



Testimony

David Wulf

**Director, Infrastructure Security Compliance
Cybersecurity and Infrastructure Security Agency
U.S. Department of Homeland Security**

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“The Chemical Facility Anti-Terrorism Standards Program”

**BEFORE THE
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COMMITTEE ON HOMELAND SECURITY**

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Introduction

Chairman Thompson, Ranking Member Rogers, and members of the Committee, I appreciate the opportunity to appear before you today to discuss the development and maturation of the Department of Homeland Security's (DHS) regulation of high-risk chemical facilities under the Chemical Facility Anti-Terrorism Standards (CFATS) Program.

I also want to thank you for your efforts in extending the program's authorization for an additional 15 months so that we may continue to work together toward the long-term reauthorization of this critical national security program. Since the program's inception, CFATS has fundamentally improved chemical security in the U.S. Our threat landscape is constantly evolving and the threat of chemical terrorism remains a very real and very relevant one. For this reason, fostering the security of high-risk chemical facilities continues to be of the utmost importance. Given the wide-diversity of facilities that store chemicals, CFATS—and its flexible, targeted approach, is an essential tool in this effort.

CFATS Program Overview

The CFATS Program is a vital part of our nation's counterterrorism efforts, addressing physical, cyber, and insider threats to our nation's highest-risk chemical facilities. Since the CFATS Program's creation, we have engaged with industry to identify and regulate high-risk chemical facilities to ensure they have security measures in place to reduce the risks associated with the possession of chemicals of interest and to keep dangerous chemicals out of the hands of those who wish to do us harm.

The cornerstone of the CFATS Program is the development, submission, and implementation of Site Security Plans (SSPs), or Alternative Security Programs in lieu of SSPs, documenting the security measures that high-risk chemical facilities utilize to satisfy the

applicable Risk-Based Performance Standards (RBPS) under CFATS. Due to the diversity of facilities that hold chemicals of interest, it is important to note these plans are not “one-size-fits-all,” but are in-depth, highly-customized, and account for each facility’s unique circumstances.

In order to determine whether a facility is covered under CFATS, DHS utilizes a risk-assessment methodology that takes into account threat, vulnerability, and the consequences of a potential attack. To begin the process, a facility in possession of threshold quantities of CFATS chemicals of interest submits a Top-Screen to the Department’s Infrastructure Security Compliance Division. Since we began collecting this information in 2007, more than 40,000 unique facilities have reported chemical holdings. Based on the information received in the Top-Screens, DHS determines which facilities are at high-risk of terrorist attack or exploitation and assigns each of these to a tier.

Facilities determined to be high-risk must submit a Security Vulnerability Assessment (SVA) and a SSP, or a SVA and an Alternative Security Program (ASP), to DHS for approval. Tier 3 and 4 facilities also have the option of submitting an Expedited Approval Program (EAP) SSP in lieu of an SSP or ASP. The plan must include security measures meeting the RBPS established in the CFATS regulation. For facilities other than those submitting an EAP SSP, the Department performs an authorization inspection at the facility prior to approving a security plan to ensure that the measures contained in the security plan are appropriate given the facility’s specific security issues and unique characteristics. Once a facility’s plan is approved, DHS conducts regular compliance inspections to verify that the facility is implementing the agreed-upon security measures.

CFATS Act of 2014 Afforded Crucial Stability and Certainty

In December 2014, Congress passed the *Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014* (CFATS Act of 2014). This statute, which enjoyed strong bipartisan and stakeholder support, brought stability for both the Department and the regulated community and provided stakeholders with confidence in the program's future. Enacting a multi-year CFATS authorization as Congress did in 2014 marked an important turning point for the program. Among other things, it:

- Provided industry stakeholders with the certainty they needed to plan for and invest in CFATS-related security measures to harden their critical sites against possible terrorist attack or exploitation;
- Afforded the stability needed to enable the Department to make programmatic improvements as well as strategic, long-term planning decisions regarding staffing, program development, and process efficiencies; and,
- Sent a clear message to potentially-covered “outlier” facilities that the CFATS Program is here to stay.

With long-term authorization, chemical facilities have become further incentivized to engage with the Department with regard to facility security. Returning to the instability of short-term renewal of CFATS Program either through regular order or the appropriations process would represent a significant step backwards for the nation's chemical security efforts, inhibit programmatic progress and long-term planning, and undermine stakeholder confidence in the longevity of the program. In short, the absence of long-term CFATS authorization puts America's chemical security—and the security of our communities—at risk.

Accomplishments Since the CFATS Act of 2014

Due in large part to the stability afforded by passage of the CFATS Act of 2014, I am pleased to report today that much has been accomplished and that our program continues to make significant forward progress. Through the collective efforts of our dedicated workforce, industry and other stakeholders, and through the support and leadership of Congress, the CFATS program has matured significantly in this time and is poised to continue this progress in the coming years.

Clear examples of the gains made by the CFATS Program since the passage of the CFATS Act of 2014 include:

- A dramatic improvement in the pace of inspections, reviews, and approvals resulting in the elimination of a backlog once projected to take seven to nine years to clear, nearly six years ahead of schedule;
- Development and deployment of an enhanced risk-tiering methodology that affords a more-accurate reflection of a facility’s risk—a methodology that is grounded in science and has been vetted by external experts from across government, industry, and academia;
- Streamlining of the SSP-development process and the stakeholder “user experience,” reducing the burden on facility operators without sacrificing security through the launch of the CSAT 2.0 suite of online tools; and,
- The closing of a critical gap in the security of our nation’s highest risk facilities through the implementation of the CFATS Personnel Surety Program (screening for terrorist ties).

Extensive Outreach

DHS continues to prioritize outreach designed to “get the word out” about the program, share information with partners, make available compliance assistance materials, provide education and training, and to otherwise foster chemical security. This outreach, which has been central to the success of CFATS, has involved extensive engagement with a diverse group of representatives across the chemical security community, including industry stakeholders; law enforcement and emergency responders; federal and state partner agencies; labor organizations, federal partners, industry associations, labor and interest groups, and international partners among many others.

DHS conducts outreach to members of the chemical industry, other industries whose members routinely use threshold levels of CFATS chemicals of interest, and stakeholders with an interest in chemical facility security. The Department has also prioritized coordinating with federal and state, local, tribal, and territorial (SLTT) regulatory agencies to provide resource materials and to obtain data to assist with identifying Chemical Facilities of Interest. In Fiscal Year (FY) 2018, as a result of the data set comparisons, we identified approximately 697 potential chemical facilities of interest. From the program’s inception, DHS has made more than 3,500 presentations to its regulated community and attended more than 16,600 meetings with our federal, SLTT, and industry stakeholders.

The Department has developed strong relationships with national organizations to leverage their networks and outreach activities and, in FY 2018, DHS conducted nationwide outreach to more than 350 state and local offices and more than 850 Local

Emergency Planning Committees / Tribal Emergency Planning Committees across the nation.

Also, outreach to first responders is incorporated into the development of SSPs through Risk Based Performance Standard 9 (RBPS 9) - Response. This standard requires covered facilities to have a documented, comprehensive crisis management plan that details how the facility will respond to security incidents and requires the facility to run exercises and drills—and make contact with local first-responders. DHS verifies this outreach during on-site compliance inspections. In many instances, the Department has facilitated contact between the first responders and the facilities.

During the summer of 2018, as part of the Department's ongoing efforts to maximize outreach to critical stakeholder communities and as a supplement to 11 previous annual Chemical Security Summits, the Cybersecurity and Infrastructure Security Agency's (CISA) Office of Infrastructure Security held a series of *DHSCChemSecurityTalks* in which we reached more than 300 facility owners and operators, government partners, and industry stakeholders. This inaugural series of three one-day events, held in Oakland, California, Chicago, Illinois, and Philadelphia, Pennsylvania, was designed to take the chemical infrastructure security discussion and CISA's largest regulatory program, CFATS, beyond the National Capital Region and into the very communities that CFATS protects.

The Department also continues to play a leadership role in encouraging a global culture of chemical security. In support of this, I am privileged to co-chair the Chemical Security Working Group of the G7 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, leading the U.S. engagement with the G7 on chemical

security and helping to ensure cooperation among the international community on chemical security efforts. Additionally, in 2018, the Department, along with the Federal Bureau of Investigation and INTERPOL, co-hosted the inaugural Global Congress on Chemical Security and Emerging Threats in Lyon, France. The Global Congress convenes a community intent on countering chemical and explosive terrorism by non-state actors and their access to chemical agents. The Congress explored specialized case studies highlighting emerging trends, identified lessons learned and best practices relating to chemical incident attribution and response and discussed evolving technologies and tactics. CFATS is recognized globally as a model chemical-security framework worldwide and the Department regularly responds to requests to work with other governments as they strive to build cultures of chemical security on a par with the security-culture CFATS has fostered in the United States.

Personnel Surety Program

Vetting those who have access to chemicals of interest and other sensitive parts of high-risk chemical facilities is a key aspect of facility security. Under RBPS 12, Personnel Surety, facilities must (1) implement measures to verify and validate identity, (2) check criminal history, (3) validate legal authorization to work in the United States, and (4) identify people with terrorist ties. While all Tier 1 through 4 facilities have been implementing the first three elements of RPBS 12, in December 2015 the Department began working with Tier 1 and Tier 2 facilities to implement the fourth element. This effort was begun in December 2015, after the Office of Management and Budget (OMB) approved the Department's Information Collection Request for the CFATS Personnel

Surety Program (RPBS 12[iv]) in accordance with the requirements of the Paperwork Reduction Act (PRA).

The CFATS Personnel Surety Program closed a critical gap by enabling facilities in these two tiers to submit names to DHS for vetting individuals' potential terrorist ties. Going forward, the Department is planning to expand its implementation to tiers 3 and 4, to enable all high-risk chemical facilities to ensure that those with access to critical assets have been vetted for terrorist ties. The Department is in the process of requesting OMB's approval, through the PRA process, to collect information on individuals who have or who are seeking access to high-risk chemical facilities for all four Tiers.

Conclusion

Through CFATS and the hard work of our industry stakeholders who continue to put in place security measures to harden America's highest-risk chemical facilities, we have collectively accomplished much since 2014. This progress would not have been possible without the stability and certainty afforded by enactment of the *Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014*.

Long-term reauthorization will allow the Department and the chemical security community to continue to work together to secure the nation's chemicals and keep them out of the hands of our adversaries. The Department will be able to continue to focus on pursuing more efficient ways to implement the program, to include the enhancement of existing materials and tools, while industry will have the confidence to continue to make important investments in security.

Chemical security is very much a pressing need, and, in view of the continuing high level of chemical-terrorism threats, must remain a continuing high-priority for the nation. The CFATS

program has positioned the United States as a world-leader in building the culture of security necessary to secure our nation's highest-risk chemical facilities. I look forward to working with this Committee to chart a path towards long-term - or permanent - reauthorization of this critical national security program, and I thank you in advance for your continuing leadership on this issue. I look forward to your questions.