

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 2d Sess.

H. R. 4007

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CARPER (for himself and Mr. COBURN)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting and Securing
5 Chemical Facilities from Terrorist Attacks Act of
6 2014”.

7 **SEC. 2. CHEMICAL FACILITY ANTI-TERRORISM STANDARDS
8 PROGRAM.**

9 (a) IN GENERAL.—The Homeland Security Act of
10 2002 (6 U.S.C. 101 et seq.) is amended by adding at the
11 end the following:

1 **“TITLE XXI—CHEMICAL FACIL-**
2 **ITY ANTI-TERRORISM STAND-**
3 **ARDS**

4 **“SEC. 2101. DEFINITIONS.**

5 “In this title—

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

7 “(A) an existing CFATS regulation; and

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

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

13 “(A) holds, or that the Secretary has a
14 reasonable basis to believe holds, a chemical of
15 interest, as designated under Appendix A to
16 part 27 of title 6, Code of Federal Regulations,
17 or any successor thereto, at a threshold quan-
18 tity set pursuant to relevant risk-related secu-
19 rity principles; and

20 “(B) is not an excluded facility;

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

23 “(A) the Secretary—

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

1 “(ii) based upon review of the facili-
2 ty’s Top-Screen, determines meets the risk
3 criteria developed under section
4 2102(e)(2)(B); 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
11 is 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
14 defined in section 212 of the Federal Water
15 Pollution Control Act (33 U.S.C. 1292);

16 “(D) a facility owned or operated by the
17 Department of Defense or the Department of
18 Energy; 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
22 Nuclear Regulatory Commission under section
23 274 b. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2021(b)) to protect against unauthor-
25 ized access of any material, activity, or struc-

1 ture licensed by the Nuclear Regulatory Com-
2 mission;

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
8 109–295; 6 U.S.C. 121 note) that is in effect
9 on the day before the date of enactment of the
10 Protecting and Securing Chemical Facilities
11 from Terrorist Attacks Act of 2014; and

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

19 “(6) the term ‘expedited approval facility’
20 means a covered chemical facility for which the
21 owner or operator elects to submit a site security
22 plan in accordance 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 sessment; or

9 “(D) any other information that—

10 “(i) the facility submits to the De-
11 partment; 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(e)(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
22 by the Federal Government Terrorist Screening Cen-
23 ter or its successor;

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

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

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

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

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

17 “(a) PROGRAM ESTABLISHED.—

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

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

24 “(A) identify—

25 “(i) chemical facilities of interest; and

1 “(ii) covered chemical facilities;

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

7 “(C) establish risk-based performance
8 standards designed to address high levels of se-
9 curity risk at covered chemical facilities; and

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

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

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

16 “(b) SECURITY MEASURES.—

17 “(1) IN GENERAL.—A facility, in developing a
18 site security plan as required under subsection (a),
19 shall include security measures that, in combination,
20 appropriately address the security vulnerability as-
21 sessment and the risk-based performance standards
22 for security for the facility.

23 “(2) EMPLOYEE INPUT.—To the greatest ex-
24 tent practicable, a facility’s security vulnerability as-
25 sessment and site security plan shall include input

1 from at least 1 facility employee and, where applica-
2 ble, 1 employee representative from the bargaining
3 agent at that facility, each of whom possesses, in the
4 determination of the facility's security officer, rel-
5 evant knowledge, experience, training, or education
6 as pertains to matters of site security.

7 “(c) APPROVAL OR DISAPPROVAL OF SITE SECURITY
8 PLANS.—

9 “(1) IN GENERAL.—

10 “(A) REVIEW.—Except as provided in
11 paragraph (4), the Secretary shall review and
12 approve or disapprove each site security plan
13 submitted pursuant to subsection (a).

14 “(B) BASES FOR DISAPPROVAL.—The Sec-
15 retary—

16 “(i) may not disapprove a site security
17 plan based on the presence or absence of
18 a particular security measure; and

19 “(ii) shall disapprove a site security
20 plan if the plan fails to satisfy the risk-
21 based performance standards established
22 pursuant to subsection (a)(2)(C).

23 “(2) ALTERNATIVE SECURITY PROGRAMS.—

24 “(A) AUTHORITY TO APPROVE.—

1 “(i) IN GENERAL.—The Secretary
2 may approve an alternative security pro-
3 gram established by a private sector entity
4 or a Federal, State, or local authority or
5 under other applicable laws, if the Sec-
6 retary determines that the requirements of
7 the program meet the requirements under
8 this section.

9 “(ii) ADDITIONAL SECURITY MEAS-
10 URES.—If the requirements of an alter-
11 native security program do not meet the
12 requirements under this section, the Sec-
13 retary may recommend additional security
14 measures to the program that will enable
15 the Secretary to approve the program.

16 “(B) SATISFACTION OF SITE SECURITY
17 PLAN REQUIREMENT.—A covered chemical fa-
18 cility may satisfy the site security plan require-
19 ment under subsection (a) by adopting an alter-
20 native security program that the Secretary
21 has—

22 “(i) reviewed and approved under sub-
23 paragraph (A); and

1 “(ii) determined to be appropriate for
2 the operations and security concerns of the
3 covered chemical facility.

4 “(3) SITE SECURITY PLAN ASSESSMENTS.—

5 “(A) RISK ASSESSMENT POLICIES AND
6 PROCEDURES.—In approving or disapproving a
7 site security plan under this subsection, the
8 Secretary shall employ the risk assessment poli-
9 cies and procedures developed under this title.

10 “(B) PREVIOUSLY APPROVED PLANS.—In
11 the case of a covered chemical facility for which
12 the Secretary approved a site security plan be-
13 fore the date of enactment of the Protecting
14 and Securing Chemical Facilities from Terrorist
15 Attacks Act of 2014, the Secretary may not re-
16 quire the facility to resubmit the site security
17 plan solely by reason of the enactment of this
18 title.

19 “(4) EXPEDITED APPROVAL PROGRAM.—

20 “(A) IN GENERAL.—A covered chemical fa-
21 cility assigned to tier 3 or 4 may meet the re-
22 quirement to develop and submit a site security
23 plan under subsection (a)(2)(D) by developing
24 and submitting to the Secretary—

1 rity measure meets the risk-based perform-
2 ance standards.

3 “(iii) APPLICABILITY OF OTHER LAWS
4 TO DEVELOPMENT AND ISSUANCE OF INI-
5 TIAL GUIDANCE.—During the period before
6 the Secretary has met the deadline under
7 clause (i), in developing and issuing, or
8 amending, the guidance for expedited ap-
9 proval facilities under this subparagraph
10 and in collecting information from expe-
11 dited approval facilities, the Secretary shall
12 not be subject to—

13 “(I) section 553 of title 5, United
14 States Code;

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

17 “(III) section 2107(b) of this
18 title.

19 “(C) CERTIFICATION.—The owner or oper-
20 ator of an expedited approval facility shall sub-
21 mit to the Secretary a certification, signed
22 under penalty of perjury, that—

23 “(i) the owner or operator is familiar
24 with the requirements of this title and part
25 27 of title 6, Code of Federal Regulations,

1 or any successor thereto, and the site secu-
2 rity plan being submitted;

3 “(ii) the site security plan includes the
4 security measures required by subsection
5 (b);

6 “(iii)(I) the security measures in the
7 site security plan do not materially deviate
8 from the guidance for expedited approval
9 facilities except where indicated in the site
10 security plan;

11 “(II) any deviations from the guid-
12 ance for expedited approval facilities in the
13 site security plan meet the risk-based per-
14 formance standards for the tier to which
15 the facility is assigned; and

16 “(III) the owner or operator has pro-
17 vided an explanation of how the site secu-
18 rity plan meets the risk-based performance
19 standards for any material deviation;

20 “(iv) the owner or operator has vis-
21 ited, examined, documented, and verified
22 that the expedited approval facility meets
23 the criteria set forth in the site security
24 plan;

1 “(v) the expedited approval facility
2 has implemented all of the required per-
3 formance measures outlined in the site se-
4 curity plan or set out planned measures
5 that will be implemented within a reason-
6 able time period stated in the site security
7 plan;

8 “(vi) each individual responsible for
9 implementing the site security plan has
10 been made aware of the requirements rel-
11 evant to the individual’s responsibility con-
12 tained in the site security plan and has
13 demonstrated competency to carry out
14 those requirements;

15 “(vii) the owner or operator has com-
16 mitted, or, in the case of planned measures
17 will commit, the necessary resources to
18 fully implement the site security plan; and

19 “(viii) the planned measures include
20 an adequate procedure for addressing
21 events beyond the control of the owner or
22 operator in implementing any planned
23 measures.

24 “(D) DEADLINE.—

1 “(i) IN GENERAL.—Not later than
2 120 days after the date described in clause
3 (ii), the owner or operator of an expedited
4 approval facility shall submit to the Sec-
5 retary the site security plan and the certifi-
6 cation 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
15 2014, the date that is 210 days after
16 the date of enactment of that Act;
17 and

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

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

1 “(bb) the date that is 210
2 days after the date of enactment
3 of the Protecting and Securing
4 Chemical Facilities from Ter-
5 rorist Attacks Act of 2014.

6 “(iii) NOTICE.—An owner or operator
7 of an expedited approval facility shall no-
8 tify the Secretary of the intent of the
9 owner or operator to certify the site secu-
10 rity plan for the expedited approval facility
11 not later than 30 days before the date on
12 which the owner or operator submits the
13 site security plan and certification de-
14 scribed in subparagraph (C).

15 “(E) COMPLIANCE.—

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

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

24 “(II) the Secretary—

1 “(aa) except as provided in
2 subparagraph (G), may not dis-
3 approve the site security plan;
4 and

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

10 “(ii) NONCOMPLIANCE.—If the Sec-
11 retary determines an expedited approval
12 facility is not in compliance with the re-
13 quirements of the site security plan or is
14 otherwise in violation of this title, the Sec-
15 retary may enforce compliance in accord-
16 ance with section 2104.

17 “(F) AMENDMENTS TO SITE SECURITY
18 PLAN.—

19 “(i) REQUIREMENT.—

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

1 tification relating to the amended site
2 security plan that contains the infor-
3 mation described in subparagraph
4 (C).

5 “(II) TECHNICAL AMEND-
6 MENTS.—For purposes of this clause,
7 an amendment to a site security plan
8 includes any technical amendment to
9 the site security plan.

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

14 “(I) there is a change in the de-
15 sign, construction, operation, or main-
16 tenance of the expedited approval fa-
17 cility that affects the site security
18 plan;

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

24 “(III) the owner or operator re-
25 ceives notice from the Secretary of a

1 change in tiering under subsection
2 (e)(3).

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

6 “(I) in the case of a change in
7 design, construction, operation, or
8 maintenance of the expedited approval
9 facility that affects the security plan,
10 not later than 120 days after the date
11 on which the change in design, con-
12 struction, operation, or maintenance
13 occurred;

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

1 “(III) in the case of a change in
2 tiering, not later than 120 days after
3 the date on which the owner or oper-
4 ator receives notice under subsection
5 (e)(3).

6 “(G) FACIALLY DEFICIENT SITE SECURITY
7 PLANS.—

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

13 “(I) determines the certified site
14 security plan or an amended site secu-
15 rity plan is facially deficient; and

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

1 “(ii) ADDITIONAL SECURITY MEAS-
2 URES.—

3 “(I) IN GENERAL.—If, during or
4 after a compliance inspection of an ex-
5 pedited approval facility, the Sec-
6 retary determines that planned or im-
7 plemented security measures in the
8 site security plan of the facility are in-
9 sufficient to meet the risk-based per-
10 formance standards based on mis-
11 representation, omission, or an inad-
12 equate description of the site, the Sec-
13 retary may—

14 “(aa) require additional se-
15 curity measures; or

16 “(bb) suspend the certifi-
17 cation of the facility.

18 “(II) RECOMMENDATION OF AD-
19 DITIONAL SECURITY MEASURES.—If
20 the Secretary suspends the certifi-
21 cation of an expedited approval facil-
22 ity under subclause (I), the Secretary
23 shall—

24 “(aa) recommend specific
25 additional security measures

1 that, if made part of the site se-
2 curity plan by the facility, would
3 enable the Secretary to approve
4 the site security plan; and

5 “(bb) provide the facility an
6 opportunity to submit a new or
7 modified site security plan and
8 certification under subparagraph
9 (A).

10 “(III) SUBMISSION; REVIEW.—If
11 an expedited approval facility deter-
12 mines to submit a new or modified
13 site security plan and certification as
14 authorized under subclause (II)(bb)—

15 “(aa) not later than 90 days
16 after the date on which the facil-
17 ity receives recommendations
18 under subclause (II)(aa), the fa-
19 cility shall submit the new or
20 modified plan and certification;
21 and

22 “(bb) not later than 45 days
23 after the date on which the Sec-
24 retary receives the new or modi-
25 fied plan under item (aa), the

1 Secretary shall review the plan
2 and determine whether the plan
3 is facially deficient.

4 “(IV) DETERMINATION NOT TO
5 INCLUDE ADDITIONAL SECURITY
6 MEASURES.—

7 “(aa) REVOCATION OF CER-
8 TIFICATION.—If an expedited ap-
9 proval facility does not agree to
10 include in its site security plan
11 specific additional security meas-
12 ures recommended by the Sec-
13 retary under subclause (II)(aa),
14 or does not submit a new or
15 modified site security plan in ac-
16 cordance with subclause (III), the
17 Secretary may revoke the certifi-
18 cation of the facility by issuing
19 an order under section
20 2104(a)(1)(B).

21 “(bb) EFFECT OF REVOCATION.—If the Secretary revokes
22 the certification of an expedited
23 approval facility under item (aa)
24

1 by issuing an order under section
2 2104(a)(1)(B)—

3 “(AA) the order shall
4 require the owner or oper-
5 ator of the facility to submit
6 a site security plan or alter-
7 native security program for
8 review by the Secretary re-
9 view under subsection (c)(1);
10 and

11 “(BB) the facility shall
12 no longer be eligible to cer-
13 tify a site security plan
14 under this paragraph.

15 “(V) FACIAL DEFICIENCY.—If
16 the Secretary determines that a new
17 or modified site security plan sub-
18 mitted by an expedited approval facil-
19 ity under subclause (III) is facially de-
20 ficient—

21 “(aa) not later than 120
22 days after the date of the deter-
23 mination, the owner or operator
24 of the facility shall submit a site
25 security plan or alternative secu-

1 rity program for review by the
2 Secretary under subsection
3 (c)(1); and

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

8 “(H) TEMPLATES.—

9 “(i) IN GENERAL.—The Secretary
10 may develop prescriptive site security plan
11 templates with specific security measures
12 to meet the risk-based performance stand-
13 ards under subsection (a)(2)(C) for adop-
14 tion and certification by a covered chemical
15 facility assigned to tier 3 or 4 in lieu of de-
16 veloping and certifying its own plan.

17 “(ii) APPLICABILITY OF OTHER LAWS
18 TO DEVELOPMENT AND ISSUANCE OF INI-
19 TIAL SITE SECURITY PLAN TEMPLATES
20 AND RELATED GUIDANCE.—During the pe-
21 riod before the Secretary has met the
22 deadline under subparagraph (B)(i), in de-
23 veloping and issuing, or amending, the site
24 security plan templates under this sub-
25 paragraph, in issuing guidance for imple-

1 mentation of the templates, and in col-
2 lecting information from expedited ap-
3 proval facilities, the Secretary shall not be
4 subject to—

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

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

9 “(III) section 2107(b) of this
10 title.

11 “(iii) RULE OF CONSTRUCTION.—
12 Nothing in this subparagraph shall be con-
13 strued to prevent a covered chemical facil-
14 ity from developing and certifying its own
15 security plan in accordance with subpara-
16 graph (A).

17 “(I) EVALUATION.—

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

1 an appropriate number of inspections, as
2 authorized under subsection (d), of expedited approval facilities.

3
4 “(ii) REPORT.—Not later than 18
5 months after the date of enactment of the
6 Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014,
7 the Secretary shall submit to the Committee on Homeland Security and Govern-
8 mental Affairs of the Senate and the Committee on Homeland Security and the
9 Committee on Energy and Commerce of the House of Representatives a report that
10 contains—

11
12 “(I)(aa) the number of eligible
13 facilities using the expedited approval
14 program authorized under this paragraph; and

15
16 “(bb) the number of facilities
17 that are eligible for the expedited approval program but are using the
18 standard process for developing and
19 submitting a site security plan under
20 subsection (a)(2)(D);
21
22
23
24

1 “(I) with respect to personnel,
2 means personnel that is not employed
3 by the Department; and

4 “(II) with respect to an entity,
5 means an entity that is not a compo-
6 nent or other authority of the Depart-
7 ment; and

8 “(ii) the term ‘nongovernmental’—

9 “(I) with respect to personnel,
10 means personnel that is not employed
11 by the Federal Government; and

12 “(II) with respect to an entity,
13 means an entity that is not an agency,
14 department, or other authority of the
15 Federal Government.

16 “(B) AUTHORITY TO CONDUCT AUDITS
17 AND INSPECTIONS.—The Secretary shall con-
18 duct audits or inspections under this title
19 using—

20 “(i) employees of the Department;

21 “(ii) nondepartmental or nongovern-
22 mental personnel approved by the Sec-
23 retary; or

24 “(iii) a combination of individuals de-
25 scribed in clauses (i) and (ii).

1 “(C) SUPPORT PERSONNEL.—The Sec-
2 retary may use nongovernmental personnel to
3 provide administrative and logistical services in
4 support of audits and inspections under this
5 title.

6 “(D) REPORTING STRUCTURE.—

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

18 “(ii) REQUIREMENT TO REPORT.—
19 While an individual employed by a non-
20 departmental or nongovernmental entity is
21 in the field conducting an audit or inspec-
22 tion under this subsection, the individual
23 shall report to the regional supervisor with
24 responsibility for supervising inspectors
25 within the Infrastructure Security Compli-

1 ance Division of the Department for the
2 region in which the individual is operating.

3 “(iii) APPROVAL.—The authority to
4 approve a site security plan under sub-
5 section (c) or determine if a covered chem-
6 ical facility is in compliance with an ap-
7 proved site security plan shall be exercised
8 solely by the Secretary or a designee of the
9 Secretary within the Department.

10 “(E) STANDARDS FOR AUDITORS AND IN-
11 SPECTORS.—The Secretary shall prescribe
12 standards for the training and retraining of
13 each individual used by the Department as an
14 auditor or inspector, including each individual
15 employed by the Department and all nondepart-
16 mental or nongovernmental personnel, includ-
17 ing—

18 “(i) minimum training requirements
19 for new auditors and inspectors;

20 “(ii) retraining requirements;

21 “(iii) minimum education and experi-
22 ence levels;

23 “(iv) the submission of information as
24 required by the Secretary to enable deter-

1 mination of whether the auditor or inspec-
2 tor has a conflict of interest;

3 “ (v) the proper certification or certifi-
4 cations necessary to handle chemical-ter-
5 rorism vulnerability information (as de-
6 fined in section 27.105 of title 6, Code of
7 Federal Regulations, or any successor
8 thereto);

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

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

15 “(F) CONDITIONS FOR NONGOVERN-
16 MENTAL AUDITORS AND INSPECTORS.—If the
17 Secretary arranges for an audit or inspection
18 under subparagraph (B) to be carried out by a
19 nongovernmental entity, the Secretary shall—

20 “ (i) prescribe standards for the quali-
21 fication of the individuals who carry out
22 such audits and inspections that are com-
23 mensurate with the standards for similar
24 Government auditors or inspectors; and

1 “(ii) ensure that any duties carried
2 out by a nongovernmental entity are not
3 inherently governmental functions.

4 “(2) PERSONNEL SURETY.—

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

9 “(i) does not require an owner or op-
10 erator of a covered chemical facility that
11 voluntarily participates in the program to
12 submit information about an individual
13 more than 1 time;

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

22 “(iii) provides redress to an indi-
23 vidual—

1 “(I) whose information was vet-
2 ted against the terrorist screening
3 database under the program; and

4 “(II) who believes that the per-
5 sonally identifiable information sub-
6 mitted to the Department for such
7 vetting by a covered chemical facility,
8 or its designated representative, was
9 inaccurate.

10 “(B) PERSONNEL SURETY PROGRAM IM-
11 PLEMENTATION.—To the extent that a risk-
12 based performance standard established under
13 subsection (a) requires identifying individuals
14 with ties to terrorism—

15 “(i) a covered chemical facility—

16 “(I) may satisfy its obligation
17 under the standard by using any Fed-
18 eral screening program that periodi-
19 cally vets individuals against the ter-
20 rorist screening database, or any suc-
21 cessor program, including the Per-
22 sonnel Surety Program established
23 under subparagraph (A); and

24 “(II) shall—

1 “(aa) accept a credential
2 from a Federal screening pro-
3 gram described in subclause (I) if
4 an individual who is required to
5 be screened presents such a cre-
6 dential; and

7 “(bb) address in its site se-
8 curity plan or alternative security
9 program the measures it will take
10 to verify that a credential or doc-
11 umentation from a Federal
12 screening program described in
13 subclause (I) is current;

14 “(ii) visual inspection shall be suffi-
15 cient to meet the requirement under clause
16 (i)(II)(bb), but the facility should consider
17 other means of verification, consistent with
18 the facility’s assessment of the threat
19 posed by acceptance of such credentials;
20 and

21 “(iii) the Secretary may not require a
22 covered chemical facility to submit any in-
23 formation about an individual unless the
24 individual—

1 “(I) is to be vetted under the
2 Personnel Surety Program; or

3 “(II) has been identified as pre-
4 senting a terrorism security risk.

5 “(C) RIGHTS UNAFFECTED.—Nothing in
6 this section shall supersede the ability—

7 “(i) of a facility to maintain its own
8 policies regarding the access of individuals
9 to restricted areas or critical assets; or

10 “(ii) of an employing facility and a
11 bargaining agent, where applicable, to ne-
12 gotiate as to how the results of a back-
13 ground check may be used by the facility
14 with respect to employment status.

15 “(3) AVAILABILITY OF INFORMATION.—The
16 Secretary shall share with the owner or operator of
17 a covered chemical facility any information that the
18 owner or operator needs to comply with this section.

19 “(e) RESPONSIBILITIES OF THE SECRETARY.—

20 “(1) IDENTIFICATION OF CHEMICAL FACILITIES
21 OF INTEREST.—In carrying out this title, the Sec-
22 retary shall consult with the heads of other Federal
23 agencies, States and political subdivisions thereof,
24 relevant business associations, and public and pri-

1 vate labor organizations to identify all chemical fa-
2 cilities of interest.

3 “(2) RISK ASSESSMENT.—

4 “(A) IN GENERAL.—For purposes of this
5 title, the Secretary shall develop a security risk
6 assessment approach and corresponding tiering
7 methodology for covered chemical facilities that
8 incorporates the relevant elements of risk, in-
9 cluding threat, vulnerability, and consequence.

10 “(B) CRITERIA FOR DETERMINING SECUR-
11 ITY RISK.—The criteria for determining the
12 security risk of terrorism associated with a cov-
13 ered chemical facility shall take into account—

14 “(i) relevant threat information;

15 “(ii) potential severe economic con-
16 sequences and the potential loss of human
17 life in the event of the facility being sub-
18 ject to attack, compromise, infiltration, or
19 exploitation by terrorists; and

20 “(iii) vulnerability of the facility to at-
21 tack, compromise, infiltration, or exploi-
22 tation by terrorists.

23 “(3) CHANGES IN TIERING.—

1 “(A) MAINTENANCE OF RECORDS.—The
2 Secretary shall document the basis for each in-
3 stance in which—

4 “ (i) tiering for a covered chemical fa-
5 cility is changed; or

6 “ (ii) a covered chemical facility is de-
7 termined to no longer be subject to the re-
8 quirements under this title.

9 “(B) REQUIRED INFORMATION.—The
10 records maintained under subparagraph (A)
11 shall include information on whether and how
12 the Secretary confirmed the information that
13 was the basis for the change or determination
14 described in subparagraph (A).

15 “(4) SEMIANNUAL PERFORMANCE REPORT-
16 ING.—Not later than 6 months after the date of en-
17 actment of the Protecting and Securing Chemical
18 Facilities from Terrorist Attacks Act of 2014, and
19 not less frequently than once every 6 months there-
20 after, the Secretary shall submit to the Committee
21 on Homeland Security and Governmental Affairs of
22 the Senate and the Committee on Homeland Secu-
23 rity and the Committee on Energy and Commerce of
24 the House of Representatives a report that includes,
25 for the period covered by the report—

1 “(A) the number of covered chemical facili-
2 ties in the United States;

3 “(B) information—

4 “(i) describing—

5 “(I) the number of instances in
6 which the Secretary—

7 “(aa) placed a covered
8 chemical facility in a lower risk
9 tier; or

10 “(bb) determined that a fa-
11 cility that had previously met the
12 criteria for a covered chemical fa-
13 cility under section 2101(3) no
14 longer met the criteria; and

15 “(II) the basis, in summary
16 form, for each action or determination
17 under subclause (I); and

18 “(ii) that is provided in a sufficiently
19 anonymized form to ensure that the infor-
20 mation does not identify any specific facil-
21 ity or company as the source of the infor-
22 mation when viewed alone or in combina-
23 tion with other public information;

24 “(C) the average number of days spent re-
25 viewing site security or an alternative security

1 program for a covered chemical facility prior to
2 approval;

3 “(D) the number of covered chemical fa-
4 cilities inspected;

5 “(E) the average number of covered chem-
6 ical facilities inspected per inspector; and

7 “(F) any other information that the Sec-
8 retary determines will be helpful to Congress in
9 evaluating the performance of the Chemical Fa-
10 cility Anti-Terrorism Standards Program.

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

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of law, information developed under this title, in-
14 cluding vulnerability assessments, site security plans, and
15 other security related information, records, and documents
16 shall be given protections from public disclosure consistent
17 with the protection of similar information under section
18 70103(d) of title 46, United States Code.

19 “(b) SHARING OF INFORMATION WITH STATES AND
20 LOCAL GOVERNMENTS.—Nothing in this section shall be
21 construed to prohibit the sharing of information developed
22 under this title, as the Secretary determines appropriate,
23 with State and local government officials possessing a
24 need to know and the necessary security clearances, in-
25 cluding law enforcement officials and first responders, for

1 the purpose of carrying out this title, provided that such
2 information may not be disclosed pursuant to any State
3 or local law.

4 “(c) SHARING OF INFORMATION WITH FIRST RE-
5 SPONDERS.—

6 “(1) REQUIREMENT.—The Secretary shall pro-
7 vide to State, local, and regional fusion centers (as
8 that term is defined in section 210A(j)(1)) and State
9 and local government officials, as the Secretary de-
10 termines appropriate, such information as is nec-
11 essary to help ensure that first responders are prop-
12 erly prepared and provided with the situational
13 awareness needed to respond to security incidents at
14 covered chemical facilities.

15 “(2) DISSEMINATION.—The Secretary shall dis-
16 seminate information under paragraph (1) through a
17 medium or system determined by the Secretary to be
18 appropriate to ensure the secure and expeditious dis-
19 semination of such information to necessary selected
20 individuals.

21 “(d) ENFORCEMENT PROCEEDINGS.—In any pro-
22 ceeding to enforce this section, vulnerability assessments,
23 site security plans, and other information submitted to or
24 obtained by the Secretary under this title, and related vul-

1 nerability or security information, shall be treated as if
2 the information were classified information.

3 “(e) AVAILABILITY OF INFORMATION.—Notwith-
4 standing any other provision of law (including section
5 552(b)(3) of title 5, United States Code), section 552 of
6 title 5, United States Code (commonly known as the
7 ‘Freedom of Information Act’) shall not apply to informa-
8 tion protected from public disclosure pursuant to sub-
9 section (a) of this section.

10 “(f) SHARING OF INFORMATION WITH MEMBERS OF
11 CONGRESS.—Nothing in this section shall prohibit the
12 Secretary from disclosing information developed under
13 this title to a Member of Congress in response to a request
14 by a Member of Congress.

15 **“SEC. 2104. CIVIL ENFORCEMENT.**

16 “(a) NOTICE OF NONCOMPLIANCE.—

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

20 “(A) provide the owner or operator of the
21 facility with—

22 “(i) not later than 14 days after date
23 on which the Secretary makes the deter-
24 mination, a written notification of non-
25 compliance that includes a clear expla-

1 nation of any deficiency in the security vul-
2 nerability assessment or site security plan;
3 and

4 “(ii) an opportunity for consultation
5 with the Secretary or the Secretary’s des-
6 ignee; and

7 “(B) issue to the owner or operator of the
8 facility an order to comply with this title by a
9 date specified by the Secretary in the order,
10 which date shall be not later than 180 days
11 after the date on which the Secretary issues the
12 order.

13 “(2) CONTINUED NONCOMPLIANCE.—If an
14 owner or operator remains noncompliant after the
15 procedures outlined in paragraph (1) have been exe-
16 cuted, or demonstrates repeated violations of this
17 title, the Secretary may enter an order in accordance
18 with this section assessing a civil penalty, an order
19 to cease operations, or both.

20 “(b) CIVIL PENALTIES.—

21 “(1) VIOLATIONS OF ORDERS.—Any person who
22 violates an order issued under this title shall be lia-
23 ble for a civil penalty under section 70119(a) of title
24 46, United States Code.

1 “(2) NON-REPORTING CHEMICAL FACILITIES OF
2 INTEREST.—Any owner of a chemical facility of in-
3 terest who fails to comply with, or knowingly sub-
4 mits false information under, this title or the
5 CFATS regulations shall be liable for a civil penalty
6 under section 70119(a) of title 46, United States
7 Code.

8 “(c) EMERGENCY ORDERS.—

9 “(1) IN GENERAL.—Notwithstanding subsection
10 (a) or any site security plan or alternative security
11 program approved under this title, if the Secretary
12 determines that there is an imminent threat of
13 death, serious illness, or severe personal injury, due
14 to a violation of this title or the risk of a terrorist
15 incident that may affect a chemical facility of inter-
16 est, the Secretary—

17 “(A) shall consult with the facility, if prac-
18 ticable, on steps to mitigate the risk; and

19 “(B) may order the facility, without notice
20 or opportunity for a hearing, effective imme-
21 diately or as soon as practicable, to—

22 “(i) implement appropriate emergency
23 security measures; or

24 “(ii) cease or reduce some or all oper-
25 ations, in accordance with safe shutdown

1 “(iii) describes the standards and pro-
2 cedures for obtaining relief from the order.

3 “(B) OPPORTUNITY FOR REVIEW.—After
4 issuing an order under paragraph (1) with re-
5 spect to a chemical facility of interest, the Sec-
6 retary shall provide for review of the order
7 under section 554 of title 5 if a petition for re-
8 view is filed not later than 20 days after the
9 date on which the Secretary issues the order.

10 “(C) EXPIRATION OF EFFECTIVENESS OF
11 ORDER.—If a petition for review of an order is
12 filed under subparagraph (B) and the review
13 under that paragraph is not completed by the
14 last day of the 30-day period beginning on the
15 date on which the petition is filed, the order
16 shall vacate automatically at the end of that pe-
17 riod unless the Secretary determines, in writing,
18 that the imminent threat providing a basis for
19 the order continues to exist.

20 “(d) RIGHT OF ACTION.—Nothing in this title con-
21 fers upon any person except the Secretary or his or her
22 designee a right of action against an owner or operator
23 of a covered chemical facility to enforce any provision of
24 this title.

1 **“SEC. 2105. WHISTLEBLOWER PROTECTIONS.**

2 “(a) PROCEDURE FOR REPORTING PROBLEMS.—

3 “(1) ESTABLISHMENT OF A REPORTING PROCE-
4 DURE.—Not later than 180 days after the date of
5 enactment of the Protecting and Securing Chemical
6 Facilities from Terrorist Attacks Act of 2014, the
7 Secretary shall establish, and provide information to
8 the public regarding, a procedure under which any
9 employee or contractor of a chemical facility of in-
10 terest may submit a report to the Secretary regard-
11 ing a violation of a requirement under this title.

12 “(2) CONFIDENTIALITY.—The Secretary shall
13 keep confidential the identity of an individual who
14 submits a report under paragraph (1) and any such
15 report shall be treated as a record containing pro-
16 tected information to the extent that the report does
17 not consist of publicly available information.

18 “(3) ACKNOWLEDGMENT OF RECEIPT.—If a re-
19 port submitted under paragraph (1) identifies the
20 individual making the report, the Secretary shall
21 promptly respond to the individual directly and shall
22 promptly acknowledge receipt of the report.

23 “(4) STEPS TO ADDRESS PROBLEMS.—The Sec-
24 retary—

1 “(A) shall review and consider the infor-
2 mation provided in any report submitted under
3 paragraph (1); and

4 “(B) may take action under section 2104
5 of this title if necessary to address any substan-
6 tiated violation of a requirement under this title
7 identified in the report.

8 “(5) DUE PROCESS FOR FACILITY OWNER OR
9 OPERATOR.—

10 “(A) IN GENERAL.—If, upon the review
11 described in paragraph (4), the Secretary deter-
12 mines that a violation of a provision of this
13 title, or a regulation prescribed under this title,
14 has occurred, the Secretary may—

15 “(i) institute a civil enforcement
16 under section 2104(a) of this title; or

17 “(ii) if the Secretary makes the deter-
18 mination under section 2104(c), issue an
19 emergency order.

20 “(B) WRITTEN ORDERS.—The action of
21 the Secretary under paragraph (4) shall be in
22 a written form that—

23 “(i) describes the violation;

24 “(ii) states the authority under which
25 the Secretary is proceeding; and

1 “(iii) describes the standards and pro-
2 cedures for obtaining relief from the order.

3 “(C) OPPORTUNITY FOR REVIEW.—After
4 taking action under paragraph (4), the Sec-
5 retary shall provide for review of the action if
6 a petition for review is filed within 20 calendar
7 days of the date of issuance of the order for the
8 action.

9 “(D) EXPIRATION OF EFFECTIVENESS OF
10 ORDER.—If a petition for review of an action is
11 filed under subparagraph (C) and the review
12 under that subparagraph is not completed by
13 the end of the 30-day period beginning on the
14 date the petition is filed, the action shall cease
15 to be effective at the end of such period unless
16 the Secretary determines, in writing, that the
17 violation providing a basis for the action con-
18 tinues to exist.

19 “(6) RETALIATION PROHIBITED.—

20 “(A) IN GENERAL.—An owner or operator
21 of a chemical facility of interest or agent there-
22 of may not discharge an employee or otherwise
23 discriminate against an employee with respect
24 to the compensation provided to, or terms, con-
25 ditions, or privileges of the employment of, the

1 employee because the employee (or an indi-
2 vidual acting pursuant to a request of the em-
3 ployee) submitted a report under paragraph
4 (1).

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

8 “(i) knowingly and willfully makes
9 any false, fictitious, or fraudulent state-
10 ment or representation; or

11 “(ii) uses any false writing or docu-
12 ment knowing the writing or document
13 contains any false, fictitious, or fraudulent
14 statement or entry.

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

18 “(1) protected or authorized under section
19 2302(b)(8) or 7211 of title 5, United States Code;

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

24 “(3) to the Special Counsel of an agency, the
25 inspector general of an agency, or any other em-

1 ployee designated by the head of an agency to re-
2 ceive disclosures similar to the disclosures described
3 in paragraphs (1) and (2).

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

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

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

16 “(a) OTHER FEDERAL LAWS.—Nothing in this title
17 shall be construed to supersede, amend, alter, or affect
18 any Federal law that—

19 “(1) regulates (including by requiring informa-
20 tion to be submitted or made available) the manu-
21 facture, distribution in commerce, use, handling,
22 sale, other treatment, or disposal of chemical sub-
23 stances or mixtures; or

1 “(2) authorizes or requires the disclosure of any
2 record or information obtained from a chemical facil-
3 ity under any law other than this title.

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

14 **“SEC. 2107. CFATS REGULATIONS.**

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

19 “(b) EXISTING CFATS REGULATIONS.—

20 “(1) IN GENERAL.—Notwithstanding section
21 4(b) of the Protecting and Securing Chemical Facili-
22 ties from Terrorist Attacks Act of 2014, each exist-
23 ing CFATS regulation shall remain in effect unless
24 the Secretary amends, consolidates, or repeals the
25 regulation.

1 “(2) REPEAL.—Not later than 30 days after
2 the date of enactment of the Protecting and Secur-
3 ing Chemical Facilities from Terrorist Attacks Act
4 of 2014, the Secretary shall repeal any existing
5 CFATS regulation that the Secretary determines is
6 duplicative of, or conflicts with, this title.

7 “(c) AUTHORITY.—The Secretary shall exclusively
8 rely upon authority provided under this title in—

9 “(1) determining compliance with this title;

10 “(2) identifying chemicals of interest; and

11 “(3) determining security risk associated with a
12 chemical facility.

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

14 “(a) DEFINITION.—In this section, the term ‘small
15 covered chemical facility’ means a covered chemical facility
16 that—

17 “(1) has fewer than 100 employees employed at
18 the covered chemical facility; and

19 “(2) is owned and operated by a small business
20 concern (as defined in section 3 of the Small Busi-
21 ness Act (15 U.S.C. 632)).

22 “(b) ASSISTANCE TO FACILITIES.—The Secretary
23 may provide guidance and, as appropriate, tools, meth-
24 odologies, or computer software, to assist small covered
25 chemical facilities in developing the physical security, cy-

1 bersecurity, recordkeeping, and reporting procedures re-
2 quired under this title.

3 “(c) REPORT.—The Secretary shall submit to the
4 Committee on Homeland Security and Governmental Af-
5 fairs of the Senate and the Committee on Homeland Secu-
6 rity and the Committee on Energy and Commerce of the
7 House of Representatives a report on best practices that
8 may assist small covered chemical facilities in development
9 of physical security best practices.

10 **“SEC. 2109. OUTREACH TO CHEMICAL FACILITIES OF IN-**
11 **TEREST.**

12 “Not later than 90 days after the date of enactment
13 of the Protecting and Securing Chemical Facilities from
14 Terrorist Attacks Act of 2014, the Secretary shall estab-
15 lish an outreach implementation plan, in coordination with
16 the heads of other appropriate Federal and State agencies,
17 relevant business associations, and public and private
18 labor organizations, to—

19 “(1) identify chemical facilities of interest; and

20 “(2) make available compliance assistance ma-
21 terials and information on education and training.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002
24 (Public Law 107–196; 116 Stat. 2135) is amended by
25 adding at 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.”.

1 **SEC. 3. ASSESSMENT; REPORTS.**

2 (a) DEFINITIONS.—In this section—

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

5 (A) the Chemical Facility Anti-Terrorism
6 Standards program initially authorized under
7 section 550 of the Department of Homeland Se-
8 curity Appropriations Act, 2007 (Public Law
9 109-295; 6 U.S.C. 121 note); and

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

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

16 (3) the term “Secretary” means the Secretary
17 of Homeland Security.

18 (b) THIRD-PARTY ASSESSMENT.—Using amounts ap-
19 propriated to the Department before the date of enact-
20 ment of this Act, the Secretary shall commission a third-
21 party study to assess vulnerabilities of covered chemical

1 facilities, as defined in section 2101 of the Homeland Se-
2 curity Act of 2002 (as added by section 2), to acts of ter-
3 rorism.

4 (c) REPORTS.—

5 (1) REPORT TO CONGRESS.—Not later than 18
6 months after the date of enactment of this Act, the
7 Secretary shall submit to the Committee on Home-
8 land Security and Governmental Affairs of the Sen-
9 ate and the Committee on Homeland Security and
10 the Committee on Energy and Commerce of the
11 House of Representatives a report on the Chemical
12 Facility Anti-Terrorism Standards Program that in-
13 cludes—

14 (A) a certification by the Secretary that
15 the Secretary has made significant progress in
16 the identification of all chemical facilities of in-
17 terest under section 2102(e)(1) of the Home-
18 land Security Act of 2002, as added by section
19 2, including—

20 (i) a description of the steps taken to
21 achieve that progress and the metrics used
22 to measure the progress;

23 (ii) information on whether facilities
24 that submitted Top-Screens as a result of
25 the identification of chemical facilities of

1 interest were tiered and in what tiers those
2 facilities were placed; and

3 (iii) an action plan to better identify
4 chemical facilities of interest and bring
5 those facilities into compliance with title
6 XXI of the Homeland Security Act of
7 2002, as added by section 2;

8 (B) a certification by the Secretary that
9 the Secretary has developed a risk assessment
10 approach and corresponding tiering method-
11 ology under section 2102(e)(2) of the Homeland
12 Security Act of 2002, as added by section 2;

13 (C) an assessment by the Secretary of the
14 implementation by the Department of the rec-
15 ommendations made by the Homeland Security
16 Studies and Analysis Institute as outlined in
17 the Institute's Tiering Methodology Peer Re-
18 view (Publication Number: RP12-22-02); and

19 (D) a description of best practices that
20 may assist small covered chemical facilities, as
21 defined in section 2108(a) of the Homeland Se-
22 curity Act of 2002, as added by section 2, in
23 the development of physical security best prac-
24 tices.

25 (2) ANNUAL GAO REPORT.—

1 (A) IN GENERAL.—During the 3-year pe-
2 riod beginning on the date of enactment of this
3 Act, the Comptroller General of the United
4 States shall submit to Congress an annual re-
5 port that assesses the implementation of this
6 Act and the amendments made by this Act.

7 (B) INITIAL REPORT.—Not later than 180
8 days after the date of enactment of this Act,
9 the Comptroller General shall submit to Con-
10 gress the first report under subparagraph (A).

11 (C) SECOND ANNUAL REPORT.—Not later
12 than 1 year after the date of the initial report
13 required under subparagraph (B), the Comp-
14 troller General shall submit to Congress the
15 second report under subparagraph (A), which
16 shall include an assessment of the whistleblower
17 protections provided under section 2105 of the
18 Homeland Security Act of 2002, as added by
19 section 2, and—

20 (i) describes the number and type of
21 problems, deficiencies, and vulnerabilities
22 with respect to which reports have been
23 submitted under such section 2105;

24 (ii) evaluates the efforts of the Sec-
25 retary in addressing the problems, defi-

1 ciencies, and vulnerabilities described in
2 subsection (a)(1) of such section 2105; and
3 (iii) evaluates the efforts of the Sec-
4 retary to inform individuals of their rights,
5 as required under subsection (c) of such
6 section 2105.

7 (D) **THIRD ANNUAL REPORT.**—Not later
8 than 1 year after the date on which the Comp-
9 troller General submits the second report re-
10 quired under subparagraph (A), the Comp-
11 troller General shall submit to Congress the
12 third report under subparagraph (A), which
13 shall include an assessment of—

14 (i) the expedited approval program
15 authorized under section 2102(c)(4) of the
16 Homeland Security Act of 2002, as added
17 by section 2; and

18 (ii) the report on the expedited ap-
19 proval program submitted by the Secretary
20 under subparagraph (I)(ii) of such section
21 2102(c)(4).

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

23 (a) **EFFECTIVE DATE.**—This Act, and the amend-
24 ments made by this Act, shall take effect on the date that
25 is 30 days after the date of enactment of this Act.

1 (b) CONFORMING REPEAL.—Section 550 of the De-
2 partment of Homeland Security Appropriations Act, 2007
3 (Public Law 109–295; 120 Stat. 1388), is repealed as of
4 the effective date of this Act.

5 **SEC. 5. TERMINATION.**

6 The authority provided under title XXI of the Home-
7 land Security Act of 2002, as added by section 2(a), shall
8 terminate on the date that is 4 years after the effective
9 date of this Act.