

113TH CONGRESS  
2D SESSION

# H. R. 4007

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2014

Mr. MEEHAN (for himself, Mr. McCAUL, Mr. KING of New York, Mr. GENE GREEN of Texas, Mrs. MILLER of Michigan, and Mr. ROGERS of Alabama) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

3 (a) PROGRAM ESTABLISHED.—There is in the De-  
4 partment of Homeland Security a Chemical Facility Anti-  
5 Terrorism Standards Program. Under such Program, the  
6 Secretary of Homeland Security shall establish risk-based  
7 performance standards designed to protect covered chem-  
8 ical facilities from acts of terrorism and require such fa-  
9 cilities to submit security vulnerability assessments and to  
10 develop and implement site security plans.

11 (b) SECURITY MEASURES.—Site security plans re-  
12 quired under subsection (a) may include layered security  
13 measures that, in combination, appropriately address the  
14 security vulnerability assessment and the risk-based per-  
15 formance standards for security for the facility.

16 (c) APPROVAL OR DISAPPROVAL OF SITE SECURITY  
17 PLANS.—

18 (1) IN GENERAL.—The Secretary shall review  
19 and approve or disapprove each security vulner-  
20 ability assessment and site security plan under sub-  
21 section (a). The Secretary may not disapprove a site  
22 security plan based on the presence or absence of a  
23 particular security measure, but the Secretary shall  
24 disapprove a site security plan if the plan fails to  
25 satisfy the risk-based performance standards estab-  
26 lished under subsection (a).

1           (2) ALTERNATIVE SECURITY PROGRAMS.—The  
2 Secretary may approve an alternative security pro-  
3 gram established by a private sector entity or a Fed-  
4 eral, State, or local authority or pursuant to other  
5 applicable laws, if the Secretary determines that the  
6 requirements of such program meet the require-  
7 ments of this section. A covered chemical facility  
8 may meet the site security plan requirement under  
9 subsection (a) by adopting an alternative security  
10 program that has been reviewed and approved by the  
11 Secretary under this paragraph.

12           (3) SITE SECURITY PLAN ASSESSMENTS.—In  
13 approving or disapproving a site security plan under  
14 this subsection, the Secretary shall employ the risk  
15 assessment policies and procedures developed under  
16 this Act. In the case of a covered chemical facility  
17 for which a site security plan has been approved by  
18 the Secretary before the date of the enactment of  
19 this Act, the Secretary may not require the resub-  
20 mission of the site security information solely by rea-  
21 son of the enactment of this Act.

22           (d) COMPLIANCE.—

23           (1) AUDITS AND INSPECTIONS.—The Secretary  
24 shall arrange for the audit and inspection of covered  
25 chemical facilities for the purpose of determining

1 compliance with this Act. Under any such arrange-  
2 ment, the audit and inspection may be carried out  
3 by a non-Department or nongovernment entity, as  
4 approved by the Secretary.

5 (2) NOTICE OF NONCOMPLIANCE.—If the Sec-  
6 retary determines that a covered chemical facility is  
7 not in compliance with this section, the Secretary  
8 shall provide the owner or operator of the facility  
9 with written notification (including a clear expla-  
10 nation of any deficiency in the security vulnerability  
11 assessment or site security plan) and opportunity for  
12 consultation with the Secretary or the Secretary's  
13 designee, and shall issue an order to comply by such  
14 date as the Secretary determines to be appropriate  
15 under the circumstances. If the owner or operator  
16 continues to be in noncompliance after the date  
17 specified in such order, the Secretary may enter an  
18 order assessing a civil penalty, an order to cease op-  
19 erations, or both.

20 (3) PERSONNEL SURETY.—To satisfy the re-  
21 quirements of a risk-based performance standard  
22 that addresses personnel surety by identifying indi-  
23 viduals with terrorist ties, a covered chemical facility  
24 may utilize any Federal screening program that pe-  
25 riodically vets individuals against the terrorist

1 screening database, or any successor, including the  
2 Department of Homeland Security Personnel Surety  
3 Program.

4 (4) FACILITY ACCESS.—For purposes of the  
5 compliance of a covered chemical facility with a risk-  
6 based performance standard established under sub-  
7 section (a), the Secretary may not require the facil-  
8 ity to submit any information about an individual  
9 who has been granted access to the facility unless  
10 the individual—

11 (A) was vetted under the Department of  
12 Homeland Security Personnel Surety Program;  
13 or

14 (B) has been identified as presenting a ter-  
15 rorism security risk.

16 (5) AVAILABILITY OF INFORMATION.—The Sec-  
17 retary shall share with the owner or operator of a  
18 covered chemical facility such information as the  
19 owner or operator needs to comply with this section.

20 (e) RESPONSIBILITIES OF THE SECRETARY.—

21 (1) IDENTIFICATION OF FACILITIES OF INTER-  
22 EST.—In carrying out this Act, the Secretary shall  
23 consult with the heads of other Federal agencies,  
24 States and political subdivisions thereof, and rel-

1       evant business associations to identify all chemical  
2       facilities of interest.

3               (2) RISK ASSESSMENT.—

4                       (A) IN GENERAL.—For purposes of this  
5       Act, the Secretary shall develop a risk assess-  
6       ment approach and corresponding tiering meth-  
7       odology that incorporates all relevant elements  
8       of risk, including threat, vulnerability, and con-  
9       sequence.

10                      (B) CRITERIA FOR DETERMINING SECUR-  
11       ITY RISK.—The criteria for determining the  
12       security risk of terrorism associated with a fa-  
13       cility shall include—

14                               (i) the threat to the facility based  
15                               upon available intelligence;

16                               (ii) the potential economic con-  
17                               sequences and the potential loss of human  
18                               life in the event of the facility being sub-  
19                               ject to a terrorist attack; and

20                               (iii) the vulnerability of the facility to  
21                               a terrorist attack.

22               (f) COVERED CHEMICAL FACILITY.—In this Act, the  
23       term “covered chemical facility” means a chemical facility  
24       that the Secretary designates as a chemical facility of in-  
25       terest under subsection (e)(1) and determines presents a

1 high level of security risk. Such term does not include any  
2 of the following:

3 (1) A facility regulated pursuant to the Mari-  
4 time Transportation Security Act of 2002 (Public  
5 Law 107–295).

6 (2) A Public Water System, as such term is de-  
7 fined by section 1401 of the Safe Drinking Water  
8 Act (Public Law 93–523; 42 U.S.C. 300f).

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

12 (4) Any facility owned or operated by the De-  
13 partment of Defense or the Department of Energy.

14 (5) Any facility subject to regulation by the Nu-  
15 clear Regulatory Commission.

16 **SEC. 3. PROTECTION OF INFORMATION.**

17 (a) IN GENERAL.—Notwithstanding any other provi-  
18 sion of law, information developed pursuant to this Act,  
19 including vulnerability assessments, site security plans,  
20 and other security related information, records, and docu-  
21 ments shall be given protections from public disclosure  
22 consistent with similar information developed by chemical  
23 facilities subject to regulation under section 70103 of title  
24 46, United States Code.

1           (b) SHARING OF INFORMATION WITH STATES AND  
2 LOCAL GOVERNMENTS.—This section does not prohibit  
3 the sharing of information developed pursuant to this Act,  
4 as the Secretary deems appropriate, with State and local  
5 government officials possessing the necessary security  
6 clearances, including law enforcement officials and first  
7 responders, for the purpose of carrying out this Act, if  
8 such information may not be disclosed pursuant to any  
9 State or local law.

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

16 **SEC. 4. CIVIL PENALTIES.**

17          (a) VIOLATIONS.—Any person who violates an order  
18 issued under this Act shall be liable for a civil penalty  
19 under section 70119(a) of title 46, United States Code.

20          (b) RIGHT OF ACTION.—Nothing in this Act confers  
21 upon any person except the Secretary a right of action  
22 against an owner or operator of a covered chemical facility  
23 to enforce any provision of this Act.



1 **SEC. 5. RELATIONSHIP TO OTHER LAWS.**

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

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

17 **SEC. 6. REPORTS.**

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

23 (1) Certification by the Secretary that the Sec-  
24 retary has made significant progress in the identi-  
25 fication of all chemical facilities of interest pursuant  
26 to section 2(e)(1), including a description of the

1 steps taken to achieve such progress and the metrics  
2 used to measure it.

3 (2) Certification by the Secretary that the Sec-  
4 retary has developed a risk assessment approach and  
5 corresponding tiering methodology pursuant to sec-  
6 tion 2(e)(2).

7 (3) An assessment by the Secretary of the im-  
8 plementation by the Department of Homeland Secu-  
9 rity of any recommendations made by the Homeland  
10 Security Studies and Analysis Institute as outlined  
11 in the Institute's Tiering Methodology Peer Review  
12 (Publication Number: RP12-22-02).

13 (b) SEMIANNUAL GAO REPORT.—During the 2-year  
14 period beginning on the date of the enactment of this Act,  
15 the Comptroller General of the United States shall submit  
16 a semiannual report to Congress containing the assess-  
17 ment of the Comptroller General of the implementation  
18 of this Act. The Comptroller General shall submit the first  
19 such report by not later than the date that is 180 days  
20 after the date of the enactment of this Act.

21 **SEC. 7. TERMINATION.**

22 The authority under this Act shall terminate on the  
23 date that is 2 years after the date of the enactment of  
24 this Act.

1 **SEC. 8. EFFECTIVE DATE.**

2       This Act shall take effect on the date that is 30 days  
3 after the date of the enactment of this Act.

4 **SEC. 9. USE OF EXISTING REGULATIONS.**

5       (a) **IN GENERAL.**—In carrying out the requirements  
6 of this Act, the Secretary may, to the extent that the Sec-  
7 retary determines is appropriate, use any of the CFATS  
8 regulations, as in effect immediately before the date of the  
9 enactment of this Act, that the Secretary determines carry  
10 out such requirements.

11       (b) **CFATS REGULATIONS.**—In this section, the term  
12 “CFATS regulations” means the regulations prescribed  
13 pursuant to section 550 of the Department of Homeland  
14 Security Appropriations Act (Public Law 109–295; 120  
15 Stat. 1388; 6 U.S.C. 121 note).

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