

Statement
of the
National Association of Chemical Distributors
for inclusion in the record of the
Industry Views of the Chemical Facility Anti-Terrorism
Standards Program Hearing
February 15, 2018

U.S. House of Representatives
Committee on Homeland Security
Subcommittee on Cybersecurity and Infrastructure
Protection

Dear Chairman Ratcliffe, Ranking Member Richmond, and Members of the Subcommittee,

The National Association of Chemical Distributors (NACD) is pleased to provide the following statement for inclusion in the record of the February 15, 2018, hearing, *Industry Views of the Chemical Facility Anti-Terrorism Standards Program*.

NACD commends the Subcommittee for holding this important hearing as a first step in reauthorizing the Chemical Facility Anti-Terrorism Standards (CFATS) program. NACD strongly urges you to introduce CFATS reauthorization legislation as soon as possible so it can proceed through Congress and be signed into law well before the program's January 2019 expiration date.

About NACD

NACD is an international association of nearly 440 chemical distributors and their supply-chain partners. NACD members represent more than 85 percent of the chemical distribution capacity in the nation and generate 93 percent of the industry's gross revenue. NACD members, operating in all 50 states through more than 2,800 facilities, are responsible for nearly 130,000 direct and indirect jobs in the United States. NACD members are predominantly small regional businesses, many of which are multi-generational, and family owned.

NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution[®], the association's third-party-verified environmental, health, safety, and security program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal operations.

While security has always been an inherent element of Responsible Distribution, following the terrorist attacks of September 11, 2001, distributors were the first sector of the chemical industry to mandate security measures for its members. NACD continues to assess Responsible Distribution's security measures against current threats. In 2013, NACD added a specific Security Code to Responsible Distribution that consolidated many prior requirements and enhanced others. These requirements apply to all NACD members, including those who do not have facilities subject to the CFATS regulations. Over the past 16 years, NACD members — both CFATS-regulated and non-CFATS-regulated companies — have made substantial investments to make their facilities more secure.

NACD Supports Long-Term Reauthorization of CFATS

The CFATS program has made the chemical industry and our nation much more secure. Since its establishment in 2007, the industry has invested millions of dollars and instituted thousands of new security measures at our facilities.

From the beginning, the Department of Homeland Security (DHS) has taken a collaborative, common-sense approach in implementing the CFATS regulations. Despite being dependent on temporary appropriations measures during the first seven years of the program, the agency did a commendable job in writing the regulations and setting up the internal infrastructure to be able to implement and enforce the new standards.

One reason for the success of the CFATS program is the fact that DHS has taken the time to truly learn about the diverse chemical industry and work with companies on security measures that meet the CFATS Risk Based Performance Standards while providing flexibility to each unique chemical facility in doing so. DHS has excelled in outreach to the industry by publishing numerous fact sheets and “lessons learned” documents; interacting with facility owners and operators during the Chemical Sector Security Summits and other trade association meetings; and always making inspectors and headquarters personnel available to talk through issues and answer questions.

In addition, DHS worked with NACD and the American Chemistry Council to develop a CFATS Alternative Security Program (ASP) Guidance Document and Template to enhance the process for submitting site security plans. The ASP provides DHS with greater clarity about regulated facilities’ security measures and how they meet or exceed CFATS requirements, while simplifying the compliance process and giving facility owners and operators a comprehensive security document to follow.

The “Protecting and Securing Chemical Facilities from Terrorist Attacks Act” of 2014 (P.L. 113-254), which for the first time provided CFATS a multi-year authorization, further enhanced security efforts by providing regulatory certainty to both industry and DHS. This stability allowed DHS to increase efficiencies in the program while streamlining the information submission process for regulated facilities.

For example, in 2016, DHS rolled out an enhanced risk tiering methodology to identify more accurately high-risk facilities and assign them to appropriate risk tiers. DHS notified all facilities with threshold quantities of CFATS chemicals of interest that they must submit new Top Screen surveys to the agency. At the same time, the agency launched version 2.0 of the Chemical Security Assessment Tool (CSAT 2.0), the online portal facilities use to submit Top Screens, Security Vulnerability Assessments, and Site Security Plans/ASPs. CSAT 2.0 is much more streamlined and user friendly than the old version, which allows facilities to submit their information and DHS to analyze the material more easily. DHS has virtually completed this re-tiering process and is conducting authorization inspections and compliance inspections of facilities assigned to different tiers as well as newly-regulated facilities.

A long-term reauthorization of CFATS in the next few months would allow for the continuation of this positive momentum. NACD urges the Subcommittee leadership to introduce CFATS reauthorization legislation as soon as possible so it can move through the process and be signed into law before there is a threat of a program lapse. Doing so will provide needed certainty and enhance the security of chemical facilities and our nation.

NACD looks forward to working with the Subcommittee and Congress on CFATS reauthorization legislation in the coming weeks and months.

Thank you for the opportunity to submit these comments.

Sincerely,



Eric R. Byer
President



Jennifer Gibson
Vice President, Regulatory Affairs