



October 20, 2009

The Honorable Henry Waxman  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Waxman and Ranking Member Barton:

On behalf of the 300 member companies of the Society of Chemical Manufacturers and Affiliates (SOCMA), I am writing to you in regards to concerns with the Chemical Facility Anti-Terrorism Act of 2009.

The negative, unintended consequences of mandating implementation of inherently safer technology (IST) far outweigh any possible benefit derived from it, even if measuring the effectiveness of IST was possible. As our witness testified at the October 1, 2009, hearing, mandatory implementation of IST in a security context is bad policy. Risk decisions are best when made in the laboratory and shopfloor by people who work in, manage, and are intimately familiar with those risks, not a government employee seated in an office building miles away from the facility environment interpreting words on a sheet of paper or computer screen.

The fact is, some of the chemicals that would be high on the Secretary's candidate list for "switching out" are the same ones used, for example, as active ingredients in everyday pharmaceuticals and health care, like ibuprofen and Tamiflu, among many others. We fear that substitution or elimination of these ingredients may cause shortage or elimination of common consumer products or treatments for patients with serious medical conditions. Switching to alternative substances could also increase our reliance on foreign-made pharmaceutical ingredients, as American companies become barred from manufacturing chemicals that customers will still demand. Such a result would actually make the U.S. much less safe and less secure and cost Americans jobs.

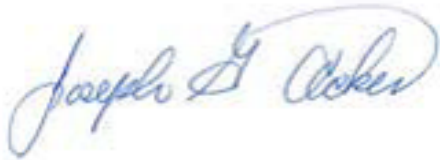
Also, as we pointed out in our testimony, experts from academia and professional societies who have testified in Congress agree that IST should not be mandated. These experts include a representative from the Mary Kay O'Connor Process Safety Center at Texas A&M University, the American Chemical Society, and the Center for Chemical Process Safety. These experts and the National Research Council also concluded that IST cannot be measured. Congress should not mandate inherent safety without the ability to measure it.

Additionally, the chemical industry is subject to some of the strictest environmental, health, safety and security regulations in the world. Currently there are two major federal regulations that already address the concerns of some regarding off-site consequences and process safety: the Environmental Protection Agency's Risk Management Program and the Occupational Safety and Health Administration's Process Safety Management Rule. What's more, DHS's existing CFATS regulations have driven some facilities to make process changes that have either lowered their tier or placed them out of a high-risk determination.

Despite amendments made to Section 2111, "Methods to Reduce the Consequences of Attack," in the bill, many feasibility questions remain about the amendments themselves. What happens when the Secretary's IST decision turns out to increase risk after all, one week, one month, or one year after IST has been implemented? Will the government compensate the facility if the implementation renders the operation not feasible after a period of time?

We urge Congress to put aside its differences and simply extend the existing, comprehensive CFATS program. The unintended consequences of mandating inherently safer technology as required in the legislation are too risky for the U.S. to accept today.

Respectfully submitted,

A handwritten signature in blue ink that reads "Joseph G. Acker". The signature is written in a cursive style with a large, looping initial "J".

Joseph G. Acker  
President and CEO