United States Government Accountability Office

Testimony Before the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies, Committee on Homeland Security, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EST
Thursday, February 27, 2014

CRITICAL INFRASTRUCTURE PROTECTION

Observations on DHS Efforts to Identify, Prioritize, Assess, and Inspect Chemical Facilities

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February 2014

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Highlights of GAO-14-365T, a testimony before the Subcommittee on Cybersecurity, Infrastructure Protection, and Security Technologies, Committee on Homeland Security, House of Representatives

Why GAO Did This Study

Facilities that produce, store, or use hazardous chemicals could be of interest to terrorists intent on using toxic chemicals to inflict mass casualties in the United States. As required by statute, DHS issued regulations establishing standards for the security of these facilities. DHS established the CFATS program to assess risk at facilities covered by the regulations and inspect them to ensure compliance. In February 2014, legislation was introduced related to several aspects of the program.

This statement provides observations on DHS efforts related to the CFATS program. It is based on the results of previous GAO reports in July 2012 and April 2013, with selected updates conducted in February 2014. In conducting the earlier work, GAO reviewed DHS reports and plans on the program and interviewed DHS officials. In addition, GAO interviewed DHS officials to update information.

What GAO Recommends

In a July 2012 report, GAO recommended that DHS measure its performance implementing actions to improve its management of CFATS. In an April 2013 report, GAO recommended that DHS enhance its risk assessment approach to incorporate all elements of risk, conduct a peer review, and gather feedback on its outreach to facilities. DHS concurred with these recommendations and has taken actions or has actions underway to address them.

GAO provided a draft of the updated information to DHS for review, and DHS confirmed its accuracy.

View GAO-14-365T. For more information, contact Stephen Caldwell at (202) 512-9610 or caldwells@gao.gov

What GAO Found

In managing its Chemical Facility Anti-Terrorism Standards (CFATS) program, the Department of Homeland Security (DHS) has a number of efforts underway to identify facilities that are covered by the program, assess risk and prioritize facilities, review and approve facility security plans, and inspect facilities to ensure compliance with security regulations.

- **Identifying facilities.** DHS has begun to work with other agencies to identify facilities that should have reported their chemical holdings to CFATS, but may not have done so. DHS initially identified about 40,000 facilities by publishing a CFATS rule requiring that facilities with certain types of chemicals report the types and quantities of these chemicals. However, a chemical explosion in West, Texas last year demonstrated the risk posed by chemicals covered by CFATS. Subsequent to this incident, the President issued Executive Order 13650 which was intended to improve chemical facility safety and security in coordination with owners and operators. Under the executive order, a federal working group is sharing information to identify additional facilities that are to be regulated under CFATS, among other things.
- **Assessing risk and prioritizing facilities.** DHS has begun to enhance its ability to assess risks and prioritize facilities. DHS assessed the risks of facilities that reported their chemical holdings in order to determine which ones would be required to participate in the program and subsequently develop site security plans. GAO's April 2013 report found weaknesses in multiple aspects of the risk assessment and prioritization approach and made recommendations to review and improve this process. In February 2014, DHS officials told us they had begun to take action to revise the process for assessing risk and prioritizing facilities.
- **Reviewing security plans**. DHS has also begun to take action to speed up its reviews of facility security plans. Per the CFATS regulation, DHS was to review security plans and visit the facilities to make sure their security measures met the risk-based performance standards. GAO's April 2013 report found a 7- to 9-year backlog for these reviews and visits, and DHS has begun to take action to expedite these activities. As a separate matter, one of the performance standards—personnel surety, under which facilities are to perform background checks and ensure appropriate credentials for personnel and visitors as appropriate—is being developed. As of February 2014, DHS has reviewed and conditionally approved facility plans pending final development of the personal surety performance standard.
- **Inspecting to verify compliance**. In February 2014, DHS reported it had begun to perform inspections at facilities to ensure compliance with their site security plans. According to DHS, these inspections are to occur about 1 year after facility site security plan approval. Given the backlog in plan approvals, this process has started recently and GAO has not yet reviewed this aspect of the program.

Chairman Meehan, Ranking Member Clarke, and Members of the Subcommittee:

I am pleased to be here today to discuss our work on the Department of Homeland Security's (DHS) efforts in implementing and managing the Chemical Facility Anti-Terrorism Standards (CFATS) program. Facilities that produce, store, or use hazardous chemicals could be of interest to terrorists intent on using toxic chemicals to cause harm to surrounding populations during terrorist attacks, and these chemicals could be stolen and used as chemical weapons, such as improvised explosive devices, or as the ingredients for making chemical weapons. The danger posed by these chemicals became evident last year when ammonium nitrate—one of the chemicals covered by the CFATS program—detonated during a fire at a fertilizer storage and distribution facility in West, Texas. An investigation by the U.S. Chemical Safety Board (CSB) showed that the explosion killed at least 14 people and injured more than 200 others and severely damaged or destroyed nearly 200 homes, 3 nearby schools, a nursing home, and an apartment complex.[1] According to CSB, the fire at the facility detonated about 30 tons of ammonium nitrate. This event serves as a tragic reminder of the extent to which chemicals covered by the CFATS program can pose a risk to surrounding populations.

The DHS appropriations act for fiscal year 2007[2] required DHS to issue regulations to establish risk-based performance standards for securing facilities that possess, store, manufacture, or use chemicals that could be of interest to terrorists, among other things.[3] In 2007, DHS established the CFATS program to assess the risk posed by chemical facilities, place

[1]Rafael Moure-Eraso, Chairperson, U.S. Chemical Safety Board, testimony before the Senate Committee on Environment and Public Works, 113th Congress 1st Sess., June 27, 2013. The CSB is an independent federal agency charged with investigating industrial chemical accidents. The CSB board members are appointed by the President and confirmed by the Senate. According to the CSB website, CSB does not issue fines or citations, but makes recommendations to plants, regulatory agencies, industry organizations, and labor groups.

[2]Pub. L. No. 109-295, § 550, 120 Stat. 1355, 1388 (2006).

[3]The CFATS regulation establishes 18 risk-based performance standards that identify the areas for which a facility's security are to be examined, such as perimeter security, access control, and cyber security. To meet these standards, facilities are free to choose whatever security programs or processes they deem appropriate so long as DHS determines that the facilities achieve the requisite level of performance in each applicable standard.

facilities considered to be high-risk in one of four risk-based tiers, require high-risk facilities to develop security plans, review these plans, and inspect the facilities to ensure compliance with regulatory requirements. DHS's National Protection and Programs Directorate (NPPD) is responsible for the CFATS program. Within NPPD, the Infrastructure Security Compliance Division (ISCD), a division of the Office of Infrastructure Protection (IP), manages the program.

On February 6, 2014, congressman Meehan and other Members of the House of Representatives' Committee on Homeland Security, along with one member of the House of Representatives' Committee on Energy and Commerce, introduced H.R. 4007, the Chemical Facility Anti-Terrorism Standards Program Authorization and Accountability Act of 2014.[4] This bill would authorize the CFATS program for 2 years and would take effect 30 days after enactment. This bill includes provisions regarding multiple aspects of the CFATS program, including risk assessment, security plan reviews, and facility inspections. Among other things, H.R. 4007 would

- require DHS to consult with the heads of other federal agencies, states and political subdivisions and business associations to identify chemical facilities of interest;
- direct DHS to develop a risk assessment approach that includes all elements of risk, including threat data based on available intelligence, the vulnerability of the facility to terrorist attack, and consequence measurements including potential economic consequences;
- reaffirm the risk-based performance standard approach to facility security plans and the use of Alternative Security Programs[5]
- allow chemical facilities to utilize any federal screening program that periodically vets individuals against the terrorist screening database to satisfy the requirements of a personnel surety performance standard;[6]

[4]H.R. 4007, 113th Cong. (2014).

[5] Under current regulations, an Alternative Security Program (ASP) is a third-party, facility, or industry organization's security program that has been determined to meet the requirements of, and provides for an equivalent level of security to that established by the CFATS regulation. CFATS allows regulated chemical facilities to submit an ASP in lieu of a site security plan. 6 C.F.R. § 27.235.

[6]Personnel surety is one of the CFATS performance standards under which facilities are to perform background checks and ensure appropriate credentials for personnel and visitors as appropriate.

- authorize the use of non-department or non-government entities, with the Secretary's approval, for audits and inspections; and
- require us to submit a semiannual report to Congress containing our assessment of the implementation of the bill.

My testimony today summarizes our past work on the CFATS program and provides our observations on the status of DHS's efforts in four key areas—identifying facilities to be covered by CFATS, assessing risk and prioritizing covered facilities, reviewing facility security plans, and inspecting facilities to verify compliance with CFATS regulations. My statement is based on reports and testimonies we issued from July 2012 through August 2013 on various aspects of the CFATS program in addition to work we conducted in February 2014 to update the status of DHS actions related to these four areas.[7] To conduct our prior work, we reviewed applicable laws and regulations, as well as NPPD, IP, and ISCD policies and procedures for administering the CFATS program and conducting its mission. We interviewed senior ISCD officials along with NPPD and IP officials to obtain their views on the program and how ISCD assesses risk. We also reviewed ISCD documents and data on tiered facilities and the approach used to determine a facility's risk and assessed ISCD's process for reviewing security plans. Further details on the scope and methodology for the previously issued reports are available within each of the published products. To update our work, we met with senior ISCD officials and discussed status updates on the four areas (identifying facilities, assessing risk and prioritizating facilities, reviewing security plans, and inspecting facilities). Where possible, we also reviewed available documentation pertinent to each of the key areas. We provided a copy of new information in this statement to DHS for review. DHS confirmed the accuracy of this information.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions

[7]GAO, *Critical Infrastructure Protection: DHS Needs to Improve Its Risk Assessments and Outreach for Chemical Facilities,* GAO-13-801T (Washington, D.C.: Aug. 1, 2013); *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); *Critical Infrastructure Protection: DHS Is Taking Action to Better Manage Its Chemical Security Program, but It Is Too Early to Assess Results,* GAO-12-515T *(Washington, D.C.: July 26, 2012*).

based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Observations on DHS Efforts to Identify Facilities, Assess Risk, Review Security Plans, and Verify Compliance

Identifying Facilities Covered by CFATS

DHS has begun to take action to work with other agencies to identify facilities that are required to report their chemical holdings to DHS but may not have done so.

The first step of the CFATS process is focused on identifying facilities that might be required to participate in the program. The CFATS rule was published in April 2007,[8] and appendix A to the rule, published in November 2007, listed 322 chemicals of interest and the screening threshold quantities for each.[9] As a result of the CFATS rule, about 40,000 chemical facilities reported their chemical holdings and their quantities to DHS's ISCD.

In August 2013, we testified about the ammonium nitrate explosion at the chemical facility in West, Texas, in the context of our past CFATS work. Among other things, the hearing focused on whether the West, Texas, facility should have reported its holdings to ISCD given the amount of ammonium nitrate at the facility. During this hearing, the Director of the CFATS program remarked that throughout the existence of CFATS, DHS

[8]72 Fed. Reg. 17,688 (Apr. 9, 2007) (codified at 6 C.F.R. pt. 27).

[9]72 Fed. Reg. 65,396 (Nov. 20, 2007). According to DHS, CFATS covers facilities that manufacture chemicals as well as facilities that store or use certain chemicals as part of their daily operations. This can include food-manufacturing facilities that use chemicals of interest in the manufacturing process, universities that use chemicals to do experiments, or warehouses that store ammonium nitrate, among others.

had undertaken and continued to support outreach and industry engagement to ensure that facilities comply with their reporting requirements. However, the Director stated that the CFATS regulated community is large and always changing and DHS relies on facilities to meet their reporting obligations under CFATS. At the same hearing, a representative of the American Chemistry Council testified that the West, Texas, facility could be considered an "outlier" chemical facility, that is, a facility that stores or distributes chemical-related products, but is not part of the established chemical industry. Preliminary findings of the CSB investigation of the West, Texas, incident showed that although certain federal agencies that regulate chemical facilities may have interacted with the facility, the ammonium nitrate at the West, Texas, facility was not covered by these programs. For example, according to the findings, the Environmental Protection Agency's (EPA) Risk Management Program, which deals with the accidental release of hazardous substances, covers the accidental release of ammonia, but not ammonium nitrate.[10] As a result, the facility's consequence analysis considered only the possibility of an ammonia leak and not an explosion of ammonium nitrate.

On August 1, 2013, the same day as the hearing, the President issued Executive Order 13650–*Improving Chemical Facility Safety and Security*, which was intended to improve chemical facility safety and security in coordination with owners and operators.[11] The executive order established a Chemical Facility Safety and Security Working Group, composed of representatives from DHS; EPA; and the Departments of Justice, Agriculture, Labor, and Transportation, and directed the working group to identify ways to improve coordination with state and local partners; enhance federal agency coordination and information sharing; modernize policies, regulations and standards; and work with stakeholders to identify best practices. In February 2014, DHS officials told us that the working group has taken actions in the areas described in the executive order. For example, according to DHS officials, the working group has held listening sessions and webinars to increase stakeholder input, explored ways to share CFATS data with state and local partners to increase coordination, and launched a pilot program in New York and New Jersey aimed at increasing federal coordination and information sharing. DHS officials also said that the working group is exploring ways

[10]See 40 C.F.R. § 68.130.

[11]Exec. Order No. 13,650, 78 Fed. Reg. 48,029 (Aug. 1, 2013).

to better share information so that federal and state agencies can identify non-compliant chemical facilities and identify options to improve chemical facility risk management. This would include considering options to improve the safe and secure storage, handling, and sale of ammonium nitrate.

Assessing Risk and Prioritizing Facilities

DHS has also begun to take actions to enhance its ability to assess risk and prioritize facilities covered by the program.

For the second step of the CFATS process, facilities that possess any of the 322 chemicals of interest at levels at or above the screening threshold quantity must first submit data to ISCD via an online tool called a Top-Screen.[12] ISCD uses the data submitted in facilities' Top Screens to make an assessment as to whether facilities are covered under the program. If DHS determines that they are covered by CFATS, facilities are to then submit data via another online tool, called a security vulnerability assessment, so that ISCD can further assess their risk and prioritize the covered facilities.[13] ISCD uses a risk assessment approach to develop risk scores to assign chemical facilities to one of four final tiers. Facilities placed in one of these tiers (tier 1, 2, 3, or 4) are considered to be high risk, with tier 1 facilities considered to be the highest risk.[14] The risk score is intended to be derived from estimates of consequence (the adverse effects of a successful attack), threat (the likelihood of an attack), and vulnerability (the likelihood of a successful attack, given an attempt). ISCD's risk assessment approach is composed of three models, each based on a particular security issue: (1) release, (2) theft or diversion, and (3) sabotage, depending on the type of risk associated with the 322 chemicals. Once ISCD estimates a risk score based on these models, it assigns the facility to a final tier.

Our prior work showed that the CFATS program was using an incomplete risk assessment approach to assign chemical facilities to a final tier. Specifically, in April 2013, we reported that the approach ISCD used to assess risk and make decisions to place facilities in final tiers did not

[12]6 C.F.R. § 27.200(b)(2).

[13]6 C.F.R. §§ 27.215, .220.

[14]6 C.F.R. § 27.220

consider all of the elements of consequence, threat, and vulnerability associated with a terrorist attack involving certain chemicals. For example, the risk assessment approach was based primarily on consequences arising from human casualties, but did not consider economic criticality consequences, as called for by the 2009 National Infrastructure Protection Plan (NIPP)[15] and the CFATS regulation.[16] In April 2013, we reported that ISCD officials told us that, at the inception of the CFATS program, they did not have the capability to collect or process all of the economic data needed to calculate the associated risks and they were not positioned to gather all of the data needed. They said that they collected basic economic data as part of the initial screening process; however, they would need to modify the current tool to collect more sufficient data. We also found that the risk assessment approach did not consider threat for approximately 90 percent of tiered facilities. Moreover, for the facilities that were tiered using threat considerations, ISCD was using 5-year-old data. We also found that ISCD's risk assessment approach was not consistent with the NIPP because it did not consider vulnerability when developing risk scores. When assessing facility risk, ISCD's risk assessment approach treated every facility as equally vulnerable to a terrorist attack regardless of location and on-site security. As a result, in April 2013 we recommended that ISCD enhance its risk assessment approach to incorporate all elements of risk and conduct a peer review after doing so.

ISCD agreed with our recommendations, and in February 2014, ISCD officials told us that they were taking steps to address them and recommendations of a recently released Homeland Security Studies and Analysis Institute (HSSAI) report that examined the CFATS risk

[15]DHS, *National Infrastructure Protection Plan* (Washington, D.C.: June 2006). The NIPP sets forth the risk management framework for the protection and resilience of the nation's critical infrastructure. DHS updated the NIPP in January 2009 to include resiliency. See DHS, *National Infrastructure Protection Plan, Partnering to Enhance Protection and Resiliency* (Washington, D.C.: January 2009). Broadly defined, risk management is a process that helps policymakers assess risk, strategically allocate finite resources, and take actions under conditions of uncertainty. DHS further updated the NIPP, which is now called the National Plan, in December 2013. See DHS, *NIPP 2013, Partnering for Critical Infrastructure Security and Resilience* (Washington, D.C.: December 2013).

[16] The CFATS regulation states that chemical facilities covered by the rule are those that present a high risk of significant adverse consequences for human life or health, or critical economic assets, among other things, if subjected to terrorist attack, compromise, infiltration, or exploitation. 6 C.F.R. §§ 27.105, .205.

assessment model.[17] As with the findings in our report, HSSAI found, among other things, that the CFATS risk assessment model inconsistently considers risks across different scenarios and that the model does not adequately treat facility vulnerability. Overall, HSSAI recommended that ISCD revise the current risk-tiering model and create a standing advisory committee—with membership drawn from government, expert communities, and stakeholder groups—to advise DHS on significant changes to the methodology.

In February 2014, senior ISCD officials told us that they have developed an implementation plan that outlines how they plan to modify the risk assessment approach to better include all elements of risk while incorporating our findings and recommendations and those of HSSAI. Moreover, these officials stated that they have completed significant work with Sandia National Laboratory with the goal of including economic consequences into their risk tiering approach. They said that the final results of this effort to include economic consequences will be available in the summer of 2014. With regard to threat and vulnerability, ISCD officials said that they have been working with multiple DHS components and agencies, including the Transportation Security Administration and the Coast Guard, to see how they consider threat and vulnerability in their risk assessment models. ISCD officials said that they anticipate that the changes to the risk tiering approach should be completed within the next 12 to 18 months. We plan to verify this information as part of our recommendation follow-up process.

Reviewing of Facilities' Security Plans

DHS has begun to take action to lessen the time it takes to review site security plans which could help DHS reduce the backlog of plans awaiting review.

For the third step of the CFATS process, ISCD is to review facility security plans and their procedures for securing these facilities. Under the CFATS rule, once a facility is assigned a final tier, it is to submit a site security plan or participate in an alternative security program in lieu of a site

[17] Homeland Security Studies and Analysis Institute, *CFATS Tiering Methodology Peer Review* (For Official Use Only) (Falls Church, Virginia: October 2013). The Homeland Security Studies and Analysis Institute, operated by Analytic Services Inc. on behalf of DHS, is a federally funded research and development center providing independent analyses of homeland security issues.

security plan. The security plan is to describe security measures to be taken and how such measures are to address applicable risk-based performance standards.[18] After ISCD receives the site security plan, the plan is reviewed using teams of ISCD employees (i.e., physical, cyber, chemical, and policy specialists), contractors, and ISCD inspectors. If ISCD finds that the requirements are satisfied, ISCD issues a letter of authorization to the facility. After ISCD issues a letter of authorization to the facility, ISCD is to then inspect the facility to determine if the security measures implemented at the site comply with the facility's authorized plan. If ISCD determines that the site security plan is in compliance with the CFATS regulation, ISCD approves the site security plan, and issues a letter of approval to the facility, and the facility is to implement the approved site security plan.

In April 2013, we reported that it could take another 7 to 9 years before ISCD would be able to complete reviews of the approximately 3,120 plans in its queue at that time. As a result, we estimated that the CFATS regulatory regime, including compliance inspections (discussed in the next section), would likely not be implemented for 8 to 10 years. We also noted in April 2013 that ISCD had revised its process for reviewing facilities' site security plans. ISCD officials stated that they viewed ISCD's revised process to be an improvement because, among other things, teams of experts reviewed parts of the plans simultaneously rather than sequentially, as had occurred in the past. In April 2013, ISCD officials said that they were exploring ways to expedite the process, such as streamlining inspection requirements.

In February 2014, ISCD officials told us that they are taking a number of actions intended to lessen the time it takes to complete reviews of remaining plans including the following:

- providing updated internal guidance to inspectors and ISCD reviewers;
- updating the internal case management system;
- providing updated external guidance to facilities to help them better prepare their site security plans;

[18] 6 C.F.R. § 27.225.

- conducting inspections using one or two inspectors at a time over the course of 1 day, rather than multiple inspectors over the course of several days;
- conducting pre-inspection calls to the facility to help resolve technical issues beforehand;
- creating and leveraging the use of corporate inspection documents (i.e., documents for companies that have over seven regulated facilities in the CFATS program);[19]
- supporting the use of alternative security programs to help clear the backlog of security plans because, according to DHS officials, alternative security plans are easier for some facilities to prepare and use; and
- taking steps to streamline and revise some of the on-line data collection tools such as the site security plan to make the process faster.

It is too soon to tell whether DHS's actions will significantly reduce the amount of time needed to resolve the backlog of site security plans because these actions have not yet been fully implemented.

In April 2013, we also reported that DHS had not finalized the personnel surety aspect of the CFATS program. The CFATS rule includes a risk-based performance standard for personnel surety, which is intended to provide assurance that facility employees and other individuals with access to the facility are properly vetted and cleared for access to the facility. In implementing this provision, we reported that DHS intended to (1) require facilities to perform background checks on and ensure appropriate credentials for facility personnel and, as appropriate, visitors with unescorted access to restricted areas or critical assets, and (2) check for terrorist ties by comparing certain employee information with its terrorist screening database. However, as of February 2014, DHS had not finalized its information collection request that defines how the personal surety aspect of the performance standards will be implemented. Thus, DHS is currently approving facility security plans conditionally whereby plans are not to be finally approved until the personnel surety aspect of the program is finalized. According to ISCD officials, once the personal

[19]According to ISCD officials, these documents would be designed to provide examples of standard operating procedures regarding employee vetting, chemical handling, or security practices that are standard across corporations and that could be placed in a facility's file and expedite the inspection process.

surety performance standard is finalized, they plan to reexamine each conditionally approved plan. They would then make final approval as long as ISCD had assurance that the facility was in compliance with the personnel surety performance standard. As an interim step, in February 2014, DHS published a notice about its Information Collection Request (ICR) for personnel surety to gather information and comments prior to submitting the ICR to the Office of Management and Budget (OMB) for review and clearance.[20] According to ISCD officials, it is unclear when the personnel surety aspect of the CFATS program will be finalized.

During a March 2013 hearing on the CFATS program, industry officials discussed using DHS's Transportation Worker Identification Credential (TWIC) as one approach for implementing the personal surety program. The TWIC, which is also discussed in DHS's ICR, is a biometric credential[21] issued by DHS for maritime workers who require unescorted access to secure areas of facilities and vessels regulated under the Maritime Transportation Security Act of 2002 (MTSA).[22] In discussing TWIC in the context of CFATS during the August 2013 hearing, officials representing some segments of the chemical industry stated that they believe that using TWIC would lessen the reporting burden and stop facilities from having to submit additional personnel information to DHS while maintaining the integrity of the program. In May 2011, and May 2013, we reported that the TWIC program has some shortfalls—including challenges in development, testing, and implementation—that may limit

[20]79 Fed. Reg. 6418 (Feb. 3, 2014). DHS previously published a notice about the personnel surety ICR on March 22, 2013. 78 Fed. Reg. 17,680 (March 22, 2013).

[21]A biometric access control system consists of technology that determines an individual's identity by detecting and matching unique physical or behavioral characteristics, such as fingerprint or voice patterns, as a means of verifying personal identity.

[22]Pub. L. No. 107-295,116 Stat. 2064. The TWIC program is intended to provide a tamper-resistant biometric credential to maritime workers who require unescorted access to secure areas of facilities and vessels regulated under the MTSA. TWIC is to enhance the ability of MTSA-regulated facility and vessel owners and operators to control access to their facilities and verify workers' identities. Under current statute and regulation, maritime workers requiring unescorted access to secure areas of MTSA-regulated facilities or vessels are required to obtain a TWIC, and facility and vessel operators are required by regulation to visually inspect each worker's TWIC before granting unescorted access. 46 U.S.C. § 70105(a); 33 C.F.R. §§ 101.514, 104.265(c), 105.255(c). Prior to being granted a TWIC, maritime workers are required to undergo a background check, known as a security threat assessment. See 49 C.F.R § 1572.21.

its usefulness with regard to the CFATS program.[23] We recommended that DHS take steps to resolve these issues, including completing a security assessment that includes addressing internal controls weaknesses, among other things. The explanatory statement accompanying the Consolidated Appropriations Act, 2014, directed DHS to complete the recommended security assessment.[24] However, as of February 2014, DHS had not yet done the assessment, and although DHS had taken some steps to conduct an internal control review, it had not corrected all the control deficiencies identified in our report.

Inspecting to Verify Compliance with Facility Plans

DHS reports that it has begun to perform compliance inspections at regulated facilities. The fourth step in the CFATS process is compliance inspections by which ISCD determines if facilities are employing the measures described in their site security plans. During the August 1, 2013, hearing on the West, Texas, explosion, the Director of the CFATS program stated that ISCD planned to begin conducting compliance inspections in September 2013 for facilities with approved site security plans. The Director further noted that the inspections would generally be conducted approximately 1 year after plan approval. According to ISCD, as of February 24, 2014, ISCD had conducted 12 compliance inspections. ISCD officials stated that they have considered using third-party non-governmental inspectors to conduct inspections but thus far do not have any plans to do so.

In closing, we anticipate providing oversight over the issues outlined above and look forward to helping this and other committees of Congress continue to oversee the CFATS program and DHS's progress in implementing this program. Currently, the explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act, 2013, requires GAO to continue its ongoing effort to examine the extent to which DHS has made progress and encountered challenges in

[23]GAO, *Transportation Worker Identification Credential: Card Reader Pilot Results Are Unreliable; Security Benefits Need to Be Reassessed,* GAO-13-198 (Washington, D.C.: May 8, 2013); *Transportation Worker Identification Credential: Internal Control Weaknesses Need to Be Corrected to Help Achieve Security Objectives*, GAO-11-657 (Washington, D.C.: May 10, 2011).

[24]Explanatory statement accompanying the Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, 128 Stat. 5 (2014).

developing CFATS. Additionally, once the CFATS program begins performing and completing a sufficient number of compliance inspections, we are mandated review those inspections along with various aspects of them.[25] Moreover, Ranking Member Thompson of the Committee on Homeland Security has requested that we examine among other things, DHS efforts to assess information on facilities that submit data, but that DHS ultimately decides are not to be covered by the program.

Chairman Meehan, Ranking Member Clarke, and members of the subcommittee, this completes my prepared statement. I would be happy to respond to any questions you may have at this time.

GAO Contact and Staff Acknowledgments

For information about this statement please contact Stephen L. Caldwell, at (202) 512-9610 or CaldwellS@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Other individuals making key contributions to this and our prior work included John F. Mortin, Assistant Director; Jose Cardenas, Analyst-in-Charge; Chuck Bausell; Michele Fejfar; Jeff Jensen; Tracey King; Marvin McGill; Jessica Orr; Hugh Paquette, and Ellen Wolfe.

[25] Explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act, 2013, Pub. L. No. 113-6, 127 Stat. 198 (2013).