

116TH CONGRESS
2D SESSION

S. 3416

To reauthorize the Chemical Facility Anti-Terrorism Standards Program of the Department of Homeland Security.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2020

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To reauthorize the Chemical Facility Anti-Terrorism Standards Program of the Department of Homeland Security.

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; TABLE OF CONTENTS; DEFINI-**
4 **TIONS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Protecting and Securing Chemical Facilities from Ter-
7 rorist Attacks Act of 2020”.

8 (b) **TABLE OF CONTENTS.**—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents; definitions.

Sec. 2. Definitions.

Sec. 3. Chemical Facility Anti-Terrorism Standards Program requirements.

- Sec. 4. Purpose.
- Sec. 5. Employee input regarding security measures.
- Sec. 6. Strategy to improve cybersecurity and outreach to local emergency responders.
- Sec. 7. Site security plan assessments.
- Sec. 8. Expedited approval program.
- Sec. 9. CFATS recognition program.
- Sec. 10. Standards for auditors and inspectors.
- Sec. 11. Personnel surety program.
- Sec. 12. Security risk assessment approach and corresponding tiering methodology.
- Sec. 13. Data collection, recording, and lessons learned.
- Sec. 14. Semiannual performance reporting.
- Sec. 15. Responsibilities of the Secretary.
- Sec. 16. Amendments relating to Appendix A of part 27 of title 6, United States Code.
- Sec. 17. Informal consultations and assessments.
- Sec. 18. Protection and sharing of information.
- Sec. 19. CFATS regulations.
- Sec. 20. Employee awareness.
- Sec. 21. Notification relating to the Chemical Facility Anti-Terrorism Standards Program.
- Sec. 22. Bidirectional information sharing platform.
- Sec. 23. Updated retrospective estimate on costs.
- Sec. 24. CFATS security harmonization waiver program.
- Sec. 25. Implementation plan and report to Congress.
- Sec. 26. Effective date.
- Sec. 27. Termination.
- Sec. 28. Technical and conforming amendment.

1 (c) DEFINITIONS.—In this Act:

2 (1) APPROPRIATE CONGRESSIONAL COMMIT-
3 TEES.—The term “appropriate congressional com-
4 mittees” means—

5 (A) the Committee on Homeland Security
6 and Governmental Affairs of the Senate;

7 (B) the Committee on Homeland Security
8 of the House of Representatives; and

9 (C) the Committee on Energy and Com-
10 merce of the House of Representatives.

11 (2) CHEMICAL FACILITY ANTI-TERRORISM
12 STANDARDS PROGRAM.—The term “Chemical Facil-

1 ity Anti-Terrorism Standards Program” means the
2 Chemical Facility Anti-Terrorism Standards Pro-
3 gram established under section 2102(a) of the
4 Homeland Security Act of 2002 (6 U.S.C. 622(a)).

5 (3) CHEMICAL FACILITY OF INTEREST; CHEM-
6 ICAL OF INTEREST; COVERED CHEMICAL FACIL-
7 ITY.—The terms “chemical facility of interest”,
8 “chemical of interest”, and “covered chemical facil-
9 ity” have the meanings given those terms in section
10 2101 of the Homeland Security Act of 2002 (6
11 U.S.C. 621), as amended by section 2 of this Act.

12 (4) LESSONS LEARNED.—The term “lessons
13 learned” means the lessons learned, developed, and
14 disseminated by the Secretary under section
15 2103(e)(4) of the Homeland Security Act of 2002,
16 as added by section 13 of this Act.

17 (5) SECRETARY.—The term “Secretary” means
18 the Secretary of Homeland Security.

19 **SEC. 2. DEFINITIONS.**

20 (a) IN GENERAL.—Section 2101 of the Homeland
21 Security Act of 2002 (6 U.S.C. 621) is amended—

22 (1) in paragraph (2)(A), by striking “, as des-
23 ignated under Appendix A to part 27 of title 6, Code
24 of Federal Regulations, or any successor thereto,”;

25 (2) by striking paragraph (14);

1 (3) by redesignating paragraphs (10) through
2 (13) as paragraphs (13) through (16), respectively;

3 (4) by redesignating paragraph (9) as para-
4 graph (11);

5 (5) by redesignating paragraphs (3) through
6 (8) as paragraphs (4) through (9), respectively;

7 (6) by inserting after paragraph (2) the fol-
8 lowing:

9 “(3) the term ‘chemical of interest’ means a
10 chemical designated as a chemical of interest under
11 Appendix A to part 27 of title 6, Code of Federal
12 Regulations, or any successor thereto;”;

13 (7) in paragraph (9), as so redesignated, by
14 striking “section 2102(c)(4)(B)(i)” and inserting
15 “section 2102(c)(4) by the Secretary that identifies
16 specific security measures that are sufficient to meet
17 the risk-based performance standards for facilities in
18 tiers 3 and 4 that elect to utilize the expedited ap-
19 proval program”;

20 (8) by inserting after paragraph (9), as so re-
21 designated, the following:

22 “(10) the term ‘hybrid physical-cybersecurity
23 vulnerability’—

24 “(A) means a vulnerability in the security
25 of a covered chemical facility that relates to the

1 combination of the physical operations and cy-
2 bersecurity operations of the covered chemical
3 facility; and

4 “(B) includes a vulnerability of a covered
5 chemical facility to—

6 “(i) a physical threat to a cybersecu-
7 rity operation affecting the chemical of in-
8 terest of the covered chemical facility; or

9 “(ii) a cybersecurity threat to a phys-
10 ical operation of the covered chemical facil-
11 ity;”;

12 (9) by inserting after paragraph (11), as so re-
13 designated, the following:

14 “(12) the term ‘security vulnerability assess-
15 ment’ means an assessment of the vulnerabilities of
16 a covered chemical facility to—

17 “(A) physical threats; and

18 “(B) cybersecurity threats relating to—

19 “(i) the information technology or
20 operational technology of the covered
21 chemical facility; and

22 “(ii)(I) a chemical of interest;

23 “(II) an operation involving a chem-
24 ical of interest; or

1 “(III) a security measure of the cov-
2 ered chemical facility;”;

3 (10) in paragraph (15), as so redesignated, by
4 inserting “and” after the semicolon; and

5 (11) in paragraph (16), as so redesignated, by
6 striking “; and” and inserting a period.

7 (b) CONFORMING AMENDMENTS.—Title XXI of the
8 Homeland Security Act of 2002 (6 U.S.C. 621 et seq.)
9 is amended—

10 (1) in section 2102(e)(5)(B)(i)(I)(bb) (6 U.S.C.
11 622(e)(5)(B)(i)(I)(bb)), as so redesignated by sec-
12 tion 13 of this Act, by striking “section 2101(3)”
13 and inserting “section 2101(4)”; and

14 (2) in section 2103 (6 U.S.C. 623)—

15 (A) in subsection (a), by inserting “secu-
16 rity” before “vulnerability assessments”; and

17 (B) in subsection (d), by inserting “secu-
18 rity” before “vulnerability assessments”.

19 **SEC. 3. CHEMICAL FACILITY ANTI-TERRORISM STANDARDS**
20 **PROGRAM REQUIREMENTS.**

21 Section 2102(a)(2)(C) of the Homeland Security Act
22 of 2002 (6 U.S.C. 622(a)(2)(C)) is amended by inserting
23 “eliminate or mitigate physical, cybersecurity, and hybrid
24 physical-cybersecurity vulnerabilities in order to” before
25 “address”.

1 **SEC. 4. PURPOSE.**

2 Section 2102(a) of the Homeland Security Act of
3 2002 (6 U.S.C. 622(a)) is amended by adding at the end
4 the following:

5 “(3) PURPOSE.—The purpose of the Chemical
6 Facility Anti-Terrorism Standards Program is to—

7 “(A) enhance the security of the United
8 States by lowering the security risks posed by
9 chemicals designated under Appendix A to part
10 27 of title 6, United States Code, or any suc-
11 cessor thereto, at covered chemical facilities;
12 and

13 “(B) prevent the chemicals described in
14 subparagraph (A) from being exploited in ter-
15 rorist attacks.”.

16 **SEC. 5. EMPLOYEE INPUT REGARDING SECURITY MEAS-**
17 **URES.**

18 Section 2102(b) of the Homeland Security Act of
19 2002 (6 U.S.C. 622(b)) is amended by striking paragraph
20 (2) and inserting the following:

21 “(2) EMPLOYEE INPUT.—

22 “(A) IN GENERAL.—The security vulner-
23 ability assessment and site security plan of a
24 covered chemical facility shall include input
25 from not less than 1 employee of the covered
26 chemical facility, and, where applicable, 1 em-

1 ployee representative from the bargaining agent
2 at that covered chemical facility, each of whom
3 possesses chemical terrorism vulnerability infor-
4 mation training and, in the determination of
5 the security officer of the covered chemical fa-
6 cility, relevant knowledge, experience, or edu-
7 cation as pertains to matters of site security.

8 “(B) SCOPE OF EMPLOYEE CONSULTA-
9 TION.—Any recommendation offered by an em-
10 employee or employee representative under this
11 paragraph—

12 “(i) shall be limited to the purpose of
13 the development of the security vulner-
14 ability assessment and site security plan of
15 the covered chemical facility as required
16 under this title; and

17 “(ii) shall not be considered protected
18 information or a protected disclosure under
19 section 2105.

20 “(C) EMPLOYEE AWARENESS.—The Sec-
21 retary shall produce a poster for display in a re-
22 stricted area of a covered chemical facility that
23 is accessible to employees of the covered chem-
24 ical facility to inform those employees of the

1 consultation requirements under this para-
2 graph.”.

3 **SEC. 6. STRATEGY TO IMPROVE CYBERSECURITY AND OUT-**
4 **REACH TO LOCAL EMERGENCY RESPONDERS.**

5 (a) STRATEGY.—Not later than 1 year after the date
6 of enactment of this Act, and every 2 years thereafter,
7 the Secretary shall issue a strategy that includes the stra-
8 tegic and operational goals and priorities of the Depart-
9 ment of Homeland Security for covered chemical facilities
10 to improve the cybersecurity of covered chemical facilities
11 and the sharing of information with the local emergency
12 manager, the local emergency response provider, and any
13 on site emergency response provider for a covered chemical
14 facility.

15 (b) CONTENTS.—The strategy issued under sub-
16 section (a) shall include—

17 (1) an unclassified assessment of cybersecurity
18 threats relating to—

19 (A) the information technology or oper-
20 ational technology affecting the security risk of
21 a chemical of interest of the covered chemical
22 facility;

23 (B) processes and operations relating to a
24 chemical of interest; and

1 (C) security measures of the covered chem-
2 ical facility relating to a chemical of interest;

3 (2) processes for periodic mitigation of security
4 vulnerabilities, as defined in section 102 of the Cy-
5 bersecurity Information Sharing Act of 2015 (6
6 U.S.C. 1501), to the information technology or oper-
7 ational technology affecting the security risk of a
8 chemical of interest of the covered chemical facility
9 to cybersecurity threats that affect the processes and
10 operations relating to a chemical of interest or the
11 security measures of the covered chemical facility re-
12 lating to a chemical of interest;

13 (3) guidance on further improving outreach to
14 the local emergency manager, the local emergency
15 response provider, and any on site emergency re-
16 sponse provider for a covered chemical facility, which
17 shall include—

18 (A) a statement of the name or title, orga-
19 nizational affiliation, and phone number of a
20 local emergency manager or local emergency re-
21 sponse provider, and any on site emergency re-
22 sponse provider, for the covered chemical facil-
23 ity;

24 (B) the documented policy of the covered
25 chemical facility to coordinate access to the fa-

1 cility with the local emergency manager, local
2 emergency response provider, and any on site
3 emergency response provider described in sub-
4 paragraph (A), for purposes of training and
5 pre-incident planning; and

6 (C) written documentation by the covered
7 chemical facility that the owner or operator has
8 provided the local emergency manager or local
9 emergency response provider with need to know
10 (within the meaning of section 27.400(e) of title
11 6, Code of Federal Regulations, or any suc-
12 cessor thereto) and appropriate chemical-ter-
13 rorism vulnerability information credentials the
14 name and amount of each chemical of interest
15 held, stored, or manufactured at the covered
16 chemical facility.

17 (c) **STAKEHOLDER INPUT.**—In issuing the strategy
18 issued under subsection (a), the Secretary shall solicit
19 input from covered chemical facilities and local emergency
20 managers, local emergency response providers, and on site
21 emergency response providers for covered chemical facili-
22 ties.

23 **SEC. 7. SITE SECURITY PLAN ASSESSMENTS.**

24 Section 2102(c)(3) of the Homeland Security Act of
25 2002 (6 U.S.C. 622(c)) is amended—

1 (1) in subparagraph (B), by striking “2014”
2 and inserting “2020”; and

3 (2) by adding at the end the following:

4 “(C) REVIEW OF COMPLIANCE.—In ap-
5 proving or disapproving a site security plan
6 under this subsection, the Secretary shall con-
7 firm that the covered chemical facility has com-
8 plied with the employee consultation require-
9 ments under subsection (b)(2), including by re-
10 viewing and recording compliance with the doc-
11 umentation requirements under subsection
12 (b)(2)(D).”.

13 **SEC. 8. EXPEDITED APPROVAL PROGRAM.**

14 Section 2102(c)(4) of the Homeland Security Act of
15 2002 (6 U.S.C. 622(c)(4)) is amended—

16 (1) in subparagraph (A)(i), by striking “sub-
17 paragraph (C)” and inserting “subparagraph
18 (C)(i)”;

19 (2) in subparagraph (B)—

20 (A) in clause (i), by striking “Not later
21 than” and all that follows through “the Sec-
22 retary shall issue” and inserting “The Sec-
23 retary shall maintain”; and

24 (B) by striking clause (iii);

25 (3) in subparagraph (C)—

1 (A) in clause (iii), by redesignating sub-
2 clauses (I) through (III) as items (aa) through
3 (cc), respectively, and adjusting the margins ac-
4 cordingly;

5 (B) by redesignating clauses (i) through
6 (viii) as subclauses (I) through (VIII), respec-
7 tively, and adjusting the margins accordingly;

8 (C) in the matter preceding subclause (I),
9 as so redesignated, by striking “The owner”
10 and inserting the following:

11 “(i) IN GENERAL.—The owner”; and

12 (D) by adding at the end the following:

13 “(ii) RISK-BASED PERFORMANCE
14 STANDARDS.—In submitting a site security
15 plan and certification under subparagraph
16 (A)(i), an owner or operator of an expe-
17 dited approval facility shall use the guid-
18 ance for expedited approval facilities to de-
19 termine appropriate measures for the site
20 security plan of the expedited approval fa-
21 cility.”;

22 (4) in subparagraph (D)—

23 (A) in clause (i), by striking “subpara-
24 graph (C)” and inserting “subparagraph
25 (C)(i)”; and

- 1 (B) in clause (iii)—
- 2 (i) by striking “30” and inserting
- 3 “15”; and
- 4 (ii) by striking “subparagraph (C)”
- 5 and inserting “subparagraph (C)(i)”;
- 6 (5) in subparagraph (E)(i), in the matter pre-
- 7 ceding subclause (I), by striking “(C)” and inserting
- 8 “(C)(i)”;
- 9 (6) in subparagraph (F)(i)(I), by striking “sub-
- 10 paragraph (C)” and inserting “subparagraph
- 11 (C)(i)”;
- 12 (7) by striking subparagraph (I) and inserting
- 13 the following:

14 “(I) NOTICE BY THE SECRETARY.—The

15 Secretary shall provide notice to each covered

16 chemical facility of the expedited approval pro-

17 gram under this paragraph.”.

18 **SEC. 9. CFATS RECOGNITION PROGRAM.**

19 (a) IN GENERAL.—Section 2102(c) of the Homeland

20 Security Act of 2002 (6 U.S.C. 622(c)) is amended by

21 adding at the end the following:

22 “(5) CFATS RECOGNITION PROGRAM.—

23 “(A) DEFINITIONS.—In this paragraph—

1 “(i) the term ‘CFATS Recognition
2 Program’ means the program established
3 under subparagraph (B);

4 “(ii) the term ‘participating facility’
5 means a covered chemical facility that is a
6 member of a participating industry stew-
7 ardship program;

8 “(iii) the term ‘participating industry
9 stewardship program’ means an industry
10 stewardship program that—

11 “(I) meets the eligibility require-
12 ments under subparagraph (C)(i); and

13 “(II) is reviewed and certified by
14 the Secretary to participate in the
15 CFATS Recognition Program; and

16 “(iv) the term ‘sponsor organization’
17 means the governing body of a partici-
18 pating industry stewardship program.

19 “(B) ESTABLISHMENT.—

20 “(i) IN GENERAL.—Not later than 2
21 years after the date of enactment of the
22 Protecting and Securing Chemical Facili-
23 ties from Terrorist Attacks Act of 2020,
24 the Secretary shall prescribe regulations,
25 including guidance if appropriate, to estab-

1 lish a program that shall be known as the
2 CFATS Recognition Program—

3 “(I) with the goal of leveraging
4 current and future industry steward-
5 ship programs to further enhance the
6 security at covered chemical facilities;

7 “(II) to provide incentives for
8 greater regulatory relief while ensur-
9 ing that the overarching security ob-
10 jectives of the Chemical Facility Anti-
11 Terrorism Standards Program are
12 satisfied; and

13 “(III) under which the Secretary
14 shall—

15 “(aa) establish—

16 “(AA) eligibility criteria
17 under subparagraph (C)(i)
18 for industry stewardship
19 programs seeking to partici-
20 pate in the CFATS Recogni-
21 tion Program; and

22 “(BB) performance re-
23 quirements under subpara-
24 graph (C)(ii) for partici-
25 pating facilities;

1 “(bb) provide incentives
2 under subparagraph (C)(iii) to
3 encourage participation in the
4 CFATS Recognition Program;
5 and

6 “(cc) prescribe such regula-
7 tions and guidance as the Sec-
8 retary determines to be necessary
9 or appropriate for the implemen-
10 tation of the CFATS Recognition
11 Program.

12 “(ii) INTERIM RULES.—The Secretary
13 may issue the regulations required under
14 clause (i) by interim final rule to the ex-
15 tent necessary to expedite the establish-
16 ment of the CFATS Recognition Program
17 under that clause.

18 “(iii) APPLICABILITY OF OTHER
19 LAWS.—During the period before the Sec-
20 retary has met the deadline under clause
21 (i), in developing and prescribing, or
22 amending, the regulations relating to car-
23 rying out the CFATS Recognition Pro-
24 gram and collecting information from in-
25 dustry stewardship programs, sponsor or-

1 organizations, and participating facilities, the
2 Secretary shall not be subject to—

3 “(I) section 553 of title 5, United
4 States Code;

5 “(II) subchapter I of chapter 35
6 of title 44, United States Code; or

7 “(III) section 2107(b) of this
8 Act.

9 “(C) ELIGIBILITY CRITERIA; FACILITY
10 PERFORMANCE REQUIREMENTS; INCENTIVES.—

11 “(i) ELIGIBILITY CRITERIA FOR IN-
12 DUSTRY STEWARDSHIP PROGRAMS.—Not
13 later than 2 years after the date of enact-
14 ment of the Protecting and Securing
15 Chemical Facilities from Terrorist Attacks
16 Act of 2020, the Secretary shall establish
17 minimum eligibility criteria for industry
18 stewardship programs desiring to be con-
19 sidered by the Secretary for participation
20 in the CFATS Recognition Program that
21 shall include—

22 “(I) a requirement that any in-
23 dustry stewardship program desiring
24 to participate in the CFATS Recogni-
25 tion Program be governed by an in-

1 industry association or technical organi-
2 zation that is an entity described in
3 paragraph (3) or (6) of section 501(c)
4 of the Internal Revenue Code of 1986;

5 “(II) a documented top manage-
6 ment commitment to chemical facility
7 security; and

8 “(III) criteria relating to—

9 “(aa) program auditing re-
10 quirements and frequency;

11 “(bb) security vulnerability
12 assessment requirements and fre-
13 quency;

14 “(cc) security measures that
15 align with the risk-based per-
16 formance standards established
17 under subsection (a)(2)(C); and

18 “(dd) reporting required to
19 be done by any industry steward-
20 ship program desiring to partici-
21 pate in the CFATS Recognition
22 Program.

23 “(ii) PERFORMANCE REQUIREMENTS
24 FOR PARTICIPATING FACILITIES.—The

1 Secretary shall require that each partici-
2 pating facility—

3 “(I) submit an acknowledgment
4 by the sponsor organization of the
5 participating industry steward pro-
6 gram, of which the participating facil-
7 ity is a member, that the participating
8 facility is—

9 “(aa) a member in good
10 standing of the participating in-
11 dustry stewardship program; and

12 “(bb) in full compliance with
13 the requirements of the partici-
14 pating industry stewardship pro-
15 gram; and

16 “(II) promptly notify the Sec-
17 retary if the participating facility
18 ceases to be—

19 “(aa) a member in good
20 standing of the participating in-
21 dustry stewardship program; or

22 “(bb) in full compliance with
23 the requirements of the partici-
24 pating industry stewardship pro-
25 gram.

1 “(iii) PROGRAM INCENTIVES.—Not
2 later than 2 years after the date of enact-
3 ment of the Protecting and Securing
4 Chemical Facilities from Terrorist Attacks
5 Act of 2020, the Secretary shall—

6 “(I) establish incentives for par-
7 ticipation in the CFATS Recognition
8 Program, which shall include—

9 “(aa) a reduction in the fre-
10 quency of compliance inspections
11 through adjustments to the in-
12 spection frequency algorithm of
13 the Department, except with re-
14 spect to any inspection—

15 “(AA) relating to a
16 planned measure in the site
17 security plan of a partici-
18 pating facility that has not
19 been fully implemented; or

20 “(BB) of a partici-
21 pating facility that is not in
22 full compliance with the re-
23 quirements under the Chem-
24 ical Facility Anti-Terrorism
25 Standards Program;

1 “(bb) streamlined vulner-
2 ability assessment and site secu-
3 rity plan processes; and

4 “(cc) any other regulatory
5 relief as determined appropriate
6 by the Secretary; and

7 “(II) provide written guidance on
8 any incentive established under sub-
9 clause (I).

10 “(D) EVALUATION.—Not later than 1 year
11 after the date on which the CFATS Recognition
12 Program is established under subparagraph
13 (B)(i), the Secretary shall provide a briefing to
14 the appropriate congressional committees on the
15 progress in carrying out the CFATS Recogni-
16 tion Program.”.

17 (b) GAO REVIEW AND REPORT.—

18 (1) REVIEW.—Not later than 3 years after the
19 date on which the Secretary establishes the CFATS
20 Recognition Program under paragraph (5) of section
21 2102(c) of the Homeland Security Act of 2002 (6
22 U.S.C. 622(c)), as added by subsection (a), the
23 Comptroller General of the United States shall con-
24 duct a review of the program, which shall include—

1 (A) an assessment of the effectiveness of
2 the program, including—

3 (i) the result of leveraging industry
4 stewardship programs to further secure
5 covered chemical facilities;

6 (ii) any security improvements or defi-
7 ciencies at covered chemical facilities par-
8 ticipating in the program; and

9 (iii) the estimated cost savings of the
10 program to the Federal Government;

11 (B) recommendations on additional incen-
12 tives that the Secretary should provide for cov-
13 ered chemical facilities participating in the pro-
14 gram; and

15 (C) recommendations for any changes to
16 the program.

17 (2) REPORT.—Not later than 270 days after
18 the date on which the Comptroller General of the
19 United States begins the review required under
20 paragraph (1), the Comptroller General shall submit
21 to the appropriate congressional committees a report
22 on the review.

23 **SEC. 10. STANDARDS FOR AUDITORS AND INSPECTORS.**

24 Section 2102(d)(1) of the Homeland Security Act of
25 2002 (6 U.S.C. 622(d)(1)) is amended—

1 (1) in subparagraph (D), by inserting “, or any
2 successor organization,” after “Infrastructure Secu-
3 rity Compliance Division” each place that term ap-
4 pears;

5 (2) in subparagraph (E)—

6 (A) by redesignating clauses (i) through
7 (vii) as subclauses (I) through (VII), respec-
8 tively, and adjusting the margins accordingly;

9 (B) in the matter preceding subclause (I),
10 as so redesignated, by striking “The Secretary”
11 and inserting the following:

12 “(i) IN GENERAL.—The Secretary”;

13 (C) in clause (i), as so designated—

14 (i) in subclause (I), as so redesign-
15 ated, by striking the semicolon at the end
16 and inserting the following: “that in-
17 clude—

18 “(aa) requirements relating
19 to training—

20 “(AA) in inspection
21 methods evaluating perform-
22 ance-based measures to de-
23 termine whether a chemical
24 facility is in compliance with

1 this title, including examples
2 of such training; and

3 “(BB) with respect to
4 consistency in the applica-
5 tion of inspection methods
6 described in subitem (AA);
7 and

8 “(bb) requirements relating
9 to training in alternative security
10 plans and programs;”;

11 (ii) in subclause (II), as so redesign-
12 nated, by inserting “, including periodic
13 performance reviews of each such indi-
14 vidual” after “retraining requirements”;

15 (iii) in subclause (VI), as so redesign-
16 nated, by striking “and”;

17 (iv) by redesignating subclause (VII),
18 as so redesignated, as subclause (VIII);
19 and

20 (v) by inserting after subclause (VI),
21 as so redesignated, the following:

22 “(VII) a requirement that each
23 such individual who is not a trained
24 auditor or inspector carry out inspec-
25 tions as a trainee to an experienced

1 auditor or inspector until the experi-
2 enced auditor or inspector ensures
3 that the trainee is qualified to carry
4 out any other audit or inspection
5 under this subsection; and”;

6 (D) by adding at the end the following:

7 “(ii) ANNUAL REVIEW.—

8 “(I) IN GENERAL.—Not later
9 than 2 years after the date of enact-
10 ment of the Protecting and Securing
11 Chemical Facilities from Terrorist At-
12 tacks Act of 2020, and every 2 years
13 thereafter, the Secretary shall conduct
14 a review of audits and inspections car-
15 ried out under this subsection to
16 evaluate the consistency of the man-
17 ner in which auditors and inspectors
18 carry out the audits and inspections,
19 which shall include an analysis of any
20 inconsistency in the manner in which
21 the auditors and inspectors carry out
22 the audits and inspections in different
23 regions of the United States.

24 “(II) BRIEFING.—Not later than
25 60 days after the date on which each

1 review is conducted under subclause
2 (I), the Secretary shall brief the Com-
3 mittee on Homeland Security and
4 Governmental Affairs of the Senate
5 and the Committee on Homeland Se-
6 curity and the Committee on Energy
7 and Commerce of the House of Rep-
8 resentatives on the results of the re-
9 view.

10 “(III) INCORPORATION IN TRAIN-
11 ING.—The Secretary shall, as appro-
12 priate, incorporate the findings of
13 each review under subclause (I) in de-
14 veloping the standards for the train-
15 ing and retraining of auditors and in-
16 spectors under clause (i).

17 “(iii) DEFINITION.—In this subpara-
18 graph, the term ‘trained auditor or inspec-
19 tor’ means an individual who—

20 “(I) has completed the training
21 required to be an auditor or inspector
22 used by the Department; and

23 “(II) is or was used as an audi-
24 tor or inspector by the Department on
25 or before the date of enactment of the

1 Protecting and Securing Chemical Fa-
2 cilities from Terrorist Attacks Act of
3 2020.”; and

4 (3) by adding at the end the following:

5 “(G) EVALUATION STANDARD.—

6 “(i) IN GENERAL.—Not later than 1
7 year after the date of enactment of the
8 Protecting and Securing Chemical Facili-
9 ties from Terrorist Attacks Act of 2020,
10 the Secretary shall develop an official
11 standard to evaluate the consistency of the
12 manner in which auditors and inspectors
13 carry out the audits and inspections under
14 this subsection.

15 “(ii) BRIEFING.—Not later than 3
16 months after the Secretary develops the
17 standard under clause (i), the Secretary
18 shall brief the Committee on Homeland Se-
19 curity and Governmental Affairs of the
20 Senate and the Committee on Homeland
21 Security and the Committee on Energy
22 and Commerce of the House of Represent-
23 atives on the standard.”.

1 **SEC. 11. PERSONNEL SURETY PROGRAM.**

2 (a) IN GENERAL.—Section 2102(d)(2) of the Home-
3 land Security Act of 2002 (6 U.S.C. 622(d)(2)) is amend-
4 ed—

5 (1) in subparagraph (A)—

6 (A) in clause (i)—

7 (i) by inserting “to the Secretary for
8 vetting” after “information about an indi-
9 vidual”; and

10 (ii) by striking “1 time;” and insert-
11 ing the following: “1 time, except that the
12 covered chemical facility shall supply addi-
13 tional information requested by the Sec-
14 retary if—

15 “(I) any information submitted
16 about an individual with access to re-
17 stricted areas and critical assets—

18 “(aa) is incorrect or incom-
19 plete; or

20 “(bb) changes;

21 “(II) an individual who pre-
22 viously had access to restricted areas
23 and critical assets, no longer has such
24 access;

1 “(III) an individual regains ac-
2 cess to restricted areas and critical as-
3 sets; or

4 “(IV) the Secretary requests in-
5 formation to—

6 “(aa) verify compliance with
7 screening for terrorist ties under
8 the Personnel Surety Program;
9 or

10 “(bb) complete or respond to
11 terrorist ties vetting;”; and

12 (B) in clause (ii), by inserting “who will
13 have access to restricted areas and critical as-
14 sets,” after “about an individual”;

15 (2) in subparagraph (B)(i)(I), by inserting “,
16 provided that, if an individual screened through the
17 Federal screening program legally changes his or her
18 name, the owner or operator of the covered chemical
19 facility may not rely on a credential containing the
20 previous name of the individual after the date that
21 90 days after the date on which the owner or oper-
22 ator is notified of the change in the name of the in-
23 dividual” before the semicolon; and

24 (3) by adding at the end the following:

1 “(D) REQUIREMENT TO UPDATE.—Not
2 later than 30 days after the date on which the
3 Secretary receives additional information re-
4 quested by the Secretary under subparagraph
5 (A)(i)(I), the Secretary shall update the infor-
6 mation accordingly within the terrorist screen-
7 ing database, which shall include removing an
8 individual from the terrorist screening database
9 if the individual no longer has access to a re-
10 stricted area or critical asset and adding an in-
11 dividual to the terrorist screening database if
12 the individual regains that access.

13 “(E) TIMELINE FOR TIER 3 AND 4 FACILI-
14 TIES.—

15 “(i) IN GENERAL.—Not later than 7
16 years after the date of enactment of the
17 Protecting and Securing Chemical Facili-
18 ties from Terrorist Attacks Act of 2020,
19 the Secretary shall implement the Per-
20 sonnel Surety Program established under
21 subparagraph (A) with respect to covered
22 chemical facilities assigned to tier 3 and
23 tier 4 at which the Personnel Surety Pro-
24 gram is not implemented as of the date of
25 enactment of the Protecting and Securing

1 Chemical Facilities from Terrorist Attacks
2 Act of 2020, except that the Secretary may
3 not, in any fiscal year, implement the Per-
4 sonnel Surety Program with respect to
5 more than 15 percent of such covered
6 chemical facilities, except that if an owner
7 or operator of any such covered chemical
8 facility voluntarily chooses to implement
9 the Personnel Surety Program, such cov-
10 ered chemical facility shall not be counted
11 against that percent.

12 “(ii) FEDERAL INFORMATION POL-
13 ICY.—The Secretary shall not be subject to
14 subchapter I of chapter 35 of title 44,
15 United States Code, until the date that is
16 3 years after the date on which clause (i)
17 is implemented.

18 “(F) BRIEFING TO CONGRESS.—Not later
19 than 1 year after the date of enactment of the
20 Protecting and Securing Chemical Facilities
21 from Terrorist Attacks Act of 2020, and annu-
22 ally thereafter until the Personnel Surety Pro-
23 gram established under subparagraph (A) is im-
24 plemented with respect to all covered chemical
25 facilities assigned to tier 3 and 4 at which the

1 Personnel Surety Program is not implemented
2 as of the date of enactment of the Protecting
3 and Securing Chemical Facilities from Terrorist
4 Attacks Act of 2020, the Secretary shall brief
5 the Committee on Homeland Security and Gov-
6 ernmental Affairs of the Senate and the Com-
7 mittee on Homeland Security and the Com-
8 mittee on Energy and Commerce of the House
9 of Representatives on the implementation of the
10 Personnel Surety Program, including—

11 “(i) the effectiveness of the Personnel
12 Surety Program;

13 “(ii) the cost of the Personnel Surety
14 Program; and

15 “(iii) the results of implementing the
16 Personnel Surety Program.”.

17 (b) GUIDANCE.—Not later than 270 days after the
18 date of enactment of this Act, the Secretary shall develop
19 and make publicly available written guidance for seasonal
20 employees of covered chemical facilities for purposes of
21 complying with the requirements under section 2102(d)(2)
22 of the Homeland Security Act of 2002 (6 U.S.C.
23 622(d)(2)), as amended by subsection (a).

1 **SEC. 12. SECURITY RISK ASSESSMENT APPROACH AND**
2 **CORRESPONDING TIERING METHODOLOGY.**

3 Section 2102(e) of the Homeland Security Act of
4 2002 (6 U.S.C. 622(e)) is amended—

5 (1) in paragraph (2)(A), by striking “develop”
6 and inserting “maintain”; and

7 (2) in paragraph (3)—

8 (A) in subparagraph (B)—

9 (i) by striking “information on” and
10 all that follows through the end and insert-
11 ing “information on—”; and

12 (ii) by adding at the end the fol-
13 lowing:

14 “(i) how the Secretary confirmed the
15 information was the basis for the change
16 or determination described in subpara-
17 graph (A);

18 “(ii) all relevant inputs and assump-
19 tions under the tiering methodology;

20 “(iii) the rationale for each of those
21 relevant inputs and assumptions;

22 “(iv) the output of the tiering method-
23 ology; and”;

24 (B) by adding at the end the following:

25 “(C) NOTICE.—

1 “(i) IN GENERAL.—If an owner or op-
2 erator of a chemical facility of interest sub-
3 mits a Top-Screen and the Secretary has
4 not made a determination with respect to
5 the tiering of the chemical facility of inter-
6 est, or notified the owner or operator of
7 any specific deficiency or omission of re-
8 quired information in the Top-Screen, by
9 the date that is 1 year after the date on
10 which the owner or operator submitted the
11 Top-Screen, the Secretary shall, in writing,
12 notify the owner or operator that—

13 “(I) the Secretary has not made
14 such a determination; and

15 “(II) the chemical facility of in-
16 terest is no longer pending tiering de-
17 termination but, until further notice,
18 is deemed a chemical facility of inter-
19 est.

20 “(ii) RETROACTIVITY.—With respect
21 to each owner and operator of a chemical
22 facility of interest who submitted a Top-
23 Screen on or before the date that is 1 year
24 before the date of enactment of the Pro-
25 tecting and Securing Chemical Facilities

1 from Terrorist Attacks Act of 2020, if the
2 Secretary has not made a determination
3 with respect to the tiering of the chemical
4 facility or notified the owner or operator of
5 any specific deficiency or omission of re-
6 quired information in the Top-Screen as of
7 such date of enactment, the Secretary shall
8 provide the notification described in clause
9 (i) to the owner and operator.

10 “(D) REPORTS.—

11 “(i) REPORTS TO CHEMICAL FACILI-
12 TIES.—

13 “(I) IN GENERAL.—Not later
14 than 60 days after the Secretary
15 makes a determination that tiering for
16 a covered chemical facility is changed,
17 or that a covered chemical facility is
18 no longer subject to the requirements
19 under this title, the Secretary shall,
20 upon the request of the owner or op-
21 erator of the covered chemical facility,
22 submit to the owner or operator of the
23 covered chemical facility a written re-
24 port that contains—

1 “(aa) the information de-
2 scribed in subparagraphs (A) and
3 (B); and

4 “(bb) a controlled unclassi-
5 fied statement—

6 “(AA) of the criteria
7 under paragraph (2)(B) and
8 how the security risk of ter-
9 rorism associated with the
10 covered chemical facility was
11 evaluated under those cri-
12 teria; and

13 “(BB) that includes
14 any chemical-terrorism vul-
15 nerability information (as
16 defined in section 27.105 of
17 title 6, Code of Federal Reg-
18 ulations, or any successor
19 thereto) relating to the de-
20 termination.

21 “(II) PUBLIC DISCLOSURE.—
22 Each report submitted to an owner or
23 operator of a covered chemical facility
24 to which the report pertains under

1 subclause (I) shall be protected from
2 public disclosure under section 2103.

3 “(ii) CONGRESSIONAL NOTIFICA-
4 TION.—If an owner or operator of a chem-
5 ical facility of interest submits a Top-
6 Screen and the Secretary has not made a
7 determination with respect to the tiering of
8 the chemical facility of interest or notified
9 the owner or operator of any specific defi-
10 ciency or omission of required information
11 in the Top-Screen by the date that is 270
12 days after the date on which the owner or
13 operator submitted the Top-Screen, the
14 Secretary shall submit to the Committee
15 on Homeland Security and Governmental
16 Affairs of the Senate and the Committee
17 on Homeland Security and the Committee
18 on Energy and Commerce of the House of
19 Representatives—

20 “(I) a written notification that
21 the Secretary has not made the deter-
22 mination or issued the notification, as
23 applicable; and

24 “(II) an explanation of why the
25 Secretary has not made the deter-

1 mination or issued the notification, as
2 applicable.”.

3 **SEC. 13. DATA COLLECTION, RECORDING, AND LESSONS**
4 **LEARNED.**

5 Section 2102(e) of the Homeland Security Act of
6 2002 (6 U.S.C. 622(e)), as amended by section 12 of this
7 Act, is amended—

8 (1) in paragraph (3)—

9 (A) in subparagraph (A)—

10 (i) by redesignating clauses (i) and

11 (ii) as clauses (ii) and (iii), respectively;

12 (ii) by inserting before clause (ii), as
13 so redesignated, the following:

14 “(i) the Secretary determines that a
15 facility that was a covered chemical facility
16 no longer presents a high level of security
17 risk;”;

18 (iii) in clause (iii), as so redesignated,
19 by inserting “or chemical facility of inter-
20 est” after “covered chemical facility”;

21 (B) in subparagraph (B), as amended by
22 section 12 of this Act, by adding at the end the
23 following:

24 “(v) any action taken or practice em-
25 ployed by a facility described in subpara-

1 graph (A)(i) to reduce or remove ter-
2 rorism-related chemical security risks.”;
3 and

4 (C) by adding at the end the following:

5 “(E) TREATMENT OF CERTAIN INFORMA-
6 TION.—

7 “(i) PROTECTED INFORMATION.—In-
8 formation described in subparagraph (B)
9 shall be protected from public disclosure in
10 accordance with section 2103(a).

11 “(ii) FEDERAL INFORMATION POL-
12 ICY.—In collecting information under sub-
13 paragraph (B)(v), the Secretary shall not
14 be subject to subchapter I of chapter 35 of
15 title 44, United States Code.”;

16 (2) by redesignating paragraph (4) as para-
17 graph (5);

18 (3) by inserting after paragraph (3) the fol-
19 lowing:

20 “(4) LESSONS LEARNED RELATING TO REDUC-
21 ING CHEMICAL SECURITY RISKS.—

22 “(A) IN GENERAL.—Based on the informa-
23 tion maintained under paragraph (3)(B)(v) re-
24 lating to actions taken and practices employed
25 by facilities described in paragraph (3)(A)(i) to

1 successfully reduce, remove, or otherwise pre-
2 vent chemical security risks, the Secretary
3 shall—

4 “(i) develop, and, not less frequently
5 than every 2 years, update, publicly avail-
6 able lessons learned that voluntarily may
7 be used to assist owners and operators of
8 covered chemical facilities and chemical fa-
9 cilities of interest in preventing and reduc-
10 ing chemical security risks; and

11 “(ii) disseminate the lessons learned
12 and developed under clause (i) to owners
13 and operators of covered chemical facilities
14 and chemical facilities of interest through
15 an appropriate medium or system, includ-
16 ing by making the lessons learned available
17 to the public to the greatest extent prac-
18 ticable.

19 “(B) TREATMENT OF SENSITIVE INFORMA-
20 TION.—In developing and disseminating the les-
21 sons learned under subparagraph (A), the Sec-
22 retary shall protect from public disclosure—

23 “(i) security vulnerability assess-
24 ments, site security plans, and all other se-

1 security-related information, records, and
2 documents; and

3 “(ii) any information from which the
4 identity of the covered chemical facility or
5 chemical facility of interest could be rea-
6 sonably ascertained.”; and

7 (4) in paragraph (5)(B)(i)(I), as so redesign-
8 nated—

9 (A) in item (aa), by striking “or”;

10 (B) in item (bb), by striking “and” and in-
11 serting “or”; and

12 (C) by adding at the end the following:

13 “(cc) determined that a fa-
14 cility that was a covered chemical
15 facility no longer presents a high
16 level of security risk.”.

17 **SEC. 14. SEMIANNUAL PERFORMANCE REPORTING.**

18 Section 2102(e)(5) of the Homeland Security Act of
19 2002, as so redesignated by section 13 of this Act, is
20 amended—

21 (1) in the matter preceding subparagraph (A),
22 by striking “2014” and inserting “2020”;

23 (2) by striking subparagraph (C);

24 (3) by redesignating subparagraph (D) as sub-
25 paragraph (C);

1 (4) by inserting after subparagraph (C), as so
2 redesignated, the following:

3 “(D) the effectiveness of the Chemical Fa-
4 cility Anti-Terrorism Standards Program at—

5 “(i) managing security risks; and

6 “(ii) developing and using appropriate
7 metrics and analysis capabilities to meas-
8 ure risk reduction attributable to the
9 Chemical Facility Anti-Terrorism Stand-
10 ards Program, including—

11 “(I) analysis capabilities relating
12 to a reduction in the vulnerability of
13 high-risk covered chemical facilities to
14 terrorist attack; and

15 “(II) outcome metrics that meas-
16 ure cumulative risk reduction over
17 time for high-risk covered chemical fa-
18 cilities;”;

19 (5) by striking subparagraph (E);

20 (6) by redesignating subparagraph (F) as sub-
21 paragraph (E);

22 (7) in subparagraph (E), as so redesignated, by
23 striking the period at the end and inserting a semi-
24 colon; and

25 (8) by adding at the end the following:

1 “(F) the number of chemical facilities of
2 interest that have submitted Top-Screens and
3 are awaiting tiering designation;

4 “(G) with respect to each chemical facility
5 of interest described in subparagraph (F), the
6 number of days during which the tiering des-
7 ignation for the chemical facility of interest has
8 been pending;

9 “(H) information relating to covered prod-
10 ucts or mixtures, as defined in paragraph
11 (7)(A), that the Secretary has excluded from
12 the designation as chemicals of interest for pur-
13 poses of the definition of the term ‘chemical fa-
14 cility of interest’, including—

15 “(i) the total number of petitions sub-
16 mitted under the regulations prescribed
17 under paragraph (5)(C);

18 “(ii) the total number of covered
19 products or mixtures that the Secretary
20 has affirmatively excluded from the des-
21 ignation;

22 “(iii) the rationale for affirmatively
23 excluding each covered product or mixture
24 for which a petition described in clause (i)
25 was submitted; and

1 “(iv) the rationale for not affirma-
2 tively excluding each covered product or
3 mixture for which a petition described in
4 clause (i) was submitted;

5 “(I) information related to the security
6 harmonization waiver program established
7 under section 2114, including—

8 “(i) the total number of covered
9 chemical facilities that have applied for a
10 waiver under that section;

11 “(ii) the total number of covered
12 chemical facilities that the Secretary has
13 granted a waiver under that section;

14 “(iii) the total number of waivers ap-
15 plied for and, separately, total number of
16 waivers granted for all or part of the regu-
17 latory requirements under this title;

18 “(iv) the rationale for granting a cov-
19 ered facility a waiver; and

20 “(v) the rationale for not granting a
21 covered chemical facility a waiver; and

22 “(J) the number of individuals who have
23 been checked for possible ties to terrorism via
24 the terrorist screening database and, of those
25 individuals, the number of positive matches,

1 provided that such information shall be sub-
2 mitted in a separate annex to the report, which
3 may contain national security information, and
4 appropriately safeguarded from public disclo-
5 sure.”.

6 **SEC. 15. RESPONSIBILITIES OF THE SECRETARY.**

7 (a) SHARING INFORMATION WITH EMERGENCY RE-
8 SPONSE PROVIDERS.—Section 2102(e) of the Homeland
9 Security Act of 2002 (6 U.S.C. 622(e)), as amended by
10 section 13 of this Act, is amended by adding at the end
11 the following:

12 “(6) SHARING INFORMATION WITH EMERGENCY
13 RESPONSE PROVIDERS.—

14 “(A) DEFINITION OF FUSION CENTER.—In
15 this paragraph, the term ‘fusion center’ has the
16 meaning given the term in section 210A(j).

17 “(B) SHARING INFORMATION.—The Sec-
18 retary shall, in a secure and expeditious man-
19 ner, make available to State, local, and regional
20 fusion centers and State and local government
21 officials, including officials of State or local law
22 enforcement agencies and emergency response
23 providers, with a need to know (within the
24 meaning of section 27.400(e) of title 6, Code of
25 Federal Regulations, or any successor thereto)

1 with appropriate chemical-terrorism vulner-
2 ability information training, such information
3 as the Secretary determines necessary to ensure
4 that emergency response providers are capable
5 to effectively prepare for, respond to, and miti-
6 gate chemical security incidents at covered
7 chemical facilities, which shall include, with re-
8 spect to each covered chemical facility—

9 “(i) the name of the covered chemical
10 facility;

11 “(ii) the address of the covered chem-
12 ical facility;

13 “(iii) the phone number of the covered
14 chemical facility;

15 “(iv) the name and Chemical Abstract
16 Service number of each chemical of inter-
17 est used, stored, or manufactured as speci-
18 fied in the Top-Screen submitted by the
19 covered chemical facility;

20 “(v) the quantity and concentration of
21 each chemical of interest specified in the
22 Top-Screen submitted by the covered
23 chemical facility; and

24 “(vi) the name or title, organizational
25 affiliation, and phone number of a local

1 emergency manager or local emergency re-
2 sponse provider for the covered chemical
3 facility specified in the site security plan of
4 the covered chemical facility.

5 “(C) EXISTING PLATFORM OR WEBSITE.—

6 “(i) IN GENERAL.—In sharing infor-
7 mation under subparagraph (B), the Sec-
8 retary shall use a single information tech-
9 nology infrastructure, information tech-
10 nology platform, online platform, or
11 website in existence on the date of enact-
12 ment of the Protecting and Securing
13 Chemical Facilities from Terrorist Attacks
14 Act of 2020.

15 “(ii) DETERMINATION.—When deter-
16 mining which single infrastructure, plat-
17 form, or website to use under clause (i),
18 the Secretary shall solicit input from cov-
19 ered chemical facilities, State, local, and
20 regional fusion centers, and State and local
21 government officials, including officials of
22 State or local law enforcement agencies
23 and emergency response providers.

24 “(D) UPDATES.—Not less frequently than
25 every 90 days, the Secretary shall update the

1 information shared under subparagraph (B) to
2 include covered chemical facilities in existence
3 as of the date of the update.

4 “(E) OUTREACH TO FIRST RESPONDERS.—
5 Concurrent with a compliance inspection or
6 audit conducted at covered chemical facilities
7 under subsection (d)(1), the Secretary or a des-
8 ignee of the Secretary shall—

9 “(i) contact and notify the local emer-
10 gency manager or local emergency re-
11 sponse provider, and any on-site emergency
12 response provider, identified by the covered
13 chemical facility that there is a covered
14 chemical facility in their response area;
15 and

16 “(ii) inform the response officials
17 identified by the covered chemical facility
18 of the available secure communications and
19 information technology infrastructure plat-
20 forms or other mechanisms to obtain addi-
21 tional information.”.

22 (b) REPORT.—Not later than 270 days after the date
23 of enactment of this Act, the Secretary shall report to the
24 appropriate congressional committees on the plan of the
25 Secretary to—

1 (1) implement the amendment made by sub-
2 section (a); and

3 (2) in accordance with the amendment made by
4 subsection (a), communicate with emergency re-
5 sponse providers with a need to know (within the
6 meaning of section 27.400(e) of title 6, Code of Fed-
7 eral Regulations, or any successor thereto) in a se-
8 cure and expeditious manner in order to inform the
9 emergency response providers that covered chemical
10 facilities exist in the locations in which the emer-
11 gency response providers operate.

12 **SEC. 16. AMENDMENTS RELATING TO APPENDIX A OF PART**
13 **27 OF TITLE 6, UNITED STATES CODE.**

14 (a) **SPECIFIC PRODUCTS AND MIXTURES CON-**
15 **TAINING CHEMICALS OF INTEREST.**—Section 2102(e) of
16 the Homeland Security Act of 2002 (6 U.S.C. 622(e)),
17 as amended by section 15 of this Act, is amended by add-
18 ing at the end the following:

19 “(7) **SPECIFIC PRODUCTS AND MIXTURES CON-**
20 **TAINING CHEMICALS OF INTEREST.**—

21 “(A) **DEFINITION.**—In this paragraph, the
22 term ‘covered product or mixture’ means a spe-
23 cific product or mixture that contains a chem-
24 ical of interest at or above the minimum con-
25 centration listed under Appendix A to part 27

1 of title 6, Code of Federal Regulations, or any
2 successor thereto.

3 “(B) EXCLUSION.—Subject to the regula-
4 tions prescribed under subparagraph (C), the
5 Secretary may exclude a covered product or
6 mixture from the designation as a chemical of
7 interest for the purposes of the definition of the
8 term ‘chemical facility of interest’ if the Sec-
9 retary determines that the covered product or
10 mixture does not present the same security con-
11 cern on the basis of which the chemical of inter-
12 est contained in the covered product or mixture
13 was designated as a chemical of interest.

14 “(C) REGULATIONS.—

15 “(i) AUTHORITY TO PRESCRIBE.—Not
16 later than 1 year after the date of enact-
17 ment of the Protecting and Securing
18 Chemical Facilities from Terrorist Attacks
19 Act of 2020, the Secretary shall prescribe
20 regulations, including guidance as nec-
21 essary, under which—

22 “(I) an interested party may pe-
23 tition the Secretary for exclusion of a
24 covered product or mixture under sub-
25 paragraph (B);

1 “(II) during the period beginning
2 on the effective date of such regula-
3 tions, and ending on the date that is
4 1 year after such date, not later than
5 180 days after an interested party
6 submits a petition under subclause
7 (I), the Secretary shall—

8 “(aa) determine whether the
9 covered product or mixture shall
10 be excluded under subparagraph
11 (B); and

12 “(bb) if the Secretary deter-
13 mines that the covered product
14 or mixture shall be excluded
15 under subparagraph (B) and so
16 excludes the covered product or
17 mixture;

18 “(III) after the date that is 1
19 year after the effective date of such
20 regulations, not later than 90 days
21 after an interested party submits a
22 petition under subclause (I), the Sec-
23 retary shall—

24 “(aa) determine whether the
25 covered product or mixture shall

1 be excluded under subparagraph
2 (B); and

3 “(bb) if the Secretary deter-
4 mines that the covered product
5 or mixture shall be excluded
6 under subparagraph (B)—

7 “(AA) document any
8 such determination and
9 make publicly available on
10 an established and secure
11 platform to those individuals
12 with a need to know within
13 the meaning of section
14 27.400(e) of title 6, Code of
15 Federal Regulations, or any
16 successor thereto; and

17 “(BB) so exclude the
18 covered product or mixture;
19 and

20 “(IV) if an interested party sub-
21 mits a petition under subclause (I)
22 and the Secretary has not made a de-
23 termination as to whether the relevant
24 covered product or mixture shall be
25 excluded under subparagraph (B) by

1 the date required under subclause (II)
2 or (III) of this subparagraph, as ap-
3 plicable, the Secretary may extend the
4 period in which the determination is
5 to be made—

6 “(aa) upon the request of
7 the interested party; or

8 “(bb) if the Secretary re-
9 quires additional time to make
10 the determination.

11 “(ii) FEDERAL INFORMATION POL-
12 ICY.—In collecting information from peti-
13 tioners under this subparagraph, the Sec-
14 retary shall not be subject to subchapter I
15 of chapter 35 of title 44, United States
16 Code.”.

17 (b) FLAMMABLE LIQUID MEASURES.—Not later than
18 180 days after the date of enactment of this Act, the Sec-
19 retary shall prescribe a regulation to amend Appendix A
20 to part 27 of title 6, United States Code, to provide that
21 when calculating whether a chemical facility of interest
22 holds a release-flammable chemical of interest in an
23 amount that meets a threshold quantity, only a release-
24 flammable chemical of interest in liquid mixtures with a
25 flammability hazard rating of 4 under the document enti-

1 tled “NFPA 704: Standard System for the Identification
2 of the Hazards of Materials for Emergency Response”
3 published in 2017 by the National Fire Protection Asso-
4 ciation, or any successor thereto, shall be included in the
5 calculation.

6 (c) EVALUATION OF DESIGNATED CHEMICALS OF IN-
7 TEREST.—Section 2102(e) of the Homeland Security Act
8 of 2002 (6 U.S.C. 622(e)), as amended by subsection (a)
9 of this section, is amended by adding at the end the fol-
10 lowing:

11 “(8) CHEMICALS OF INTEREST.—Not later than
12 180 days after the date of enactment of the Pro-
13 tecting and Securing Chemical Facilities from Ter-
14 rorist Attacks Act of 2020, and not less frequently
15 than every 5 years thereafter, the Secretary shall—

16 “(A) review Appendix A to part 27 of title
17 6, Code of Federal Regulations, or any suc-
18 cessor thereto, to determine whether, in the
19 opinion of the Secretary—

20 “(i) any chemical that is not des-
21 ignated as a chemical of interest should be
22 designated as a chemical of interest;

23 “(ii) any chemical of interest should
24 not be designated as a chemical of interest;
25 and

1 “(iii) any chemical amount, concentra-
 2 tion, or threshold quantity described in Ap-
 3 pendix A to part 27 of title 6, Code of
 4 Federal Regulations, or any successor
 5 thereto, should be modified; and

6 “(B) submit to Congress and publish on
 7 the internet website of the Department a report
 8 that contains the proposals of the Secretary re-
 9 lating to designations and modifications under
 10 subparagraph (A).”.

11 (d) CHANGES TO APPENDIX A TO PART 27 OF TITLE
 12 6, CODE OF FEDERAL REGULATIONS.—

13 (1) IN GENERAL.—Title XXI of the Homeland
 14 Security Act of 2002 (6 U.S.C. 621 et seq.) is
 15 amended by adding at the end the following:

16 **“SEC. 2110. CHANGES TO APPENDIX A TO PART 27 OF TITLE**
 17 **6, CODE OF FEDERAL REGULATIONS.**

18 “(a) IN GENERAL.—The Secretary shall prescribe,
 19 through notice and comment rulemaking under section
 20 553 of title 5, United States Code, regulations relating
 21 to any proposed change to Appendix A to part 27 of title
 22 6, Code of Federal Regulations, or any successor thereto,
 23 if the Secretary determines that—

24 “(1) a chemical should be designated as a
 25 chemical of interest;

1 “(2) a chemical designated as a chemical of in-
2 terest should not be so designated; or

3 “(3) a chemical amount, concentration, or
4 threshold quantity described in Appendix A to part
5 27 of title 6, Code of Federal Regulations, or any
6 successor thereto, should be modified.

7 “(b) INTERIM RULES.—Notwithstanding subsection
8 (a), the Secretary may publish in the Federal Register an
9 interim final rule relating to a proposed change to Appen-
10 dix A to part 27 of title 6, Code of Federal Regulations,
11 or any successor thereto, if the Secretary determines
12 that—

13 “(1) an emergency or immediate threat directly
14 relating to a specific chemical, chemical amount,
15 chemical concentration, and chemical threshold
16 quantity exists; and

17 “(2) the chemical described in paragraph (1)
18 should be designated as a chemical of interest; and

19 “(3) the chemical amount, chemical concentra-
20 tion, and chemical threshold quantity described in
21 paragraph (1) should be designated or modified, as
22 applicable, under Appendix A to part 27 of title 6,
23 Code of Federal Regulations, or any successor there-
24 to.

25 “(c) DURATION OF AUTHORITY.—

1 “(1) IN GENERAL.—Any proposed change to
2 Appendix A to part 27 of title 6, Code of Federal
3 Regulations, or any successor thereto, published in
4 an interim rule under subsection (b) shall only be in
5 effect for the 180-day period following publication of
6 the interim rule.

7 “(2) RULE MAKING.—If, after the 180-day pe-
8 riod described in paragraph (1), the Secretary deter-
9 mines that a chemical designated as a chemical of
10 interest under an interim rule published under sub-
11 section (b) should be designated as a chemical inter-
12 est, the Secretary shall issue a final rule designating
13 the chemical as a chemical of interest in accordance
14 with the notice and comment rule making proce-
15 dures under section 553 of title 5, United States
16 Code.”.

17 (2) TECHNICAL AND CONFORMING AMEND-
18 MENT.—The table of contents in section 1(b) of the
19 Homeland Security Act of 2002 (Public Law 107–
20 196; 116 Stat. 2135) is amended by inserting after
21 the item relating to section 2109 the following:

“Sec. 2110. Changes to Appendix A to part 27 of title 6, Code of Federal Reg-
ulations.”.

22 (e) EXPLOSIVE MATERIALS.—

23 (1) FINDINGS.—Congress finds the following:

1 (A) On September 10, 2007, the Depart-
2 ment of Justice submitted comments to the Ap-
3 pendix A to part 27 of title 6, Code of Federal
4 Regulations, or any successor thereto, opposing
5 the inclusion of chemicals regulated as explo-
6 sives under chapter 40 of title 18, United
7 States Code, and stated that it is unnecessarily
8 duplicative, confusing, and “does not effectively
9 serve to enhance public safety or reduce the
10 risk of criminal or terrorist misuse of explo-
11 sives.”

12 (B) The Committee on Homeland Security
13 and Governmental Affairs of the Senate has
14 conducted oversight of the Chemical Facility
15 Anti-Terrorism Standards Program (in this
16 paragraph referred to as the “Program”)
17 throughout the 115th and 116th Congresses
18 and found that duplicative regulations of the
19 Program and the Bureau of Alcohol, Tobacco,
20 Firearms, and Explosives come at a significant
21 and unnecessary cost to the explosives industry.

22 (C) The Government Accountability Office
23 is conducting a review of fragmentation, over-
24 lap, and duplication of the Program with other
25 Federal regulatory programs. Preliminary find-

1 ings of the Government Accountability Office
2 indicate duplication between regulations and
3 elements of the Program and those of the Bu-
4 reau of Alcohol, Tobacco, Firearms, and Explo-
5 sives, as the Government Accountability Office
6 found that regulations and elements of the Bu-
7 reau addressing the storage and maintenance of
8 explosives generally align with 11 of the 18
9 risk-based performance standards of the Pro-
10 gram.

11 (2) AMENDMENT TO HOMELAND SECURITY ACT
12 OF 2002.—

13 (A) IN GENERAL.—Title XXI of the
14 Homeland Security Act of 2002 (6 U.S.C. 621
15 et seq.) is amended by striking section 2109 (6
16 U.S.C. 629) and inserting the following:

17 **“SEC. 2109. EXPLOSIVE MATERIALS.**

18 “(a) IN GENERAL.—The Secretary may not designate
19 any explosive material regulated by the Department of
20 Justice under chapter 40 of title 18, United States Code,
21 or by the Bureau of Alcohol, Tobacco, Firearms, and Ex-
22 plosives under part 555 of title 27, Code of Federal Regu-
23 lations, as a chemical of interest under Appendix A to part
24 27 of title 6, Code of Federal Regulations, or any suc-
25 cessor thereto.

1 “(b) EXPLOSIVE MATERIAL REGULATED AFTER
2 DESIGNATION.—If any explosive material that is des-
3 igned as a chemical of interest under Appendix A to part
4 27 of title 6, Code of Federal Regulations, or any suc-
5 cessor thereto, becomes regulated by the Department of
6 Justice under chapter 40 of title 18, United States Code,
7 or by the Bureau of Alcohol, Tobacco, Firearms, and Ex-
8 plosives under part 555 of title 27, Code of Federal Regu-
9 lations, or any successor thereto, the Secretary shall re-
10 move the designation of such explosive material as a chem-
11 ical of interest.”.

12 (3) TECHNICAL AND CONFORMING AMEND-
13 MENT.—The table of contents in section 1(b) of the
14 Homeland Security Act of 2002 (Public Law 107–
15 196; 116 Stat. 2135) is amended by striking the
16 item relating to section 2109 and inserting the fol-
17 lowing:

“Sec. 2109. Explosive materials.”.

18 **SEC. 17. INFORMAL CONSULTATIONS AND ASSESSMENTS.**

19 (a) IN GENERAL.—Section 2102 of the Homeland
20 Security Act of 2002 (6 U.S.C. 622) is amended by adding
21 at the end the following:

22 “(f) INFORMAL CONSULTATIONS AND ASSESS-
23 MENTS.—

24 “(1) IN GENERAL.—The Secretary shall imple-
25 ment a system under which, in accordance with this

1 paragraph and except as provided in paragraph (2),
2 the Secretary shall provide an owner or operator of
3 a covered chemical facility the opportunity for an in-
4 formal consultation relating to a preliminary defi-
5 ciency determination under subsection (c) with re-
6 spect to the covered chemical facility.

7 “(A) WRITTEN EXPLANATION AND RE-
8 QUEST PROCEDURE.—

9 “(i) WRITTEN EXPLANATION.—Upon
10 making a preliminary deficiency determina-
11 tion under subsection (c) with respect to a
12 site security plan of a covered chemical fa-
13 cility, the Secretary shall provide to the
14 owner or operator of the covered chemical
15 facility a written explanation of the rea-
16 sons for the determination.

17 “(ii) REQUEST.—Not later than 10
18 days after receiving a written explanation
19 of a preliminary deficiency determination
20 under clause (i), an owner or operator of
21 a covered chemical facility may request an
22 informal consultation with the Secretary to
23 seek a modification of the preliminary defi-
24 ciency determination.

1 “(iii) CIVIL ENFORCEMENT.—Upon
2 receipt of a request under clause (ii), the
3 Secretary shall not seek civil enforcement
4 under section 2104 with respect to the pre-
5 liminary deficiency determination under
6 subsection (c) of this section to which the
7 request pertains, except as provided in sub-
8 paragraph (D)(ii) of this paragraph.

9 “(B) OPPORTUNITY FOR RESUBMISSION.—

10 “(i) IN GENERAL.—An owner or oper-
11 ator of a covered chemical facility request-
12 ing an informal consultation under sub-
13 paragraph (A)(ii) may, during the period
14 beginning on the date on which the owner
15 or operator submits the request and ending
16 at the conclusion of the informal consulta-
17 tion, submit to the Secretary—

18 “(I) any written explanation, in-
19 formation, or other materials relating
20 to the preliminary deficiency deter-
21 mination under subsection (c) to
22 which the request pertains; and

23 “(II) a revised site security plan
24 for the covered chemical facility.

1 “(ii) CONSIDERATION.—The Secretary
2 shall take into consideration any written
3 explanation, information, other materials,
4 or revised site security plan submitted by
5 an owner or operator under clause (i) in—

6 “(I) reviewing the preliminary
7 deficiency determination under sub-
8 section (c); and

9 “(II) assessing a revised site se-
10 curity plan for the covered chemical
11 facility.

12 “(C) SCHEDULING.—Upon receipt of a re-
13 quest under subparagraph (A)(ii) by an owner
14 or operator of a covered chemical facility, the
15 Secretary shall arrange for an informal con-
16 sultation with the owner or operator—

17 “(i) not later than 30 days after the
18 date on which the Secretary receives the
19 request; and

20 “(ii) by telephone or electronic means,
21 or at a location of mutual convenience.

22 “(D) DETERMINATION.—

23 “(i) IN GENERAL.—Not later than 30
24 days after an informal consultation with an
25 owner or operator of a covered chemical fa-

1 cility under this paragraph, the Secretary,
2 taking into consideration the information
3 submitted by the owner or operator under
4 subparagraph (B)—

5 “(I) shall assess the preliminary
6 deficiency determination under sub-
7 section (c);

8 “(II) may modify the preliminary
9 deficiency determination under sub-
10 section (c), in whole or in part; and

11 “(III) shall issue a formal deter-
12 mination with respect to the site secu-
13 rity plan of the covered chemical facil-
14 ity.

15 “(ii) CIVIL ENFORCEMENT.—If, after
16 a final determination under clause (i), the
17 Secretary determines that the covered
18 chemical facility to which the final deter-
19 mination pertains is not in compliance with
20 this title, the Secretary shall proceed with
21 civil enforcement under section 2104(a)(1),
22 as appropriate.

23 “(2) EMERGENCY OR EXIGENT CIR-
24 CUMSTANCES.—The Secretary shall not be required
25 to comply with a request for an informal consulta-

1 tion under paragraph (1) if the Secretary determines
2 that an emergency or exigent circumstance neces-
3 sitates immediate enforcement with respect to a cov-
4 ered chemical facility under section 2104.”.

5 (b) CONFORMING AMENDMENT.—Section 2104(a)(1)
6 of the Homeland Security Act of 2002 (6 U.S.C.
7 624(a)(1)) is amended, in the matter preceding subpara-
8 graph (A), by striking “If the Secretary” and inserting
9 “Subject to section 2102(f), if the Secretary”.

10 **SEC. 18. PROTECTION AND SHARING OF INFORMATION.**

11 Section 2103(f) of the Homeland Security Act of
12 2002 (6 U.S.C. 623(f)) is amended—

13 (1) in the subsection heading, by inserting
14 “AND THE COMPTROLLER GENERAL” after “CON-
15 GRESS”;

16 (2) by inserting “or the Comptroller General of
17 the United States” before “in response”; and

18 (3) by inserting “or the Comptroller General,
19 respectively” before the period at the end.

20 **SEC. 19. CFATS REGULATIONS.**

21 Section 2107(b) of the Homeland Security Act of
22 2002 (6 U.S.C. 627(b)) is amended—

23 (1) in paragraph (1), by inserting “(Public Law
24 113–254; 128 Stat. 2919)” after “2014”; and

1 (2) in paragraph (2), by striking “2014” and
2 inserting “2020”.

3 **SEC. 20. EMPLOYEE AWARENESS.**

4 (a) IN GENERAL.—Title XXI of the Homeland Secu-
5 rity Act of 2002 (6 U.S.C. 621 et seq.), as amended by
6 section 16 of this Act, is amended by adding at the end
7 the following:

8 **“SEC. 2111. EMPLOYEE AWARENESS.**

9 “Not later than 180 days after the date of enactment
10 of the Protecting and Securing Chemical Facilities from
11 Terrorist Attacks Act of 2020, the Secretary shall produce
12 a poster—

13 “(1) that each owner or operator of a covered
14 chemical facility shall display in a restricted area of
15 the covered chemical facility accessible to individuals
16 who have access to restricted areas or critical assets;
17 and

18 “(2) that provides to the individuals described
19 in paragraph (1) information relating to—

20 “(A) reporting potential concerns under
21 this title; and

22 “(B) whistleblower protections under sec-
23 tion 2105.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 The table of contents in section 1(b) of the Homeland Se-

1 curity Act of 2002 (Public Law 107–196; 116 Stat. 2135)
2 is amended by inserting after the item relating to section
3 2110 the following:

“Sec. 2111. Employee awareness.”.

4 **SEC. 21. NOTIFICATION RELATING TO THE CHEMICAL FA-**
5 **CILITY ANTI-TERRORISM STANDARDS PRO-**
6 **GRAM.**

7 (a) IN GENERAL.—Title XXI of the Homeland Secu-
8 rity Act of 2002 (6 U.S.C. 621 et seq.), as amended by
9 section 20 of this Act, is amended by adding at the end
10 the following:

11 **“SEC. 2112. NOTIFICATION.**

12 “(a) DEFINITION.—In this section, the term ‘recipi-
13 ent’ means any facility to which a covered chemical facility
14 sells or distributes a chemical of interest.

15 “(b) DEVELOPMENT AND PROVISION OF NOTIFICA-
16 TION RELATING TO THE CHEMICAL FACILITY ANTI-TER-
17 RORISM STANDARDS PROGRAM.—Not later than 30 days
18 after the date of enactment of the Protecting and Securing
19 Chemical Facilities from Terrorist Attacks Act of 2020,
20 the Secretary shall develop a notification—

21 “(1) that each covered chemical facility may, in
22 consultation with the Secretary, provide to each re-
23 cipient at the time at which the covered chemical fa-
24 cility sells or distributes a chemical of interest to the
25 recipient; and

1 the Secretary shall provide a secure communications and
2 information technology infrastructure, platform, or other
3 mechanism that allows covered chemical facilities to re-
4 port, on a voluntary basis, information on suspicious ac-
5 tivities, including threats posed by unmanned aircraft sys-
6 tems (as defined in section 44801 of title 49, United
7 States Code).

8 “(b) INFORMATION SHARING WITH FEDERAL ENTI-
9 TIES.—The Secretary shall share information received
10 under subsection (a) with appropriate Federal entities to
11 inform and support a common threat picture across the
12 Federal Government.

13 “(c) INFORMATION SHARING WITH CHEMICAL FA-
14 CILITY OWNERS AND OPERATORS.—The Secretary shall
15 share with owners and operators of chemical facilities of
16 interest information resulting in an elevated threat envi-
17 ronment for chemical facilities.

18 “(d) PLATFORM CAPABILITIES.—The Secretary shall
19 ensure that the secure communications and information
20 technology infrastructure, platform, or other mechanism
21 established under subsection (a) is designed to support
22 data mining and other advanced analytic tools to access,
23 receive, and analyze data and information to facilitate the
24 reporting of the information described in subsection (a).

1 “(e) EXISTING PLATFORM OR WEBSITE.—The Sec-
2 retary may maintain the secure communications and infor-
3 mation technology infrastructure or platform required
4 under subsection (a) on an online platform or website in
5 existence on the date of enactment of the Protecting and
6 Securing Chemical Facilities from Terrorist Attacks Act
7 of 2020.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—
9 The table of contents in section 1(b) of the Homeland Se-
10 curity Act of 2002 (Public Law 107–296; 116 Stat. 2135)
11 is amended by inserting after the item relating to section
12 2112 the following:

“Sec. 2113. Bidirectional information sharing platform.”.

13 **SEC. 23. UPDATED RETROSPECTIVE ESTIMATE ON COSTS.**

14 (a) UPDATED RETROSPECTIVE ESTIMATE ON
15 COSTS.—Not later than 1 year after the date of enactment
16 of this Act, the Secretary shall complete a retrospective
17 estimate of the costs, including costs to the Government,
18 regulated entities, and the public, of carrying out the
19 Chemical Facility Anti-Terrorism Standards Program
20 during the period beginning on the first day of fiscal year
21 2006 and ending on the last day of fiscal year 2020.

22 (b) REPEAL.—Section 3 of the Protecting and Secur-
23 ing Chemical Facilities from Terrorist Attacks Act of
24 2014 (Public Law 113–254; 128 Stat. 2917) is repealed.

1 **SEC. 24. CFATS SECURITY HARMONIZATION WAIVER PRO-**
2 **GRAM.**

3 (a) IN GENERAL.—Title XXI of the Homeland Secu-
4 rity Act of 2002 (6 U.S.C. 621 et seq.), as amended by
5 section 22 of this Act, is amended by adding at the end
6 the following:

7 **“SEC. 2114. SECURITY HARMONIZATION WAIVER PROGRAM.**

8 “(a) IN GENERAL.—Subject to the regulations pre-
9 scribed under subsection (f), the Secretary shall establish
10 a waiver program to harmonize with the security mandates
11 of other Federal regulatory programs under which an
12 owner or operator of a covered chemical facility may apply
13 to the Secretary to waive all or part of the regulatory re-
14 quirements under this title.

15 “(b) PROCEDURES TO GRANT WAIVER.—Not later
16 than 180 days after the date on which an owner or oper-
17 ator of a covered chemical facility submits an application
18 for a waiver under subsection (a), the Secretary shall
19 grant the waiver if the covered chemical facility is subject
20 to the security requirements of another Federal regulatory
21 program that the Secretary determines—

22 “(1) have the effect intended by the risk-based
23 performance standards to which the covered chem-
24 ical facility is subject under this title; or

25 “(2) are substantially equivalent to or exceed
26 those risk-based performance standards.

1 “(c) PROCEDURES TO DENY WAIVER.—The Sec-
2 retary shall deny an application submitted by an owner
3 or operator of a covered chemical facility for a waiver
4 under subsection (a) if the Secretary determines that—

5 “(1) the risk-based performance standard to
6 which the covered chemical facility is subject under
7 this title are not met by the security requirements
8 of another Federal regulatory program under which
9 the owner or operator of a covered chemical facility
10 is required to comply;

11 “(2) following the administrative proceedings of
12 the other Federal regulatory program described in
13 paragraph (1), the covered chemical facility is deter-
14 mined to not be in compliance with the security re-
15 quirements of the other Federal regulatory program,
16 as demonstrated through inspections, audits, or
17 other supporting evidence by the Federal agency
18 with jurisdiction for enforcing the security require-
19 ments under the other Federal regulatory program;
20 or

21 “(3) during the 3-year period ending on the
22 date on which the owner or operator of the covered
23 chemical facility submits an application for the waiv-
24 er, the covered chemical facility has been found to
25 be—

1 “(A) the subject of a civil or criminal en-
2 forcement action brought by the other Federal
3 regulatory program; and

4 “(B) non-compliant with the regulatory re-
5 quirements under this title and the security
6 mandates of the other Federal regulatory pro-
7 gram.

8 “(d) WAIVER DURATION.—

9 “(1) IN GENERAL.—A waiver granted under
10 subsection (b) shall be valid unless the Secretary de-
11 termines that the owner or operator of a covered
12 chemical facility is ineligible for a waiver in accord-
13 ance with paragraph (1), (2), or (3) of subsection
14 (c).

15 “(2) WRITTEN VERIFICATION.—A covered
16 chemical facility that is granted a waiver under sub-
17 section (b) shall, not later than 18 months after the
18 waiver is granted and every 18 months thereafter,
19 provide written verification to the Secretary that, to
20 the satisfaction of the Secretary, demonstrates the
21 covered chemical facility—

22 “(A) is in compliance with the security re-
23 quirements of the other Federal regulatory pro-
24 gram; and

1 “(B) has not been the subject of a civil or
2 criminal enforcement action brought by the an-
3 other Federal regulatory program.

4 “(e) REDRESS.—If the Secretary denies a waiver re-
5 quested by an owner or operator of a covered chemical
6 facility under subsection (c) or a waiver is determined to
7 be no longer valid under subsection (d)—

8 “(1) the Secretary shall, not later than 90 days
9 after the date on which the application for a waiver
10 is submitted or the date on which the Secretary in-
11 validates the waiver, provide the owner or operator
12 of the covered chemical facility a justification for the
13 denial or invalidation; and

14 “(2) the Secretary shall provide an opportunity
15 for the process of informal consultation relating to
16 a preliminary deficiency determination under section
17 2101.

18 “(f) REGULATIONS.—

19 “(1) INTERIM REGULATIONS.—Not later than 1
20 year after the date of enactment of the Protecting
21 and Securing Chemical Facilities from Terrorist At-
22 tacks Act of 2020, the Secretary shall develop and
23 issue interim final regulations, including guidance as
24 necessary, under which an owner or operator of a

1 covered chemical facility may apply to the Secretary
2 for a waiver under subsection (a).

3 “(2) FINAL REGULATIONS.—Not later than 2
4 years after enactment of the Protecting and Secur-
5 ing Chemical Facilities from Terrorist Attacks Act
6 of 2020, and after consideration of comments re-
7 ceived in response to the interim final regulations,
8 the Secretary shall develop and issue a detailed final
9 regulation for the waiver program under this section.

10 “(g) GAO REVIEW.—Not later than 3 years after the
11 effective date of the interim final regulation prescribed
12 under subsection (f)(1), the Comptroller General of the
13 United States shall submit to the appropriate congres-
14 sional committees a report on the waiver program under
15 this section, including—

16 “(1) how effectively the Secretary has imple-
17 mented the waiver program under this section, and
18 recommendations for improvements;

19 “(2) the extent to which the waiver program
20 under this section has—

21 “(A) resulted in cost savings to the whole
22 of the Federal Government and covered chem-
23 ical facilities; and

24 “(B) created any security improvements or
25 deficiencies at covered chemical facilities;

1 2102(e)(3)(B)(ii) of the Homeland Security Act of
2 2002, as added by section 12 of this Act;

3 (2) develop the lessons learned; and

4 (3) disseminate the lessons learned under sec-
5 tion 2102(e)(4)(A)(ii) of the Homeland Security Act
6 of 2002, as added by section 13 of this Act.

7 (b) REPORT.—

8 (1) INITIAL REPORT.—Not later than 2 years
9 after the date of enactment of this Act, the Sec-
10 retary shall submit to the appropriate congressional
11 committees and the Comptroller General of the
12 United States a report that includes—

13 (A) a description of—

14 (i) the status of implementing the
15 plan developed under subsection (a);

16 (ii) the lessons learned as of the date
17 on which the Secretary submits the report;
18 and

19 (iii) the system or medium used to
20 disseminate the lessons learned under sec-
21 tion 2102(e)(4)(A)(ii) of the Homeland Se-
22 curity Act of 2002, as added by section 13
23 of this Act;

24 (B) a detailed summary of—

1 (i) the reports and other information
2 generated under section 2102(e)(3) of the
3 Homeland Security Act of 2002 (6 U.S.C.
4 623(e)(3)), as amended by this Act; and

5 (ii) the lessons learned developed and
6 disseminated under section 2102(e)(4) of
7 the Homeland Security Act of 2002, as
8 added by section 13 of this Act; and

9 (C) to the extent feasible, information re-
10 lating to, with respect to covered chemical fa-
11 cilities and chemical facilities of interest that
12 implemented the lessons learned developed and
13 disseminated under section 2102(e)(4) of the
14 Homeland Security Act of 2002, as added by
15 section 13 of this Act—

16 (i) actions taken by the covered chem-
17 ical facilities and chemical facilities of in-
18 terest to implement the lessons learned;
19 and

20 (ii) results produced because the cov-
21 ered chemical facilities and chemical facili-
22 ties of interest implemented the lessons
23 learned.

24 (2) ANNUAL UPDATES.—

1 (A) IN GENERAL.—Not later than 1 year
2 after the date on which the Secretary submits
3 the initial report under paragraph (1), and an-
4 nually thereafter, the Secretary shall submit to
5 the appropriate congressional committees a re-
6 port that includes, with respect to the period
7 for which the report is submitted—

8 (i) information relating to—

9 (I) each change to the lessons
10 learned made during that period, and
11 the basis for the change;

12 (II) any feedback collected during
13 that period from owners and opera-
14 tors of covered chemical facilities and
15 chemical facilities of interest regard-
16 ing the extent to which the owners
17 and operators implemented the les-
18 sons learned;

19 (III) the impact the dissemina-
20 tion of the lessons learned has had on
21 the effectiveness of the Chemical Fa-
22 cility Anti-Terrorism Standards Pro-
23 gram during that period; and

24 (ii) the information described in sub-
25 paragraphs (B) and (C) of paragraph (1).

1 (B) OBTAINING INFORMATION.—In obtain-
2 ing information from covered chemical facilities
3 and chemical facilities of interest under sub-
4 paragraph (A), the Secretary shall create, sub-
5 ject to approval from the Director of the Office
6 of Management and Budget, a voluntary feed-
7 back survey.

8 **SEC. 26. EFFECTIVE DATE.**

9 This Act, and the amendments made by this Act,
10 shall take effect on the date that is 30 days after the date
11 of enactment of this Act.

12 **SEC. 27. TERMINATION.**

13 (a) IN GENERAL.—The authority provided under title
14 XXI of the Homeland Security Act of 2002 (6 U.S.C. 621
15 et seq.), as amended by this Act, shall terminate on the
16 date that is 5 years after the effective date of this Act.

17 (b) CONFORMING REPEALS.—

18 (1) PROTECTING AND SECURING CHEMICAL FA-
19 CILITIES FROM TERRORIST ATTACKS ACT OF 2014.—
20 Section 5 of the Protecting and Securing Chemical
21 Facilities from Terrorist Attacks Act of 2014 (Pub-
22 lic Law 113–254; 6 U.S.C. 621 note) is repealed.

23 (2) CHEMICAL FACILITY ANTI-TERRORISM
24 STANDARDS PROGRAM EXTENSION ACT.—The Chem-
25 ical Facility Anti-Terrorism Standards Program Ex-

1 tension Act (Public Law 116–2; 133 Stat. 5) is re-
2 pealed.

3 **SEC. 28. TECHNICAL AND CONFORMING AMENDMENT.**

4 The table of contents in section 1(b) of the Homeland
5 Security Act of 2002 (Public Law 107–196; 116 Stat.
6 2135) is amended, in the item relating to section 2103,
7 by striking the em dash at the end.

○