TESTIMONY OF
THE HONORABLE FRANK PALLONE, JR.

Before the Transportation Safety, Infrastructure Security, and Water Quality Subcommittee of the Senate Committee on Environment and Public Works

Hearing on "The Importance of State and Local Authorities in Ensuring Chemical Plant Security"

March 19, 2007

Chairman Lautenberg, thank you for holding this hearing and for inviting me to testify before you today. You and I have worked together numerous times on efforts to secure chemical facilities in New Jersey and around the country, and I salute your leadership and hard work on this issue.

I want to take this opportunity to express my extreme displeasure at the incredible arrogance of the U.S. Department of Homeland Security, which has chosen to willfully disregard the intent of the United States Congress by preempting state and local laws and regulations on chemical security.

There was a very clear exchange on the floor of the U.S. House of Representatives between the Chairman of the Homeland Security Committee and the Ranking Member of the Homeland Security Appropriations Subcommittee, during which they agreed that the temporary chemical security provision included in an appropriations bill last year was <u>not</u> intended to preempt the rights of states like New Jersey. Unfortunately, DHS chose to ignore those very clear directions

and instead cite a quote from Energy and Commerce Committee Chairman Joe Barton, whose committee did not exercise jurisdiction over chemical security during the 109th Congress.

These may seem like bureaucratic legal details of congressional intent, but they are critical. The Bush administration has once again glibly disregarded the will of Congress, and they are apparently uninterested in providing for the safety and security of New Jerseyans. The Republican Congress gave this kind of behavior a free pass, but it's time for that to stop.

That's why Chairman Lautenberg and I are working to take away any ability of DHS to preempt state or local regulations that are stronger than federal ones. I'm pleased that the House will take up a supplemental spending bill this week that includes chemical security language I supported. Our intent is to ensure that DHS can't undo New Jersey's

chemical security regulations, which were intended to protect the state's citizens in the face of federal inaction.

Chairman Lautenberg and I had hoped last year that we would be able to pass a bill to create a comprehensive security regime for chemical facilities across the country. But under pressure from industry, the Republican Congress refused to take action and the Bush administration dragged its feet for years, even after 9/11 exposed serious weaknesses in our national security. Expert after expert called for us to pay serious attention to the need to secure chemical facilities -- including ones in New Jersey that could potentially threaten the lives of millions of people.

Finally, at the last minute, the Republican Congress last year passed weak, industry-friendly language providing temporary authorization for chemical security regulations. From there, DHS stepped much further in the direction of helping the industry by attempting to wipe away New Jersey's first-in-the-nation state chemical security rules.

The fact is that New Jersey had to step up when the federal government fell down on the job. Our state reached out to industry and plant workers to develop a comprehensive plan to improve security and provide for greater worker safety. That's too much for this Administration, apparently. They jumped at a chance to override New Jersey's regulations -- even if they had to use imaginary authority to do so.

But as Governor Corzine can tell us, New Jersey has stepped up and worked in innovative ways to protect its citizens from threats that could come from facilities located within the staff. They've done so because they know the state, the facilities here, and our vulnerabilities much better than bureaucrats in Washington. And they've done so because the federal government did nothing.

Federal legislation and regulations concerning chemical security should allow states to set higher standards that the federal government. We have the unfortunate combination of both a large number of facilities and a high population density,

so the consequences of insufficient security are too great in our state. New Jersey's rights must be preserved.

Again, Mr. Chairman, thank you for holding this hearing. I look forward to continuing to work with you.