

Keith McCoy

Vice President

Energy & Resources Policy

September 11, 2009

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

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

Dear Chairman Waxman and Ranking Member Barton:

On behalf of the National Association of Manufacturers (NAM), the nation's largest and oldest industrial trade association with members in all 50 states, I urge you to oppose language included in H.R. 2868, the Chemical Facility Anti-terrorism Act of 2009, related to mandating process changes.

The chemical industry plays a critical role in this nation's manufacturing economy, with over 55 percent of manufacturers having significant, direct dependence on chemicals for production. Manufacturers recognize the importance of ensuring responsible management to continue to improve safety, health, security and environmental performance. As such, manufacturers have invested over \$7 billion in security enhancements to implement the Chemical Facility Anti-terrorism Standards (CFATS) enacted in 2006, which provided a set of meaningful, risk-based standards for the entire industry. Since the regulations have been in place, not one incident as a result of terrorism has occurred. Manufacturers view security as a number one priority and support allowing the robust, comprehensive regulatory program of CFATS to continue so as not to impose overlapping and conflicting security requirements, weaken infrastructure protection or harm economic security.

While H.R. 2868 reflects some of the important security measures that will continue to be implemented under CFATS, manufacturers oppose the implementation of any language that that would give the Department of Homeland Security the authority to mandate that manufacturers implement process changes. This language is unnecessary and would be devastating to the chemical industry. Mandates to substitute products and processes could be imposed without any regard for true security improvement, practicality, availability or cost. Chemicals have an inherent value to society and in many instances there is no viable alternative and risk cannot be eliminated and therefore must be managed or mitigated appropriately, as the current CFATS allows. If the process change mandates are implemented, the cost to facilities would severely disadvantage an industry that is vital to our economy and struggling to find ways prevent further unemployment and increased costs to consumers.

As this nation enters the 21st month of a recession, it is imperative that we do not delay our economic recovery by imposing expensive and unsustainable new mandates that will cost jobs and provide no guarantee of safety or security improvement. The paper industry estimates that converting a single facility to a new bleaching process could cost up to \$200 million and increase energy demand by 32,000MWh/yr. Additionally, the refining industry has determined that a mandate to switch from hydrofluoric acid to sulfuric acid, which can be just as dangerous in a terrorist scenario and requires roughly 250 times more acid to achieve the same results, would cost between \$45 and \$150 million per refinery with an increase in operating costs between 200 and 400 percent.

Manufacturing Makes America Strong

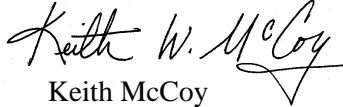
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In addition, the NAM opposes the provisions that would allow for “private rights of action” as CFATS is not designed in a manner that supports a citizen making a determination on deficiency or security. Such decisions should be made and adjudicated by DHS as the agency responsibly for regulating the security of the chemical industry.

The NAM asks that you listen to the concerns of industry by opposing mandatory process changes and supporting a straight extension of the extensive CFATS regulations. Protecting our communities and complying with federal security standards is a top priority for the nation’s manufacturers. The NAM supports straightforward legislation that would remove the sunset date and make chemical security regulations permanent, and we strongly urge Congress to refrain from imposing unnecessary mandates or overhauling the program until it has been fully implemented and evaluated.

On behalf of the manufacturing sector and its 12,700,000 American employees, I urge you to oppose the implementation of practices that would mandate process changes that do not result in an increase in security and would impede economic growth and jobs. Thank you for your leadership on this very important issue for the manufacturing and broader U.S. economy, the NAM looks forward to working with you as this issue moves forward.

Sincerely,


Keith McCoy

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cc: House Energy and Commerce Committee Members