

116TH CONGRESS
1ST SESSION

H. R. 3256

To amend the Homeland Security Act of 2002 to reauthorize and improve the Chemical Facility Anti-Terrorism Standards Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2019

Mr. RICHMOND (for himself and Mr. THOMPSON of Mississippi) 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

A BILL

To amend the Homeland Security Act of 2002 to reauthorize and improve the Chemical Facility Anti-Terrorism Standards Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting and Securing Chemical Facilities from Ter-
6 rorist Attacks Act of 2019”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Chemical Facility Anti-Terrorism Standards Program.
- Sec. 4. Protection and sharing of information.
- Sec. 5. Civil enforcement.
- Sec. 6. Whistleblower protection.
- Sec. 7. Chemical Security Advisory Committee.
- Sec. 8. Implementation plan and report to Congress.
- Sec. 9. Study on risks posed by excluded facilities.
- Sec. 10. Study on feasibility of waiver program.
- Sec. 11. Comptroller General reports.
- Sec. 12. Voluntary mechanism for reporting drones and other emerging threats.
- Sec. 13. Regulations regarding specific products and mixtures containing
 chemicals of interest.
- Sec. 14. Termination.

3 **SEC. 2. DEFINITIONS.**

4 Section 2101 of the Homeland Security Act of 2002
 5 (6 U.S.C. 621) is amended—

6 (1) in paragraph (4)(E), by striking “subject to
 7 regulation” and inserting “regulated”;

8 (2) in paragraph (5)—

9 (A) in subparagraph (A), by striking “that
 10 is in effect on the day before the date of enact-
 11 ment of the Protecting and Securing Chemical
 12 Facilities from Terrorist Attacks Act of 2014;”
 13 and inserting “or this title”; and

14 (B) in subparagraph (B), by striking “that
 15 is in effect on the day before the date of enact-
 16 ment of the Protecting and Securing Chemical
 17 Facilities from Terrorist Attacks Act of 2014;”
 18 and inserting “or this title”;

1 (3) by striking paragraphs (6), (7), and (8);
2 and
3 (4) by redesignating paragraphs (9) through
4 (14) as paragraphs (6) through (11), respectively.

5 **SEC. 3. CHEMICAL FACILITY ANTI-TERRORISM STANDARDS**
6 **PROGRAM.**

7 (a) ADDITIONAL CFATS PROGRAM REQUIRE-
8 MENT.—Section 2102(a)(2) of such Act (6 U.S.C. 622)
9 is amended—

10 (1) in subparagraph (C), by striking “and” at
11 the end;

12 (2) in subparagraph (D), by striking the period
13 and inserting a semicolon; and

14 (3) by adding at the end the following new sub-
15 paragraphs:

16 “(E) verify information submitted by a
17 covered chemical facility prior to assigning such
18 facility a lower risk tier or determining that
19 such facility no longer presents a high level of
20 security risk; and

21 “(F) develop a voluntary program for
22 chemical facilities to address potential security
23 risks at such facilities.”.

1 (b) EMPLOYEE INPUT REGARDING SECURITY MEAS-
2 URES.—Paragraph (2) of subsection (b) of section 2102
3 of such Act (6 U.S.C. 622) is amended to read as follows:

4 “(2) EMPLOYEE CONSULTATION AND AWARE-
5 NESS.—

6 “(A) EMPLOYEE CONSULTATION REQUIRE-
7 MENT.—A facility’s security vulnerability as-
8 sessment and site security plan shall be devel-
9 oped in consultation with—

10 “(i) at least one facility employee, in
11 addition to the facility security officer or
12 other individual who serves as a point of
13 contact under section 27.230(a)(17) of
14 title 6, Code of Federal Regulations, and
15 the corresponding guidance issued under
16 section 27.220(d) of such title, or any suc-
17 cessor thereto, who possesses relevant
18 knowledge, experience, training, or edu-
19 cation pertaining to matters of site secu-
20 rity; and

21 “(ii) in the case of a facility where fa-
22 cility employees are represented by a bar-
23 gaining agent, at least one employee rep-
24 resentative who—

1 “(I) is selected by the bargaining
2 agent at that facility; and

3 “(II) has relevant knowledge, ex-
4 perience, training, or education per-
5 taining to matters of site security.

6 “(B) RECORD OF EMPLOYEE CONSULTA-
7 TION.—A covered chemical facility shall main-
8 tain a written record of the employee consulta-
9 tion required by subparagraph (A), including a
10 record of—

11 “(i) the name of the employee with
12 whom the facility security officer or other
13 similar official consulted;

14 “(ii) how often and when such con-
15 sultation took place;

16 “(iii) what mechanisms the facility
17 used to capture feedback; and

18 “(iv) any recommendations that were
19 offered, accepted, or rejected as part of the
20 security vulnerability assessment or site se-
21 curity plan.

22 “(C) ACCESS TO EMPLOYEES.—Each
23 owner or operator of a covered chemical facility
24 shall, upon request, provide to an employee of
25 the Department engaged in carrying out audits

1 and inspections of such facility access to any
2 employee who participated in the development
3 of the facility’s security vulnerability assess-
4 ment and site security plan.

5 “(D) EMPLOYEE AWARENESS.—The Sec-
6 retary shall produce a poster for display in
7 areas of covered chemical facilities and chemical
8 facilities of interest shall be required to display
9 that are accessible to facility employees to in-
10 form employees of the facility about program
11 requirements under this title and the whistle-
12 blower protections provided under section
13 2105.”.

14 (c) SITE SECURITY PLANS.—

15 (1) DISAPPROVAL.—Subsection (c)(1)(B) of
16 section 2102 of such Act (6 U.S.C. 622) is amend-
17 ed—

18 (A) in clause (i), by striking “and” at the
19 end; and

20 (B) by amending clause (ii) to read as fol-
21 lows:

22 “(ii) shall disapprove a site security
23 plan if—

24 “(I) the plan fails to satisfy the
25 risk-based performance standards es-

1 tablished pursuant to subsection
2 (a)(2)(C); or

3 “(II) the plan fails to include the
4 name, organizational affiliation, and
5 phone number of a local emergency
6 manager or local emergency response
7 provider and a documented policy to
8 contact the local emergency manager
9 or local emergency response provider
10 at least annually regarding emergency
11 response procedures at the facility.”.

12 (2) ASSESSMENTS.—Paragraph (3) of sub-
13 section (c) of such section is amended to read as fol-
14 lows:

15 “(3) SITE SECURITY PLAN ASSESSMENTS.—In
16 approving or disapproving a site security plan under
17 this subsection, the Secretary shall—

18 “(A) employ the risk assessment policies
19 and procedures developed under this title; and

20 “(B) confirm that the covered chemical fa-
21 cility has complied with the employee consulta-
22 tion requirements in paragraph (2) of sub-
23 section (b), including by reviewing and record-
24 ing compliance with the record-keeping require-

1 ments under subparagraph (B) of that para-
2 graph.”.

3 (d) ELIMINATION OF EXPEDITED APPROVAL PRO-
4 GRAM.—Section 2102(c) of such Act (6 U.S.C. 622) is
5 amended by striking paragraph (4).

6 (e) AUDITS AND INSPECTIONS.—

7 (1) AUTHORITY TO CONDUCT.—Subparagraph
8 (B) of paragraph (1) of subsection (d) of section
9 2102 of such Act (6 U.S.C. 622) is amended by
10 striking “under this title using” and inserting “at
11 chemical facilities of interest and covered chemical
12 facilities and shall obtain information and records to
13 ensure compliance with this title. Such audits and
14 inspections shall be conducted using”.

15 (2) REPORTING STRUCTURE.—Subparagraph
16 (D) of such paragraph is amended—

17 (A) in clause (i), by inserting “, or any
18 successor organization that implements the re-
19 quirements of subsection (a)(2),” after “De-
20 partment”; and

21 (B) in clause (ii), by inserting “, or any
22 successor organization that implements the re-
23 quirements of subsection (a)(2),” after “De-
24 partment”.

1 (3) STANDARDS FOR AUDITORS AND INSPEC-
2 TORS.—Subparagraph (E) of such paragraph is
3 amended—

4 (A) in the matter preceding clause (i)—

5 (i) by striking “The Secretary” and
6 inserting “For each individual responsible
7 for carrying out audits or inspections on
8 behalf of the Secretary, the Secretary”;

9 (ii) by inserting “to ensure such indi-
10 viduals receive” before “the training”; and

11 (iii) by striking “and retraining of
12 each individual used by the Department as
13 an auditor or inspector, including each in-
14 dividual employed by the Department and
15 all nondepartmental or nongovernmental
16 personnel” and inserting “, continuing
17 education, and other professional develop-
18 ment tools necessary to carry out duties
19 and responsibilities”; and

20 (B) in clause (i), by striking “require-
21 ments” and inserting “necessary to audit and
22 inspect compliance with all aspects of the risk-
23 based performance standards, including stand-
24 ards related to cybersecurity,”.

1 (4) EMERGENCY RESPONSE PLANS.—Such sub-
2 section is further amended by adding at the end the
3 following new paragraph:

4 “(4) AUDIT OF EMERGENCY RESPONSE PLAN.—
5 As part of the audit and inspection process under
6 this subsection, the Secretary shall provide for an
7 annual review of the compliance of a chemical facil-
8 ity with the requirements under subsection
9 (c)(1)(B)(ii)(B) and the adherence of the facility to
10 the emergency response requirements under such
11 subsection.”.

12 (f) RISK ASSESSMENT.—Section 2102(e) of such Act
13 (6 U.S.C. 622(e)) is amended—

14 (1) in paragraph (2)(B)—

15 (A) in the matter preceding clause (i), by
16 inserting “and other malicious acts” after “ter-
17 rorism”; and

18 (B) in clause (ii), by striking “severe eco-
19 nomic consequences and the potential loss of
20 human life in the event of the facility being
21 subject to attack, compromise, infiltration, or
22 exploitation by terrorists” and inserting “con-
23 sequences in event of the facility being subject
24 to attack, compromise, infiltration, or the ex-

1 ploitation of chemicals of interest by a terrorist
2 or other malicious actor”;

3 (2) in paragraph (3)—

4 (A) in subparagraph (A)—

5 (i) by redesignating clauses (i) and
6 (ii) as clauses (ii) and (iii), respectively;

7 (ii) by inserting before clause (ii), as
8 so redesignated, the following new clause
9 (i):

10 “(i) the Secretary determines that a
11 chemical facility of interest does not
12 present a high level of security risk;” and

13 (iii) in clause (iii), as so redesignated,
14 by inserting “or chemical facility of inter-
15 est” after “covered chemical facility”;

16 (B) in subparagraph (B)—

17 (i) by striking “information on” and
18 all that follows and inserting “information
19 on—”; and

20 (ii) by adding at the end the following
21 clauses:

22 “(i) how the Secretary confirmed the
23 information that was the basis for the
24 change or determination described in sub-
25 paragraph (A); and

1 “(ii) actions taken or practices em-
2 ployed by the facility to reduce or remove
3 terrorism-related chemical security risks,
4 where applicable.”; and

5 (C) by adding at the end the following new
6 subparagraph:

7 “(C) TREATMENT OF CERTAIN INFORMA-
8 TION.—For the purposes of subsection (a) of
9 section 2103—

10 “(i) information described in subpara-
11 graph (B)(i) shall be given protections
12 from public disclosure under such sub-
13 section; and

14 “(ii) information described in sub-
15 paragraph (B)(ii) shall not be given protec-
16 tions from public disclosure under such
17 subsection.”;

18 (3) by redesignating paragraph (4) as para-
19 graph (6);

20 (4) by inserting after paragraph (3) the fol-
21 lowing new paragraphs:

22 “(4) SHARING INFORMATION WITH EMERGENCY
23 RESPONSE PROVIDERS.—

24 “(A) IN GENERAL.—The Secretary shall
25 make available to State, local, and regional fu-

1 sion centers (as that term is defined in section
2 210A(j)(1) of this Act) and State and local gov-
3 ernment officials such information as the Sec-
4 retary determines necessary to ensure that
5 emergency response providers are prepared and
6 provided with the situational awareness needed
7 to respond to security incidents at covered
8 chemical facilities.

9 “(B) DISSEMINATION.—The Secretary
10 shall disseminate information under subpara-
11 graph (A) to individuals identified and entities
12 described in such subparagraph in a secure and
13 expeditious manner.

14 “(5) PRACTICES THAT MAY REDUCE CHEMICAL
15 SECURITY RISKS.—

16 “(A) IN GENERAL.—Based on the informa-
17 tion maintained under paragraph (3)(B)(ii) re-
18 garding actions taken or practices employed by
19 chemical facilities of interest to successfully re-
20 duce or remove terrorism-related chemical secu-
21 rity risks, the Secretary shall develop voluntary,
22 publicly available practices that could be used
23 to guide other facility owners and operators in
24 preventing, reducing, and mitigating chemical
25 security risks.

1 “(B) TREATMENT OF SENSITIVE INFORMA-
2 TION.—In developing and disseminating prac-
3 tices under subparagraph (A), the Secretary
4 shall protect from public disclosure all informa-
5 tion described in section 2103(a).”; and

6 (5) in paragraph (6), as redesignated by para-
7 graph (3) of this subsection—

8 (A) in subparagraph (B)(i)—

9 (i) in subclause (aa), by striking “or”
10 at the end;

11 (ii) in subclause (bb), by striking
12 “and” and inserting “or”; and

13 (iii) by adding at the end the fol-
14 lowing new subclause:

15 “(cc) determined that a chemical
16 facility of interest did not present a
17 high level of risk; and”;

18 (B) by amending subparagraph (C) to read
19 as follows:

20 “(C) for the period beginning on the date
21 that is one year before the date of the enact-
22 ment of the Protecting and Securing Chemical
23 Facilities from Terrorist Attacks Act of 2019
24 and ending on the date of the enactment of

1 such Act, the average length of time required
2 to—

3 “(i) review and approve site security
4 plans or alternative security programs for
5 covered chemical facilities;

6 “(ii) ensure a facility has achieved full
7 implementation of planned security meas-
8 ures; and

9 “(iii) conduct a compliance inspection,
10 including the average length of time in-
11 spectors spend on an individual compliance
12 inspection;”;

13 (C) in subparagraph (E), by striking
14 “and” at the end;

15 (D) by redesignating subparagraph (F) as
16 subparagraph (I); and

17 (E) by inserting after subparagraph (E)
18 the following new subparagraphs:

19 “(F) a detailed summary of reports and
20 other information generated under paragraph
21 (3) regarding facilities that receive a change in
22 tier or that are determined not to present a
23 high level of security risk;

24 “(G) a detailed summary of practices iden-
25 tified and disseminated under such paragraph;

1 “(H) actions taken and results produced in
 2 implementing the practices, to the extent fea-
 3 sible; and”.

4 (g) SPECIFIC PRODUCTS AND MIXTURES.—Such sec-
 5 tion (6 U.S.C. 622) is further amended by adding at the
 6 end the following new subsection:

7 “(f) SPECIFIC PRODUCTS AND MIXTURES CON-
 8 TAINING CHEMICALS OF INTEREST.—The Secretary may
 9 exclude a specific product or mixture that contains a
 10 chemical of interest at or above the minimum concentra-
 11 tion listed on Appendix A to part 27 of title 6, Code of
 12 Federal Regulations, or any successor thereto, from any
 13 reporting requirements under this section if the Secretary
 14 determines that the product or mixture does not present
 15 a risk for which the chemical of interest contained within
 16 the product or mixture was included on Appendix A.”.

17 **SEC. 4. PROTECTION AND SHARING OF INFORMATION.**

18 (a) IN GENERAL.—Section 2103(a) of the Homeland
 19 Security Act of 2002 (6 U.S.C. 623(a)) is amended—

- 20 (1) by inserting “with respect to information in
 21 the possession of the Department, the Secretary
 22 shall protect” after “any other provision of law,”;
- 23 (2) by striking “information,”;
- 24 (3) by striking the comma after “records”; and
- 25 (4) by striking “shall be given protections”.

1 (b) AUTHORIZED RECIPIENTS.—Such section is fur-
2 ther amended—

3 (1) by striking subsections (b), (c), and (f);

4 (2) by redesignating subsections (d) and (e) as
5 subsections (c) and (d), respectively; and

6 (3) by inserting after subsection (a) the fol-
7 lowing new subsection (b):

8 “(b) AUTHORIZED RECIPIENTS OF INFORMATION.—

9 “(1) IN GENERAL.—Upon request, the Sec-
10 retary shall make available information protected
11 pursuant to subsection (a), to the following recipi-
12 ents:

13 “(A) State, local, and regional fusion cen-
14 ters (as that term is defined in section
15 210A(j)(i) of this Act) and State and local gov-
16 ernment officials, including law enforcement
17 and emergency response providers.

18 “(B) Members of Congress.

19 “(C) Members of the Chemical Security
20 Advisory Committee under section 2010 of this
21 Act.

22 “(D) The Comptroller General of the
23 United States.

1 “(2) NONDEPARTMENTAL INFORMATION.—In-
 2 formation is not protected pursuant to subsection
 3 (a) if it is—

4 “(A) not in the possession of the Depart-
 5 ment;

6 “(B) developed under this title but has
 7 been previously produced or developed for other
 8 purposes; and

9 “(C) is already publicly available, readily
 10 discoverable, or otherwise lawfully disclosed.”.

11 **SEC. 5. CIVIL ENFORCEMENT.**

12 Section 2104 of the Homeland Security Act of 2002
 13 (6 U.S.C. 624) is amended—

14 (1) in subsection (a)(1)—

15 (A) in subparagraph (A)(i), by striking
 16 “14 days after date on which” and inserting
 17 “three days after the date on which”; and

18 (B) in subparagraph (B), by striking “180
 19 days” and inserting “30 days”;

20 (2) in subsection (b)(2), by inserting “section
 21 2102(a)(2)(B) or any requirement issued by the Sec-
 22 retary thereunder” after “comply with”;

23 (3) in subsection (c), by inserting “or other ma-
 24 licious act” after “terrorist incident”; and

1 (4) in subsection (d), by inserting “, except as
 2 provided in section 2105(a)(5) regarding whistle-
 3 blower retaliation” before the period at the end.

4 **SEC. 6. WHISTLEBLOWER PROTECTION.**

5 Section 2105 of the Homeland Security Act of 2002
 6 (6 U.S.C. 625) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1), by striking “Not
 9 later than 180 days after the date of enactment
 10 of the Protecting and Securing Chemical Facili-
 11 ties from Terrorist Attacks Act of 2014, the
 12 Secretary” and inserting “The Secretary”;

13 (B) by amending paragraph (2) to read as
 14 follows:

15 “(2) CONFIDENTIALITY.—

16 “(A) IN GENERAL.—Except as provided in
 17 subparagraph (B), in the absence of the written
 18 consent of an individual who submits a report
 19 under paragraph (1)—

20 “(i) the Secretary shall keep confiden-
 21 tial the identity of and any identifying in-
 22 formation relating to that individual; and

23 “(ii) any such report shall be subject
 24 to the protections on information under
 25 section 2103 of this Act to the extent that

1 the report does not consist of publicly
2 available information.

3 “(B) NOTICE.—In a case in which it is
4 necessary to disclose the identity of or any iden-
5 tifying information relating to an individual
6 who submits a report under paragraph (1) be-
7 cause it is essential to investigate the informa-
8 tion contained in the report or because of com-
9 pulsory legal process, the Secretary shall pro-
10 vide timely advance notice to the individual of
11 such disclosure.”;

12 (C) by amending paragraph (3) to read as
13 follows:

14 “(3) RESPONSE TO REPORTS.—If a report sub-
15 mitted under paragraph (1) contains information
16 identifying the individual making the report, the
17 Secretary, or the designee of the Secretary shall, by
18 not later than 15 days after the date on which the
19 report is received, respond to the individual directly
20 and acknowledge receipt of the report.”;

21 (D) in paragraph (5)—

22 (i) by amending subparagraph (C) to
23 read as follows:

24 “(C) OPPORTUNITY FOR REVIEW.—In any
25 action under paragraph (4) that is based on in-

1 formation received under the procedure estab-
2 lished under paragraph (1), the Secretary shall
3 provide for review of the action if a petition for
4 review is filed within 20 calendar days of the
5 date of issuance of the order for the action.”;
6 and

7 (ii) in subparagraph (D)—

8 (I) by striking “unless the Sec-
9 retary determines” and inserting “,
10 except that the Secretary may provide
11 for a 30-day extension if the Secretary
12 determines”;

13 (II) by striking “that the viola-
14 tion providing a basis for the action
15 continues to exist.” and inserting
16 “that—”; and

17 (III) by adding at the end the
18 following new clauses:

19 “(i) the violation providing a basis for
20 the action continues to exist; or

21 “(ii) such period is insufficient to
22 complete the review of the action.”; and

23 (E) in paragraph (6)—

24 (i) in subparagraph (A)—

1 (I) by striking “discharge an em-
2 ployee or otherwise discriminate
3 against an employee with respect to
4 the compensation provided to, or
5 terms, conditions, or privileges of the
6 employment of, the employee because
7 the employee (or an individual acting
8 pursuant to a request of the em-
9 ployee) submitted a report under
10 paragraph (1).” and inserting “dis-
11 charge an employee or otherwise dis-
12 criminate against an employee or
13 former employee with respect to the
14 compensation provided to, or terms,
15 conditions, or privileges associated
16 with current or past employment of,
17 the employee or former employee be-
18 cause the employee or former em-
19 ployee (or an individual acting pursu-
20 ant to a request of the employee or
21 former employee) submitted a report
22 under paragraph (1).”;

23 (ii) in subparagraph (B), in the mat-
24 ter preceding clause (i), by—

1 (I) inserting “or former em-
2 ployee” after “An employee”; and

3 (II) inserting “or former em-
4 ployee (or an individual acting pursu-
5 ant to a request of the employee or
6 former employee)” after “the em-
7 ployee”; and

8 (iii) by adding at the end the fol-
9 lowing new subparagraph:

10 “(C) PROCEDURE AND REMEDY.—

11 “(i) IN GENERAL.—The Secretary
12 shall establish a procedure for the review
13 and investigation of complaints of reprisals
14 prohibited under subparagraph (A) and for
15 remedies for violations of such subpara-
16 graph.

17 “(ii) JUDICIAL REMEDIES.—Nothing
18 in this title shall be construed to deny an
19 individual who submits a complaint for any
20 reprisal prohibited under subparagraph (A)
21 from seeking a judicial remedy against the
22 owner or operator of the chemical facility
23 of interest as long as the individual has ex-
24 hausted administrative remedies.”; and

25 (2) by striking subsection (d).

1 **SEC. 7. CHEMICAL SECURITY ADVISORY COMMITTEE.**

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

5 **“SEC. 2110. CHEMICAL SECURITY ADVISORY COMMITTEE.**

6 “(a) ESTABLISHMENT.—The Secretary shall estab-
7 lish a standing Chemical Security Advisory Committee to
8 advise the Secretary on the implementation of this title.

9 “(b) MEMBERSHIP.—

10 “(1) IN GENERAL.—The Advisory Committee
11 shall be comprised of 12 members selected by the
12 Secretary, which shall include at least one individual
13 who is a multi-disciplinary stakeholder with scientific
14 or other expertise representing each of the following:

15 “(A) Industry.

16 “(B) Academia.

17 “(C) Labor.

18 “(D) Emergency response providers.

19 “(E) Local emergency planners.

20 “(F) Environmental, community, or public
21 health advocates, particularly for communities
22 with high concentrations of covered chemical fa-
23 cilities.

24 “(G) Cybersecurity and information policy.

1 “(2) TERMS.—Each member shall be appointed
2 for an initial term of three years and may be re-
3 appointed for one additional three-year term.

4 “(3) CHAIR.—The Committee shall have a
5 chair, who shall be selected by the members of the
6 Committee.

7 “(4) PAY.—Members shall serve without pay.

8 “(5) QUORUM.—A majority of members of the
9 Advisory Committee shall constitute a quorum but a
10 lesser number may hold hearings.

11 “(c) SUBCOMMITTEES.—The Advisory Committee
12 may establish subcommittees to assesses and recommend
13 improvements to the risk tiering methodology for chemical
14 facilities, the risk-based performance standards for chem-
15 ical facilities, risk reduction strategies, and other aspects
16 of the program under this title as the Secretary deter-
17 mines appropriate.

18 “(d) INFORMATION PROTECTION.—Members of Advi-
19 sory Committee shall maintain information protections
20 pursuant to section 2103 of this Act. Any member who
21 needs to access classified information to carry out assess-
22 ments and recommendations for improving the risk tiering
23 methodology for chemical facilities shall have an appro-
24 priate security clearance.

1 “(e) ANNUAL REPORT.—Not later than January 30
 2 each year, the chair shall submit to the Committee on
 3 Homeland Security and Governmental Affairs of the Sen-
 4 ate and to the Committee on Homeland Security and the
 5 Committee on Energy and Commerce of the House of
 6 Representatives a report on the activities of the Com-
 7 mittee during the year preceding the year during which
 8 the report is submitted.

9 “(f) APPLICABILITY OF FACA.—The Federal Advi-
 10 sory Committee Act (5 U.S.C. App.) shall not apply to
 11 the Committee established under this section.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
 13 in section 1(b) of such Act is amended by inserting after
 14 the item relating to section 2109 the following new item:

“2110. Chemical Security Advisory Committee.”.

15 **SEC. 8. IMPLEMENTATION PLAN AND REPORT TO CON-**
 16 **GRESS.**

17 (a) IMPLEMENTATION PLAN.—Not later than 120
 18 days after the date of the enactment of this Act, the Sec-
 19 retary of Homeland Security shall develop, and submit to
 20 Congress, an implementation plan outlining how the Sec-
 21 retary plans to—

22 (1) aggregate, anonymize, and analyze data col-
 23 lected from covered chemical facilities or chemical
 24 facilities of interest to identify practices that such

1 facilities have employed to successfully reduce or re-
2 move terrorism-related chemical security risks;

3 (2) develop voluntary, publicly available, prac-
4 tices based on such data, which may be updated as
5 necessary, to guide facility owners and operators in
6 preventing, reducing, and managing security risks;
7 and

8 (3) disseminate such practices to chemical facil-
9 ity owners and operators through an appropriate
10 medium or system, including by making such prac-
11 tices available to the public to the greatest extent
12 practicable.

13 (b) REPORT.—

14 (1) INITIAL REPORT.—Not later than two years
15 after the date of the enactment of this Act, the Sec-
16 retary shall submit to Congress a report on the sta-
17 tus of implementation plan required under sub-
18 section (a), a description of the voluntary, publicly
19 available, practices identified, and the system or me-
20 dium used to disseminate such practices to chemical
21 facility owners and operators.

22 (2) ANNUAL UPDATES.—Not later than one
23 year after the submission of the report required
24 under paragraph (1), and annually thereafter, the
25 Secretary shall submit to Congress information on

1 changes to the voluntary practices information dis-
2 seminated and bases for such changes, information
3 on feedback collected from facility owners and opera-
4 tors regarding the extent to which voluntary prac-
5 tices were adopted, and information on what impact
6 the dissemination of voluntary practices have had on
7 the effectiveness of the program.

8 **SEC. 9. STUDY ON RISKS POSED BY EXCLUDED FACILITIES.**

9 (a) STUDY REQUIRED.—The Secretary of Homeland
10 Security shall enter into an agreement with a non-Depart-
11 ment of Homeland Security entity for the conduct of an
12 independent assessment of—

13 (1) the implications for national security and
14 homeland security of exempting from regulation
15 under title XXI of the Homeland Security Act of
16 2002 (6 U.S.C. 621 et seq.) excluded facilities, as
17 such term is defined in section 2101(4) of such Act;

18 (2) the implications for such excluded facilities
19 of exempting such facilities from regulation; and

20 (3) the implications of exempting such facilities
21 from regulation for the communities located in the
22 same geographic areas as such facilities.

23 (b) REPORT TO CONGRESS.—Not later than 16
24 months after entering into an agreement under subsection
25 (a), the Secretary of Homeland Security shall submit to

1 the appropriate congressional committees a report that in-
2 cludes the findings and recommendations of the inde-
3 pendent assessment required by subsection (a).

4 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—
5 In this section, the term “appropriate congressional com-
6 mittees” means—

7 (1) the Committee on Homeland Security and
8 Governmental Affairs of the Senate; and

9 (2) the Committee on Homeland Security and
10 the Committee on Energy and Commerce of the
11 House of Representatives.

12 **SEC. 10. STUDY ON FEASIBILITY OF WAIVER PROGRAM.**

13 (a) STUDY REQUIRED.—The Secretary of Homeland
14 Security shall conduct a study to assess the feasibility and
15 desirability of establishing a process under which certain
16 chemical facilities, as determined by the Secretary, may
17 apply to for a waiver of certain regulatory requirements
18 under title XXI of the Homeland Security Act of 2002
19 (6 U.S.C. 621 et seq.) upon showing that—

20 (1) the requirements under such title are cov-
21 ered, to the same extent and in the same manner,
22 under another Federal regulatory program;

23 (2) the facility is in full and complete compli-
24 ance with such other Federal regulatory program, as

1 shown through timely scheduled inspections, audits,
2 and other supporting evidence; and

3 (3) the facility has not, during the five-year pe-
4 riod preceding the date on which a waiver is re-
5 quested, been subject to an enforcement action
6 brought by the Federal regulator overseeing such
7 regulatory program or been found to be noncompli-
8 ant with any aspect of such regulatory program.

9 (b) REPORT TO CONGRESS.—Not later than two
10 years after the date of the enactment of this Act, the Sec-
11 retary of Homeland Security shall submit to the appro-
12 priate congressional committees a report that includes de-
13 tailed findings regarding the establishment of the process
14 described in subsection (a) and, if appropriate, rec-
15 ommendations for implementation.

16 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—
17 In this section, the term “appropriate congressional com-
18 mittees” means—

19 (1) the Committee on Homeland Security and
20 Governmental Affairs of the Senate; and

21 (2) the Committee on Homeland Security and
22 the Committee on Energy and Commerce of the
23 House of Representatives.

1 **SEC. 11. REVIEW OF POTENTIAL EFFECTS OF ATTACKS ON**
2 **COVERED CHEMICAL FACILITIES ON OTHER**
3 **CRITICAL INFRASTRUCTURE.**

4 (a) REVIEW REQUIRED.—The Director of the Cyber-
5 security and Infrastructure Security Agency shall—

6 (1) conduct a review of the risk assessment ap-
7 proach and corresponding tiering methodology for
8 covered chemical facilities required pursuant to sec-
9 tion 2102(e)(2) of the Homeland Security Act of
10 2002, as amended by this Act, and assess the extent
11 to which the approach and tiering methodology takes
12 into account—

13 (A) the nature of the area surrounding the
14 chemical facility, the presence of nearby facili-
15 ties or other critical infrastructure, and other
16 features of the community that could contribute
17 to the consequences of a terrorist attack or ex-
18 ploitation of chemicals of interest; and

19 (B) the potential effects on the health and
20 economic conditions of communities dispropor-
21 tionately vulnerable to the consequences of a
22 terrorist attack or exploitation of chemicals of
23 interest; and

24 (2) develop a plan to ensure that when the
25 tiering methodology is next updated, the nature of
26 the surrounding area, the presence of nearby facili-

ties or other critical infrastructure, and other features of the community that could contribute to the consequences of a terrorist attack or exploitation of chemicals of interest and impacts on communities disproportionately vulnerable to the consequences of a terrorist attack or exploitation of chemicals of interest are better integrated.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Director shall submit to the appropriate congressional committees a report on the review and plan required under subsection (a).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term “appropriate congressional committees” means—

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

(B) the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives.

SEC. 12. COMPTROLLER GENERAL REPORTS.

(a) EVALUATION OF EFFECTIVENESS OF RISK-BASED PERFORMANCE STANDARDS.—

1 (1) STUDY AND REPORT.—Not later than 18
2 months after the date of the enactment of this Act,
3 the Comptroller General of the United States shall
4 conduct a study and submit to the appropriate con-
5 gressional committees a report on the effectiveness
6 of the risk-based performance standards used by the
7 Department of Homeland Security under title XXI
8 of the Homeland Security Act of 2002 (6 U.S.C.
9 621 et seq.) in protecting businesses, employees, the
10 economy, the public, and national security against
11 existing and evolving threats of concern.

12 (2) CONTENTS OF REPORT.—The report re-
13 quired by paragraph (1) shall address—

14 (A) the sufficiency of security risk deter-
15 minations and countermeasures under title XXI
16 of the Homeland Security Act of 2002 (6
17 U.S.C. 621 et seq.); and

18 (B) the need for revised or additional
19 methods to address evolving security risks.

20 (b) EVALUATION OF INFORMATION MANAGEMENT.—
21 Not later than one year after the date of the enactment
22 of this Act, the Comptroller General of the United States
23 shall conduct a study and submit to the appropriate con-
24 gressional committees a report on—

1 (1) how the Secretary of Homeland Security
2 documents, maintains, and uses information on
3 tiering changes pursuant to section 2102(e)(3) of
4 the Homeland Security Act of 2002 (6 U.S.C.
5 622(e)(3)); and

6 (2) how management, maintenance, utility, and
7 use of the information could be improved to better
8 identify and disseminate practices to reduce chemical
9 security risks.

10 (c) EVALUATION OF PRACTICES TO REDUCE CHEM-
11 ICAL SECURITY RISKS.—Not later than 18 months after
12 the date of the enactment of this Act, the Comptroller
13 General of the United States shall submit to the appro-
14 priate congressional committees a report on the effective-
15 ness of the development and distribution by the Secretary
16 of Homeland Security of practices to address chemical se-
17 curity risks and of any actions taken or results produced
18 in response to such practices.

19 (d) APPROPRIATE CONGRESSIONAL COMMITTEES.—
20 In this section, the term “appropriate congressional com-
21 mittees” means—

22 (1) the Committee on Homeland Security and
23 Governmental Affairs of the Senate; and

1 (2) the Committee on Homeland Security and
2 the Committee on Energy and Commerce of the
3 House of Representatives.

4 **SEC. 13. VOLUNTARY MECHANISM FOR REPORTING**
5 **DRONES AND OTHER EMERGING THREATS.**

6 (a) IN GENERAL.—Not later than 120 days after the
7 date of the enactment of this Act, the Secretary of Home-
8 land Security, acting through the Director of the Cyberse-
9 curity and Infrastructure Security Agency, shall establish
10 a secure communications and information technology in-
11 frastructure or platform that allows facility owners and
12 operators to report, on a voluntary basis, information on
13 emerging threats, including terrorism threats posed by un-
14 manned aircraft systems (as defined in section 331(9) of
15 the FAA Modernization and Reform Act of 2012 (Public
16 Law 112–95; 49 U.S.C. 40101 note)) to covered chemical
17 facilities.

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

1 **SEC. 14. REGULATIONS REGARDING SPECIFIC PRODUCTS**
2 **AND MIXTURES CONTAINING CHEMICALS OF**
3 **INTEREST.**

4 Not later than one year after the date of the enact-
5 ment of this Act, the Secretary of Homeland Security shall
6 prescribe regulations to enact a process through which the
7 Secretary can be petitioned to exclude a product or mix-
8 ture under subsection (f) of section 2102 of the Homeland
9 Security Act, as added by section 3. In collecting informa-
10 tion from petitioners under such subsection, the Secretary
11 shall not be subject to subchapter I of chapter 35 of title
12 44, United States Code, or section 553 of title 5, United
13 States Code.

14 **SEC. 15. PREVIOUSLY APPROVED FACILITIES.**

15 In the case of a chemical facility that is a covered
16 chemical facility under title XXI of the Homeland Security
17 Act of 2002 for which the Secretary of Homeland Security
18 approved a site security plan under such title before the
19 date of enactment of this Act, the Secretary shall not re-
20 quire the facility to resubmit the site security plan solely
21 by reason of the enactment of this Act or the amendments
22 made by this Act.

23 **SEC. 16. TERMINATION.**

24 Section 5 of the Protecting and Securing Chemical
25 Facilities From Terrorist Attacks Act of 2014 (Public
26 Law 113–254; 6 U.S.C. 621 note) is amended by striking

1 “the date that is 4 years after the effective date of this
2 Act” and inserting “May 1, 2025”.

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