

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

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

H. R. 4007

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

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

Viz:

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

4 **“SEC. 2101. DEFINITIONS.**

5 “In this title—

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

7 “(A) an existing CFATs regulation; and

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

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

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

20 “(B) is not an excluded facility;

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

23 “(A) the Secretary—

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

1 “(ii) based upon review of a Top-
2 Screen, determines meets the risk criteria
3 developed under section 2102(e)(2)(B);
4 and

5 “(B) is not an excluded facility;

6 “(4) the term ‘excluded facility’ means—

7 “(A) a facility regulated under the Mari-
8 time Transportation Security Act of 2002 (Pub-
9 lic Law 107–295; 116 Stat. 2064);

10 “(B) a public water system, as that term
11 is defined in section 1401 of the Safe Drinking
12 Water Act (42 U.S.C. 300f);

13 “(C) a Treatment Works, as that term is
14 defined in section 212 of the Federal Water
15 Pollution Control Act (33 U.S.C. 1292);

16 “(D) a facility owned or operated by the
17 Department of Defense or the Department of
18 Energy; or

19 “(E) a facility subject to regulation by the
20 Nuclear Regulatory Commission, or by a State
21 that has entered into an agreement with the
22 Nuclear Regulatory Commission under section
23 274 b. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2021(b)) to protect against unauthor-
25 ized access of any material, activity, or struc-

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

3 “(5) the term ‘existing CFATS regulation’
4 means—

5 “(A) a regulation promulgated under sec-
6 tion 550 of the Department of Homeland Secu-
7 rity Appropriations Act, 2007 (Public Law
8 109–295; 6 U.S.C. 121 note) that is in effect
9 on the day before the date of enactment of the
10 Protecting and Securing Chemical Facilities
11 from Terrorist Attacks Act of 2014; and

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

19 “(6) the term ‘expedited approval facility’
20 means a covered chemical facility for which the
21 owner or operator elects to submit a site security
22 plan in accordance with section 2102(c)(4);

23 “(7) the term ‘facially deficient’, relating to a
24 site security plan, means a site security plan that
25 does not support a certification that the security

1 measures in the plan address the security vulner-
2 ability assessment and the risk-based performance
3 standards for security for the facility, based on a re-
4 view of—

5 “(A) the site security plan;

6 “(B) the Top-Screen;

7 “(C) the security vulnerability assessment;

8 or

9 “(D) any other information that—

10 “(i) the facility submits to the De-
11 partment; or

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

14 “(8) the term ‘guidance for expedited approval
15 facilities’ means the guidance issued under section
16 2102(e)(4)(B)(i);

17 “(9) the term ‘risk assessment’ means the Sec-
18 retary’s application of relevant risk criteria identified
19 in section 2102(e)(2)(B);

20 “(10) the term ‘terrorist screening database’
21 means the terrorist screening database maintained
22 by the Federal Government Terrorist Screening Cen-
23 ter or its successor;

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

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

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

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

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

17 “(a) PROGRAM ESTABLISHED.—

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

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

24 “(A) identify—

25 “(i) chemical facilities of interest; and

1 “(ii) covered chemical facilities;

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

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

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

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

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

16 “(b) SECURITY MEASURES.—A facility, in developing
17 a site security plan as required under subsection (a), shall
18 include security measures that, in combination, appro-
19 priately address the security vulnerability assessment and
20 the risk-based performance standards for security for the
21 facility.

22 “(c) APPROVAL OR DISAPPROVAL OF SITE SECURITY
23 PLANS.—

24 “(1) IN GENERAL.—

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

5 “(B) BASES FOR DISAPPROVAL.—The Sec-
6 retary—

7 “(i) may not disapprove a site security
8 plan based on the presence or absence of
9 a particular security measure; and

10 “(ii) shall disapprove a site security
11 plan if the plan fails to satisfy the risk-
12 based performance standards established
13 pursuant to subsection (a)(2)(C).

14 “(2) ALTERNATIVE SECURITY PROGRAMS.—

15 “(A) AUTHORITY TO APPROVE.—

16 “(i) IN GENERAL.—The Secretary
17 may approve an alternative security pro-
18 gram established by a private sector entity
19 or a Federal, State, or local authority or
20 under other applicable laws, if the Sec-
21 retary determines that the requirements of
22 the program meet the requirements under
23 this section.

24 “(ii) ADDITIONAL SECURITY MEAS-
25 URES.—If the requirements of an alter-

1 native security program do not meet the
2 requirements under this section, the Sec-
3 retary may recommend additional security
4 measures to the program that will enable
5 the Secretary to approve the program.

6 “(B) SATISFACTION OF SITE SECURITY
7 PLAN REQUIREMENT.—A covered chemical fa-
8 cility may satisfy the site security plan require-
9 ment under subsection (a) by adopting an alter-
10 native security program that the Secretary
11 has—

12 “(i) reviewed and approved under sub-
13 paragraph (A); and

14 “(ii) determined to be appropriate for
15 the operations and security concerns of the
16 covered chemical facility.

17 “(3) SITE SECURITY PLAN ASSESSMENTS.—

18 “(A) RISK ASSESSMENT POLICIES AND
19 PROCEDURES.—In approving or disapproving a
20 site security plan under this subsection, the
21 Secretary shall employ the risk assessment poli-
22 cies and procedures developed under this title.

23 “(B) PREVIOUSLY APPROVED PLANS.—In
24 the case of a covered chemical facility for which
25 the Secretary approved a site security plan be-

1 fore the date of enactment of the Protecting
2 and Securing Chemical Facilities from Terrorist
3 Attacks Act of 2014, the Secretary may not re-
4 quire the facility to resubmit the site security
5 plan solely by reason of the enactment of this
6 title.

7 “(4) EXPEDITED APPROVAL PROGRAM.—

8 “(A) IN GENERAL.—A covered chemical fa-
9 cility assigned to tier 3 or 4 may meet the re-
10 quirement to develop and submit a site security
11 plan under subsection (a)(2)(D) by developing
12 and submitting to the Secretary—

13 “(i) a site security plan and the cer-
14 tification described in subparagraph (C);
15 or

16 “(ii) a site security plan in conform-
17 ance with a template authorized under
18 subparagraph (H).

19 “(B) GUIDANCE FOR EXPEDITED AP-
20 PROVAL FACILITIES.—

21 “(i) IN GENERAL.—Not later than
22 180 days after the date of enactment of
23 this title, the Secretary shall issue guid-
24 ance for expedited approval facilities that
25 identifies specific security measures that

1 are sufficient to meet the risk-based per-
2 formance standards.

3 “(ii) MATERIAL DEVIATION FROM
4 GUIDANCE.—If a security measure in the
5 site security plan of an expedited approval
6 facility materially deviates from a security
7 measure in the guidance for expedited ap-
8 proval facilities, the site security plan shall
9 include an explanation of how such secu-
10 rity measure meets the risk-based perform-
11 ance standards.

12 “(iii) PROCESS.—In developing and
13 issuing, or amending, the guidance for ex-
14 pedited approval facilities under this sub-
15 paragraph and in collecting information
16 from expedited approval facilities, the Sec-
17 retary—

18 “(I) shall consult with—

19 “(aa) Sector Coordinating
20 Councils established under sec-
21 tions 201 and 871(a); and

22 “(bb) appropriate labor or-
23 ganizations; and

24 “(II) shall not be subject to sec-
25 tion 553 of title 5, United States

1 Code, the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321
3 et seq.), subchapter I of chapter 35 of
4 title 44, United States Code, or sec-
5 tion 2107(b) of this title.

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

10 “(i) the owner or operator is familiar
11 with the requirements of this title and part
12 27 of title 6, Code of Federal Regulations,
13 or any successor thereto, and the site secu-
14 rity plan being submitted;

15 “(ii) the site security plan includes the
16 security measures required by subsection
17 (b);

18 “(iii)(I) the security measures in the
19 site security plan do not materially deviate
20 from the guidance for expedited approval
21 facilities except where indicated in the site
22 security plan;

23 “(II) any deviations from the guid-
24 ance for expedited approval facilities in the
25 site security plan meet the risk-based per-

1 performance standards for the tier assigned to
2 the facility; and

3 “(III) the owner or operator has pro-
4 vided an explanation of how the site secu-
5 rity plan meets the risk-based performance
6 standards for any material deviation;

7 “(iv) the owner or operator has vis-
8 ited, examined, documented, and verified
9 that the expedited approval facility meets
10 the criteria set forth in the site security
11 plan;

12 “(v) the expedited approval facility
13 has implemented all of the required per-
14 formance measures outlined in the site se-
15 curity plan or set out planned measures
16 that will be implemented within a reason-
17 able time period stated in the site security
18 plan;

19 “(vi) each individual responsible for
20 implementing the site security plan is fully
21 aware of the requirements relevant to the
22 individual’s responsibility contained in the
23 site security plan and is competent to
24 carry out those requirements; and

1 “(vii) the owner or operator has com-
2 mitted, or, in the case of planned measures
3 will commit, the necessary resources to
4 fully implement the site security plan.

5 “(D) DEADLINE.—

6 “(i) IN GENERAL.—Not later than
7 120 days after the date described in clause
8 (ii), the owner or operator of an expedited
9 approval facility shall submit to the Sec-
10 retary the site security plan and the certifi-
11 cation described in subparagraph (C).

12 “(ii) DATE.—The date described in
13 this clause is—

14 “(I) for an expedited approval fa-
15 cility that was assigned to tier 3 or 4
16 under existing CFATS regulations be-
17 fore the date of enactment of this
18 title, the date that is 210 days after
19 the date of enactment of this title;
20 and

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

24 “(aa) the date on which the
25 expedited approval facility is as-

1 signed to tier 3 or 4 under sub-
2 section (e)(2)(A); or

3 “(bb) the date that is 210
4 days after the date of enactment
5 of this title.

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

15 “(E) COMPLIANCE.—

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

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

24 “(II) the Secretary—

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

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

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

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

19 “(i) REQUIREMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 “(aa) recommend specific
25 additional security measures

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(H) TEMPLATES.—

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

17 “(ii) PROCESS.—In developing and
18 issuing, or amending, the site security plan
19 templates under this subparagraph, issuing
20 guidance for implementation of the tem-
21 plates, and in collecting information from
22 expedited approval facilities, the Sec-
23 retary—

24 “(I) shall consult with—

1 “(aa) Sector Coordinating
2 Councils established under sec-
3 tions 201 and 871(a); and

4 “(bb) appropriate labor or-
5 ganizations; and

6 “(II) shall not be subject to sec-
7 tion 553 of title 5, United States
8 Code, the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321
10 et seq.), subchapter I of chapter 35 of
11 title 44, United States Code, or sec-
12 tion 2107(b) of this title.

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

19 “(I) EVALUATION.—

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

1 expedited approval program authorized
2 under this paragraph, including conducting
3 an appropriate number of inspections, as
4 authorized under subsection (d), of expe-
5 dited approval facilities.

6 “(ii) REPORT.—Not later than 18
7 months after the date of enactment of the
8 Protecting and Securing Chemical Facili-
9 ties from Terrorist Attacks Act of 2014,
10 the Secretary shall submit to the Com-
11 mittee on Homeland Security and Govern-
12 mental Affairs of the Senate and the Com-
13 mittee on Homeland Security of the House
14 of Representatives a report that contains—

15 “(I) the costs and efficiencies as-
16 sociated with the expedited approval
17 program authorized under this para-
18 graph;

19 “(II) the impact of the expedited
20 approval program on the backlog for
21 site security plan approval and au-
22 thorization inspections;

23 “(III) an assessment of the abil-
24 ity of expedited approval facilities to

1 submit facially sufficient site security
2 plans;

3 “(IV) an assessment of any im-
4 pact of the expedited approval pro-
5 gram on the security of chemical fa-
6 cilities; and

7 “(V) a recommendation by the
8 Secretary on the frequency of compli-
9 ance inspections that may be required
10 for expedited approval facilities.

11 “(d) COMPLIANCE.—

12 “(1) AUDITS AND INSPECTIONS.—

13 “(A) DEFINITIONS.—In this paragraph—

14 “(i) the term ‘nondepartmental’—

15 “(I) with respect to personnel,
16 means personnel that is not employed
17 by the Department; and

18 “(II) with respect to an entity,
19 means an entity that is not a compo-
20 nent or other authority of the Depart-
21 ment; and

22 “(ii) the term ‘nongovernmental’—

23 “(I) with respect to personnel,
24 means personnel that is not employed
25 by the Federal Government; and

1 “(II) with respect to an entity,
2 means an entity that is not an agency,
3 department, or other authority of the
4 Federal Government.

5 “(B) AUTHORITY TO CONDUCT AUDITS
6 AND INSPECTIONS.—The Secretary shall con-
7 duct audits or inspections under this title
8 using—

9 “(i) employees of the Department; or
10 “(ii) nondepartmental or nongovern-
11 mental personnel approved by the Sec-
12 retary.

13 “(C) SUPPORT PERSONNEL.—The Sec-
14 retary may use nongovernmental personnel to
15 provide administrative and logistical services in
16 support of audits and inspections under this
17 title.

18 “(D) REPORTING STRUCTURE.—

19 “(i) NONDEPARTMENTAL AND NON-
20 GOVERNMENTAL AUDITS AND INSPEC-
21 TIONS.—Any audit or inspection conducted
22 by an individual employed by a nondepart-
23 mental or nongovernmental entity shall be
24 assigned in coordination with a regional
25 supervisor with responsibility for super-

1 vising inspectors within the Infrastructure
2 Security Compliance Division of the De-
3 partment for the region in which the audit
4 or inspection is to be conducted.

5 “(ii) REQUIREMENT TO REPORT.—

6 While an individual employed by a non-
7 departmental or nongovernmental entity is
8 in the field conducting an audit or inspec-
9 tion under this subsection, the individual
10 shall report to the regional supervisor with
11 responsibility for supervising inspectors
12 within the Infrastructure Security Compli-
13 ance Division of the Department for the
14 region in which the individual is operating.

15 “(iii) APPROVAL.—The authority to

16 approve a site security plan under sub-
17 section (c) or determine if a covered chem-
18 ical facility is in compliance with an ap-
19 proved site security plan may be exercised
20 solely by the Secretary or a designee of the
21 Secretary within the Department.

22 “(E) STANDARDS FOR AUDITORS AND IN-

23 SPECTORS.—The Secretary shall prescribe
24 standards for the training and retraining of
25 each individual used by the Department as an

1 auditor or inspector, including each individual
2 employed by the Department and all nondepart-
3 mental or nongovernmental personnel, includ-
4 ing—

5 “(i) minimum training requirements
6 for new auditors and inspectors;

7 “(ii) retraining requirements;

8 “(iii) minimum education and experi-
9 ence levels;

10 “(iv) the submission of information as
11 required by the Secretary to enable deter-
12 mination of whether the auditor or inspec-
13 tor has a conflict of interest;

14 “(v) the proper certification or certifi-
15 cations necessary to handle chemical-ter-
16 rorism vulnerability information (as de-
17 fined in section 27.105 of title 6, Code of
18 Federal Regulations, or any successor
19 thereto);

20 “(vi) the reporting of any issue of
21 non-compliance with this section to the
22 Secretary within 24 hours; and

23 “(vii) any additional qualifications for
24 fitness of duty as the Secretary may re-
25 quire.

1 “(F) CONDITIONS FOR NONGOVERN-
2 MENTAL AUDITORS AND INSPECTORS.—If the
3 Secretary arranges for an audit or inspection
4 under subparagraph (B) to be carried out by a
5 nongovernmental entity, the Secretary shall—

6 “(i) prescribe standards for the quali-
7 fication of the individuals who carry out
8 such audits and inspections that are com-
9 mensurate with the standards for similar
10 Government auditors or inspectors; and

11 “(ii) ensure that any duties carried
12 out by a nongovernmental entity are not
13 inherently governmental functions.

14 “(2) PERSONNEL SURETY.—

15 “(A) PERSONNEL SURETY PROGRAM.—For
16 purposes of this title, the Secretary shall estab-
17 lish and carry out a Personnel Surety Program
18 that—

19 “(i) does not require an owner or op-
20 erator of a covered chemical facility that
21 voluntarily participates in the program to
22 submit information about an individual
23 more than one time;

24 “(ii) provides a participating owner or
25 operator of a covered chemical facility with

1 relevant information about an individual
2 based on vetting the individual against the
3 terrorist screening database, to the extent
4 that such feedback is necessary for the fa-
5 cility to be in compliance with regulations
6 promulgated under this title; and

7 “(iii) provides redress to an indi-
8 vidual—

9 “(I) whose information was vet-
10 ted against the terrorist screening
11 database under the program; and

12 “(II) who believes that the per-
13 sonally identifiable information sub-
14 mitted to the Department for such
15 vetting by a covered chemical facility,
16 or its designated representative, was
17 inaccurate.

18 “(B) PERSONNEL SURETY PROGRAM IM-
19 PLEMENTATION.—To the extent that a risk-
20 based performance standard established under
21 subsection (a) requires identifying individuals
22 with ties to terrorism—

23 “(i) a covered chemical facility may
24 satisfy its obligation under the standard by
25 using any Federal screening program that

1 periodically vets individuals against the
2 terrorist screening database, or any suc-
3 cessor program, including the Personnel
4 Surety Program established under sub-
5 paragraph (A); and

6 “(ii) the Secretary may not require a
7 covered chemical facility to submit any in-
8 formation about an individual unless the
9 individual—

10 “(I) is to be vetted under the
11 Personnel Surety Program; or

12 “(II) has been identified as pre-
13 sented a terrorism security risk.

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

18 “(e) RESPONSIBILITIES OF THE SECRETARY.—

19 “(1) IDENTIFICATION OF CHEMICAL FACILITIES
20 OF INTEREST.—In carrying out this title, the Sec-
21 retary shall consult with the heads of other Federal
22 agencies, States and political subdivisions thereof,
23 relevant business associations, and public and pri-
24 vate labor organizations to identify all chemical fa-
25 cilities of interest.

1 “(2) RISK ASSESSMENT.—

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

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

12 “(i) the relevant threat information;

13 “(ii) the potential economic con-
14 sequences and the potential loss of human
15 life in the event of the facility being sub-
16 ject to a terrorist attack, compromise, infil-
17 tration, or exploitation; and

18 “(iii) the vulnerability of the facility
19 to a terrorist attack, compromise, infiltra-
20 tion, or exploitation.

21 “(3) CHANGES IN TIERING.—

22 “(A) MAINTENANCE OF RECORDS.—The
23 Secretary shall document the basis for each in-
24 stance in which—

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

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

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

12 “(4) SEMIANNUAL PERFORMANCE REPORT-
13 ING.—Not later than 6 months after the date of en-
14 actment of the Protecting and Securing Chemical
15 Facilities from Terrorist Attacks Act of 2014, and
16 not less frequently than once every 6 months there-
17 after, the Secretary shall submit to Congress a re-
18 port that describes, for the period covered by the re-
19 port—

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

22 “(B) the average number of days spent re-
23 viewing site security or an alternative security
24 program for a covered chemical facility prior to
25 approval;

1 “(C) the number of covered chemical facili-
2 ties inspected;

3 “(D) the average number of covered chem-
4 ical facilities inspected per inspector; and

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

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

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

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

1 “(c) SHARING OF INFORMATION WITH FIRST RE-
2 SPONDERS.—

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

12 “(2) DISSEMINATION.—The Secretary shall dis-
13 seminate information under paragraph (1) through
14 any medium or system determined by the Secretary
15 to be appropriate to handle the secure and expedi-
16 tious dissemination of such information to necessary
17 selected individuals.

18 “(d) ENFORCEMENT PROCEEDINGS.—In any pro-
19 ceeding to enforce this section, vulnerability assessments,
20 site security plans, and other information submitted to or
21 obtained by the Secretary under this title, and related vul-
22 nerability or security information, shall be treated as if
23 the information were classified information.

24 “(e) AVAILABILITY OF INFORMATION.—Information
25 developed under this title shall be exempt from disclosure

1 under section 552 of title 5, United States Code, (com-
2 monly known as the ‘Freedom of Information Act’) in ac-
3 cordance with subsection (b)(3) of such section.

4 **“SEC. 2104. CIVIL ENFORCEMENT.**

5 “(a) NOTICE OF NONCOMPLIANCE.—

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

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

11 “(i) not later than 14 days after date
12 on which the Secretary makes the deter-
13 mination, a written notification of non-
14 compliance that includes a clear expla-
15 nation of any deficiency in the security vul-
16 nerability assessment or site security plan;
17 and

18 “(ii) an opportunity for consultation
19 with the Secretary or the Secretary’s des-
20 ignee; and

21 “(B) issue to the owner or operator of the
22 facility an order to comply with this title by a
23 date specified by the Secretary in the order,
24 which date shall be not later than 180 days

1 after the date on which the Secretary issues the
2 order.

3 “(2) CONTINUED NONCOMPLIANCE.—If an
4 owner or operator continues to be in noncompliance
5 with this title after the date specified in an order
6 issued under paragraph (1)(B), the Secretary may
7 enter an order in accordance with this section as-
8 sessing a civil penalty, an order to cease operations,
9 or both.

10 “(b) CIVIL PENALTIES.—

11 “(1) VIOLATIONS OF ORDERS.—Any person who
12 violates an order issued under this title shall be lia-
13 ble for a civil penalty under section 70119(a) of title
14 46, United States Code.

15 “(2) NON-REPORTING CHEMICAL FACILITIES OF
16 INTEREST.—Any owner of a chemical facility of in-
17 terest who fails to comply with, or knowingly sub-
18 mits false information under, this title or the
19 CFATS regulations shall be liable for a civil penalty
20 under section 70119(a) of title 46, United States
21 Code.

22 “(c) EMERGENCY ORDERS.—

23 “(1) IN GENERAL.—Notwithstanding subsection
24 (a) or any site security plan or alternative security
25 program approved under this title, if the Secretary

1 determines that there is a reasonable likelihood that
2 a violation of this title or the CFATS regulations by
3 a chemical facility could result in death, serious ill-
4 ness, severe personal injury, or substantial
5 endangerment to the public, the Secretary may di-
6 rect the facility, effective immediately or as soon as
7 practicable, to—

8 “(A) cease some or all operations; or

9 “(B) implement appropriate emergency se-
10 curity measures.

11 “(2) LIMITATION ON DELEGATION.—The Sec-
12 retary may not delegate the authority under para-
13 graph (1) to any official other than the Under Sec-
14 retary for the National Protection and Programs Di-
15 rectorate.

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

21 **“SEC. 2105. WHISTLEBLOWER PROTECTIONS.**

22 “(a) PROCEDURE FOR REPORTING PROBLEMS.—

23 “(1) ESTABLISHMENT OF A REPORTING PROCE-
24 DURE.—Not later than 180 days after the date of
25 enactment of the Protecting and Securing Chemical

1 Facilities from Terrorist Attacks Act of 2014, the
2 Secretary shall establish, and provide information to
3 the public regarding, a procedure under which any
4 employee or contractor of a chemical facility may
5 submit a report to the Secretary regarding problems,
6 deficiencies, or vulnerabilities at a covered chemical
7 facility associated with the risk of a chemical facility
8 terrorist incident.

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

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

20 “(4) STEPS TO ADDRESS PROBLEMS.—The Sec-
21 retary shall—

22 “(A) review and consider the information
23 provided in any report submitted under para-
24 graph (1); and

1 “(B) take appropriate steps under this title
2 if necessary to address any substantiated prob-
3 lems or deficiencies associated with the risk of
4 a chemical facility terrorist incident identified
5 in the report.

6 “(5) RETALIATION PROHIBITED.—

7 “(A) IN GENERAL.—An owner or operator
8 of a covered chemical facility or agent thereof
9 may not discharge an employee or otherwise
10 discriminate against an employee with respect
11 to the compensation provided to, or terms, con-
12 ditions, or privileges of the employment of, the
13 employee because the employee (or an indi-
14 vidual acting pursuant to a request of the em-
15 ployee) submitted a report under paragraph
16 (1).

17 “(B) EXCEPTION.—An employee shall not
18 be entitled to the protections under this section
19 if the employee—

20 “(i) knowingly and willfully makes
21 any false, fictitious, or fraudulent state-
22 ment or representation; or

23 “(ii) uses any false writing or docu-
24 ment knowing the writing or document

1 contains any false, fictitious, or fraudulent
2 statement or entry.

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

6 “(1) protected or authorized under section
7 2302(b)(8) or 7211 of title 5, United States Code;

8 “(2) protected under any other Federal or State
9 law that shields the disclosing individual against re-
10 taliation or discrimination for having made the dis-
11 closure in the public interest; or

12 “(3) to the Special Counsel of an agency, the
13 inspector general of an agency, or any other em-
14 ployee designated by the head of an agency to re-
15 ceive disclosures similar to the disclosures described
16 in paragraphs (1) and (2).

17 “(c) PUBLICATION OF RIGHTS.—The Secretary, in
18 partnership with industry associations and labor organiza-
19 tions, shall make publicly available both physically and on-
20 line the rights that an individual who discloses informa-
21 tion, including security-sensitive information, regarding
22 problems, deficiencies, or vulnerabilities at a covered
23 chemical facility would have under Federal whistleblower
24 protection laws or this title.

1 “(d) GAO REPORTING.—Not later than 2 years after
2 the date of enactment of this Act, the Comptroller General
3 of the United States shall submit to the Committee on
4 Homeland Security and Governmental Affairs of the Sen-
5 ate and the Committee on Homeland Security of the
6 House of Representatives a report that—

7 “(1) describes the number and type of prob-
8 lems, deficiencies, and vulnerabilities with respect to
9 which reports have been submitted under this sec-
10 tion;

11 “(2) evaluates the efforts of the Secretary in
12 addressing the problems, deficiencies, and
13 vulnerabilities described in paragraph (1); and

14 “(3) evaluates the efforts of the Secretary to in-
15 form individuals of their rights, as required under
16 subsection (c).

17 “(e) PROTECTED INFORMATION.—All information
18 contained in a report made under this subsection (a) shall
19 be protected in accordance with section 2103.

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

21 “(a) OTHER FEDERAL LAWS.—Nothing in this title
22 shall be construed to supersede, amend, alter, or affect
23 any Federal law that regulates the manufacture, distribu-
24 tion in commerce, use, sale, other treatment, or disposal
25 of chemical substances or mixtures.

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

11 **“SEC. 2107. CFATS REGULATIONS.**

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

16 “(b) EXISTING CFATS REGULATIONS.—

17 “(1) IN GENERAL.—Notwithstanding section
18 4(b) of the Protecting and Securing Chemical Facili-
19 ties from Terrorist Attacks Act of 2014, each exist-
20 ing CFATS regulation shall remain in effect unless
21 the Secretary amends, consolidates, or repeals the
22 regulation.

23 “(2) REPEAL.—Not later than 30 days after
24 the date of enactment of the Protecting and Secur-
25 ing Chemical Facilities from Terrorist Attacks Act

1 of 2014, the Secretary shall repeal any existing
2 CFATS regulation that the Secretary determines is
3 duplicative of, or conflicts with, this title.

4 “(c) **AUTHORITY.**—The Secretary shall exclusively
5 rely upon authority provided under this title in—

6 “(1) determining compliance with this title;

7 “(2) identifying chemicals of interest; and

8 “(3) determining security risk associated with a
9 chemical facility.

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

11 “(a) **DEFINITION.**—In this section, the term ‘small
12 covered chemical facility’ means a covered chemical facility
13 that—

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

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

19 “(b) **ASSISTANCE TO FACILITIES.**—The Secretary
20 may provide guidance and, as appropriate, tools, meth-
21 odologies, or computer software, to assist small covered
22 chemical facilities in developing the physical security, cy-
23 bersecurity, recordkeeping, and reporting procedures re-
24 quired under this title.

“Sec. 2107. CFATS regulations.

“Sec. 2108. Small covered chemical facilities.

“Sec. 2109. Outreach to chemical facilities of interest.”.

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

2 (a) DEFINITIONS.—In this section—

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

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

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

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

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

18 (b) THIRD-PARTY ASSESSMENT.—Using amounts au-
19 thorized to be appropriated under section 2110 of the
20 Homeland Security Act of 2002, as added by section 2,
21 the Secretary shall commission a third-party study to as-
22 sess vulnerabilities to acts of terrorism associated with the
23 Chemical Facility Anti-Terrorism Standards Program.

24 (c) REPORTS.—

1 (1) REPORT TO CONGRESS.—Not later than 18
2 months after the date of enactment of this Act, the
3 Secretary shall submit to Congress a report on the
4 Chemical Facility Anti-Terrorism Standards Pro-
5 gram that includes—

6 (A) a certification by the Secretary that
7 the Secretary has made significant progress in
8 the identification of all chemical facilities of in-
9 terest under section 2102(e)(1) of the Home-
10 land Security Act of 2002, as added by section
11 2, including—

12 (i) a description of the steps taken to
13 achieve that progress and the metrics used
14 to measure the progress;

15 (ii) information on whether facilities
16 that submitted Top-Screens as a result of
17 the identification of chemical facilities of
18 interest were tiered and in what tiers those
19 facilities were placed; and

20 (iii) an action plan to better identify
21 chemical facilities of interest and bring
22 those facilities into compliance with title
23 XXI of the Homeland Security Act of
24 2002, as added by section 2;

1 (B) a certification by the Secretary that
2 the Secretary has developed a risk assessment
3 approach and corresponding tiering method-
4 ology under section 2102(e)(2) of the Homeland
5 Security Act of 2002, as added by section 2;

6 (C) an assessment by the Secretary of the
7 implementation by the Department of any rec-
8 ommendations made by the Homeland Security
9 Studies and Analysis Institute as outlined in
10 the Institute's Tiering Methodology Peer Re-
11 view (Publication Number: RP12-22-02); and

12 (D) a description of best practices that
13 may assist small covered chemical facilities, as
14 defined in section 2108(a) of the Homeland Se-
15 curity Act of 2002, as added by section 2, in
16 the development of physical security best prac-
17 tices.

18 (2) ANNUAL GAO REPORT.—

19 (A) IN GENERAL.—During the 3-year pe-
20 riod beginning on the date of enactment of this
21 Act, the Comptroller General of the United
22 States shall submit to Congress an annual re-
23 port that assesses the implementation of this
24 Act and the amendments made by this Act.

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

5 (C) SECOND ANNUAL REPORT.—Not later
6 than one year from the date of the initial report
7 required under subparagraph (B), the Comp-
8 troller General shall submit to Congress the
9 second report under subparagraph (A), which
10 shall include an assessment of the whistleblower
11 protections provided under section 2105 of the
12 Homeland Security Act of 2002, as added by
13 section 2, and—

14 (i) describes the number and type of
15 problems, deficiencies, and vulnerabilities
16 with respect to which reports have been
17 submitted under such section 2105;

18 (ii) evaluates the efforts of the Sec-
19 retary in addressing the problems, defi-
20 ciencies, and vulnerabilities described in
21 subsection (a)(1) of such section 2105; and

22 (iii) evaluates the efforts of the Sec-
23 retary to inform individuals of their rights,
24 as required under subsection (c) of such
25 section 2105.

1 (D) THIRD ANNUAL REPORT.—Not later
2 than 1 year after the date on which the Comp-
3 troller General submits the second report re-
4 quired under subparagraph (A), the Comp-
5 troller General shall submit to Congress the
6 third report under subparagraph (A), which
7 shall include an assessment of—

8 (i) the expedited removal program au-
9 thorized under section 2102(c)(4) of the
10 Homeland Security Act of 2002, as added
11 by section 2; and

12 (ii) the report on the expedited re-
13 moval program submitted by the Secretary
14 under subparagraph (I)(ii) of such section
15 2102(c)(4).

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

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

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

1 **SEC. 5. TERMINATION.**

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