

Calendar No. 578

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 4007****[Report No. 113-263]**

---

IN THE SENATE OF THE UNITED STATES

JULY 9, 2014

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

SEPTEMBER 18, 2014

Reported by Mr. CARPER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

## **AN ACT**

To recodify and reauthorize the Chemical Facility Anti-Terrorism Standards Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Facility Anti-  
5 Terrorism Standards Program Authorization and Ac-  
6 countability Act of 2014”.

1 **SEC. 2. CHEMICAL FACILITY ANTI-TERRORISM STANDARDS**  
2 **PROGRAM.**

3 (a) **IN GENERAL.**—The Homeland Security Act of  
4 2002 (6 U.S.C. 101 et seq.) is amended by adding at the  
5 end the following:

6 **“TITLE XXI—CHEMICAL FACIL-**  
7 **ITY ANTI-TERRORISM STAND-**  
8 **ARDS**

9 **“SEC. 2101. CHEMICAL FACILITY ANTI-TERRORISM STAND-**  
10 **ARDS PROGRAM.**

11 **“(a) PROGRAM ESTABLISHED.**—There is in the De-  
12 partment a Chemical Facility Anti-Terrorism Standards  
13 Program. Under such Program, the Secretary shall estab-  
14 lish risk-based performance standards designed to protect  
15 covered chemical facilities and chemical facilities of inter-  
16 est from acts of terrorism and other security risks and  
17 require such facilities to submit security vulnerability as-  
18 sessments and to develop and implement site security  
19 plans.

20 **“(b) SECURITY MEASURES.**—Site security plans re-  
21 quired under subsection (a) may include layered security  
22 measures that, in combination, appropriately address the  
23 security vulnerability assessment and the risk-based per-  
24 formance standards for security for the facility.

25 **“(c) APPROVAL OR DISAPPROVAL OF SITE SECURITY**  
26 **PLANS.**—

1           “(1) IN GENERAL.—The Secretary shall review  
2           and approve or disapprove each security vulner-  
3           ability assessment and site security plan under sub-  
4           section (a). The Secretary may not disapprove a site  
5           security plan based on the presence or absence of a  
6           particular security measure, but the Secretary shall  
7           disapprove a site security plan if the plan fails to  
8           satisfy the risk-based performance standards estab-  
9           lished under subsection (a).

10           “(2) ALTERNATIVE SECURITY PROGRAMS.—The  
11           Secretary may approve an alternative security pro-  
12           gram established by a private sector entity or a Fed-  
13           eral, State, or local authority or pursuant to other  
14           applicable laws, if the Secretary determines that the  
15           requirements of such program meet the require-  
16           ments of this section. A covered chemical facility  
17           may meet the site security plan requirement under  
18           subsection (a) by adopting an alternative security  
19           program that has been reviewed and approved by the  
20           Secretary under this paragraph.

21           “(3) SITE SECURITY PLAN ASSESSMENTS.—In  
22           approving or disapproving a site security plan under  
23           this subsection, the Secretary shall employ the risk  
24           assessment policies and procedures developed under  
25           this title. In the case of a covered chemical facility

1 for which a site security plan has been approved by  
2 the Secretary before the date of the enactment of  
3 this title, the Secretary may not require the resub-  
4 mission of the site security information solely by rea-  
5 son of the enactment of this title.

6 “(4) CONSULTATION.—The Secretary may con-  
7 sult with the Government Accountability Office to  
8 investigate the feasibility and applicability a third  
9 party accreditation program that would work with  
10 industry stakeholders to develop site security plans  
11 that may be applicable to all similarly situated facili-  
12 ties. The program would include the development of  
13 Program-Specific Handbooks for facilities to ref-  
14 erence on site.

15 “(d) COMPLIANCE.—

16 “(1) AUDITS AND INSPECTIONS.—

17 “(A) IN GENERAL.—The Secretary shall  
18 conduct the audit and inspection of covered  
19 chemical facilities for the purpose of deter-  
20 mining compliance with this Act. The audit and  
21 inspection may be carried out by a non-Depart-  
22 ment or nongovernment entity, as approved by  
23 the Secretary.

24 “(B) REPORTING STRUCTURE.—Any audit  
25 or inspection conducted by an individual em-

1           employed by a nongovernment entity shall be as-  
2           signed in coordination with the head of audits  
3           and inspections for the region in which the  
4           audit or inspection is to be conducted. When in  
5           the field, any individual employed by a non-  
6           government entity shall report to the respective  
7           head of audits and inspections for the region in  
8           which the individual is operating.

9           “(C) REQUIREMENTS FOR NONGOVERN-  
10          MENT PERSONNEL.—If the Secretary arranges  
11          for an audit or inspection under subparagraph  
12          (A) to be carried out by a nongovernment enti-  
13          ty, the Secretary shall require, as a condition of  
14          such arrangement, that any individual who con-  
15          ducts the audit or inspection be a citizen of the  
16          United States and shall prescribe standards for  
17          the qualification of the individuals who carry  
18          out such audits and inspections that are com-  
19          mensurate with the standards for a Government  
20          auditor or inspector. Such standards shall in-  
21          clude—

22                   “(i) minimum training requirements  
23                   for new auditors or inspectors;

24                   “(ii) retraining requirements;

1           “(iii) minimum education and experi-  
2           ence levels;

3           “(iv) the submission of information as  
4           required by the Secretary to enable deter-  
5           mination of whether the auditor or inspec-  
6           tor has a conflict of interest;

7           “(v) the maintenance of a secret secu-  
8           rity clearance;

9           “(vi) reporting any issue of non-com-  
10          pliance with this section to the Secretary  
11          within 24 hours; and

12          “(vii) any additional qualifications for  
13          fitness of duty as the Secretary may estab-  
14          lish.

15          “(D) TRAINING OF DEPARTMENT AUDI-  
16          TORS AND INSPECTORS.—The Secretary shall  
17          prescribe standards for the training and re-  
18          training of individuals employed by the Depart-  
19          ment as auditors and inspectors. Such stand-  
20          ards shall include—

21                 “(i) minimum training requirements  
22                 for new auditors and inspectors;

23                 “(ii) retraining requirements; and

24                 “(iii) any additional requirements the  
25                 Secretary may establish.

1           “(2) NOTICE OF NONCOMPLIANCE.—

2           “(A) NOTICE.—If the Secretary deter-  
3 mines that a covered chemical facility or a  
4 chemical facility of interest is not in compliance  
5 with this section, the Secretary shall—

6           “(i) provide the owner or operator of  
7 the facility with—

8           “(I) written notification (includ-  
9 ing a clear explanation of any defi-  
10 ciency in the security vulnerability as-  
11 sessment or site security plan) by not  
12 later than 14 days after the deter-  
13 mination is made; and

14           “(II) an opportunity for consulta-  
15 tion with the Secretary or the Sec-  
16 retary’s designee; and

17           “(ii) issue an order to comply by such  
18 date as the Secretary determines to be ap-  
19 propriate under the circumstances.

20           “(B) CONTINUED NONCOMPLIANCE.—If  
21 the owner or operator continues to be in non-  
22 compliance after the date specified in such  
23 order, the Secretary may enter an order assess-  
24 ing a civil penalty, an order to cease operations,  
25 or both.

1           “(3) PERSONNEL SURETY.—

2                   “(A) PERSONNEL SURETY PROGRAM.—For  
3 purposes of this title, the Secretary shall carry  
4 out a Personnel Surety Program that—

5                           “(i) does not require an owner or op-  
6 erator of a covered chemical facility that  
7 voluntarily participates to submit informa-  
8 tion about an individual more than one  
9 time;

10                           “(ii) provides a participating owner or  
11 operator of a covered chemical facility with  
12 feedback about an individual based on vet-  
13 ting the individual against the terrorist  
14 screening database, to the extent that such  
15 feedback is necessary for the facility’s com-  
16 pliance with regulations promulgated under  
17 this title; and

18                           “(iii) provides redress to an individual  
19 whose information was vetted against the  
20 terrorist screening database under the pro-  
21 gram and who believes that the personally  
22 identifiable information submitted to the  
23 Department for such vetting by a covered  
24 chemical facility, or its designated rep-  
25 resentative, was inaccurate.



1           “(B) PERSONNEL SURETY IMPLEMENTA-  
2           TION.—To the extent that a risk-based per-  
3           formance standard under subsection (a) is di-  
4           rected toward identifying individuals with ter-  
5           rorist ties—

6                   “(i) a covered chemical facility may  
7                   satisfy its obligation under such standard  
8                   with respect to an individual by utilizing  
9                   any Federal screening program that peri-  
10                  odically vets individuals against the ter-  
11                  rorist screening database, or any successor,  
12                  including the Personnel Surety Program  
13                  under subparagraph (A); and

14                   “(ii) the Secretary may not require a  
15                  covered chemical facility to submit any in-  
16                  formation about such individual unless the  
17                  individual—

18                           “(I) is vetted under the Per-  
19                           sonnel Surety Program; or

20                           “(II) has been identified as pre-  
21                           sented a terrorism security risk.

22           “(C) RESPONSIBILITIES OF SECURITY  
23           SCREENING COORDINATION OFFICE.—

24                   “(i) IN GENERAL.—The Secretary  
25                  shall direct the Security Screening Coordi-

1 nation Office of the Department to coordi-  
2 nate with the National Protection and Pro-  
3 grams Directorate to expedite the develop-  
4 ment of a common credential that screens  
5 against the terrorist screening database on  
6 a recurrent basis and meets all other  
7 screening requirements of this title.

8 “(ii) REPORT.—Not later than March  
9 1, 2015, and annually thereafter, the Sec-  
10 retary shall submit to Congress a report on  
11 the progress of the Secretary in meeting  
12 the requirements of clause (i).

13 “(4) FACILITY ACCESS.—For purposes of the  
14 compliance of a covered chemical facility with a risk-  
15 based performance standard established under sub-  
16 section (a), the Secretary may not require the facil-  
17 ity to submit any information about an individual  
18 who has been granted access to the facility unless  
19 the individual—

20 “(A) was vetted under the Personnel Sur-  
21 vey Program; or

22 “(B) has been identified as presenting a  
23 terrorism security risk.

24 “(5) AVAILABILITY OF INFORMATION.—The  
25 Secretary shall share with the owner or operator of

1 a covered chemical facility such information as the  
2 owner or operator needs to comply with this section.

3 “(e) RESPONSIBILITIES OF THE SECRETARY.—

4 “(1) IDENTIFICATION OF FACILITIES OF INTER-  
5 EST.—In carrying out this title, the Secretary shall  
6 consult with the heads of other Federal agencies,  
7 States and political subdivisions thereof, and rel-  
8 evant business associations to identify all chemical  
9 facilities of interest.

10 “(2) RISK ASSESSMENT.—

11 “(A) IN GENERAL.—For purposes of this  
12 title, the Secretary shall develop a risk assess-  
13 ment approach and corresponding tiering meth-  
14 odology that incorporates all relevant elements  
15 of risk, including threat, vulnerability, and con-  
16 sequence.

17 “(B) CRITERIA FOR DETERMINING SECUR-  
18 ITY RISK.—The criteria for determining the  
19 security risk of terrorism associated with a fa-  
20 cility shall include—

21 “(i) the relevant threat information;

22 “(ii) the potential economic con-  
23 sequences and the potential loss of human  
24 life in the event of the facility being sub-

1           ject to a terrorist attack, compromise, infil-  
2           tration, or exploitation; and

3           “(iii) the vulnerability of the facility  
4           to a terrorist attack, compromise, infiltra-  
5           tion, or exploitation.

6           “(3) CHANGES IN TIERING.—Any time that  
7           tiering for a covered chemical facility is changed and  
8           the facility is determined to no longer be subject to  
9           the requirements of this title, the Secretary shall  
10          maintain records to reflect the basis for this deter-  
11          mination. The records shall include information on  
12          whether and how the information that was the basis  
13          for the determination was confirmed by the Sec-  
14          retary.

15          “(f) DEFINITIONS.—In this title:

16                 “(1) The term ‘covered chemical facility’ means  
17                 a facility that the Secretary identifies as a chemical  
18                 facility of interest and, based upon review of a Top-  
19                 Screen, as such term is defined in section 27.105 of  
20                 title 6 of Code of Federal Regulations, determines  
21                 meets the risk criteria developed pursuant subsection  
22                 (e)(2)(B). Such term does not include any of the fol-  
23                 lowing:

1           “(A) A facility regulated pursuant to the  
2 Maritime Transportation Security Act of 2002  
3 (~~Public Law 107–295~~).

4           “(B) A Public Water System, as such term  
5 is defined by section 1401 of the Safe Drinking  
6 Water Act (~~Public Law 93–523~~; 42 U.S.C.  
7 ~~300f~~).

8           “(C) A Treatment Works, as such term is  
9 defined in section 212 of the Federal Water  
10 Pollution Control Act (~~Public Law 92–500~~; ~~33~~  
11 U.S.C. ~~12920~~).

12           “(D) Any facility owned or operated by the  
13 Department of Defense or the Department of  
14 Energy.

15           “(E) Any facility subject to regulation by  
16 the Nuclear Regulatory Commission.

17           “(2) The term ‘chemical facility of interest’  
18 means a facility that holds, or that the Secretary  
19 has a reasonable basis to believe holds, a Chemical  
20 of Interest, as designated under in Appendix A of  
21 title 6 of the Code of Federal Regulations, at a  
22 threshold quantity that meets relevant risk-related  
23 criteria developed pursuant to subsection (e)(2)(B).

1 **“SEC. 2102. PROTECTION AND SHARING OF INFORMATION.**

2       “(a) **IN GENERAL.**—Notwithstanding any other pro-  
3 vision of law, information developed pursuant to this title,  
4 including vulnerability assessments, site security plans,  
5 and other security related information, records, and docu-  
6 ments shall be given protections from public disclosure  
7 consistent with similar information developed by chemical  
8 facilities subject to regulation under section 70103 of title  
9 46, United States Code.

10       “(b) **SHARING OF INFORMATION WITH STATES AND**  
11 **LOCAL GOVERNMENTS.**—This section does not prohibit  
12 the sharing of information developed pursuant to this title,  
13 as the Secretary deems appropriate, with State and local  
14 government officials possessing the necessary security  
15 clearances, including law enforcement officials and first  
16 responders, for the purpose of carrying out this title, if  
17 such information may not be disclosed pursuant to any  
18 State or local law.

19       “(c) **SHARING OF INFORMATION WITH FIRST RE-**  
20 **SPONDERS.**—The Secretary shall provide to State, local,  
21 and regional fusion centers (as such term is defined in  
22 section 210A(j)(1) of this Act) and State and local govern-  
23 ment officials, as determined appropriate by the Secretary,  
24 such information as is necessary to help ensure that first  
25 responders are properly prepared and provided with the  
26 situational awareness needed to respond to incidents at

1 covered chemical facilities. Such information shall be dis-  
2 seminated through the Homeland Security Information  
3 Network or the Homeland Secure Data Network, as ap-  
4 propriate.

5 “(d) ENFORCEMENT PROCEEDINGS.—In any pro-  
6 ceeding to enforce this section, vulnerability assessments,  
7 site security plans, and other information submitted to or  
8 obtained by the Secretary under this section, and related  
9 vulnerability or security information, shall be treated as  
10 if the information were classified material.

11 **“SEC. 2103. CIVIL PENALTIES.**

12 “(a) VIOLATIONS.—Any person who violates an order  
13 issued under this title shall be liable for a civil penalty  
14 under section 70119(a) of title 46, United States Code.

15 “(b) RIGHT OF ACTION.—Nothing in this title con-  
16 fers upon any person except the Secretary a right of action  
17 against an owner or operator of a covered chemical facility  
18 to enforce any provision of this title.

19 **“SEC. 2104. WHISTLEBLOWER PROTECTIONS.**

20 “The Secretary shall publish on the Internet website  
21 of the Department and in other materials made available  
22 to the public the whistleblower protections that an indi-  
23 vidual providing such information would have.

1 **“SEC. 2105. RELATIONSHIP TO OTHER LAWS.**

2       “(a) OTHER FEDERAL LAWS.—Nothing in this title  
3 shall be construed to supersede, amend, alter, or affect  
4 any Federal law that regulates the manufacture, distribu-  
5 tion in commerce, use, sale, other treatment, or disposal  
6 of chemical substances or mixtures.

7       “(b) STATES AND POLITICAL SUBDIVISIONS.—This  
8 title shall not preclude or deny any right of any State or  
9 political subdivision thereof to adopt or enforce any regu-  
10 lation, requirement, or standard of performance with re-  
11 spect to chemical facility security that is more stringent  
12 than a regulation, requirement, or standard of perform-  
13 ance issued under this section, or otherwise impair any  
14 right or jurisdiction of any State with respect to chemical  
15 facilities within that State, unless there is an actual con-  
16 flict between this section and the law of that State.

17       “(c) RAIL TRANSIT.—

18               “(1) DUPLICATIVE REGULATIONS.—The Sec-  
19 retary shall coordinate with the Assistant Secretary  
20 of Homeland Security (Transportation Security Ad-  
21 ministration) to eliminate any provision of this title  
22 applicable to rail security that would duplicate any  
23 security measure under the Rail Transportation Se-  
24 curity Rule under section 1580 of title 49 of the  
25 Code of Federal Regulations, as in effect as of the  
26 date of the enactment of this title. To the extent



1 that there is a conflict between this title and any  
2 regulation under the jurisdiction of the Transpor-  
3 tation Security Administration, the regulation under  
4 the jurisdiction of the Transportation Security Ad-  
5 ministration shall prevail.

6 “(2) EXEMPTION FROM TOP-SCREEN.—A rail  
7 transit facility or a rail facility, as such terms are  
8 defined in section 1580.3 of title 49 of the Code of  
9 Federal Regulations, to which subpart 3 of such title  
10 applies pursuant to section 1580.100 of such title  
11 shall not be required to complete a Top-Screen as  
12 such term is defined in section 27.105 of title 6 of  
13 the Code of Federal Regulations.

14 **“SEC. 2106. REPORTS.**

15 “(a) REPORT TO CONGRESS.—Not later than 18  
16 months after the date of the enactment of this title, the  
17 Secretary shall submit to Congress a report on the Chem-  
18 ical Facilities Anti-Terrorism Standards Program. Such  
19 report shall include each of the following:

20 “(1) Certification by the Secretary that the Sec-  
21 retary has made significant progress in the identi-  
22 fication of all chemical facilities of interest pursuant  
23 to section 2101(e)(1), including a description of the  
24 steps taken to achieve such progress and the metrics  
25 used to measure it, information on whether facilities

1 that submitted Top-Screens as a result of such ef-  
2 forts were tiered and in what tiers they were placed,  
3 and an action plan to better identify chemical facili-  
4 ties of interest and bring those facilities into compli-  
5 ance.

6 “(2) Certification by the Secretary that the Sec-  
7 retary has developed a risk assessment approach and  
8 corresponding tiering methodology pursuant to sec-  
9 tion 2101(e)(2).

10 “(3) An assessment by the Secretary of the im-  
11 plementation by the Department of any rec-  
12 ommendations made by the Homeland Security  
13 Studies and Analysis Institute as outlined in the In-  
14 stitute’s Tiering Methodology Peer Review (Publica-  
15 tion Number: RP12-22-02).

16 “(b) SEMIANNUAL GAO REPORT.—During the 3-  
17 year period beginning on the date of the enactment of this  
18 title, the Comptroller General of the United States shall  
19 submit a semiannual report to Congress containing the as-  
20 sessment of the Comptroller General of the implementa-  
21 tion of this title. The Comptroller General shall submit  
22 the first such report by not later than the date that is  
23 180 days after the date of the enactment of this title.

1 **“SEC. 2107. CFATS REGULATIONS.**

2       “(a) **IN GENERAL.**—The Secretary is authorized, in  
3 accordance with chapter 5 of title 5, United States Code,  
4 to promulgate regulations implementing the provisions of  
5 this title.

6       “(b) **EXISTING CFATS REGULATIONS.**—In carrying  
7 out the requirements of this title, the Secretary shall use  
8 the CFATS regulations, as in effect immediately before  
9 the date of the enactment of this title, that the Secretary  
10 determines carry out such requirements, and may issue  
11 new regulations or amend such regulations pursuant to  
12 the authority in subsection (a).

13       “(c) **DEFINITION OF CFATS REGULATIONS.**—In this  
14 section, the term ‘CFATS regulations’ means the regula-  
15 tions prescribed pursuant to section 550 of the Depart-  
16 ment of Homeland Security Appropriations Act, 2007  
17 (Public Law 109–295; 120 Stat. 1388; 6 U.S.C. 121  
18 note), as well as all Federal Register notices and other  
19 published guidance concerning section 550 of the Depart-  
20 ment of Homeland Security Appropriations Act, 2007.

21       “(d) **AUTHORITY.**—The Secretary shall exclusively  
22 rely upon authority provided in this title for determining  
23 compliance with this title in—

24               “(1) identifying chemicals of interest;

25               “(2) designating chemicals of interest; and

1           “(3) determining security risk associated with a  
2           chemical facility.

3   **“SEC. 2108. SMALL COVERED CHEMICAL FACILITIES.**

4           “(a) IN GENERAL.—The Secretary may provide guid-  
5           ance and, as appropriate, tools, methodologies, or com-  
6           puter software, to assist small covered chemical facilities  
7           in developing their physical security.

8           “(b) REPORT.—The Secretary shall submit to the  
9           Committee on Homeland Security of the House of Rep-  
10          resentatives and the Committee on Homeland Security  
11          and Governmental Affairs of the Senate a report on best  
12          practices that may assist small chemical facilities, as de-  
13          fined by the Secretary, in development of physical security  
14          best practices.

15          “(c) DEFINITION.—For purposes of this section, the  
16          term ‘small covered chemical facility’ means a covered  
17          chemical facility that has fewer than 350 employees em-  
18          ployed at the covered chemical facility, and is not a branch  
19          or subsidiary of another entity.

20   **“SEC. 2109. OUTREACH TO CHEMICAL FACILITIES OF IN-**  
21   **TEREST.**

22          “Not later than 90 days after the date of the enact-  
23          ment of this title, the Secretary shall establish an outreach  
24          implementation plan, in coordination with the heads of  
25          other appropriate Federal and State agencies and relevant

1 business associations, to identify chemical facilities of in-  
 2 terest and make available compliance assistance materials  
 3 and information on education and training.

4 **“SEC. 2110. AUTHORIZATION OF APPROPRIATIONS.**

5 “There is authorized to be appropriated to carry out  
 6 this title \$81,000,000 for each of fiscal years 2015, 2016,  
 7 and 2017.”.

8 (b) CLERICAL AMENDMENT.—The table of contents  
 9 in section 1(b) of such Act is amended by adding at the  
 10 end the following:

“TITLE XXI—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

“Sec. 2101. Chemical Facility Anti-Terrorism Standards Program.

“Sec. 2102. Protection and sharing of information.

“Sec. 2103. Civil penalties.

“Sec. 2104. Whistleblower protections.

“Sec. 2105. Relationship to other laws.

“Sec. 2106. Reports.

“Sec. 2107. CFATS regulations.

“Sec. 2108. Small covered chemical facilities.

“Sec. 2109. Outreach to chemical facilities of interest.

“Sec. 2110. Authorization of appropriations.”.

11 (c) THIRD-PARTY ASSESSMENT.—Using amounts au-  
 12 thorized to be appropriated under section 2110 of the  
 13 Homeland Security Act of 2002, as added by subsection  
 14 (a), the Secretary of Homeland Security shall commission  
 15 a third-party study to assess vulnerabilities to acts of ter-  
 16 rorism associated with the Chemical Facility Anti-Ter-  
 17 rorism Standards program, as authorized pursuant to sec-  
 18 tion 550 of the Department of Homeland Security Appro-  
 19 priations Act, 2007 (Public Law 109–295; 120 Stat.  
 20 1388; 6 U.S.C. 121 note).

1           (d) METRICS.—Not later than 180 days after the  
2 date of the enactment of this Act, the Secretary shall sub-  
3 mit to Congress a plan for the utilization of metrics to  
4 assess the effectiveness of the Chemical Facility Anti-Ter-  
5 rorism Standards program to reduce the risk of a terrorist  
6 attack or other security risk to those citizens and commu-  
7 nities surrounding covered chemical facilities. The plan  
8 shall include benchmarks on when the program will begin  
9 utilizing the metrics and how the Department of Home-  
10 land Security plans to use the information to inform the  
11 program.

12 **SEC. 3. EFFECTIVE DATE.**

13           This Act, and the amendments made by this Act,  
14 shall take effect on the date that is 30 days after the date  
15 of the enactment of this Act.

16 **SECTION 1. SHORT TITLE.**

17           *This Act may be cited as the “Protecting and Securing*  
18 *Chemical Facilities from Terrorist Attacks Act of 2014”.*

19 **SEC. 2. CHEMICAL FACILITY ANTI-TERRORISM STANDARDS**  
20 **PROGRAM.**

21           (a) *IN GENERAL.*—*The Homeland Security Act of*  
22 *2002 (6 U.S.C. 101 et seq.) is amended by adding at the*  
23 *end the following:*

1 **“TITLE XXI—CHEMICAL FACILITY**  
2 **ANTI-TERRORISM STANDARDS**

3 **“SEC. 2101. DEFINITIONS.**

4 *“In this title—*

5 *“(1) the term ‘CFATS regulation’ means—*

6 *“(A) an existing CFATS regulation; and*

7 *“(B) any regulation or amendment to an*  
8 *existing CFATS regulation issued pursuant to*  
9 *the authority under section 2107;*

10 *“(2) the term ‘chemical facility of interest’*  
11 *means a facility that—*

12 *“(A) holds, or that the Secretary has a rea-*  
13 *sonable basis to believe holds, a chemical of inter-*  
14 *est, as designated under Appendix A to part 27*  
15 *of title 6, Code of Federal Regulations, or any*  
16 *successor thereto, at a threshold quantity set pur-*  
17 *suant to relevant risk-related security principles;*  
18 *and*

19 *“(B) is not an excluded facility;*

20 *“(3) the term ‘covered chemical facility’ means a*  
21 *facility that—*

22 *“(A) the Secretary—*

23 *“(i) identifies as a chemical facility of*  
24 *interest; and*

1                   “(ii) based upon review of the facility’s  
2                   Top-Screen, determines meets the risk cri-  
3                   teria developed under section 2102(e)(2)(B);  
4                   and

5                   “(B) is not an excluded facility;

6                   “(4) the term ‘excluded facility’ means—

7                   “(A) a facility regulated under the Mari-  
8                   time Transportation Security Act of 2002 (Pub-  
9                   lic Law 107–295; 116 Stat. 2064);

10                  “(B) a public water system, as that term is  
11                  defined in section 1401 of the Safe Drinking  
12                  Water Act (42 U.S.C. 300f);

13                  “(C) a Treatment Works, as that term is de-  
14                  fined in section 212 of the Federal Water Pollu-  
15                  tion Control Act (33 U.S.C. 1292);

16                  “(D) a facility owned or operated by the  
17                  Department of Defense or the Department of En-  
18                  ergy; or

19                  “(E) a facility subject to regulation by the  
20                  Nuclear Regulatory Commission, or by a State  
21                  that has entered into an agreement with the Nu-  
22                  clear Regulatory Commission under section 274  
23                  b. of the Atomic Energy Act of 1954 (42 U.S.C.  
24                  2021(b)) to protect against unauthorized access



1           *of any material, activity, or structure licensed by*  
2           *the Nuclear Regulatory Commission;*

3           “(5) the term ‘existing CFATS regulation’  
4           *means—*

5                   “(A) a regulation promulgated under sec-  
6                   *tion 550 of the Department of Homeland Secu-*  
7                   *rity Appropriations Act, 2007 (Public Law 109–*  
8                   *295; 6 U.S.C. 121 note) that is in effect on the*  
9                   *day before the date of enactment of the Pro-*  
10                   *tecting and Securing Chemical Facilities from*  
11                   *Terrorist Attacks Act of 2014; and*

12                   “(B) a Federal Register notice or other pub-  
13                   *lished guidance relating to section 550 of the De-*  
14                   *partment of Homeland Security Appropriations*  
15                   *Act, 2007 that is in effect on the day before the*  
16                   *date of enactment of the Protecting and Securing*  
17                   *Chemical Facilities from Terrorist Attacks Act of*  
18                   *2014;*

19                   “(6) the term ‘expedited approval facility’ means  
20                   *a covered chemical facility for which the owner or op-*  
21                   *erator elects to submit a site security plan in accord-*  
22                   *ance with section 2102(c)(4);*

23                   “(7) the term ‘facially deficient’, relating to a  
24                   *site security plan, means a site security plan that*  
25                   *does not support a certification that the security*

1 *measures in the plan address the security vulner-*  
2 *ability assessment and the risk-based performance*  
3 *standards for security for the facility, based on a re-*  
4 *view of—*

5 *“(A) the facility’s site security plan;*

6 *“(B) the facility’s Top-Screen;*

7 *“(C) the facility’s security vulnerability as-*  
8 *essment; or*

9 *“(D) any other information that—*

10 *“(i) the facility submits to the Depart-*  
11 *ment; or*

12 *“(ii) the Department obtains from a*  
13 *public source or other source;*

14 *“(8) the term ‘guidance for expedited approval*  
15 *facilities’ means the guidance issued under section*  
16 *2102(c)(4)(B)(i);*

17 *“(9) the term ‘risk assessment’ means the Sec-*  
18 *retary’s application of relevant risk criteria identified*  
19 *in section 2102(e)(2)(B);*

20 *“(10) the term ‘terrorist screening database’*  
21 *means the terrorist screening database maintained by*  
22 *the Federal Government Terrorist Screening Center or*  
23 *its successor;*

1           “(11) the term ‘tier’ has the meaning given the  
2 term in section 27.105 of title 6, Code of Federal Reg-  
3 ulations, or any successor thereto;

4           “(12) the terms ‘tiering’ and ‘tiering method-  
5 ology’ mean the procedure by which the Secretary as-  
6 signs a tier to each covered chemical facility based on  
7 the risk assessment for that covered chemical facility;

8           “(13) the term ‘Top-Screen’ has the meaning  
9 given the term in section 27.105 of title 6, Code of  
10 Federal Regulations, or any successor thereto; and

11           “(14) the term ‘vulnerability assessment’ means  
12 the identification of weaknesses in the security of a  
13 chemical facility of interest.

14 **“SEC. 2102. CHEMICAL FACILITY ANTI-TERRORISM STAND-**  
15 **ARDS PROGRAM.**

16           “(a) PROGRAM ESTABLISHED.—

17           “(1) IN GENERAL.—There is in the Department  
18 a Chemical Facility Anti-Terrorism Standards Pro-  
19 gram.

20           “(2) REQUIREMENTS.—In carrying out the  
21 Chemical Facility Anti-Terrorism Standards Pro-  
22 gram, the Secretary shall—

23           “(A) identify—

24                   “(i) chemical facilities of interest; and

25                   “(ii) covered chemical facilities;

1           “(B) require each chemical facility of inter-  
2 est to submit a Top-Screen and any other infor-  
3 mation the Secretary determines necessary to en-  
4 able the Department to assess the security risks  
5 associated with the facility;

6           “(C) establish risk-based performance stand-  
7 ards designed to address high levels of security  
8 risk at covered chemical facilities; and

9           “(D) require each covered chemical facility  
10 to—

11                   “(i) submit a security vulnerability as-  
12 sessment; and

13                   “(ii) develop, submit, and implement a  
14 site security plan.

15           “(b) SECURITY MEASURES.—A facility, in developing  
16 a site security plan as required under subsection (a), shall  
17 include security measures that, in combination, appro-  
18 priately address the security vulnerability assessment and  
19 the risk-based performance standards for security for the fa-  
20 cility.

21           “(c) APPROVAL OR DISAPPROVAL OF SITE SECURITY  
22 PLANS.—

23                   “(1) IN GENERAL.—

24                           “(A) REVIEW.—Except as provided in  
25 paragraph (4), the Secretary shall review and

1           *approve or disapprove each site security plan*  
2           *submitted pursuant to subsection (a).*

3           “(B) *BASES FOR DISAPPROVAL.—The Sec-*  
4           *retary—*

5                   “(i) *may not disapprove a site security*  
6                   *plan based on the presence or absence of a*  
7                   *particular security measure; and*

8                   “(ii) *shall disapprove a site security*  
9                   *plan if the plan fails to satisfy the risk-*  
10                   *based performance standards established*  
11                   *pursuant to subsection (a)(2)(C).*

12           “(2) *ALTERNATIVE SECURITY PROGRAMS.—*

13                   “(A) *AUTHORITY TO APPROVE.—*

14                           “(i) *IN GENERAL.—The Secretary may*  
15                           *approve an alternative security program es-*  
16                           *tablished by a private sector entity or a*  
17                           *Federal, State, or local authority or under*  
18                           *other applicable laws, if the Secretary deter-*  
19                           *mines that the requirements of the program*  
20                           *meet the requirements under this section.*

21                           “(ii) *ADDITIONAL SECURITY MEAS-*  
22                           *URES.—If the requirements of an alter-*  
23                           *native security program do not meet the re-*  
24                           *quirements under this section, the Secretary*  
25                           *may recommend additional security meas-*

1           ures to the program that will enable the  
2           Secretary to approve the program.

3           “(B) *SATISFACTION OF SITE SECURITY*  
4           *PLAN REQUIREMENT.*—A covered chemical facil-  
5           ity may satisfy the site security plan require-  
6           ment under subsection (a) by adopting an alter-  
7           native security program that the Secretary has—

8                   “(i) reviewed and approved under sub-  
9                   paragraph (A); and

10                   “(ii) determined to be appropriate for  
11                   the operations and security concerns of the  
12                   covered chemical facility.

13           “(3) *SITE SECURITY PLAN ASSESSMENTS.*—

14                   “(A) *RISK ASSESSMENT POLICIES AND PRO-*  
15                   *CEDURES.*—In approving or disapproving a site  
16                   security plan under this subsection, the Sec-  
17                   retary shall employ the risk assessment policies  
18                   and procedures developed under this title.

19                   “(B) *PREVIOUSLY APPROVED PLANS.*—In  
20                   the case of a covered chemical facility for which  
21                   the Secretary approved a site security plan be-  
22                   fore the date of enactment of the Protecting and  
23                   Securing Chemical Facilities from Terrorist At-  
24                   tacks Act of 2014, the Secretary may not require

1           *the facility to resubmit the site security plan*  
2           *solely by reason of the enactment of this title.*

3           “(4) *EXPEDITED APPROVAL PROGRAM.*—

4                   “(A) *IN GENERAL.*—*A covered chemical fa-*  
5                   *cility assigned to tier 3 or 4 may meet the re-*  
6                   *quirement to develop and submit a site security*  
7                   *plan under subsection (a)(2)(D) by developing*  
8                   *and submitting to the Secretary—*

9                           “(i) *a site security plan and the cer-*  
10                           *tification described in subparagraph (C); or*

11                           “(ii) *a site security plan in conform-*  
12                           *ance with a template authorized under sub-*  
13                           *paragraph (H).*

14                   “(B) *GUIDANCE FOR EXPEDITED APPROVAL*  
15                   *FACILITIES.*—

16                           “(i) *IN GENERAL.*—*Not later than 180*  
17                           *days after the date of enactment of the Pro-*  
18                           *tecting and Securing Chemical Facilities*  
19                           *from Terrorist Attacks Act of 2014, the Sec-*  
20                           *retary shall issue guidance for expedited ap-*  
21                           *proval facilities that identifies specific secu-*  
22                           *rity measures that are sufficient to meet the*  
23                           *risk-based performance standards.*

24                           “(ii) *MATERIAL DEVIATION FROM*  
25                           *GUIDANCE.*—*If a security measure in the*

1 *site security plan of an expedited approval*  
2 *facility materially deviates from a security*  
3 *measure in the guidance for expedited ap-*  
4 *proval facilities, the site security plan shall*  
5 *include an explanation of how such security*  
6 *measure meets the risk-based performance*  
7 *standards.*

8 *“(iii) PROCESS.—In developing and*  
9 *issuing, or amending, the guidance for expe-*  
10 *dited approval facilities under this subpara-*  
11 *graph and in collecting information from*  
12 *expedited approval facilities, the Sec-*  
13 *retary—*

14 *“(I) shall consult with—*

15 *“(aa) Sector Coordinating*  
16 *Councils established under sec-*  
17 *tions 201 and 871(a); and*

18 *“(bb) appropriate labor orga-*  
19 *nizations; and*

20 *“(II) shall not be subject to section*  
21 *553 of title 5, United States Code, the*  
22 *National Environmental Policy Act of*  
23 *1969 (42 U.S.C. 4321 et seq.), sub-*  
24 *chapter I of chapter 35 of title 44,*



1                    *United States Code, or section 2107(b)*  
2                    *of this title.*

3                    “(C) *CERTIFICATION.*—*The owner or oper-*  
4                    *ator of an expedited approval facility shall sub-*  
5                    *mit to the Secretary a certification, signed under*  
6                    *penalty of perjury, that—*

7                    “(i) *the owner or operator is familiar*  
8                    *with the requirements of this title and part*  
9                    *27 of title 6, Code of Federal Regulations,*  
10                    *or any successor thereto, and the site secu-*  
11                    *rity plan being submitted;*

12                    “(ii) *the site security plan includes the*  
13                    *security measures required by subsection*  
14                    *(b);*

15                    “(iii)(I) *the security measures in the*  
16                    *site security plan do not materially deviate*  
17                    *from the guidance for expedited approval*  
18                    *facilities except where indicated in the site*  
19                    *security plan;*

20                    “(II) *any deviations from the guidance*  
21                    *for expedited approval facilities in the site*  
22                    *security plan meet the risk-based perform-*  
23                    *ance standards for the tier to which the fa-*  
24                    *cility is assigned; and*

1           “(III) the owner or operator has pro-  
2           vided an explanation of how the site secu-  
3           rity plan meets the risk-based performance  
4           standards for any material deviation;

5           “(iv) the owner or operator has visited,  
6           examined, documented, and verified that the  
7           expedited approval facility meets the cri-  
8           teria set forth in the site security plan;

9           “(v) the expedited approval facility has  
10          implemented all of the required performance  
11          measures outlined in the site security plan  
12          or set out planned measures that will be im-  
13          plemented within a reasonable time period  
14          stated in the site security plan;

15          “(vi) each individual responsible for  
16          implementing the site security plan is fully  
17          aware of the requirements relevant to the  
18          individual’s responsibility contained in the  
19          site security plan and is competent to carry  
20          out those requirements; and

21          “(vii) the owner or operator has com-  
22          mitted, or, in the case of planned measures  
23          will commit, the necessary resources to fully  
24          implement the site security plan.

25          “(D) DEADLINE.—

1           “(i) *IN GENERAL.*—Not later than 120  
2           *days after the date described in clause (ii),*  
3           *the owner or operator of an expedited ap-*  
4           *proval facility shall submit to the Secretary*  
5           *the site security plan and the certification*  
6           *described in subparagraph (C).*

7           “(ii) *DATE.*—The date described in  
8           *this clause is—*

9                   “(I) *for an expedited approval fa-*  
10                  *cility that was assigned to tier 3 or 4*  
11                  *under existing CFATS regulations be-*  
12                  *fore the date of enactment of the Pro-*  
13                  *tecting and Securing Chemical Facili-*  
14                  *ties from Terrorist Attacks Act of 2014,*  
15                  *the date that is 210 days after the date*  
16                  *of enactment of that Act; and*

17                   “(II) *for any expedited approval*  
18                  *facility not described in subclause (I),*  
19                  *the later of—*

20                           “(aa) *the date on which the*  
21                           *expedited approval facility is as-*  
22                           *signed to tier 3 or 4 under sub-*  
23                           *section (e)(2)(A); or*

24                           “(bb) *the date that is 210*  
25                           *days after the date of enactment*

1 *of the Protecting and Securing*  
2 *Chemical Facilities from Terrorist*  
3 *Attacks Act of 2014.*

4 “(iii) *NOTICE.*—An owner or operator  
5 *of an expedited approval facility shall no-*  
6 *tify the Secretary of the intent of the owner*  
7 *or operator to certify the site security plan*  
8 *for the expedited approval facility not later*  
9 *than 30 days before the date on which the*  
10 *owner or operator submits the site security*  
11 *plan and certification described in subpara-*  
12 *graph (C).*

13 “(E) *COMPLIANCE.*—

14 “(i) *IN GENERAL.*—For an expedited  
15 *approval facility submitting a site security*  
16 *plan and certification in accordance with*  
17 *subparagraphs (A), (B), (C), and (D)—*

18 “(I) *the expedited approval facil-*  
19 *ity shall comply with all of the re-*  
20 *quirements of its site security plan;*  
21 *and*

22 “(II) *the Secretary—*

23 “(aa) *except as provided in*  
24 *subparagraph (G), may not dis-*

1 approve the site security plan;  
2 and

3 “(bb) may audit and inspect  
4 the expedited approval facility  
5 under subsection (d) to verify  
6 compliance with its site security  
7 plan.

8 “(ii) *NONCOMPLIANCE.*—If the Sec-  
9 retary determines an expedited approval fa-  
10 cility is not in compliance with the require-  
11 ments of the site security plan or is other-  
12 wise in violation of this title, the Secretary  
13 may enforce compliance in accordance with  
14 section 2104.

15 “(F) *AMENDMENTS TO SITE SECURITY*

16 *PLAN.*—

17 “(i) *REQUIREMENT.*—

18 “(I) *IN GENERAL.*—If the owner  
19 or operator of an expedited approval  
20 facility amends a site security plan  
21 submitted under subparagraph (A), the  
22 owner or operator shall submit the  
23 amended site security plan and a cer-  
24 tification relating to the amended site

1 security plan that contains the infor-  
2 mation described in subparagraph (C).

3 “(II) TECHNICAL AMENDMENTS.—

4 For purposes of this clause, an amend-  
5 ment to a site security plan includes  
6 any technical amendment to the site  
7 security plan.

8 “(ii) AMENDMENT REQUIRED.—The  
9 owner or operator of an expedited approval  
10 facility shall amend the site security plan  
11 if—

12 “(I) there is a change in the de-  
13 sign, construction, operation, or main-  
14 tenance of the expedited approval facil-  
15 ity that affects the site security plan;

16 “(II) the Secretary requires addi-  
17 tional security measures or suspends a  
18 certification and recommends addi-  
19 tional security measures under sub-  
20 paragraph (G); or

21 “(III) the owner or operator re-  
22 ceives notice from the Secretary of a  
23 change in tiering under subsection  
24 (e)(3).

1           “(iii) *DEADLINE.*—*An amended site*  
2 *security plan and certification shall be sub-*  
3 *mitted under clause (i)—*

4           “(I) *in the case of a change in de-*  
5 *sign, construction, operation, or main-*  
6 *tenance of the expedited approval facil-*  
7 *ity that affects the security plan, not*  
8 *later than 120 days after the date on*  
9 *which the change in design, construc-*  
10 *tion, operation, or maintenance oc-*  
11 *curred;*

12           “(II) *in the case of the Secretary*  
13 *requiring additional security measures*  
14 *or suspending a certification and rec-*  
15 *ommending additional security meas-*  
16 *ures under subparagraph (G), not later*  
17 *than 120 days after the date on which*  
18 *the owner or operator receives notice of*  
19 *the requirement for additional security*  
20 *measures or suspension of the certifi-*  
21 *cation and recommendation of addi-*  
22 *tional security measures; and*

23           “(III) *in the case of a change in*  
24 *tiering, not later than 120 days after*  
25 *the date on which the owner or oper-*

1            *ator receives notice under subsection*  
2            *(e)(3).*

3            “(G) *FACIALLY DEFICIENT SITE SECURITY*  
4            *PLANS.—*

5            “(i) *PROHIBITION.—Notwithstanding*  
6            *subparagraph (A) or (E), the Secretary*  
7            *may suspend the authority of a covered*  
8            *chemical facility to certify a site security*  
9            *plan if the Secretary—*

10            *“(I) determines the certified site*  
11            *security plan or an amended site secu-*  
12            *urity plan is facially deficient; and*

13            *“(II) not later than 100 days*  
14            *after the date on which the Secretary*  
15            *receives the site security plan and cer-*  
16            *tification, provides the covered chem-*  
17            *ical facility with written notification*  
18            *that the site security plan is facially*  
19            *deficient, including a clear explanation*  
20            *of each deficiency in the site security*  
21            *plan.*

22            “(ii) *ADDITIONAL SECURITY MEAS-*  
23            *URES.—*

24            “(I) *IN GENERAL.—If, during or*  
25            *after a compliance inspection of an ex-*



1                    *pedited approval facility, the Secretary*  
2                    *determines that planned or imple-*  
3                    *mented security measures in the site*  
4                    *security plan of the facility are insuffi-*  
5                    *cient to meet the risk-based perform-*  
6                    *ance standards based on misrepresen-*  
7                    *tation, omission, or an inadequate de-*  
8                    *scription of the site, the Secretary*  
9                    *may—*

10                    *“(aa) require additional se-*  
11                    *curity measures; or*

12                    *“(bb) suspend the certifi-*  
13                    *cation of the facility.*

14                    *“(II) RECOMMENDATION OF ADDI-*  
15                    *TIONAL SECURITY MEASURES.—If the*  
16                    *Secretary suspends the certification of*  
17                    *an expedited approval facility under*  
18                    *subclause (I), the Secretary shall—*

19                    *“(aa) recommend specific ad-*  
20                    *ditional security measures that, if*  
21                    *made part of the site security*  
22                    *plan by the facility, would enable*  
23                    *the Secretary to approve the site*  
24                    *security plan; and*

1                   “(bb) provide the facility an  
2 opportunity to submit a new or  
3 modified site security plan and  
4 certification under subparagraph  
5 (A).

6                   “(III) SUBMISSION; REVIEW.—If  
7 an expedited approval facility deter-  
8 mines to submit a new or modified site  
9 security plan and certification as au-  
10 thORIZED under subclause (II)(bb)—

11                   “(aa) not later than 90 days  
12 after the date on which the facil-  
13 ity receives recommendations  
14 under subclause (II)(aa), the facil-  
15 ity shall submit the new or modi-  
16 fied plan and certification; and

17                   “(bb) not later than 45 days  
18 after the date on which the Sec-  
19 retary receives the new or modi-  
20 fied plan under item (aa), the  
21 Secretary shall review the plan  
22 and determine whether the plan is  
23 facially deficient.

1                   “(IV) *DETERMINATION NOT TO IN-*  
2                   *CLUDE ADDITIONAL SECURITY MEAS-*  
3                   *URES.—*

4                   “(aa) *REVOCA-*  
5                   *TIFICATION.—If an expedited ap-*  
6                   *proval facility does not agree to*  
7                   *include in its site security plan*  
8                   *specific additional security meas-*  
9                   *ures recommended by the Sec-*  
10                   *retary under subclause (II)(aa),*  
11                   *or does not submit a new or modi-*  
12                   *fied site security plan in accord-*  
13                   *ance with subclause (III), the Sec-*  
14                   *retary may revoke the certifi-*  
15                   *cation of the facility by issuing*  
16                   *an order under section*  
17                   *2104(a)(1)(B).*

18                   “(bb) *EFFECT OF REVOCA-*  
19                   *TION.—If the Secretary revokes*  
20                   *the certification of an expedited*  
21                   *approval facility under item (aa)*  
22                   *by issuing an order under section*  
23                   *2104(a)(1)(B)—*

24                   “(AA) *the order shall re-*  
25                   *quire the owner or operator*

1                   of the facility to submit a  
2                   site security plan or alter-  
3                   native security program for  
4                   review by the Secretary re-  
5                   view under subsection (c)(1);  
6                   and

7                   “(BB) the facility shall  
8                   no longer be eligible to certify  
9                   a site security plan under  
10                  this paragraph.

11                  “(V) *FACIAL DEFICIENCY*.—If the  
12                  Secretary determines that a new or  
13                  modified site security plan submitted  
14                  by an expedited approval facility  
15                  under subclause (III) is facially defi-  
16                  cient—

17                  “(aa) not later than 120  
18                  days after the date of the deter-  
19                  mination, the owner or operator  
20                  of the facility shall submit a site  
21                  security plan or alternative secu-  
22                  rity program for review by the  
23                  Secretary under subsection (c)(1);  
24                  and

1                   “(bb) the facility shall no  
2 longer be eligible to certify a site  
3 security plan under this para-  
4 graph.

5                   “(H) TEMPLATES.—

6                   “(i) IN GENERAL.—The Secretary may  
7 develop prescriptive site security plan tem-  
8 plates with specific security measures to  
9 meet the risk-based performance standards  
10 under subsection (a)(2)(C) for adoption and  
11 certification by a covered chemical facility  
12 assigned to tier 3 or 4 in lieu of developing  
13 and certifying its own plan.

14                   “(ii) PROCESS.—In developing and  
15 issuing, or amending, the site security plan  
16 templates under this subparagraph, issuing  
17 guidance for implementation of the tem-  
18 plates, and in collecting information from  
19 expedited approval facilities, the Sec-  
20 retary—

21                   “(I) shall consult with—

22                   “(aa) Sector Coordinating  
23 Councils established under sec-  
24 tions 201 and 871(a); and

1                   “(bb) appropriate labor orga-  
2                   nizations; and

3                   “(II) shall not be subject to section  
4                   553 of title 5, United States Code, the  
5                   National Environmental Policy Act of  
6                   1969 (42 U.S.C. 4321 et seq.), sub-  
7                   chapter I of chapter 35 of title 44,  
8                   United States Code, or section 2107(b)  
9                   of this title.

10                  “(iii) *RULE OF CONSTRUCTION.*—*Noth-*  
11                  *ing in this subparagraph shall be construed*  
12                  *to prevent a covered chemical facility from*  
13                  *developing and certifying its own security*  
14                  *plan in accordance with subparagraph (A).*

15                  “(I) *EVALUATION.*—

16                  “(i) *IN GENERAL.*—*Not later than 18*  
17                  *months after the date of enactment of the*  
18                  *Protecting and Securing Chemical Facili-*  
19                  *ties from Terrorist Attacks Act of 2014, the*  
20                  *Secretary shall take any appropriate action*  
21                  *necessary for a full evaluation of the expe-*  
22                  *ditated approval program authorized under*  
23                  *this paragraph, including conducting an*  
24                  *appropriate number of inspections, as au-*

1 *thorized under subsection (d), of expedited*  
2 *approval facilities.*

3 *“(ii) REPORT.—Not later than 18*  
4 *months after the date of enactment of the*  
5 *Protecting and Securing Chemical Facili-*  
6 *ties from Terrorist Attacks Act of 2014, the*  
7 *Secretary shall submit to the Committee on*  
8 *Homeland Security and Governmental Af-*  
9 *airs of the Senate and the Committee on*  
10 *Homeland Security of the House of Rep-*  
11 *resentatives a report that contains—*

12 *“(I) any costs and efficiencies as-*  
13 *sociated with the expedited approval*  
14 *program authorized under this para-*  
15 *graph;*

16 *“(II) the impact of the expedited*  
17 *approval program on the backlog for*  
18 *site security plan approval and au-*  
19 *thorization inspections;*

20 *“(III) an assessment of the ability*  
21 *of expedited approval facilities to sub-*  
22 *mit facially sufficient site security*  
23 *plans;*

24 *“(IV) an assessment of any im-*  
25 *pect of the expedited approval program*

1                   *on the security of chemical facilities;*  
2                   *and*

3                   “(V) *a recommendation by the*  
4                   *Secretary on the frequency of compli-*  
5                   *ance inspections that may be required*  
6                   *for expedited approval facilities.*

7           “(d) *COMPLIANCE.—*

8                   “(1) *AUDITS AND INSPECTIONS.—*

9                           “(A) *DEFINITIONS.—In this paragraph—*

10                                   “(i) *the term ‘nondepartmental’—*

11   “(I) *with respect to personnel,*  
12   *means personnel that is not employed*  
13   *by the Department; and*

14   “(II) *with respect to an entity,*  
15   *means an entity that is not a compo-*  
16   *nent or other authority of the Depart-*  
17   *ment; and*

18                                   “(ii) *the term ‘nongovernmental’—*

19   “(I) *with respect to personnel,*  
20   *means personnel that is not employed*  
21   *by the Federal Government; and*

22   “(II) *with respect to an entity,*  
23   *means an entity that is not an agency,*  
24   *department, or other authority of the*  
25   *Federal Government.*



1           “(B) *AUTHORITY TO CONDUCT AUDITS AND*  
2           *INSPECTIONS.—The Secretary shall conduct au-*  
3           *ditions or inspections under this title using—*

4                     “(i) *employees of the Department; or*

5                     “(ii) *nondepartmental or nongovern-*  
6                     *mental personnel approved by the Sec-*  
7                     *retary.*

8           “(C) *SUPPORT PERSONNEL.—The Secretary*  
9           *may use nongovernmental personnel to provide*  
10           *administrative and logistical services in support*  
11           *of audits and inspections under this title.*

12           “(D) *REPORTING STRUCTURE.—*

13                     “(i) *NONDEPARTMENTAL AND NON-*  
14                     *GOVERNMENTAL AUDITS AND INSPEC-*  
15                     *TIONS.—Any audit or inspection conducted*  
16                     *by an individual employed by a nondepart-*  
17                     *mental or nongovernmental entity shall be*  
18                     *assigned in coordination with a regional*  
19                     *supervisor with responsibility for super-*  
20                     *vising inspectors within the Infrastructure*  
21                     *Security Compliance Division of the De-*  
22                     *partment for the region in which the audit*  
23                     *or inspection is to be conducted.*

24                     “(ii) *REQUIREMENT TO REPORT.—*

25                     *While an individual employed by a non-*

1            *departmental or nongovernmental entity is*  
2            *in the field conducting an audit or inspec-*  
3            *tion under this subsection, the individual*  
4            *shall report to the regional supervisor with*  
5            *responsibility for supervising inspectors*  
6            *within the Infrastructure Security Compli-*  
7            *ance Division of the Department for the re-*  
8            *gion in which the individual is operating.*

9            *“(iii) APPROVAL.—The authority to*  
10           *approve a site security plan under sub-*  
11           *section (c) or determine if a covered chem-*  
12           *ical facility is in compliance with an ap-*  
13           *proved site security plan shall be exercised*  
14           *solely by the Secretary or a designee of the*  
15           *Secretary within the Department.*

16           *“(E) STANDARDS FOR AUDITORS AND IN-*  
17           *SPECTORS.—The Secretary shall prescribe stand-*  
18           *ards for the training and retraining of each in-*  
19           *dividual used by the Department as an auditor*  
20           *or inspector, including each individual employed*  
21           *by the Department and all nondepartmental or*  
22           *nongovernmental personnel, including—*

23           *“(i) minimum training requirements*  
24           *for new auditors and inspectors;*

25           *“(ii) retraining requirements;*

1           “(iii) *minimum education and experi-*  
2           *ence levels;*

3           “(iv) *the submission of information as*  
4           *required by the Secretary to enable deter-*  
5           *mination of whether the auditor or inspec-*  
6           *tor has a conflict of interest;*

7           “(v) *the proper certification or certifi-*  
8           *cations necessary to handle chemical-ter-*  
9           *rorism vulnerability information (as de-*  
10          *defined in section 27.105 of title 6, Code of*  
11          *Federal Regulations, or any successor there-*  
12          *to);*

13          “(vi) *the reporting of any issue of non-*  
14          *compliance with this section to the Sec-*  
15          *retary within 24 hours; and*

16          “(vii) *any additional qualifications for*  
17          *fitness of duty as the Secretary may re-*  
18          *quire.*

19          “(F) *CONDITIONS FOR NONGOVERNMENTAL*  
20          *AUDITORS AND INSPECTORS.—If the Secretary*  
21          *arranges for an audit or inspection under sub-*  
22          *paragraph (B) to be carried out by a nongovern-*  
23          *mental entity, the Secretary shall—*

24                 “(i) *prescribe standards for the quali-*  
25                 *fication of the individuals who carry out*

1           *such audits and inspections that are com-*  
2           *mensurate with the standards for similar*  
3           *Government auditors or inspectors; and*

4                   “(i) *ensure that any duties carried out*  
5           *by a nongovernmental entity are not inher-*  
6           *ently governmental functions.*

7           “(2) *PERSONNEL SURETY.—*

8                   “(A) *PERSONNEL SURETY PROGRAM.—For*  
9           *purposes of this title, the Secretary shall estab-*  
10          *lish and carry out a Personnel Surety Program*  
11          *that—*

12                   “(i) *does not require an owner or oper-*  
13          *ator of a covered chemical facility that vol-*  
14          *untarily participates in the program to*  
15          *submit information about an individual*  
16          *more than one time;*

17                   “(ii) *provides a participating owner or*  
18          *operator of a covered chemical facility with*  
19          *relevant information about an individual*  
20          *based on vetting the individual against the*  
21          *terrorist screening database, to the extent*  
22          *that such feedback is necessary for the facil-*  
23          *ity to be in compliance with regulations*  
24          *promulgated under this title; and*

1           “(iii) provides redress to an indi-  
2           vidual—

3                   “(I) whose information was vetted  
4                   against the terrorist screening database  
5                   under the program; and

6                   “(II) who believes that the person-  
7                   ally identifiable information submitted  
8                   to the Department for such vetting by  
9                   a covered chemical facility, or its des-  
10                  ignated representative, was inaccurate.

11               “(B) PERSONNEL SURETY PROGRAM IMPLI-  
12               MENTATION.—To the extent that a risk-based  
13               performance standard established under sub-  
14               section (a) requires identifying individuals with  
15               ties to terrorism—

16                   “(i) a covered chemical facility may  
17                   satisfy its obligation under the standard by  
18                   using any Federal screening program that  
19                   periodically vets individuals against the  
20                   terrorist screening database, or any suc-  
21                   cessor program, including the Personnel  
22                   Surety Program established under subpara-  
23                   graph (A); and

24                   “(ii) the Secretary may not require a  
25                   covered chemical facility to submit any in-

1                    *formation about an individual unless the*  
2                    *individual—*

3                    *“(I) is to be vetted under the Per-*  
4                    *sonnel Surety Program; or*

5                    *“(II) has been identified as pre-*  
6                    *senting a terrorism security risk.*

7                    *“(3) AVAILABILITY OF INFORMATION.—The Sec-*  
8                    *retary shall share with the owner or operator of a*  
9                    *covered chemical facility any information that the*  
10                   *owner or operator needs to comply with this section.*

11                   *“(e) RESPONSIBILITIES OF THE SECRETARY.—*

12                   *“(1) IDENTIFICATION OF CHEMICAL FACILITIES*  
13                   *OF INTEREST.—In carrying out this title, the Sec-*  
14                   *retary shall consult with the heads of other Federal*  
15                   *agencies, States and political subdivisions thereof, rel-*  
16                   *evant business associations, and public and private*  
17                   *labor organizations to identify all chemical facilities*  
18                   *of interest.*

19                   *“(2) RISK ASSESSMENT.—*

20                   *“(A) IN GENERAL.—For purposes of this*  
21                   *title, the Secretary shall develop a security risk*  
22                   *assessment approach and corresponding tiering*  
23                   *methodology for covered chemical facilities that*  
24                   *incorporates the relevant elements of risk, includ-*  
25                   *ing threat, vulnerability, and consequence.*

1           “(B) *CRITERIA FOR DETERMINING SECURITY RISK.*—*The criteria for determining the security risk of terrorism associated with a covered chemical facility shall take into account—*

2                           “(i) *relevant threat information;*

3                           “(ii) *potential economic consequences and the potential loss of human life in the event of the facility being subject to a terrorist attack, compromise, infiltration, or exploitation; and*

4                           “(iii) *vulnerability of the facility to a terrorist attack, compromise, infiltration, or exploitation.*

5           “(3) *CHANGES IN TIERING.*—

6                           “(A) *MAINTENANCE OF RECORDS.*—*The Secretary shall document the basis for each instance in which—*

7                           “(i) *tiering for a covered chemical facility is changed; or*

8                           “(ii) *a covered chemical facility is determined to no longer be subject to the requirements under this title.*

9                           “(B) *REQUIRED INFORMATION.*—*The records maintained under subparagraph (A) shall include information on whether and how*

1           *the Secretary confirmed the information that*  
2           *was the basis for the change or determination de-*  
3           *scribed in subparagraph (A).*

4           “(4) *SEMIANNUAL PERFORMANCE REPORTING.*—  
5           *Not later than 6 months after the date of enactment*  
6           *of the Protecting and Securing Chemical Facilities*  
7           *from Terrorist Attacks Act of 2014, and not less fre-*  
8           *quently than once every 6 months thereafter, the Sec-*  
9           *retary shall submit to the Committee on Homeland*  
10           *Security and Governmental Affairs of the Senate and*  
11           *the Committee on Homeland Security of the House of*  
12           *Representatives a report that describes, for the period*  
13           *covered by the report—*

14                   “(A) *the number of covered chemical facili-*  
15                   *ties in the United States;*

16                   “(B) *the average number of days spent re-*  
17                   *viewing site security or an alternative security*  
18                   *program for a covered chemical facility prior to*  
19                   *approval;*

20                   “(C) *the number of covered chemical facili-*  
21                   *ties inspected;*

22                   “(D) *the average number of covered chem-*  
23                   *ical facilities inspected per inspector; and*

24                   “(E) *any other information that the Sec-*  
25                   *retary determines will be helpful to Congress in*



1           *evaluating the performance of the Chemical Fa-*  
2           *cility Anti-Terrorism Standards Program.*

3   **“SEC. 2103. PROTECTION AND SHARING OF INFORMATION.**

4           “(a) *IN GENERAL.*—*Notwithstanding any other provi-*  
5   *sion of law, information developed under this title, includ-*  
6   *ing vulnerability assessments, site security plans, and other*  
7   *security related information, records, and documents shall*  
8   *be given protections from public disclosure consistent with*  
9   *the protection of similar information under section*  
10 *70103(d) of title 46, United States Code.*

11          “(b) *SHARING OF INFORMATION WITH STATES AND*  
12 *LOCAL GOVERNMENTS.*—*Nothing in this section shall be*  
13 *construed to prohibit the sharing of information developed*  
14 *under this title, as the Secretary determines appropriate,*  
15 *with State and local government officials possessing a need*  
16 *to know and the necessary security clearances, including*  
17 *law enforcement officials and first responders, for the pur-*  
18 *pose of carrying out this title.*

19          “(c) *SHARING OF INFORMATION WITH FIRST RE-*  
20 *SPONDERS.*—

21                 “(1) *REQUIREMENT.*—*The Secretary shall pro-*  
22   *vide to State, local, and regional fusion centers (as*  
23   *that term is defined in section 210A(j)(1)) and State*  
24   *and local government officials, as the Secretary deter-*  
25   *mines appropriate, such information as is necessary*

1       to help ensure that first responders are properly pre-  
2       pared and provided with the situational awareness  
3       needed to respond to security incidents at covered  
4       chemical facilities.

5               “(2) *DISSEMINATION.*—The Secretary shall dis-  
6       seminate information under paragraph (1) through a  
7       medium or system determined by the Secretary to be  
8       appropriate to ensure the secure and expeditious dis-  
9       semination of such information to necessary selected  
10      individuals.

11             “(d) *ENFORCEMENT PROCEEDINGS.*—In any pro-  
12      ceeding to enforce this section, vulnerability assessments,  
13      site security plans, and other information submitted to or  
14      obtained by the Secretary under this title, and related vul-  
15      nerability or security information, shall be treated as if the  
16      information were classified information.

17             “(e) *AVAILABILITY OF INFORMATION.*—Notwith-  
18      standing any other provision of law (including section  
19      552(b)(3) of title 5, United States Code), section 552 of title  
20      5, United States Code (commonly known as the ‘Freedom  
21      of Information Act’) shall not apply to information pro-  
22      tected from public disclosure pursuant to subsection (a) of  
23      this section.

24      **“SEC. 2104. CIVIL ENFORCEMENT.**

25             “(a) *NOTICE OF NONCOMPLIANCE.*—

1           “(1) NOTICE.—If the Secretary determines that a  
2 covered chemical facility is not in compliance with  
3 this title, the Secretary shall—

4                   “(A) provide the owner or operator of the  
5 facility with—

6                           “(i) not later than 14 days after date  
7 on which the Secretary makes the deter-  
8 mination, a written notification of non-  
9 compliance that includes a clear expla-  
10 nation of any deficiency in the security vul-  
11 nerability assessment or site security plan;  
12 and

13                           “(ii) an opportunity for consultation  
14 with the Secretary or the Secretary’s des-  
15 ignee; and

16                   “(B) issue to the owner or operator of the  
17 facility an order to comply with this title by a  
18 date specified by the Secretary in the order,  
19 which date shall be not later than 180 days after  
20 the date on which the Secretary issues the order.

21           “(2) CONTINUED NONCOMPLIANCE.—If an owner  
22 or operator continues to be in noncompliance with  
23 this title after the date specified in an order issued  
24 under paragraph (1)(B), the Secretary may enter an

1       *order in accordance with this section assessing a civil*  
2       *penalty, an order to cease operations, or both.*

3       “(b) *CIVIL PENALTIES.*—

4               “(1) *VIOLATIONS OF ORDERS.*—*Any person who*  
5       *violates an order issued under this title shall be liable*  
6       *for a civil penalty under section 70119(a) of title 46,*  
7       *United States Code.*

8               “(2) *NON-REPORTING CHEMICAL FACILITIES OF*  
9       *INTEREST.*—*Any owner of a chemical facility of in-*  
10       *terest who fails to comply with, or knowingly submits*  
11       *false information under, this title or the CFATS regu-*  
12       *lations shall be liable for a civil penalty under section*  
13       *70119(a) of title 46, United States Code.*

14       “(c) *EMERGENCY ORDERS.*—

15               “(1) *IN GENERAL.*—*Notwithstanding subsection*  
16       *(a) or any site security plan or alternative security*  
17       *program approved under this title, if the Secretary*  
18       *determines that there is a reasonable likelihood that*  
19       *a violation of this title or the CFATS regulations by*  
20       *a chemical facility could result in death, serious ill-*  
21       *ness, severe personal injury, or substantial*  
22       *endangerment to the public, the Secretary may direct*  
23       *the facility, effective immediately or as soon as prac-*  
24       *ticable, to—*

25               “(A) *cease some or all operations; or*

1                   “(B) implement appropriate emergency se-  
2                   curity measures.

3                   “(2) *LIMITATION ON DELEGATION.*—The Sec-  
4                   retary may not delegate the authority under para-  
5                   graph (1) to any official other than the Under Sec-  
6                   retary for the National Protection and Programs Di-  
7                   rectorate.

8                   “(d) *RIGHT OF ACTION.*—Nothing in this title confers  
9                   upon any person except the Secretary or his or her designee  
10                  a right of action against an owner or operator of a covered  
11                  chemical facility to enforce any provision of this title.

12                  **“SEC. 2105. WHISTLEBLOWER PROTECTIONS.**

13                  “(a) *PROCEDURE FOR REPORTING PROBLEMS.*—

14                  “(1) *ESTABLISHMENT OF A REPORTING PROCE-*  
15                  *DURE.*—Not later than 180 days after the date of en-  
16                  actment of the Protecting and Securing Chemical Fa-  
17                  cilities from Terrorist Attacks Act of 2014, the Sec-  
18                  retary shall establish, and provide information to the  
19                  public regarding, a procedure under which any em-  
20                  ployee or contractor of a chemical facility may sub-  
21                  mit a report to the Secretary regarding problems, de-  
22                  ficiencies, or vulnerabilities at a covered chemical fa-  
23                  cility that are associated with the risk of a chemical  
24                  facility terrorist incident.

1           “(2) *CONFIDENTIALITY.*—*The Secretary shall*  
2           *keep confidential the identity of an individual who*  
3           *submits a report under paragraph (1) and any such*  
4           *report shall be treated as a record containing pro-*  
5           *ected information to the extent that the report does*  
6           *not consist of publicly available information.*

7           “(3) *ACKNOWLEDGMENT OF RECEIPT.*—*If a re-*  
8           *port submitted under paragraph (1) identifies the in-*  
9           *dividual making the report, the Secretary shall*  
10          *promptly respond to the individual directly and shall*  
11          *promptly acknowledge receipt of the report.*

12          “(4) *STEPS TO ADDRESS PROBLEMS.*—*The Sec-*  
13          *retary shall—*

14                 “(A) *review and consider the information*  
15                 *provided in any report submitted under para-*  
16                 *graph (1); and*

17                 “(B) *take appropriate steps under this title*  
18                 *if necessary to address any substantiated prob-*  
19                 *lems, deficiencies, or vulnerabilities associated*  
20                 *with the risk of a chemical facility terrorist inci-*  
21                 *dent identified in the report.*

22          “(5) *RETALIATION PROHIBITED.*—

23                 “(A) *IN GENERAL.*—*An owner or operator*  
24                 *of a covered chemical facility or agent thereof*  
25                 *may not discharge an employee or otherwise dis-*

1           *criminate against an employee with respect to*  
2           *the compensation provided to, or terms, condi-*  
3           *tions, or privileges of the employment of, the em-*  
4           *ployee because the employee (or an individual*  
5           *acting pursuant to a request of the employee)*  
6           *submitted a report under paragraph (1).*

7           “(B) *EXCEPTION.*—*An employee shall not*  
8           *be entitled to the protections under this section*  
9           *if the employee—*

10                   “(i) *knowingly and willfully makes*  
11                   *any false, fictitious, or fraudulent statement*  
12                   *or representation; or*

13                   “(ii) *uses any false writing or docu-*  
14                   *ment knowing the writing or document con-*  
15                   *tains any false, fictitious, or fraudulent*  
16                   *statement or entry.*

17           “(b) *PROTECTED DISCLOSURES.*—*Nothing in this title*  
18           *shall be construed to limit the right of an individual to*  
19           *make any disclosure—*

20                   “(1) *protected or authorized under section*  
21                   *2302(b)(8) or 7211 of title 5, United States Code;*

22                   “(2) *protected under any other Federal or State*  
23                   *law that shields the disclosing individual against re-*  
24                   *taliation or discrimination for having made the dis-*  
25                   *closure in the public interest; or*

1           “(3) to the Special Counsel of an agency, the in-  
2           specter general of an agency, or any other employee  
3           designated by the head of an agency to receive disclo-  
4           sures similar to the disclosures described in para-  
5           graphs (1) and (2).

6           “(c) *PUBLICATION OF RIGHTS.*—The Secretary, in  
7           partnership with industry associations and labor organiza-  
8           tions, shall make publicly available both physically and on-  
9           line the rights that an individual who discloses information,  
10          including security-sensitive information, regarding prob-  
11          lems, deficiencies, or vulnerabilities at a covered chemical  
12          facility would have under Federal whistleblower protection  
13          laws or this title.

14          “(d) *PROTECTED INFORMATION.*—All information  
15          contained in a report made under this subsection (a) shall  
16          be protected in accordance with section 2103.

17          “**SEC. 2106. RELATIONSHIP TO OTHER LAWS.**

18          “(a) *OTHER FEDERAL LAWS.*—Nothing in this title  
19          shall be construed to supersede, amend, alter, or affect any  
20          Federal law that regulates the manufacture, distribution in  
21          commerce, use, sale, other treatment, or disposal of chemical  
22          substances or mixtures.

23          “(b) *STATES AND POLITICAL SUBDIVISIONS.*—This  
24          title shall not preclude or deny any right of any State or  
25          political subdivision thereof to adopt or enforce any regula-



1 *tion, requirement, or standard of performance with respect*  
2 *to chemical facility security that is more stringent than a*  
3 *regulation, requirement, or standard of performance issued*  
4 *under this section, or otherwise impair any right or juris-*  
5 *isdiction of any State with respect to chemical facilities with-*  
6 *in that State, unless there is an actual conflict between this*  
7 *section and the law of that State.*

8 **“SEC. 2107. CFATS REGULATIONS.**

9       “(a) *GENERAL AUTHORITY.*—*The Secretary may, in*  
10 *accordance with chapter 5 of title 5, United States Code,*  
11 *promulgate regulations or amend existing CFATS regula-*  
12 *tions to implement the provisions under this title.*

13       “(b) *EXISTING CFATS REGULATIONS.*—

14               “(1) *IN GENERAL.*—*Notwithstanding section 4(b)*  
15 *of the Protecting and Securing Chemical Facilities*  
16 *from Terrorist Attacks Act of 2014, each existing*  
17 *CFATS regulation shall remain in effect unless the*  
18 *Secretary amends, consolidates, or repeals the regula-*  
19 *tion.*

20               “(2) *REPEAL.*—*Not later than 30 days after the*  
21 *date of enactment of the Protecting and Securing*  
22 *Chemical Facilities from Terrorist Attacks Act of*  
23 *2014, the Secretary shall repeal any existing CFATS*  
24 *regulation that the Secretary determines is duplica-*  
25 *tive of, or conflicts with, this title.*

1       “(c) *AUTHORITY.*—*The Secretary shall exclusively rely*  
2 *upon authority provided under this title in—*

3               “(1) *determining compliance with this title;*

4               “(2) *identifying chemicals of interest; and*

5               “(3) *determining security risk associated with a*  
6 *chemical facility.*

7       **“SEC. 2108. SMALL COVERED CHEMICAL FACILITIES.**

8       “(a) *DEFINITION.*—*In this section, the term ‘small cov-*  
9 *ered chemical facility’ means a covered chemical facility*  
10 *that—*

11               “(1) *has fewer than 100 employees employed at*  
12 *the covered chemical facility; and*

13               “(2) *is owned and operated by a small business*  
14 *concern (as defined in section 3 of the Small Business*  
15 *Act (15 U.S.C. 632)).*

16       “(b) *ASSISTANCE TO FACILITIES.*—*The Secretary may*  
17 *provide guidance and, as appropriate, tools, methodologies,*  
18 *or computer software, to assist small covered chemical fa-*  
19 *cilities in developing the physical security, cybersecurity,*  
20 *recordkeeping, and reporting procedures required under this*  
21 *title.*

22       “(c) *REPORT.*—*The Secretary shall submit to the Com-*  
23 *mittee on Homeland Security and Governmental Affairs of*  
24 *the Senate and the Committee on Homeland Security of the*  
25 *House of Representatives a report on best practices that*

1 *may assist small covered chemical facilities in development*  
 2 *of physical security best practices.*

3 **“SEC. 2109. OUTREACH TO CHEMICAL FACILITIES OF INTER-**  
 4 **EST.**

5 *“Not later than 90 days after the date of enactment*  
 6 *of the Protecting and Securing Chemical Facilities from*  
 7 *Terrorist Attacks Act of 2014, the Secretary shall establish*  
 8 *an outreach implementation plan, in coordination with the*  
 9 *heads of other appropriate Federal and State agencies, rel-*  
 10 *evant business associations, and public and private labor*  
 11 *organizations, to—*

12 *“(1) identify chemical facilities of interest; and*  
 13 *“(2) make available compliance assistance mate-*  
 14 *rials and information on education and training.”.*

15 *(b) CLERICAL AMENDMENT.—The table of contents in*  
 16 *section 1(b) of the Homeland Security Act of 2002 (Public*  
 17 *Law 107–196; 116 Stat. 2135) is amended by adding at*  
 18 *the end the following:*

*“TITLE XXI—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS*

*“Sec. 2101. Definitions.*  
*“Sec. 2102. Chemical Facility Anti-Terrorism Standards Program.*  
*“Sec. 2103. Protection and sharing of information.*  
*“Sec. 2104. Civil enforcement.*  
*“Sec. 2105. Whistleblower protections.*  
*“Sec. 2106. Relationship to other laws.*  
*“Sec. 2107. CFATS regulations.*  
*“Sec. 2108. Small covered chemical facilities.*  
*“Sec. 2109. Outreach to chemical facilities of interest.”.*

19 **SEC. 3. ASSESSMENT; REPORTS.**

20 *(a) DEFINITIONS.—In this section—*

1           (1) the term “Chemical Facility Anti-Terrorism  
2           Standards Program” means—

3                   (A) the Chemical Facility Anti-Terrorism  
4                   Standards program initially authorized under  
5                   section 550 of the Department of Homeland Se-  
6                   curity Appropriations Act, 2007 (Public Law  
7                   109-295; 6 U.S.C. 121 note); and

8                   (B) the Chemical Facility Anti-Terrorism  
9                   Standards Program subsequently authorized  
10                  under section 2102(a) of the Homeland Security  
11                  Act of 2002, as added by section 2;

12           (2) the term “Department” means the Depart-  
13           ment of Homeland Security; and

14           (3) the term “Secretary” means the Secretary of  
15           Homeland Security.

16           (b) *THIRD-PARTY ASSESSMENT.*—Using amounts ap-  
17           propriated to the Department before the date of enactment  
18           of this Act, the Secretary shall commission a third-party  
19           study to assess vulnerabilities of covered chemical facilities,  
20           as defined in section 2101 of the Homeland Security Act  
21           of 2002 (as added by section 2), to acts of terrorism.

22           (c) *REPORTS.*—

23                   (1) *REPORT TO CONGRESS.*—Not later than 18  
24                   months after the date of enactment of this Act, the  
25                   Secretary shall submit to the Committee on Home-

1 *land Security and Governmental Affairs of the Senate*  
2 *and the Committee on Homeland Security of the*  
3 *House of Representatives a report on the Chemical*  
4 *Facility Anti-Terrorism Standards Program that in-*  
5 *cludes—*

6 (A) *a certification by the Secretary that the*  
7 *Secretary has made significant progress in the*  
8 *identification of all chemical facilities of interest*  
9 *under section 2102(e)(1) of the Homeland Secu-*  
10 *rity Act of 2002, as added by section 2, includ-*  
11 *ing—*

12 (i) *a description of the steps taken to*  
13 *achieve that progress and the metrics used*  
14 *to measure the progress;*

15 (ii) *information on whether facilities*  
16 *that submitted Top-Screens as a result of*  
17 *the identification of chemical facilities of*  
18 *interest were tiered and in what tiers those*  
19 *facilities were placed; and*

20 (iii) *an action plan to better identify*  
21 *chemical facilities of interest and bring*  
22 *those facilities into compliance with title*  
23 *XXI of the Homeland Security Act of 2002,*  
24 *as added by section 2;*

1           (B) a certification by the Secretary that the  
2 Secretary has developed a risk assessment ap-  
3 proach and corresponding tiering methodology  
4 under section 2102(e)(2) of the Homeland Secu-  
5 rity Act of 2002, as added by section 2;

6           (C) an assessment by the Secretary of the  
7 implementation by the Department of the rec-  
8 ommendations made by the Homeland Security  
9 Studies and Analysis Institute as outlined in the  
10 Institute's Tiering Methodology Peer Review  
11 (Publication Number: RP12-22-02); and

12           (D) a description of best practices that may  
13 assist small covered chemical facilities, as de-  
14 fined in section 2108(a) of the Homeland Secu-  
15 rity Act of 2002, as added by section 2, in the  
16 development of physical security best practices.

17 (2) ANNUAL GAO REPORT.—

18           (A) IN GENERAL.—During the 3-year pe-  
19 riod beginning on the date of enactment of this  
20 Act, the Comptroller General of the United  
21 States shall submit to Congress an annual report  
22 that assesses the implementation of this Act and  
23 the amendments made by this Act.

24           (B) INITIAL REPORT.—Not later than 180  
25 days after the date of enactment of this Act, the

1            *Comptroller General shall submit to Congress the*  
2            *first report under subparagraph (A).*

3            (C) *SECOND ANNUAL REPORT.*—*Not later*  
4            *than one year from the date of the initial report*  
5            *required under subparagraph (B), the Comp-*  
6            *troller General shall submit to Congress the sec-*  
7            *ond report under subparagraph (A), which shall*  
8            *include an assessment of the whistleblower pro-*  
9            *tections provided under section 2105 of the*  
10           *Homeland Security Act of 2002, as added by sec-*  
11           *tion 2, and—*

12                    *(i) describes the number and type of*  
13                    *problems, deficiencies, and vulnerabilities*  
14                    *with respect to which reports have been sub-*  
15                    *mitted under such section 2105;*

16                    *(ii) evaluates the efforts of the Sec-*  
17                    *retary in addressing the problems, defi-*  
18                    *ciencies, and vulnerabilities described in*  
19                    *subsection (a)(1) of such section 2105; and*

20                    *(iii) evaluates the efforts of the Sec-*  
21                    *retary to inform individuals of their rights,*  
22                    *as required under subsection (c) of such sec-*  
23                    *tion 2105.*

24            (D) *THIRD ANNUAL REPORT.*—*Not later*  
25            *than 1 year after the date on which the Comp-*

1            *troller General submits the second report re-*  
2            *quired under subparagraph (A), the Comptroller*  
3            *General shall submit to Congress the third report*  
4            *under subparagraph (A), which shall include an*  
5            *assessment of—*

6                    *(i) the expedited approval program au-*  
7                    *thorized under section 2102(c)(4) of the*  
8                    *Homeland Security Act of 2002, as added*  
9                    *by section 2; and*

10                   *(ii) the report on the expedited ap-*  
11                   *proval program submitted by the Secretary*  
12                   *under subparagraph (I)(ii) of such section*  
13                   *2102(c)(4).*

14    **SEC. 4. EFFECTIVE DATE; CONFORMING REPEAL.**

15            *(a) EFFECTIVE DATE.—This Act, and the amendments*  
16            *made by this Act, shall take effect on the date that is 30*  
17            *days after the date of enactment of this Act.*

18            *(b) CONFORMING REPEAL.—Section 550 of the Depart-*  
19            *ment of Homeland Security Appropriations Act, 2007*  
20            *(Public Law 109–295; 120 Stat. 1388), is repealed as of*  
21            *the effective date of this Act.*

22    **SEC. 5. TERMINATION.**

23            *The authority provided under title XXI of the Home-*  
24            *land Security Act of 2002, as added by section 2(a), shall*



- 1 *terminate on the date that is 4 years after the effective date*
- 2 *of this Act.*

Calendar No. 578

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4007**

[Report No. 113-263]

---

---

**AN ACT**

To recodify and reauthorize the Chemical Facility  
Anti-Terrorism Standards Program.

---

---

SEPTEMBER 18, 2014

Reported with an amendment