community that did not know if the rules would apply the following year. In 2014, Congress worked on a bicameral, bipartisan basis to finally put an end to this pattern by passing a multi-year authorization.

I had hoped to work collaboratively in the last Congress, as we did in 2014, to give CFATS a long-term reauthorization. Unfortunately, that did not come to pass, and we once again found ourselves with no alternative but to pass another short-term extension.

As Chairman, I do not intend to let that happen again. This Committee is acting early this Congress to get a reauthorization bill across the finish line. However, I do not plan to let reauthorization become an excuse to water down regulatory requirements or diminish the overall security value of the program.

CFATS is already designed to give flexibility and deference to facility owners and operators. The requirements are non-prescriptive, meaning that regulated facilities can choose security measures that work for their unique environment, so long as their site security plans generally adhere to a set of risk-based security principles. When DHS inspectors go out and find that a facility's security plan falls short, they work with that facility to address vulnerabilities.

Thanks in part to the leadership of Director Wulf, who is testifying here today, the CFATS program is in a place where Congress can build on the foundation that has already been laid. For example, there are currently half as many 'high risk' facilities in the U.S. as there were in 2007.

I would like to understand how DHS is encouraging facilities to voluntarily reduce or remove chemical security risks, and how we might put that data to good use. I also see reauthorization as an opportunity to figure out what's working, and what's not. That may mean taking another look at how CFATS handles whistleblowers or deciding if the expedited approval program is a good use of DHS' limited resources.

Finally, there are some areas where the program continues to fall short.

I was extremely troubled by a report GAO released last year showing that first responders and emergency planners are still not getting the information they need to respond to an incident at a CFATS facility. As a former volunteer fire fighter, I am deeply concerned that – six years after the tragic fertilizer plant explosion in West, Texas – we still have not yet figured out how to put the right information in the hands of the brave men and women running into a building in an emergency while everyone else is running out. When first responders show up at an incident, they need to know what's on the other side of the door. Period.

Whatever we need to do to make sure information is being shared – this is a challenge we will address.

I look forward to hearing from the panel today about how we might improve CFATS and make sure we give DHS – and the regulated community – the stability and certainty of a long-term reauthorization for the program.

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