

Opening Statement of  
Senator Susan M. Collins

**“The Compelling, Common-Sense Case to Reauthorize CFATS”**

Committee on Homeland Security and Governmental Affairs  
Business Meeting

June 29, 2010

★ ★ ★

Today, the Committee will consider the extension of the chemical facility security law now set to expire on October 4, 2010.

The chemical industry is vital to America’s economy and to the well-being of our people. The industry’s annual sales are nearly half-a-trillion dollars; it exports \$174 billion and provides more than 850,000 jobs. Its products contribute to the quality of our modern life, from micro-electronics to medicine.

But today, in this era of terrorism, we also know that we must secure our chemical facilities, which are potential high-value targets for our enemies.

Working in partnership with the private sector, this Committee authored bipartisan legislation in 2006 that required the Department of Homeland Security to establish risk-based security performance standards at high-risk chemical facilities. The bill was incorporated into the Homeland Security Appropriations Act that year.

Based on this authorization, the Department created the Chemical Facility Anti-Terrorism Standards (CFATS) program. Although it is less than four years old, the program already has yielded a successful collaborative, risk-based security framework – a model for other security-related regulatory programs.

While the Department has strong authority under the law to shut down non-compliant facilities, the key to this risk-based approach is that it has made the owners and operators of chemical plants partners with the government. The roles are clear: the federal government sets requirements but recognizes that owners and operators of facilities are in the best position to design appropriate security measures to meet those requirements.

This law works. The result: Security at our nation’s chemical facilities is much stronger, and improving all the time.

Incredibly, we find ourselves at a crossroads with this reauthorization because the House would make fundamental and negative changes to this successful program. Instead of building on what is working, the House bill would set a vastly different and uncertain direction. This makes no sense. We should extend this successful law.

In February, Senators Pryor, Voinovich, Landrieu, and I introduced a bipartisan bill to extend CFATS for five more years and provide for increased private sector collaboration through voluntary training and exercise programs. Our bill is a common-

## Page 2 of 3

sense extension of a highly successful program that is getting results and building momentum.

Unfortunately, the House has taken an alternative, partisan course. Last November, it passed legislation to fundamentally alter the CFATS program: legislation that would change it from a partnership to a prescriptive, mandatory program. This bill would force the Department to cast aside much of the progress we have made under the existing program.

I am concerned with several aspects of the House bill; most problematic, however, is the mandate of inherently safer technology, or IST. It is important to note that IST is an approach to process engineering. It is not a *security* measure. That means an IST mandate may actually *increase* or *transfer* risk to other points in the chemical process or supply chain. That is unacceptable.

For example, IST could require the manufacturer of a cancer-fighting drug to replace a small amount of a hazardous chemical used as a catalyst with a system that uses great heat and pressure, aggravating the risk to those working in the plant or living nearby.

Another scenario: According to testimony before our Committee, IST could require changing the raw materials used in the time-tested and low-cost pain reliever Ibuprofen. This could force a long regulatory approval process and drive up costs.

And finally, the microelectronics industry could be forced to abandon the use of hydrochloric acid in the manufacture of integrated circuits. Developing alternatives could take years and billions in research and development costs. More likely, plants would be forced to close and jobs shipped overseas.

I can hardly imagine anything more devastating to our fragile economy, and to small chemical production businesses, than dictating costly, unproven federal mandates.

Let me be clear - IST can be a valuable tool. Some chemical facilities may choose to use IST, particularly when constructing a new facility or developing a new process. But that decision should be theirs - not the federal government's.

I will conclude by pointing out one other significant difference between the Senate and House bills. The Senate bill was developed through a bipartisan process. The House bill is strictly partisan - not a single vote from the minority party. In fact, 21 House Democrats voted against the bill's passage. The only thing bipartisan about that bill is its opposition.

Based on my grave concerns with the House bill, I will offer a modified bipartisan Senate bill as a substitute to the measure now on our agenda that reflects input from Senators Pryor, Voinovich, Landrieu, Levin, Carper, and McCaskill. These changes would establish a voluntary technical assistance program to help owners and operators take action, on their own volition and with assistance and recommendations from DHS, to reduce risks at their facilities or to aid in compliance with the CFATS program. The amendment would also establish a private sector advisory board composed of industry

## Page 3 of 3

experts on chemical facility security to advise DHS on CFATS and its implementation of the voluntary technical assistance program.

Our legislation is supported by the Society of Chemical Manufacturers and Affiliates, the American Chemistry Council, the National Association of Manufacturers, the U.S. Chamber of Commerce, the American Farm Bureau Federation, the American Forest and Paper Association, and at least 22 other groups that represent industries as diverse as agriculture, explosives, natural gas, and warehouse logistics.

I urge my colleagues to adopt this bipartisan substitute amendment and to help continue the successful chemical security program at DHS.

I hope we will report this essential legislation today.

###