

State, local, and tribal governments in connection with the awarding of grants, including—

(A) a list of each discrete item of data requested by the Administrator from grant recipients as part of the process of administering covered grants;

(B) identification of the items of data from the list described in subparagraph (A) that are required to be submitted by grant recipients on multiple occasions or to multiple systems; and

(C) identification of the items of data from the list described in subparagraph (A) that are not necessary to be collected in order for the Administrator to effectively and efficiently administer the programs under which covered grants are awarded;

(2) a plan, including a specific timetable, for eliminating any redundant and unnecessary reporting requirements identified under paragraph (1); and

(3) a plan, including a specific timetable, for promptly developing a set of quantifiable performance measures and metrics to assess the effectiveness of the programs under which covered grants are awarded.

(c) Biennial reports

Not later than 1 year after the date on which the initial report is required to be submitted under subsection (b), and once every 2 years thereafter, the Administrator shall submit to the appropriate committees of Congress a grants management report that includes—

(1) the status of efforts to eliminate redundant and unnecessary reporting requirements imposed on grant recipients, including—

(A) progress made in implementing the plan required under subsection (b)(2);

(B) a reassessment of the reporting requirements to identify and eliminate redundant and unnecessary requirements;

(2) the status of efforts to develop quantifiable performance measures and metrics to assess the effectiveness of the programs under which the covered grants are awarded, including—

(A) progress made in implementing the plan required under subsection (b)(3);

(B) progress made in developing and implementing additional performance metrics and measures for grants, including as part of the comprehensive assessment system required under section 749 of this title; and

(3) a performance assessment of each program under which the covered grants are awarded, including—

(A) a description of the objectives and goals of the program;

(B) an assessment of the extent to which the objectives and goals described in subparagraph (A) have been met, based on the quantifiable performance measures and metrics required under this section, section 612(a)(4)¹ of this title, and section 749 of this title;

(C) recommendations for any program modifications to improve the effectiveness

of the program, to address changed or emerging conditions; and

(D) an assessment of the experience of recipients of covered grants, including the availability of clear and accurate information, the timeliness of reviews and awards, and the provision of technical assistance, and recommendations for improving that experience.

(d) Grants program measurement study

(1) In general

Not later than 30 days after October 12, 2010, the Administrator shall enter into a contract with the National Academy of Public Administration under which the National Academy of Public Administration shall assist the Administrator in studying, developing, and implementing—

(A) quantifiable performance measures and metrics to assess the effectiveness of grants administered by the Department, as required under this section and section 749 of this title; and

(B) the plan required under subsection (b)(3).

(2) Report

Not later than 1 year after the date on which the contract described in paragraph (1) is awarded, the Administrator shall submit to the appropriate committees of Congress a report that describes the findings and recommendations of the study conducted under paragraph (1).

(3) Authorization of appropriations

There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subsection.

(Pub. L. 107-296, title XX, § 2023, as added Pub. L. 111-271, § 2(a), Oct. 12, 2010, 124 Stat. 2852.)

Editorial Notes

REFERENCES IN TEXT

Section 612(a)(4) of this title, referred to in subsec. (c)(3)(B), was redesignated section 612(a)(3) of this title by Pub. L. 113-284, § 2(c)(2)(A), Dec. 18, 2014, 128 Stat. 3089.

SUBCHAPTER XVI—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 5 of Pub. L. 113-254, see Effective and Termination Dates note set out under section 621 of this title.

§ 621. Definitions

In this subchapter—

(1) the term “CFATS regulation” means—

(A) an existing CFATS regulation; and

(B) any regulation or amendment to an existing CFATS regulation issued pursuant to the authority under section 627 of this title;

(2) the term “chemical facility of interest” means a facility that—

(A) holds, or that the Secretary has a reasonable basis to believe holds, a chemical of interest, as designated under Appendix A to

¹ See References in Text note below.

part 27 of title 6, Code of Federal Regulations, or any successor thereto, at a threshold quantity set pursuant to relevant risk-related security principles; and

(B) is not an excluded facility;

(3) the term “covered chemical facility” means a facility that—

(A) the Secretary—

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

(ii) based upon review of the facility’s Top-Screen, determines meets the risk criteria developed under section 622(e)(2)(B) of this title; and

(B) is not an excluded facility;

(4) the term “excluded facility” means—

(A) a facility regulated under the Maritime Transportation Security Act of 2002 (Public Law 107-295; 116 Stat. 2064);

(B) a public water system, as that term is defined in section 300f of title 42;

(C) a Treatment Works, as that term is defined in section 1292 of title 33;

(D) a facility owned or operated by the Department of Defense or the Department of Energy; or

(E) a facility subject to regulation by the Nuclear Regulatory Commission, or by a State that has entered into an agreement with the Nuclear Regulatory Commission under section 2021(b) of title 42 to protect against unauthorized access of any material, activity, or structure licensed by the Nuclear Regulatory Commission;

(5) the term “existing CFATS regulation” means—

(A) a regulation promulgated under section 550 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109-295; 6 U.S.C. 121 note) that is in effect on the day before December 18, 2014; and

(B) a Federal Register notice or other published guidance relating to section 550 of the Department of Homeland Security Appropriations Act, 2007 that is in effect on the day before December 18, 2014;

(6) the term “expedited approval facility” means a covered chemical facility for which the owner or operator elects to submit a site security plan in accordance with section 622(c)(4) of this title;

(7) the term “facially deficient”, relating to a site security plan, means a site security plan that does not support a certification that the security measures in the plan address the security vulnerability assessment and the risk-based performance standards for security for the facility, based on a review of—

(A) the facility’s site security plan;

(B) the facility’s Top-Screen;

(C) the facility’s security vulnerability assessment; or

(D) any other information that—

(i) the facility submits to the Department; or

(ii) the Department obtains from a public source or other source;

(8) the term “guidance for expedited approval facilities” means the guidance issued under section 622(c)(4)(B)(i) of this title;

(9) the term “risk assessment” means the Secretary’s application of relevant risk criteria identified in section 622(e)(2)(B) of this title;

(10) the term “terrorist screening database” means the terrorist screening database maintained by the Federal Government Terrorist Screening Center or its successor;

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

(12) the terms “tiering” and “tiering methodology” mean the procedure by which the Secretary assigns a tier to each covered chemical facility based on the risk assessment for that covered chemical facility;

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

(14) the term “vulnerability assessment” means the identification of weaknesses in the security of a chemical facility of interest.

(Pub. L. 107-296, title XXI, §2101, as added Pub. L. 113-254, §2(a), Dec. 18, 2014, 128 Stat. 2898.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113-254, see Effective and Termination Dates note below.

Editorial Notes

REFERENCES IN TEXT

The Maritime Transportation Security Act of 2002, referred to in par. (4)(A), is Pub. L. 107-295, Nov. 25, 2002, 116 Stat. 2064. For complete classification of this Act to the Code, see Tables.

Section 550 of the Department of Homeland Security Appropriations Act, 2007, referred to in par. (5), is section 550 of Pub. L. 109-295, title V, Oct. 4, 2006, 120 Stat. 1388, which was set out as a note under section 121 of this title and was repealed by Pub. L. 113-254, §4(b), Dec. 18, 2014, 128 Stat. 2919.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Pub. L. 113-254, §4(a), Dec. 18, 2014, 128 Stat. 2918, provided that: “This Act [see Short Title of 2014 Amendment note set out under section 101 of this title], and the amendments made by this Act, shall take effect on the date that is 30 days after the date of enactment of this Act [Dec. 18, 2014].”

Pub. L. 113-254, §5, Dec. 18, 2014, 128 Stat. 2919, as amended by Pub. L. 116-2, §2, Jan. 18, 2019, 133 Stat. 5; Pub. L. 116-136, div. B, title VI, §16007, Mar. 27, 2020, 134 Stat. 546; Pub. L. 116-150, §1(a), July 22, 2020, 134 Stat. 679, provided that: “The authority provided under title XXI of the Homeland Security Act of 2002 [6 U.S.C. 621 et seq.], as added by section 2(a), shall terminate on July 27, 2023.”

[Pub. L. 116-150, §1(b), July 22, 2020, 134 Stat. 679, provided that: “The amendment made by subsection (a) [amending section 5 of Pub. L. 113-254, set out above] shall take effect on the date that is 1 day after the date of enactment of this Act [July 22, 2020].”]

Executive Documents

EX. ORD. NO. 13650. IMPROVING CHEMICAL FACILITY SAFETY AND SECURITY

Ex. Ord. No. 13650, Aug. 1, 2013, 78 F.R. 48029, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* Chemicals, and the facilities where they are manufactured, stored, distributed, and used, are essential to today's economy. Past and recent tragedies have reminded us, however, that the handling and storage of chemicals are not without risk. The Federal Government has developed and implemented numerous programs aimed at reducing the safety risks and security risks associated with hazardous chemicals. However, additional measures can be taken by executive departments and agencies (agencies) with regulatory authority to further improve chemical facility safety and security in coordination with owners and operators.

SEC. 2. *Establishment of the Chemical Facility Safety and Security Working Group.* (a) There is established a Chemical Facility Safety and Security Working Group (Working Group) co-chaired by the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency (EPA), and the Secretary of Labor or their designated representatives at the Assistant Secretary level or higher. In addition, the Working Group shall consist of the head of each of the following agencies or their designated representatives at the Assistant Secretary level or higher:

- (i) the Department of Justice;
- (ii) the Department of Agriculture; and
- (iii) the Department of Transportation.

(b) In carrying out its responsibilities under this order, the Working Group shall consult with representatives from:

- (i) the Council on Environmental Quality;
- (ii) the National Security Staff;
- (iii) the Domestic Policy Council;
- (iv) the Office of Science and Technology Policy;
- (v) the Office of Management and Budget (OMB);
- (vi) the White House Office of Cabinet Affairs; and
- (vii) such other agencies and offices as the President may designate.

(c) The Working Group shall meet no less than quarterly to discuss the status of efforts to implement this order. The Working Group is encouraged to invite other affected agencies, such as the Nuclear Regulatory Commission, to attend these meetings as appropriate. Additionally, the Working Group shall provide, within 270 days of the date of this order, a status report to the President through the Chair of the Council on Environmental Quality and the Assistant to the President for Homeland Security and Counterterrorism.

SEC. 3. *Improving Operational Coordination with State, Local, and Tribal Partners.* (a) Within 135 days of the date of this order, the Working Group shall develop a plan to support and further enable efforts by State regulators, State, local, and tribal emergency responders, chemical facility owners and operators, and local and tribal communities to work together to improve chemical facility safety and security. In developing this plan, the Working Group shall:

- (i) identify ways to improve coordination among the Federal Government, first responders, and State, local, and tribal entities;
- (ii) take into account the capabilities, limitations, and needs of the first responder community;
- (iii) identify ways to ensure that State homeland security advisors, State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), Tribal Emergency Planning Committees (TEPCs), State regulators, and first responders have ready access to key information in a useable format, including by thoroughly reviewing categories of chemicals for which information is provided to first responders and the manner in which it is made available, so as to prevent, prepare for, and respond to chemical incidents;
- (iv) identify areas, in collaboration with State, local, and tribal governments and private sector partners, where joint collaborative programs can be developed or enhanced, including by better integrating existing authorities, jurisdictional responsibilities, and regulatory programs in order to achieve a more comprehensive engagement on chemical risk management;

(v) identify opportunities and mechanisms to improve response procedures and to enhance information sharing and collaborative planning between chemical facility owners and operators, TEPCs, LEPCs, and first responders;

(vi) working with the National Response Team (NRT) and Regional Response Teams (RRTs), identify means for Federal technical assistance to support developing, implementing, exercising, and revising State, local, and tribal emergency contingency plans, including improved training; and

(vii) examine opportunities to improve public access to information about chemical facility risks consistent with national security needs and appropriate protection of confidential business information.

(b) Within 90 days of the date of this order, the Attorney General, through the head of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), shall assess the feasibility of sharing data related to the storage of explosive materials with SERCs, TEPCs, and LEPCs.

(c) Within 90 days of the date of this order, the Secretary of Homeland Security shall assess the feasibility of sharing Chemical Facility Anti-Terrorism Standards (CFATS) data with SERCs, TEPCs, and LEPCs on a categorical basis.

SEC. 4. *Enhanced Federal Coordination.* In order to enhance Federal coordination regarding chemical facility safety and security:

(a) Within 45 days of the date of this order, the Working Group shall deploy a pilot program, involving the EPA, Department of Labor, Department of Homeland Security, and any other appropriate agency, to validate best practices and to test innovative methods for Federal interagency collaboration regarding chemical facility safety and security. The pilot program shall operate in at least one region and shall integrate regional Federal, State, local, and tribal assets, where appropriate. The pilot program shall include innovative and effective methods of collecting, storing, and using facility information, stakeholder outreach, inspection planning, and, as appropriate, joint inspection efforts. The Working Group shall take into account the results of the pilot program in developing integrated standard operating procedures pursuant to subsection (b) of this section.

(b) Within 270 days of the date of this order, the Working Group shall create comprehensive and integrated standard operating procedures for a unified Federal approach for identifying and responding to risks in chemical facilities (including during pre-inspection, inspection execution, post-inspection, and post-incident investigation activities), incident reporting and response procedures, enforcement, and collection, storage, and use of facility information. This effort shall reflect best practices and shall include agency-to-agency referrals and joint inspection procedures where possible and appropriate, as well as consultation with the Federal Emergency Management Agency on post-incident response activities.

(c) Within 90 days of the date of this order, the Working Group shall consult with the Chemical Safety Board (CSB) and determine what, if any, changes are required to existing memorandums of understanding (MOUs) and processes between EPA and CSB, ATF and CSB, and the Occupational Safety and Health Administration and CSB for timely and full disclosure of information. To the extent appropriate, the Working Group may develop a single model MOU with CSB in lieu of existing agreements.

SEC. 5. *Enhanced Information Collection and Sharing.* In order to enhance information collection by and sharing across agencies to support more informed decision-making, streamline reporting requirements, and reduce duplicative efforts:

(a) Within 90 days of the date of this order, the Working Group shall develop an analysis, including recommendations, on the potential to improve information collection by and sharing between agencies to help identify chemical facilities which may not have pro-

vided all required information or may be non-compliant with Federal requirements to ensure chemical facility safety. This analysis should consider ongoing data-sharing efforts, other federally collected information, and chemical facility reporting among agencies (including information shared with State, local, and tribal governments).

(b) Within 180 days of the date of this order, the Working Group shall produce a proposal for a coordinated, flexible data-sharing process which can be utilized to track data submitted to agencies for federally regulated chemical facilities, including locations, chemicals, regulated entities, previous infractions, and other relevant information. The proposal shall allow for the sharing of information with and by State, local, and tribal entities where possible, consistent with section 3 of this order, and shall address computer-based and non-computer-based means for improving the process in the short-term, if they exist.

(c) Within 180 days of the date of this order, the Working Group shall identify and recommend possible changes to streamline and otherwise improve data collection to meet the needs of the public and Federal, State, local, and tribal agencies (including those charged with protecting workers and the public), consistent with the Paperwork Reduction Act and other relevant authorities, including opportunities to lessen the reporting burden on regulated industries. To the extent feasible, efforts shall minimize the duplicative collection of information while ensuring that pertinent information is shared with all key entities.

SEC. 6. Policy, Regulation, and Standards Modernization. (a) In order to enhance safety and security in chemical facilities by modernizing key policies, regulations, and standards, the Working Group shall:

(i) within 90 days of the date of this order, develop options for improved chemical facility safety and security that identifies improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations;

(ii) within 90 days of developing the options described in subsection (a)(i) of this section, engage key stakeholders to discuss the options and other means to improve chemical risk management that may be available; and

(iii) within 90 days of completing the outreach and consultation effort described in subsection (a)(ii) of this section, develop a plan for implementing practical and effective improvements to chemical risk management identified pursuant to subsections (a)(i) and (ii) of this section.

(b) Within 90 days of the date of this order, the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of Agriculture shall develop a list of potential regulatory and legislative proposals to improve the safe and secure storage, handling, and sale of ammonium nitrate and identify ways in which ammonium nitrate safety and security can be enhanced under existing authorities.

(c) Within 90 days of the date of this order, the Administrator of EPA and the Secretary of Labor shall review the chemical hazards covered by the Risk Management Program (RMP) and the Process Safety Management Standard (PSM) and determine if the RMP or PSM can and should be expanded to address additional regulated substances and types of hazards. In addition, the EPA and the Department of Labor shall develop a plan, including a timeline and resource requirements, to expand, implement, and enforce the RMP and PSM in a manner that addresses the additional regulated substances and types of hazards.

(d) Within 90 days of the date of this order, the Secretary of Homeland Security shall identify a list of chemicals, including poisons and reactive substances, that should be considered for addition to the CFATS Chemicals of Interest list.

(e) Within 90 days of the date of this order, the Secretary of Labor shall:

(i) identify any changes that need to be made in the retail and commercial grade exemptions in the PSM Standard; and

(ii) issue a Request for Information designed to identify issues related to modernization of the PSM Standard and related standards necessary to meet the goal of preventing major chemical accidents.

SEC. 7. Identification of Best Practices. The Working Group shall convene stakeholders, including chemical producers, chemical storage companies, agricultural supply companies, State and local regulators, chemical critical infrastructure owners and operators, first responders, labor organizations representing affected workers, environmental and community groups, and consensus standards organizations, in order to identify and share successes to date and best practices to reduce safety risks and security risks in the production and storage of potentially harmful chemicals, including through the use of safer alternatives, adoption of best practices, and potential public-private partnerships.

SEC. 8. General Provisions. (a) This order shall be implemented consistent with applicable law, including international trade obligations, and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

§ 622. Chemical Facility Anti-Terrorism Standards Program

(a) Program established

(1) In general

There is in the Department a Chemical Facility Anti-Terrorism Standards Program, which shall be located in the Cybersecurity and Infrastructure Security Agency.

(2) Requirements

In carrying out the Chemical Facility Anti-Terrorism Standards Program, the Secretary shall—

(A) identify—

- (i) chemical facilities of interest; and
- (ii) covered chemical facilities;

(B) require each chemical facility of interest to submit a Top-Screen and any other information the Secretary determines necessary to enable the Department to assess the security risks associated with the facility;

(C) establish risk-based performance standards designed to address high levels of security risk at covered chemical facilities; and

(D) require each covered chemical facility to—

- (i) submit a security vulnerability assessment; and
- (ii) develop, submit, and implement a site security plan.

(b) Security measures

(1) In general

A facility, in developing a site security plan as required under subsection (a), shall include

security measures that, in combination, appropriately address the security vulnerability assessment and the risk-based performance standards for security for the facility.

(2) Employee input

To the greatest extent practicable, a facility's security vulnerability assessment and site security plan shall include input from at least 1 facility employee and, where applicable, 1 employee representative from the bargaining agent at that facility, each of whom possesses, in the determination of the facility's security officer, relevant knowledge, experience, training, or education as pertains to matters of site security.

(c) Approval or disapproval of site security plans

(1) In general

(A) Review

Except as provided in paragraph (4), the Secretary shall review and approve or disapprove each site security plan submitted pursuant to subsection (a).

(B) Bases for disapproval

The Secretary—

- (i) may not disapprove a site security plan based on the presence or absence of a particular security measure; and
- (ii) shall disapprove a site security plan if the plan fails to satisfy the risk-based performance standards established pursuant to subsection (a)(2)(C).

(2) Alternative security programs

(A) Authority to approve

(i) In general

The Secretary may approve an alternative security program established by a private sector entity or a Federal, State, or local authority or under other applicable laws, if the Secretary determines that the requirements of the program meet the requirements under this section.

(ii) Additional security measures

If the requirements of an alternative security program do not meet the requirements under this section, the Secretary may recommend additional security measures to the program that will enable the Secretary to approve the program.

(B) Satisfaction of site security plan requirement

A covered chemical facility may satisfy the site security plan requirement under subsection (a) by adopting an alternative security program that the Secretary has—

- (i) reviewed and approved under subparagraph (A); and
- (ii) determined to be appropriate for the operations and security concerns of the covered chemical facility.

(3) Site security plan assessments

(A) Risk assessment policies and procedures

In approving or disapproving a site security plan under this subsection, the Secretary shall employ the risk assessment policies and procedures developed under this subchapter.

(B) Previously approved plans

In the case of a covered chemical facility for which the Secretary approved a site security plan before December 18, 2014, the Secretary may not require the facility to resubmit the site security plan solely by reason of the enactment of this subchapter.

(4) Expedited approval program

(A) In general

A covered chemical facility assigned to tier 3 or 4 may meet the requirement to develop and submit a site security plan under subsection (a)(2)(D) by developing and submitting to the Secretary—

- (i) a site security plan and the certification described in subparagraph (C); or
- (ii) a site security plan in conformance with a template authorized under subparagraph (H).

(B) Guidance for expedited approval facilities

(i) In general

Not later than 180 days after December 18, 2014, the Secretary shall issue guidance for expedited approval facilities that identifies specific security measures that are sufficient to meet the risk-based performance standards.

(ii) Material deviation from guidance

If a security measure in the site security plan of an expedited approval facility materially deviates from a security measure in the guidance for expedited approval facilities, the site security plan shall include an explanation of how such security measure meets the risk-based performance standards.

(iii) Applicability of other laws to development and issuance of initial guidance

During the period before the Secretary has met the deadline under clause (i), in developing and issuing, or amending, the guidance for expedited approval facilities under this subparagraph and in collecting information from expedited approval facilities, the Secretary shall not be subject to—

- (I) section 553 of title 5;
- (II) subchapter I of chapter 35 of title 44; or
- (III) section 627(b) of this title.

(C) Certification

The owner or operator of an expedited approval facility shall submit to the Secretary a certification, signed under penalty of perjury, that—

- (i) the owner or operator is familiar with the requirements of this subchapter and part 27 of title 6, Code of Federal Regulations, or any successor thereto, and the site security plan being submitted;
- (ii) the site security plan includes the security measures required by subsection (b);
- (iii)(I) the security measures in the site security plan do not materially deviate from the guidance for expedited approval

facilities except where indicated in the site security plan;

(II) any deviations from the guidance for expedited approval facilities in the site security plan meet the risk-based performance standards for the tier to which the facility is assigned; and

(III) the owner or operator has provided an explanation of how the site security plan meets the risk-based performance standards for any material deviation;

(iv) the owner or operator has visited, examined, documented, and verified that the expedited approval facility meets the criteria set forth in the site security plan;

(v) the expedited approval facility has implemented all of the required performance measures outlined in the site security plan or set out planned measures that will be implemented within a reasonable time period stated in the site security plan;

(vi) each individual responsible for implementing the site security plan has been made aware of the requirements relevant to the individual's responsibility contained in the site security plan and has demonstrated competency to carry out those requirements;

(vii) the owner or operator has committed, or, in the case of planned measures will commit, the necessary resources to fully implement the site security plan; and

(viii) the planned measures include an adequate procedure for addressing events beyond the control of the owner or operator in implementing any planned measures.

(D) Deadline

(i) In general

Not later than 120 days after the date described in clause (ii), the owner or operator of an expedited approval facility shall submit to the Secretary the site security plan and the certification described in subparagraph (C).

(ii) Date

The date described in this clause is—

(I) for an expedited approval facility that was assigned to tier 3 or 4 under existing CFATS regulations before December 18, 2014, the date that is 210 days after December 18, 2014; and

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

(aa) the date on which the expedited approval facility is assigned to tier 3 or 4 under subsection (e)(2)(A); or

(bb) the date that is 210 days after December 18, 2014.

(iii) Notice

An owner or operator of an expedited approval facility shall notify the Secretary of the intent of the owner or operator to certify the site security plan for the expedited approval facility not later than 30 days before the date on which the owner or operator submits the site security plan and certification described in subparagraph (C).

(E) Compliance

(i) In general

For an expedited approval facility submitting a site security plan and certification in accordance with subparagraphs (A), (B), (C), and (D)—

(I) the expedited approval facility shall comply with all of the requirements of its site security plan; and

(II) the Secretary—

(aa) except as provided in subparagraph (G), may not disapprove the site security plan; and

(bb) may audit and inspect the expedited approval facility under subsection (d) to verify compliance with its site security plan.

(ii) Noncompliance

If the Secretary determines an expedited approval facility is not in compliance with the requirements of the site security plan or is otherwise in violation of this subchapter, the Secretary may enforce compliance in accordance with section 624 of this title.

(F) Amendments to site security plan

(i) Requirement

(I) In general

If the owner or operator of an expedited approval facility amends a site security plan submitted under subparagraph (A), the owner or operator shall submit the amended site security plan and a certification relating to the amended site security plan that contains the information described in subparagraph (C).

(II) Technical amendments

For purposes of this clause, an amendment to a site security plan includes any technical amendment to the site security plan.

(ii) Amendment required

The owner or operator of an expedited approval facility shall amend the site security plan if—

(I) there is a change in the design, construction, operation, or maintenance of the expedited approval facility that affects the site security plan;

(II) the Secretary requires additional security measures or suspends a certification and recommends additional security measures under subparagraph (G); or

(III) the owner or operator receives notice from the Secretary of a change in tiering under subsection (e)(3).

(iii) Deadline

An amended site security plan and certification shall be submitted under clause (i)—

(I) in the case of a change in design, construction, operation, or maintenance of the expedited approval facility that affects the security plan, not later than 120 days after the date on which the

change in design, construction, operation, or maintenance occurred;

(II) in the case of the Secretary requiring additional security measures or suspending a certification and recommending additional security measures under subparagraph (G), not later than 120 days after the date on which the owner or operator receives notice of the requirement for additional security measures or suspension of the certification and recommendation of additional security measures; and

(III) in the case of a change in tiering, not later than 120 days after the date on which the owner or operator receives notice under subsection (e)(3).

(G) Facially deficient site security plans

(i) Prohibition

Notwithstanding subparagraph (A) or (E), the Secretary may suspend the authority of a covered chemical facility to certify a site security plan if the Secretary—

(I) determines the certified site security plan or an amended site security plan is facially deficient; and

(II) not later than 100 days after the date on which the Secretary receives the site security plan and certification, provides the covered chemical facility with written notification that the site security plan is facially deficient, including a clear explanation of each deficiency in the site security plan.

(ii) Additional security measures

(I) In general

If, during or after a compliance inspection of an expedited approval facility, the Secretary determines that planned or implemented security measures in the site security plan of the facility are insufficient to meet the risk-based performance standards based on misrepresentation, omission, or an inadequate description of the site, the Secretary may—

(aa) require additional security measures; or

(bb) suspend the certification of the facility.

(II) Recommendation of additional security measures

If the Secretary suspends the certification of an expedited approval facility under subclause (I), the Secretary shall—

(aa) recommend specific additional security measures that, if made part of the site security plan by the facility, would enable the Secretary to approve the site security plan; and

(bb) provide the facility an opportunity to submit a new or modified site security plan and certification under subparagraph (A).

(III) Submission; review

If an expedited approval facility determines to submit a new or modified site

security plan and certification as authorized under subclause (II)(bb)—

(aa) not later than 90 days after the date on which the facility receives recommendations under subclause (II)(aa), the facility shall submit the new or modified plan and certification; and

(bb) not later than 45 days after the date on which the Secretary receives the new or modified plan under item (aa), the Secretary shall review the plan and determine whether the plan is facially deficient.

(IV) Determination not to include additional security measures

(aa) Revocation of certification

If an expedited approval facility does not agree to include in its site security plan specific additional security measures recommended by the Secretary under subclause (II)(aa), or does not submit a new or modified site security plan in accordance with subclause (III), the Secretary may revoke the certification of the facility by issuing an order under section 624(a)(1)(B) of this title.

(bb) Effect of revocation

If the Secretary revokes the certification of an expedited approval facility under item (aa) by issuing an order under section 624(a)(1)(B) of this title—

(AA) the order shall require the owner or operator of the facility to submit a site security plan or alternative security program for review by the Secretary review¹ under subsection (c)(1); and

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

(V) Facial deficiency

If the Secretary determines that a new or modified site security plan submitted by an expedited approval facility under subclause (III) is facially deficient—

(aa) not later than 120 days after the date of the determination, the owner or operator of the facility shall submit a site security plan or alternative security program for review by the Secretary under subsection (c)(1); and

(bb) the facility shall no longer be eligible to certify a site security plan under this paragraph.

(H) Templates

(i) In general

The Secretary may develop prescriptive site security plan templates with specific security measures to meet the risk-based performance standards under subsection (a)(2)(C) for adoption and certification by a covered chemical facility assigned to tier 3 or 4 in lieu of developing and certifying its own plan.

¹ So in original.

(ii) Applicability of other laws to development and issuance of initial site security plan templates and related guidance

During the period before the Secretary has met the deadline under subparagraph (B)(i),² in developing and issuing, or amending, the site security plan templates under this subparagraph, in issuing guidance for implementation of the templates, and in collecting information from expedited approval facilities, the Secretary shall not be subject to—

- (I) section 553 of title 5;
- (II) subchapter I of chapter 35 of title 44; or
- (III) section 627(b) of this title.

(iii) Rule of construction

Nothing in this subparagraph shall be construed to prevent a covered chemical facility from developing and certifying its own security plan in accordance with subparagraph (A).

(I) Evaluation

(i) In general

Not later than 18 months after December 18, 2014, the Secretary shall take any appropriate action necessary for a full evaluation of the expedited approval program authorized under this paragraph, including conducting an appropriate number of inspections, as authorized under subsection (d), of expedited approval facilities.

(ii) Report

Not later than 18 months after December 18, 2014, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report that contains—

- (I)(aa) the number of eligible facilities using the expedited approval program authorized under this paragraph; and
- (bb) the number of facilities that are eligible for the expedited approval program but are using the standard process for developing and submitting a site security plan under subsection (a)(2)(D);
- (II) any costs and efficiencies associated with the expedited approval program;
- (III) the impact of the expedited approval program on the backlog for site security plan approval and authorization inspections;
- (IV) an assessment of the ability of expedited approval facilities to submit facially sufficient site security plans;
- (V) an assessment of any impact of the expedited approval program on the security of chemical facilities; and
- (VI) a recommendation by the Secretary on the frequency of compliance inspections that may be required for expedited approval facilities.

(d) Compliance

(1) Audits and inspections

(A) Definitions

In this paragraph—

- (i) the term “nondepartmental”—
 - (I) with respect to personnel, means personnel that is not employed by the Department; and
 - (II) with respect to an entity, means an entity that is not a component or other authority of the Department; and
- (ii) the term “nongovernmental”—
 - (I) with respect to personnel, means personnel that is not employed by the Federal Government; and
 - (II) with respect to an entity, means an entity that is not an agency, department, or other authority of the Federal Government.

(B) Authority to conduct audits and inspections

The Secretary shall conduct audits or inspections under this subchapter using—

- (i) employees of the Department;
- (ii) nondepartmental or nongovernmental personnel approved by the Secretary; or
- (iii) a combination of individuals described in clauses (i) and (ii).

(C) Support personnel

The Secretary may use nongovernmental personnel to provide administrative and logistical services in support of audits and inspections under this subchapter.

(D) Reporting structure

(i) Nondepartmental and nongovernmental audits and inspections

Any audit or inspection conducted by an individual employed by a nondepartmental or nongovernmental entity shall be assigned in coordination with a regional supervisor with responsibility for supervising inspectors within the Infrastructure Security Compliance Division of the Department for the region in which the audit or inspection is to be conducted.

(ii) Requirement to report

While an individual employed by a nondepartmental or nongovernmental entity is in the field conducting an audit or inspection under this subsection, the individual shall report to the regional supervisor with responsibility for supervising inspectors within the Infrastructure Security Compliance Division of the Department for the region in which the individual is operating.

(iii) Approval

The authority to approve a site security plan under subsection (c) or determine if a covered chemical facility is in compliance with an approved site security plan shall be exercised solely by the Secretary or a designee of the Secretary within the Department.

(E) Standards for auditors and inspectors

The Secretary shall prescribe standards for the training and retraining of each indi-

² So in original. Probably should be “(D)(i).”

vidual used by the Department as an auditor or inspector, including each individual employed by the Department and all non-departmental or nongovernmental personnel, including—

- (i) minimum training requirements for new auditors and inspectors;
- (ii) retraining requirements;
- (iii) minimum education and experience levels;
- (iv) the submission of information as required by the Secretary to enable determination of whether the auditor or inspector has a conflict of interest;
- (v) the proper certification or certifications necessary to handle chemical-terrorism vulnerability information (as defined in section 27.105 of title 6, Code of Federal Regulations, or any successor thereto);
- (vi) the reporting of any issue of non-compliance with this section to the Secretary within 24 hours; and
- (vii) any additional qualifications for fitness of duty as the Secretary may require.

(F) Conditions for nongovernmental auditors and inspectors

If the Secretary arranges for an audit or inspection under subparagraph (B) to be carried out by a nongovernmental entity, the Secretary shall—

- (i) prescribe standards for the qualification of the individuals who carry out such audits and inspections that are commensurate with the standards for similar Government auditors or inspectors; and
- (ii) ensure that any duties carried out by a nongovernmental entity are not inherently governmental functions.

(2) Personnel surety

(A) Personnel surety program

For purposes of this subchapter, the Secretary shall establish and carry out a Personnel Surety Program that—

- (i) does not require an owner or operator of a covered chemical facility that voluntarily participates in the program to submit information about an individual more than 1 time;
- (ii) provides a participating owner or operator of a covered chemical facility with relevant information about an individual based on vetting the individual against the terrorist screening database, to the extent that such feedback is necessary for the facility to be in compliance with regulations promulgated under this subchapter; and
- (iii) provides redress to an individual—
 - (I) whose information was vetted against the terrorist screening database under the program; and
 - (II) who believes that the personally identifiable information submitted to the Department for such vetting by a covered chemical facility, or its designated representative, was inaccurate.

(B) Personnel surety program implementation

To the extent that a risk-based performance standard established under subsection

(a) requires identifying individuals with ties to terrorism—

- (i) a covered chemical facility—

(I) may satisfy its obligation under the standard by using any Federal screening program that periodically vets individuals against the terrorist screening database, or any successor program, including the Personnel Surety Program established under subparagraph (A); and

- (II) shall—

(aa) accept a credential from a Federal screening program described in subclause (I) if an individual who is required to be screened presents such a credential; and

(bb) address in its site security plan or alternative security program the measures it will take to verify that a credential or documentation from a Federal screening program described in subclause (I) is current;

(ii) visual inspection shall be sufficient to meet the requirement under clause (i)(II)(bb), but the facility should consider other means of verification, consistent with the facility's assessment of the threat posed by acceptance of such credentials; and

(iii) the Secretary may not require a covered chemical facility to submit any information about an individual unless the individual—

- (I) is to be vetted under the Personnel Surety Program; or

(II) has been identified as presenting a terrorism security risk.

(C) Rights unaffected

Nothing in this section shall supersede the ability—

- (i) of a facility to maintain its own policies regarding the access of individuals to restricted areas or critical assets; or
- (ii) of an employing facility and a bargaining agent, where applicable, to negotiate as to how the results of a background check may be used by the facility with respect to employment status.

(3) Availability of information

The Secretary shall share with the owner or operator of a covered chemical facility any information that the owner or operator needs to comply with this section.

(e) Responsibilities of the Secretary

(1) Identification of chemical facilities of interest

In carrying out this subchapter, the Secretary shall consult with the heads of other Federal agencies, States and political subdivisions thereof, relevant business associations, and public and private labor organizations to identify all chemical facilities of interest.

(2) Risk assessment

(A) In general

For purposes of this subchapter, the Secretary shall develop a security risk assessment approach and corresponding tiering

methodology for covered chemical facilities that incorporates the relevant elements of risk, including threat, vulnerability, and consequence.

(B) Criteria for determining security risk

The criteria for determining the security risk of terrorism associated with a covered chemical facility shall take into account—

- (i) relevant threat information;
- (ii) potential severe economic consequences and the potential loss of human life in the event of the facility being subject to attack, compromise, infiltration, or exploitation by terrorists; and
- (iii) vulnerability of the facility to attack, compromise, infiltration, or exploitation by terrorists.

(3) Changes in tiering

(A) Maintenance of records

The Secretary shall document the basis for each instance in which—

- (i) tiering for a covered chemical facility is changed; or
- (ii) a covered chemical facility is determined to no longer be subject to the requirements under this subchapter.

(B) Required information

The records maintained under subparagraph (A) shall include information on whether and how the Secretary confirmed the information that was the basis for the change or determination described in subparagraph (A).

(4) Semiannual performance reporting

Not later than 6 months after December 18, 2014, and not less frequently than once every 6 months thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report that includes, for the period covered by the report—

- (A) the number of covered chemical facilities in the United States;
- (B) information—
 - (i) describing—
 - (I) the number of instances in which the Secretary—
 - (aa) placed a covered chemical facility in a lower risk tier; or
 - (bb) determined that a facility that had previously met the criteria for a covered chemical facility under section 621(3) of this title no longer met the criteria; and
 - (II) the basis, in summary form, for each action or determination under subclause (I); and
 - (ii) that is provided in a sufficiently anonymized form to ensure that the information does not identify any specific facility or company as the source of the information when viewed alone or in combination with other public information;
- (C) the average number of days spent reviewing site security or an alternative secu-

rity program for a covered chemical facility prior to approval;

(D) the number of covered chemical facilities inspected;

(E) the average number of covered chemical facilities inspected per inspector; and

(F) any other information that the Secretary determines will be helpful to Congress in evaluating the performance of the Chemical Facility Anti-Terrorism Standards Program.

(Pub. L. 107–296, title XXI, §2102, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2900; amended Pub. L. 115–278, §2(g)(8)(A), Nov. 16, 2018, 132 Stat. 4180.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(1), Pub. L. 115–278 inserted before period at end “, which shall be located in the Cybersecurity and Infrastructure Security Agency”.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 623. Protection and sharing of information

(a) In general

Notwithstanding any other provision of law, information developed under this subchapter, including vulnerability assessments, site security plans, and other security related information, records, and documents shall be given protections from public disclosure consistent with the protection of similar information under section 70103(d) of title 46.

(b) Sharing of information with States and local governments

Nothing in this section shall be construed to prohibit the sharing of information developed under this subchapter, as the Secretary determines appropriate, with State and local government officials possessing a need to know and the necessary security clearances, including law enforcement officials and first responders, for the purpose of carrying out this subchapter, provided that such information may not be disclosed pursuant to any State or local law.

(c) Sharing of information with first responders

(1) Requirement

The Secretary shall provide to State, local, and regional fusion centers (as that term is defined in section 124h(j)(1) of this title) and State and local government officials, as the Secretary determines appropriate, such information as is necessary to help ensure that first responders are properly prepared and provided with the situational awareness needed to

respond to security incidents at covered chemical facilities.

(2) Dissemination

The Secretary shall disseminate information under paragraph (1) through a medium or system determined by the Secretary to be appropriate to ensure the secure and expeditious dissemination of such information to necessary selected individuals.

(d) Enforcement proceedings

In any proceeding to enforce this section, vulnerability assessments, site security plans, and other information submitted to or obtained by the Secretary under this subchapter, and related vulnerability or security information, shall be treated as if the information were classified information.

(e) Availability of information

Notwithstanding any other provision of law (including section 552(b)(3) of title 5), section 552 of title 5 (commonly known as the “Freedom of Information Act”) shall not apply to information protected from public disclosure pursuant to subsection (a) of this section.

(f) Sharing of information with Members of Congress

Nothing in this section shall prohibit the Secretary from disclosing information developed under this subchapter to a Member of Congress in response to a request by a Member of Congress.

(Pub. L. 107–296, title XXI, §2103, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2911.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 624. Civil enforcement

(a) Notice of noncompliance

(1) Notice

If the Secretary determines that a covered chemical facility is not in compliance with this subchapter, the Secretary shall—

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

(i) not later than 14 days after date¹ on which the Secretary makes the determination, a written notification of noncompliance that includes a clear explanation of any deficiency in the security vulnerability assessment or site security plan; and

(ii) an opportunity for consultation with the Secretary or the Secretary’s designee; and

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

(2) Continued noncompliance

If an owner or operator remains noncompliant after the procedures outlined in paragraph (1) have been executed, or demonstrates repeated violations of this subchapter, the Secretary may enter an order in accordance with this section assessing a civil penalty, an order to cease operations, or both.

(b) Civil penalties

(1) Violations of orders

Any person who violates an order issued under this subchapter shall be liable for a civil penalty under section 70119(a) of title 46.

(2) Non-reporting chemical facilities of interest

Any owner of a chemical facility of interest who fails to comply with, or knowingly submits false information under, this subchapter or the CFATS regulations shall be liable for a civil penalty under section 70119(a) of title 46.

(c) Emergency orders

(1) In general

Notwithstanding subsection (a) or any site security plan or alternative security program approved under this subchapter, if the Secretary determines that there is an imminent threat of death, serious illness, or severe personal injury, due to a violation of this subchapter or the risk of a terrorist incident that may affect a chemical facility of interest, the Secretary—

(A) shall consult with the facility, if practicable, on steps to mitigate the risk; and

(B) may order the facility, without notice or opportunity for a hearing, effective immediately or as soon as practicable, to—

(i) implement appropriate emergency security measures; or

(ii) cease or reduce some or all operations, in accordance with safe shutdown procedures, if the Secretary determines that such a cessation or reduction of operations is the most appropriate means to address the risk.

(2) Limitation on delegation

The Secretary may not delegate the authority under paragraph (1) to any official other than the Director of the Cybersecurity and Infrastructure Security Agency.

(3) Limitation on authority

The Secretary may exercise the authority under this subsection only to the extent necessary to abate the imminent threat determination under paragraph (1).

(4) Due process for facility owner or operator

(A) Written orders

An order issued by the Secretary under paragraph (1) shall be in the form of a written emergency order that—

(i) describes the violation or risk that creates the imminent threat;

¹ So in original. Probably should be preceded by “the”.

(ii) states the security measures or order issued or imposed; and

(iii) describes the standards and procedures for obtaining relief from the order.

(B) Opportunity for review

After issuing an order under paragraph (1) with respect to a chemical facility of interest, the Secretary shall provide for review of the order under section 554 of title 5 if a petition for review is filed not later than 20 days after the date on which the Secretary issues the order.

(C) Expiration of effectiveness of order

If a petition for review of an order is filed under subparagraph (B) and the review under that paragraph² is not completed by the last day of the 30-day period beginning on the date on which the petition is filed, the order shall vacate automatically at the end of that period unless the Secretary determines, in writing, that the imminent threat providing a basis for the order continues to exist.

(d) Right of action

Nothing in this subchapter confers upon any person except the Secretary or his or her designee a right of action against an owner or operator of a covered chemical facility to enforce any provision of this subchapter.

(Pub. L. 107–296, title XXI, §2104, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2912; amended Pub. L. 115–278, §2(g)(8)(B), Nov. 16, 2018, 132 Stat. 4180; Pub. L. 117–263, div. G, title LXXI, §7143(c)(4), Dec. 23, 2022, 136 Stat. 3663.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(2). Pub. L. 117–263 substituted “Director of the Cybersecurity and Infrastructure Security Agency” for “Director of Cybersecurity and Infrastructure Security”.

2018—Subsec. (c)(2). Pub. L. 115–278 substituted “Director of Cybersecurity and Infrastructure Security” for “Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department appointed under section 113(a)(1)(H) of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

RULE OF CONSTRUCTION

Nothing in amendment made by Pub. L. 117–263 to be construed to alter the authorities, responsibilities, functions, or activities of any agency (as such term is defined in 44 U.S.C. 3502) or officer or employee of the United States on or before Dec. 23, 2022, see section

7143(f)(1) of Pub. L. 117–263, set out in a note under section 650 of this title.

§ 625. Whistleblower protections

(a) Procedure for reporting problems

(1) Establishment of a reporting procedure

Not later than 180 days after December 18, 2014, the Secretary shall establish, and provide information to the public regarding, a procedure under which any employee or contractor of a chemical facility of interest may submit a report to the Secretary regarding a violation of a requirement under this subchapter.

(2) Confidentiality

The Secretary shall keep confidential the identity of an individual who submits a report under paragraph (1) and any such report shall be treated as a record containing protected information to the extent that the report does not consist of publicly available information.

(3) Acknowledgment of receipt

If a report submitted under paragraph (1) identifies the individual making the report, the Secretary shall promptly respond to the individual directly and shall promptly acknowledge receipt of the report.

(4) Steps to address problems

The Secretary—

(A) shall review and consider the information provided in any report submitted under paragraph (1); and

(B) may take action under section 624 of this title if necessary to address any substantiated violation of a requirement under this subchapter identified in the report.

(5) Due process for facility owner or operator

(A) In general

If, upon the review described in paragraph (4), the Secretary determines that a violation of a provision of this subchapter, or a regulation prescribed under this subchapter, has occurred, the Secretary may—

(i) institute a civil enforcement under section 624(a) of this title; or

(ii) if the Secretary makes the determination under section 624(c) of this title, issue an emergency order.

(B) Written orders

The action of the Secretary under paragraph (4) shall be in a written form that—

(i) describes the violation;

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

(iii) describes the standards and procedures for obtaining relief from the order.

(C) Opportunity for review

After taking action under paragraph (4), the Secretary shall provide for review of the action if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(D) Expiration of effectiveness of order

If a petition for review of an action is filed under subparagraph (C) and the review under that subparagraph is not completed by the

² So in original. Probably should be “that subparagraph”.

end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the violation providing a basis for the action continues to exist.

(6) Retaliation prohibited

(A) In general

An owner or operator of a chemical facility of interest or agent thereof may not discharge an employee or otherwise discriminate against an employee with respect to the compensation provided to, or terms, conditions, or privileges of the employment of, the employee because the employee (or an individual acting pursuant to a request of the employee) submitted a report under paragraph (1).

(B) Exception

An employee shall not be entitled to the protections under this section if the employee—

- (i) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or
- (ii) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

(b) Protected disclosures

Nothing in this subchapter shall be construed to limit the right of an individual to make any disclosure—

- (1) protected or authorized under section 2302(b)(8) or 7211 of title 5;
- (2) protected under any other Federal or State law that shields the disclosing individual against retaliation or discrimination for having made the disclosure in the public interest; or
- (3) to the Special Counsel of an agency, the inspector general of an agency, or any other employee designated by the head of an agency to receive disclosures similar to the disclosures described in paragraphs (1) and (2).

(c) Publication of rights

The Secretary, in partnership with industry associations and labor organizations, shall make publicly available both physically and online the rights that an individual who discloses information, including security-sensitive information, regarding problems, deficiencies, or vulnerabilities at a covered chemical facility would have under Federal whistleblower protection laws or this subchapter.

(d) Protected information

All information contained in a report made under this subsection (a)¹ shall be protected in accordance with section 623 of this title.

(Pub. L. 107–296, title XXI, §2105, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2914.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

¹ So in original.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 626. Relationship to other laws

(a) Other Federal laws

Nothing in this subchapter shall be construed to supersede, amend, alter, or affect any Federal law that—

- (1) regulates (including by requiring information to be submitted or made available) the manufacture, distribution in commerce, use, handling, sale, other treatment, or disposal of chemical substances or mixtures; or
- (2) authorizes or requires the disclosure of any record or information obtained from a chemical facility under any law other than this subchapter.

(b) States and political subdivisions

This subchapter shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this section, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this section and the law of that State.

(Pub. L. 107–296, title XXI, §2106, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2915.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 627. CFATS regulations

(a) General authority

The Secretary may, in accordance with chapter 5 of title 5, promulgate regulations or amend existing CFATS regulations to implement the provisions under this subchapter.

(b) Existing CFATS regulations

(1) In general

Notwithstanding section 4(b) of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, each existing CFATS regulation shall remain in effect unless the Secretary amends, consolidates, or repeals the regulation.

(2) Repeal

Not later than 30 days after December 18, 2014, the Secretary shall repeal any existing

CFATS regulation that the Secretary determines is duplicative of, or conflicts with, this subchapter.

(c) Authority

The Secretary shall exclusively rely upon authority provided under this subchapter in—

- (1) determining compliance with this subchapter;
- (2) identifying chemicals of interest; and
- (3) determining security risk associated with a chemical facility.

(Pub. L. 107–296, title XXI, §2107, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2916.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Editorial Notes

REFERENCES IN TEXT

Section 4(b) of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, referred to in subsec. (b)(1), is section 4(b) of Pub. L. 113–254, Dec. 18, 2014, 128 Stat. 2919, which repealed section 550 of Pub. L. 109–295, formerly set out as a Regulations note under section 121 of this title, effective as of the date that is 30 days after Dec. 18, 2014.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 628. Small covered chemical facilities

(a) Definition

In this section, the term “small covered chemical facility” means a covered chemical facility that—

- (1) has fewer than 100 employees employed at the covered chemical facility; and
- (2) is owned and operated by a small business concern (as defined in section 632 of title 15).

(b) Assistance to facilities

The Secretary may provide guidance and, as appropriate, tools, methodologies, or computer software, to assist small covered chemical facilities in developing the physical security, cybersecurity, recordkeeping, and reporting procedures required under this subchapter.

(c) Report

The Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report on best practices that may assist small covered chemical facilities in development of physical security best practices.

(Pub. L. 107–296, title XXI, §2108, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2916.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 629. Outreach to chemical facilities of interest

Not later than 90 days after December 18, 2014, the Secretary shall establish an outreach implementation plan, in coordination with the heads of other appropriate Federal and State agencies, relevant business associations, and public and private labor organizations, to—

- (1) identify chemical facilities of interest; and
- (2) make available compliance assistance materials and information on education and training.

(Pub. L. 107–296, title XXI, §2109, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2916.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on July 27, 2023, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

SUBCHAPTER XVII—ANTI-TRAFFICKING
TRAINING FOR DEPARTMENT OF HOMELAND SECURITY PERSONNEL

§ 641. Definitions

In this subchapter:

(1) Department

The term “Department” means the Department of Homeland Security.

(2) Human trafficking

The term “human trafficking” means an act or practice described in paragraph (9) or (10)¹ of section 7102 of title 22.

(3) Secretary

The term “Secretary” means the Secretary of Homeland Security.

(Pub. L. 114–22, title IX, §901, May 29, 2015, 129 Stat. 264.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title IX of Pub. L. 114–22, which is classified principally to this subchapter. For complete classification of title IX to the Code, see Tables.

Paragraphs (9) and (10) of section 7102 of title 22, referred to in par. (2), were redesignated pars. (11) and (12), respectively, of section 7102 of title 22 by Pub. L. 115–427, §2(1), Jan. 9, 2019, 132 Stat. 5503.

¹ See References in Text note below.