

**Chemical Facilities Anti-Terrorism Standards (CFATS) Roundtable Discussion
June 12, 2018**

Key GAO Reports, Findings, and Recommendations (2013-2017)

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Summary: Since 2013, GAO has issued several reports reviewing various aspects of the Department of Homeland Security's (DHS's) Chemical Facilities Anti-Terrorism Standards (CFATS) program. These reports have identified challenges DHS has faced in implementing and managing the CFATS program in various areas, including:

- 1) *the process for assessing chemical facility risk and placing these facilities into risk-based tiers;*
- 2) *ensuring chemical facility compliance with CFATS regulations and measuring program performance;*
- 3) *efforts to outreach and share information with chemical facilities; and*
- 4) *establishing a process to obtain and investigate whistleblower complaints.*

GAO has made 10 recommendations to strengthen the program across these areas. DHS agreed with all of these recommendations and as of June 2018, has fully implemented 6 of them and is taking action to address the remaining 4. Further, GAO is currently assessing additional aspects of the program for this Committee and plans to report later this summer.

1. Chemical facility risk assessment approach and tiering methodology

In 2013, GAO found that between 2007 and 2013, DHS had placed about 3,500 high-risk chemical facilities to risk-based tiers under its CFATS program, but it had not fully assessed its approach for doing so. The approach DHS used to assess risk and make decisions to place facilities in final tiers did not consider all of the elements of consequence, threat, and vulnerability associated with a terrorist attack involving certain chemicals. GAO also found in 2015 that DHS used self-reported and unverified data to determine the risk categorization for facilities that held toxic chemicals that could threaten surrounding communities if released.

- **Recommendation:** GAO recommended that DHS develop a plan, with timeframes and milestones, that incorporates the results of the various efforts to fully address each of the components of risk and take associated actions where appropriate to enhance its risk assessment approach.¹

Status: Not Fully Implemented: From 2013 through 2016, DHS conducted a multi-year effort to review and update the CFATS program's risk assessment approach, which incorporates improvements based on recommendations from an external peer review and GAO. GAO is currently evaluating these efforts as part of our ongoing work and will report later this Summer.

¹GAO, *Critical Infrastructure Protection: DHS Efforts to Assess Chemical Security Risk and Gather Feedback on Facility Outreach Can Be Strengthened*, [GAO-13-353](#) (Washington, D.C.: Apr. 5, 2013).

- Recommendation:** GAO recommended that DHS conduct an independent peer review, after it completes enhancements to its risk assessment approach, that fully validates and verifies its risk assessment approach consistent with prior recommendations of the National Research Council of the National Academies.²

Status: Not Fully Implemented: DHS worked with Sandia National Laboratories to conduct an independent verification and validation of the CFATS program's revised risk assessment methodology, which was completed in January 2017. GAO is currently evaluating these efforts as part of our ongoing work and will report later this Summer.
- Recommendation:** To ensure the accuracy of the data submitted by chemical facilities, GAO recommended that DHS provide milestone dates and a timeline for implementation of the new process for placing chemical facilities into risk-based tiers and ensure that changes to this process mitigate errors in data submitted by facilities.³

Status: Implemented: In January 2016, DHS developed milestone dates for implementing an updated process and stated that this new process will no longer rely on facilities to provide certain unverified data. Rather, DHS will begin calculating this data itself to enable better assessment of risk.
- Recommendation:** To ensure the accuracy of the data submitted by chemical facilities, GAO recommended that DHS identify potentially miscategorized facilities with the potential to cause the greatest harm and verify the data these facilities report is accurate.⁴

Status: Implemented: As of May 2017, DHS completed an assessment of potentially miscategorized facilities. Also, DHS's updated process, launched in October 2016, no longer relies on facilities to provide certain unverified data; rather, DHS is to calculate this data itself to enable better assessment of risk.

2. Facility Compliance and Performance Measurement

In 2015, GAO found that DHS has made substantial progress approving chemical facility security plans but did not have documented processes and procedures for ensuring facilities that are noncompliant with their approved security plans are taking actions to implement planned measures. Further, DHS's performance measure for the CFATS program did not solely capture security measures that were implemented by facilities and verified by ISCD; rather, the measure reflected both existing security measures and planned security measures that facilities had not yet implemented.

- Recommendation:** To better manage compliance among high-risk chemical facilities and demonstrate program results, GAO recommended that DHS develop documented processes and procedures to track noncompliant facilities and ensure they implement planned measures as outlined in their approved security plans.⁵

Status: Not Fully Implemented: According to DHS officials, the agency is nearing finalization of documentation of the processes and procedures being used to track noncompliant facilities and ensure they implement planned measures as outlined in their

²[GAO-13-353](#).

³GAO, *Critical Infrastructure Protection: DHS Action Needed to Verify Some Chemical Facility Information and Manage Compliance Process*, [GAO-15-614](#) (Washington, D.C., July 22, 2015).

⁴[GAO-15-614](#).

⁵[GAO-15-614](#).

approved site security plans. GAO is currently evaluating these efforts as part of our ongoing work and will report later this Summer.

- **Recommendation:** To better manage compliance among high-risk chemical facilities and demonstrate program results, GAO recommended that DHS improve the measurement and reporting of the CFATS program performance by developing a performance measure that includes only planned measures that have been implemented and verified.⁶

Status: Implemented: In December 2015, DHS implemented a new process whereby DHS inspectors verify that facilities implement planned measures during compliance inspections or other means before inclusion in the performance measure calculation.

3. Program outreach and information-sharing

In 2013, GAO found that DHS solicited informal feedback from chemical facility owners and operators on its efforts to communicate and work with them, but it did not have an approach for obtaining systematic feedback on its outreach activities. Additionally, GAO reported in 2014 that, based on a review of state data and records, there were more chemical facilities with ammonium nitrate holdings than those that reported to DHS under the CFATS program and that, therefore, some facilities that were required to report may have failed to do so.

- **Recommendation:** To enhance DHS's efforts to communicate and work with facilities, GAO recommended that the agency explore opportunities and take action to systematically solicit and document feedback on facility outreach.⁷

Status: Implemented: DHS developed a questionnaire to solicit feedback on outreach with facilities and industry stakeholders in the CFATS community. DHS started using the questionnaire in October 2016 during various CFATS outreach events to obtain stakeholder input and data.

- **Recommendation:** To improve federal oversight of facilities with ammonium nitrate, GAO recommended that the Department of Labor, the Environmental Protection Agency (EPA), and DHS develop and implement methods for improving data sharing among federal agencies and with states.⁸

Status: Implemented: DHS and EPA developed various mechanisms to better share data related to chemical facilities, which has enabled DHS to better identify facilities that are potentially non-compliant with CFATS.

4. Whistleblower reporting process

In 2015, GAO found that DHS implemented an interim process to respond to whistleblower reports involving CFATS and has followed its process since then; however, DHS did not have a documented process and procedures to investigate whistleblower retaliation reports. GAO also found that DHS's telephone tip line and whistleblower website provide limited guidance about the type of information that would be most useful to DHS for addressing the reports.

⁶GAO-15-614.

⁷GAO-13-353.

⁸GAO, *Chemical Safety: Actions Needed to Improve Federal Oversight of Facilities with Ammonium Nitrate*, GAO-14-274 (Washington, D.C.: May 19, 2014).

- **Recommendation:** To help ensure that whistleblower retaliation reports are addressed efficiently and effectively, GAO recommended that DHS develop a documented process and procedures to address and investigate whistleblower retaliation reports that could include recommended practices, such as those established by the Department of Labor's Occupational Safety and Health Administration.⁹
Status: Not Fully Implemented: DHS officials reported that a standard operating procedure for addressing and investigating whistleblower retaliation complaints was developed and is expected to be approved in Spring 2018 and subsequently provided to GAO for review.
- **Recommendation:** To assist DHS in collecting the information needed to investigate whistleblower reports and make informed decisions, GAO recommended that DHS provide additional guidance on the ISCD whistleblower website and telephone tip line greeting to clearly communicate the information needed in the reports.¹⁰
Status: Implemented: As of December 2016, DHS had provided additional guidance on its whistleblower website and telephone tip line greeting to clarify the types of information that would be helpful for whistleblowers to provide to DHS.

⁹GAO, *Critical Infrastructure Protection: Improvements Needed for DHS's Chemical Facility Whistleblower Report Process*, [GAO-16-572](#) (Washington, D.C.: Jul 12, 2016).

¹⁰[GAO-16-572](#).