

Subcommittee Ranking Member Yvette D. Clarke (D-NY)
Opening Statement

“The Chemical Facilities Anti-Terrorism Standards Program: Addressing Its Challenges and Finding a
Way Forward”

Subcommittee on Cybersecurity, Infrastructure Protection and Security
Technologies

March 6, 2012

Mr. Chairman, thank you for calling this hearing on the Chemical Facilities Anti-Terrorism Standards program. The Under Secretary’s office provided us with a confidential memorandum report that he ordered in the summer of 2011, for internal use, but was leaked to the news media, and a summary article published in December. We have been provided with a rare insight into the internal workings of a regulatory program that is experiencing drastic spasms.

The CFATS issues before us today are greater than just the leaked internal memorandum that made headlines late last year. Let me review the facts:

- The Department established CFATS in FY2007 and has received approximately \$442 million since then in appropriated funds to implement both the CFATS and ammonium nitrate programs.
- The Department has testified numerous times as to the successful issuance of regulation and establishment of a regulatory framework, and DHS has annually engaged stakeholders in a chemical security summit.
- The information memorandum contains information that raises questions about the accuracy of those presentations. The information memorandum, for example, states that millions of dollars of training contracts have resulted in no compliance inspector training, that information technology systems are insufficient to meet ISCD needs, and that regional and headquarters locations invested in unneeded capabilities inconsistent with mission needs.
- The information memorandum identifies a series of institutional flaws, such as the lack of a system for tracking the usage of consumable supplies, pay grades not aligning with job requirements, and weak leadership providing the appearance of favoritism, cronyism, and retribution.
- And here’s what really disturbing, the fact that DHS raised none of these points in its prior testimony or discussions, instead presenting the appearance of an ongoing regulatory program.

While the Under Secretary has testified that he was not aware of the scope of the problems within ISCD until 2011, the senior ISCD official in charge would seemingly have possessed detailed information not available to the

Under Secretary. Additionally, Congress has required through appropriations report language both reports and briefings on facets of the CFATS program, none of which reported the challenges ISCD was experiencing.

It is our job to attempt to identify the root causes of the challenges experienced by ISCD in order to avoid similar problems in other agencies, and attempt to identify how prior appropriated funds were spent and what value was received, and we should attempt to identify the official or officials responsible for the failures in ISCD performance.

Mr. Chairman, besides the fact-finding that we need to do, there is a bigger question of authorization. It seems only reasonable to me that in light of this leaked memorandum and the host of problems it outlines for the CFATS program, it would behoove Congress to think again about giving the program an extended authorization without further Committee oversight and guidance. As you know, I offered two amendments limiting the seven-year authorization proposed in H.R. 901, and I think the idea of limiting the authorization of this troubled program looks pretty good today.

Last Congress we brought in all the stakeholders to craft legislation to fully authorize this program. It was a major undertaking. We brought in industry and labor and everyone else who had a concern about this issue, that's the kind of guidance and authorization this troubled program needs.

What I do know is that the frontline workers in every government program; whether it be law enforcement, management, or regulatory programs, are the heart of the service to the American people. They protect us, they make sure things are secure, and they interact with business and industry and citizens everyday. These are the important workers in your CFATS program, and I am very keen to hear the testimony today of David Wright who represents the inspectors, the lead workers who make up the inspector cadre, the core and heart of this program. We need to get their views on the problems you have found if we are to solve these challenges.