

October 21, 2009

The Honorable Henry Waxman
Chairman
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Joe Barton
Ranking Member
House Energy & Commerce Committee
2322A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman and Ranking Member Barton:

We write to you today to express our opposition to H.R. 2868, the “Chemical Facility Anti-Terrorism Act of 2009” (CFATS). Despite the changes made to this legislation in the Energy and Environment Subcommittee, we continue to oppose the bill due to the detrimental impact it will have on national security and economic stability.

Specifically, we strongly object to the Inherently Safer Technology (IST) provisions of this legislation that would allow the Department of Homeland Security (DHS) to mandate that businesses employ specific product substitutions and processes. These provisions would be significantly detrimental to the progress of existing chemical facility security regulations (the “CFATS” program) and should not be included in this legislation. DHS should not be making engineering or business decisions for chemical facilities around the country when it should be focused instead on making our country more secure and protecting it from terrorist threats. Decisions on chemical substitutions or changes in processes should be made by qualified professionals whose job it is to ensure safety at our facilities.

Furthermore, forced chemical substitutions could simply transfer risk to other points along the supply chain, failing to reduce risk at all. Because chemical facilities are custom-designed and constructed, such mandates would also impose significant financial hardship on facilities struggling during the current economic recession. Some of these forced changes are estimated to cost hundreds of millions of dollars *per facility*. Ultimately, many facilities would not be able to bear this expense.

Thank you for taking our concerns into account as the Committee continues to consider the “Chemical Facility Anti-Terrorism Act of 2009.” We stand ready to work with the Committee and Congress towards the implementation of a responsible chemical facility security program.

Sincerely,

Agricultural Retailers Association

American Farm Bureau Federation

American Forest & Paper Association

American Petroleum Institute

American Trucking Associations

Chemical Producers and Distributors Association

Consumer Specialty Products Association

The Fertilizer Institute

Institute of Makers of Explosives

International Association of Refrigerated Warehouses

International Liquid Terminals Association

International Warehouse Logistics Association

National Agricultural Aviation Association

National Association of Chemical Distributors

National Association of Manufacturers

National Grange of the Order of Patrons of Husbandry

National Mining Association

National Oilseed Processors Association

National Pest Management Association

National Petrochemical and Refiners Association

National Propane Gas Association

North American Millers' Association

Petroleum Equipment Suppliers Association

U.S. Chamber of Commerce