Written Statement for Congressman Donald M. Payne
"The Importance of State and Local Authorities in Ensuring Chemical Plant Security"
Monday March 19, 2007 10am
Rutgers School of Law

Let me thank Senator Lautenberg for arranging for the Senate Committee on Environment and Public Works' Transportation Safety, Infrastructure Security and Water Quality Subcommittee to come to New Jersey to hold this vital field hearing on the security of our chemical facilities. Residents of New Jersey have a great champion in Senator Lautenberg, and we are fortunate that he is serving on a Committee with such important jurisdiction over public health and safety.

September 11, 2001 reminded us of the many security vulnerabilities our country faced. Unfortunately, while we have taken measures to protect against another attack, many vulnerabilities remain. The massive tragedy of 9/11 forever changed the lives of thousands of people both in my Congressional district and statewide. As you know, many of the workers of the Twin Towers lived in New Jersey and many of the courageous first responders hailed from our state.

The issue of chemical facility security is not a new one. Dating back even before 9/11, the nation's 15,000 chemical facilities, including over 350 state industrial, petroleum, and chemical storage and transfer facilities, have been sitting ducks – defenseless if a terrorist attack ever happened again. As the face and tactics of terrorists continue to change, we must be mindful and vigilant about any and all vulnerabilities. The *New York Times*, in February 2005, frankly stated that "Washington has caved to pressure from interest groups, like the chemical industry, that have fought increased security measures." So it must be asked, "Why would we leave the security of our state and our citizens to an administration that so easily kowtows to industry when our nation's security is at risk?" In the silence of the federal government, New Jersey, taking its security into its own hands, created state regulations which are among the strongest in the nation. Unfortunately, the Department of Homeland Security misguidedly wants to have their weaker federal regulations trump our state's guidelines. While Congress did not explicitly give Homeland Security the right of preemption, they are unwisely proposing it and therefore are rightfully receiving much criticism. It is outrageous that the Department of Homeland Security is threatening to undo the hard work of our state regulators.

We are currently holding this hearing in my district which is near what is considered by the FBI as the "most dangerous two miles in America". It is nonsensical to allow lax security guidelines to rule over an area with such a designation, especially when stronger regulations exist and are on the books. It is also illogical to favor softer security provisions especially in New Jersey, the densest state in the nation, when another terrorist attack would be absolutely devastating and would impact countless lives.

According to the New Jersey Work Environment Council, over 20 facilities, some of which are in Hudson, Middlesex, Passaic and Union Counties, exist where in the event of a worst-case release of toxic chemicals, millions of people extending even beyond New Jersey's borders would be at risk.

In fact, Kuehne Chemical Company in South Kearny borders Newark. If an intentional or accidental chemical release happened to occur, an estimated 12 million people extending into New York City and its boroughs could be harmed. Toxic chemicals such as chlorine, hydrochloric acid and anhydrous ammonia can just simply waft as highly hazardous toxic clouds in the air leaving entire neighborhoods including schools, hospitals and other public areas victim to chemicals that can prove to be fatal. Being that New Jersey is a major transportation corridor for the Northeast and the Eastern seaboard, it does not take far leaps of one's imagination to see the possible damage a chemical facility attack could have.

There is a saying, "If you want something done right, then you have to do it yourself." In regards to chemical facility security, that saying holds great value for our state. We know, after much analysis, what is at stake and therefore what our state needs. We are, especially because of our acute risk, one of the strongest states in the nation on the issue of chemical facility security – and I am proud of the fact that Senator Lautenberg and I have two of the strongest pro-safety and pro-environmental records in the entire U.S. Congress. New Jersey has made great strides to protect our state's critical infrastructure. In fact, in the fall of 2005, the Department of Environmental Protection introduced, along with then Governor Richard Codey and the Domestic Security Preparedness Task Force, Best Practice Standards – the first in the nation. In another maverick move, New Jersey has allowed, through an Administrative Order, workers and union representatives to be vocal on this issue. They are, many times, our eyes and ears and therefore would be the best to inform legislators of vulnerabilities in our security standards. It fares well for no one if the federal government weakens these types of regulations.

While a great deal has been done, we must move beyond analysis into action. While provisions such as the consideration of Inherently Safer Technologies have been introduced, we must do more. Let us use what we have learned to galvanize new initiatives such as built-in security provisions that will make millions of New Jerseyans as well as inhabitants of other states safer. I look forward to working with Senator Lautenberg and our other colleagues to achieve this goal, and again, I thank the Senator for convening today's hearing.