

Testimony of
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Before the House Committee on Homeland Security
Subcommittee on Cybersecurity and Infrastructure Protection
“Securing Our Nation’s Chemical Facilities: Stakeholder Perspectives on Improving the CFATS
Program”

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Good morning, my name is Pamela Nixon. Thank you for allowing me the opportunity to provide a community perspective for improving the Chemical Facility Anti-Terrorism Standards (CFATS) program of the Department of Homeland Security (DHS).

I am representing People Concerned About Chemical Safety (PCACS), located in the center of Appalachia in Charleston, WV, in the Kanawha Valley.

PCACS, formerly known as People Concerned about MIC, has been active in community for over 30 years. It was formed after we learned that methyl isocyanate (MIC) was being produced in Institute, WV. MIC is the same chemical that killed and injured thousands in the Bhopal, India, in 1984.

We are dedicated to protect the health and safety of all who reside, work, and study in the vicinity of local facilities that produce highly toxic chemicals. The core of our work is to promote environmental and social justice principles that encourage the inclusion of people disproportionately impacted by decision-makers.(1)

PCACS is affiliated with the Environmental Justice Health Alliance for Chemical Policy Reform (EJHA), which networks grassroots organizations throughout the country to build collective intelligence and advocate for chemical policy reforms that protect environmental justice communities.(2)

For decades it has been proven in study after study that low income communities and communities of color are disproportionately impacted by hazardous waste facilities, facilities that emit highly toxic and extremely hazardous chemicals being located nearby.(3) (4) These communities are the most vulnerable and when there is a disaster, they have the least ability to recover financially, physically and mentally.

The community of Institute is mostly an African American unincorporated community, and is home to West Virginia State University, a Historically Black College and University (HBCU) which is directly at the fence line of a high risk facility. The majority of the chemical incidents that have occurred in the Kanawha Valley, occurred in Institute. The residential community and

approximately 4,000 students, staff and faculty on campus have always had to shelter in place because the 2-lane road is not be capable to evacuate them out in a timely manner. In the eastern part of Kanawha County the community of Belle would have a similar issue evacuating from around the facility located there.

Seventy percent of people in the Charleston area live within a 3-mile radius of one or more high risk chemical plants. (5) We have experienced chemical fires, explosions, worker deaths, and numerous air releases forcing us to shelter-in-place. And these incidents were not acts of terrorism.

Making a chemical facility harder for terrorists to attack and adding cybersecurity, doesn't change the probability of a major chemical incident that can have off-site consequences. Over the decades PCACS met with company officials and requested that they assess their vulnerabilities in order to lower their risk as a target. We wanted them to reduce their inventory, to install inherently safer technologies, to substitute the highly toxic /extremely hazardous compounds with less dangerous chemicals, and to involve the workforce with engineers for insight on simplifying the process to less complex procedures that would minimize the human error factor. It was only after the 2008 explosion at the Bayer CropScience plant in Institute, and the findings from the investigations of the US Chemical Safety and Hazard Investigation Board (CSB), and National Research Council of the National Academies that some companies in Kanawha began to take steps to reduce risks at their facilities.(6)(7)

It is important that CFATS coordinates with other governmental agencies to reduce the facilities risks as a target. West Virginia is a rural state and many of our fire departments are run by volunteers with very little funding. It is imperative for CFATS and the high risk facilities to share information with first responders, and especially with volunteer fire departments to insure they are properly trained, understand characteristics of the hazardous chemicals, and have the proper protective equipment. Fortunately, our high risk chemical facilities in the Kanawha Valley have their own in-house responders, and they send their nearest first responders to training and provide them with some essential protective equipment in case the department is needed to provide mutual aid. Proper training and current information on the chemicals will allow them to return home safely.

According to our Kanawha Putnam Emergency Planning Committee (KPEPC) *Terrorist Incident Response* section of the Emergency Management Plan, the Kanawha/Putnam Metro area is vulnerable to terrorist incidents. We have four clusters of high risk chemical facilities located along the valley floor. If there is a terrorist incident, by Federal mandate the FBI is the lead agency for crisis intervention. The DHS or FEMA may elect to lead consequence management(8), but the lack of public information may make it difficult for DHS CFAST to address public information. These are all reasons why communities like mine and others in EJHA be protected by policy language that addresses cumulative impacts. At this point our communities cannot afford to have anything less.

We encourage improvement of the CFATS program to include:

- Coordinating with other government agencies to ensure the high risk facilities reduce their risk at being a target;
- Coordinating with other government agencies to ensure there are no regulatory conflicts in the laws to prevent security breaches;
- Ensuring high risk facilities provide the current information on hazardous chemicals to first responders;
- Have information to address public concerns in order to improve confidence in CFATS;
- Recognizing and accounting for cumulative impacts, including the presence of more than one hazardous facility in a community;
- Respecting the critical importance of community access to information on hazards and solutions, ensuring that communities have access to the information they need to be informed partners in security, and ensuring this information does not present the communities any additional exposure (recognizing that much information about these facilities is already available in the public domain);
- Assessing how facilities that have “tiered out” of the program did so (i.e. reduced or eliminated their chemical vulnerabilities so that they are no longer required to participate), and sharing those practices or approaches with other facilities in the program; and
- Working with covered facilities to help them pro-actively assess whether they could reduce or eliminate chemical vulnerabilities.

Thank you for allowing me to speak today.

ENDNOTES

- (1) People Concerned about Chemical Safety website:
<http://peopleconcernedaboutmic.com/>
- (2) Environmental Justice Health Alliance for Chemical Policy Reform website:
<https://ej4all.org/about-us/overview>
- (3) *Toxic Wastes And Race In The United States*. United Church of Christ. 1987.
<https://www.nrc.gov/docs/ML1310/ML13109A339.pdf>
- (4) *Who's In Danger? Race, Poverty, and Chemical Disasters*. Environmental Justice and Health Alliance for Chemical Policy Reform. May 2014.
<https://comingcleaninc.org/assets/media/images/Reports/Who%27s%20in%20Danger%20Report%20FINAL.pdf>
- (5) *Life At The Fenceline: Understanding Cumulative Health Hazards in Environmental Justice Communities*. Sept 2018. Environmental Justice Health Alliance For Chemical Policy Reform/Coming Clean/Campaign For Healthier Solutions.
<https://new.comingcleaninc.org/assets/media/documents/Life%20at%20the%20Fenceline%20-%20English%20-%20Public.pdf>
- (6) CSB Final Report: Bayer CropScience. <https://www.csb.gov/bayer-cropscience-pesticide-waste-tank-explosion/>
- (7) *The Use and Storage of Methyl Isocyanate (MIC) at Bayer CropScience*. National Research Council of the National Academies. 2012.
<https://www.nap.edu/catalog/13385/the-use-and-storage-of-methyl-isocyanate-mic-at-bayer-cropscience>
- (8) Terrorist Incident Response. Kanawha Putnam Emergency Management Plan. Revised 4/18/2017.
http://www.kpepc.org/shared/content/Page_objects/ahp_docs/FA_A20_Terrorism.pdf