



Testimony

Before the Committee on Homeland
Security, House of Representatives

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**CRITICAL
INFRASTRUCTURE
PROTECTION**

**Progress and Challenges
in DHS's Management of
Its Chemical Facility
Security Program**

Statement of Nathan Anderson, Acting Director
Homeland Security and Justice

GAO Highlights

Highlights of [GAO-19-402T](#), a testimony before the Committee on Homeland Security, House of Representatives.

Why GAO Did This Study

Thousands of facilities across the United States contain hazardous chemicals that could be used by terrorists to inflict mass casualties or harm surrounding populations. In accordance with the DHS Appropriations Act, 2007, DHS established the CFATS program to, among other things, identify and assess the security risk posed by chemical facilities. DHS inspects high-risk facilities after it approves facility security plans to ensure that the facilities are implementing required security measures and procedures.

This statement summarizes progress and challenges related to DHS's CFATS program management. This statement is based on prior products GAO issued from July 2012 through August 2018, along with updates as of September 2018 on actions DHS has taken to address GAO's prior recommendations. To conduct the prior work, GAO reviewed relevant laws, regulations, and DHS policies for administering the CFATS program; how DHS assesses risk; and data on high-risk chemical facilities. GAO also interviewed DHS officials and relevant stakeholders.

What GAO Recommends

GAO has made various recommendations to strengthen DHS's management of the CFATS program, with which DHS has generally agreed. DHS has implemented or described planned actions to address these recommendations.

View [GAO-19-402T](#). For more information, contact Nathan Anderson at (202) 512-3841 or andersonn@gao.gov.

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CRITICAL INFRASTRUCTURE PROTECTION

Progress and Challenges in DHS's Management of Its Chemical Facility Security Program

What GAO Found

The Department of Homeland Security (DHS) has made progress addressing challenges that GAO's past work identified to managing the Chemical Facility Anti-Terrorism Standards (CFATS) program. The following summarizes progress made and challenges remaining in key aspects of the program.

Identifying high-risk chemical facilities. In July 2015, GAO reported that DHS used self-reported and unverified data to determine the risk of facilities holding toxic chemicals that could threaten surrounding communities if released. GAO recommended that DHS should better verify the accuracy of facility-reported data. DHS implemented this recommendation by revising its methodology so it now calculates the risk of toxic release, rather than relying on facilities to do so.

Assessing risk and prioritizing facilities. In April 2013, GAO reported weaknesses in multiple aspects of DHS's risk assessment and prioritization approach. To improve this process, GAO recommended that DHS enhance its risk assessment approach to incorporate all elements of risk and conduct a peer review after doing so. DHS implemented both recommendations by revising the CFATS risk assessment methodology to include threat, vulnerability, and consequence to better cover the range of security issues, and conducting peer reviews and technical reviews to verify and validate the CFATS program's new risk assessment approach.

Reviewing and approving facility site security plans. DHS is to review facility security plans to ensure their security measures meet DHS standards. In April 2013, GAO reported a 7- to 9-year backlog for these reviews. In July 2015, GAO reported that DHS had made substantial progress in addressing the backlog—estimating that it could take between 9 and 12 months for DHS to review and approve security plans for the approximately 900 remaining facilities. DHS has since taken additional action to expedite these activities and has eliminated this backlog.

Inspecting facilities and ensuring compliance. In July 2015, GAO found that nearly half of the facilities DHS had inspected were not fully compliant with their approved security plans and that DHS did not have documented procedures for managing facilities' compliance. GAO recommended that DHS document procedures for managing compliance. DHS revised CFATS procedures that, as of February 2019, GAO is reviewing to determine if they sufficiently address the recommendation.

Conducting stakeholder and first responder outreach. In August 2018, GAO reported that DHS shares some CFATS information with first responders and emergency planners but these stakeholders may not have all of the information they need to minimize the risk of injury or death when responding to incidents at high-risk facilities. GAO recommended that DHS should, among other things, take actions to explore opportunities to improve information-sharing with first responders and emergency planners. DHS concurred with this recommendation and reported in September 2018 that it is conducting additional outreach and taking other actions to implement it.

Chairman Thompson, Ranking Member Rogers, and Members of the Committee:

Thank you for the opportunity to discuss our past work on the Department of Homeland Security's (DHS) efforts to manage its Chemical Facility Anti-Terrorism Standards (CFATS) program. Thousands of facilities that produce, use, or store hazardous chemicals could be of particular interest to terrorists who might seek to use toxic chemicals to inflict mass casualties in the United States. These chemicals could be released from a facility to cause harm to surrounding populations; they could be stolen and used as chemical weapons or as their precursors (the ingredients for making chemical weapons); or they could be stolen and used to build an improvised explosive device. Past incidents remind us of the danger that these chemicals pose, including the 2013 ammonium nitrate explosion at a fertilizer storage and distribution facility in West, Texas, which killed at least 14 people and damaged or destroyed at least 200 homes, and the 1995 domestic terrorist attack on the federal building in Oklahoma City, Oklahoma, where 168 people were killed using ammonium nitrate fertilizer mixed with fuel oil.

The Department of Homeland Security Appropriations Act, 2007, required DHS to issue regulations to establish risk-based performance standards (performance standards) for securing high-risk chemical facilities.¹ DHS subsequently established the CFATS program in 2007 to, among other things, identify high-risk chemical facilities and assess the risk posed by them; place facilities considered to be high-risk into one of four risk-based tiers (with tier 1 being the highest risk tier and 4 being the lowest); assess facility security; approve security plans prepared by facilities; and inspect facilities to ensure compliance with regulatory requirements.² DHS's CFATS rule established 18 performance standards that identify the areas for which a facility's security posture are to be examined, such as perimeter security, access control, and cyber security.³ 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 of the applicable areas. The Protecting and Securing Chemical Facilities from

¹Pub. L. No. 109-295, § 550, 120 Stat.1335, 1388-89 (2006).

²See 72 Fed. Reg. 17,688 (Apr. 9, 2007) (codified as amended at 6 C.F.R. pt. 27).

³DHS has enumerated 18 risk-based performance standards that chemical facilities must meet to comply with CFATS. See 6 C.F.R. § 27.230.

Terrorist Attacks Act of 2014 (CFATS Act of 2014), enacted in December 2014, in effect, reauthorized the CFATS program for an additional 4 years, while also imposing additional implementation requirements on DHS for the program.⁴ In January 2019, the Chemical Facility Anti-Terrorism Standards Program Extension Act, was enacted and extended the authorization by 15 months.⁵

DHS's Cybersecurity and Infrastructure Security Agency's Infrastructure Security Compliance Division (ISCD) manages the CFATS program. According to DHS, the department received approximately \$911 million for the CFATS program for the period beginning fiscal year 2007 through fiscal year 2018.

My testimony today summarizes our past work examining DHS's management of the CFATS program, and provides updates on actions DHS has taken to address our prior recommendations. This testimony is based on our reports issued from July 2012 through August 2018.⁶ For

⁴See Pub. L. No. 113-254, 128 Stat. 2898 (2014); 6 U.S.C. §§ 621-629. The act amended the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), as amended, by adding Title XXI—Chemical Facility Anti-Terrorism Standards—and expressly repealing the program's authority under the fiscal year 2007 DHS appropriations act.

⁵See Pub. L. No. 116-2, 113 Stat. 5 (2019).

⁶GAO, *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); *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 Efforts to Identify, Prioritize, Assess, and Inspect Chemical Facilities*, [GAO-14-365T](#) (Washington, D.C.: Feb. 27, 2014); *Critical Infrastructure Protection: Observations on DHS Efforts to Implement and Manage Its Chemical Security Program*, [GAO-14-608T](#) (Washington, D.C.: May 14, 2014); *Chemical Safety: Actions Needed to Improve Federal Oversight of Facilities with Ammonium Nitrate*, [GAO-14-274](#) (Washington, D.C.: May 19, 2014); *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); *Critical Infrastructure Protection: Improvements Needed for DHS's Chemical Facility Whistleblower Report Process*, [GAO-16-572](#), (Washington, D.C.: Jul 12, 2016); *Critical Infrastructure Protection: DHS Has Implemented Its Chemical Security Expedited Approval Program and Participation Has Been Limited*, [GAO-17-502](#) (Washington, D.C.: June 29, 2017); *Critical Infrastructure Protection: Progress and Challenges in DHS's Management of Its Chemical Facility Security Program*, [GAO-18-613T](#) (Washington, D.C.: June 14, 2018); and *Critical Infrastructure Protection: DHS Should Take Actions to Measure Reduction in Chemical Facility Vulnerability and Share Information with First Responders*, [GAO-18-538](#) (Washington, D.C.: Aug. 8, 2018).

these reports, we reviewed applicable laws and regulations, DHS policies and procedures, DHS data on tiered facilities, information on the approach DHS used to determine a facility's risk, and process for reviewing security plans. We also interviewed DHS officials about how facilities are placed in risk-based tiers, how DHS assesses risk, and how it reviews and approves facility security plans. Additional details on the scope and methodology are available in our published reports. In addition, this statement contains updates as of September 2018 from DHS on actions it has taken to address the recommendations made in our prior reports.

The work upon which this statement is based was conducted 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 based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

DHS Has Made Progress Addressing Past Challenges, But Some Actions are Still Under Way

Our past work has identified progress and challenges in a number of areas related to DHS's management of the CFATS program, including (1) the process for identifying high-risk chemical facilities; (2) how it assesses risk and prioritizes facilities; (3) reviewing and approving facility site security plans; (4) inspecting facilities and ensuring compliance; and (5) efforts to conduct outreach with stakeholders and first responders.

Identifying High-Risk Chemical Facilities

In May 2014, we found that more than 1,300 facilities had reported having ammonium nitrate to DHS. However, based on our review of state data and records, there were more facilities with ammonium nitrate holdings than those that had reported to DHS under the CFATS program.⁷ Thus, we concluded that some facilities weren't required to report to DHS and

⁷GAO-14-274. We reviewed Emergency Planning and Community Right-to-Know Act of 1986 data from Texas and Alabama, which have different reporting criteria than CFATS. Under section 312 of the act and Environmental Protection Agency's regulations, facilities with 10,000 pounds or more of ammonium nitrate generally must submit an annual chemical inventory report to their designated state and local authorities. 42 U.S.C. § 11022, 40 C.F.R. § 370.10(a)(2)(i).

some that were required may have failed to do so.⁸ We recommended that DHS work with other agencies, including the Environmental Protection Agency (EPA), to develop and implement methods of improving data sharing among agencies and with states as members of a Chemical Facility Safety and Security Working Group.⁹ DHS agreed with our recommendation and has since addressed it. Specifically, DHS compared DHS data with data from other federal agencies, such as EPA, as well as member states from the Chemical Facility Safety and Security Working Group to identify potentially noncompliant facilities. As a result of this effort, in July 2015, DHS officials reported that they had identified about 1,000 additional facilities that should have reported information to comply with CFATS and subsequently contacted these facilities to ensure compliance. DHS officials told us that they continue to engage with states to identify potentially non-compliant facilities. For example, as of June 2018, DHS officials stated that they have received 43 lists of potentially noncompliant facilities from 34 state governments, which are in various stages of review by DHS. DHS officials also told us that they hired an individual to serve as the lead staff member responsible for overseeing this effort.

DHS has also taken action to strengthen the accuracy of data it uses to identify high-risk facilities. In July 2015, we found that DHS used self-reported and unverified data to determine the risk categorization for facilities that held toxic chemicals that could threaten surrounding

⁸Consistent with law and regulation, certain facilities—including, in general, facilities regulated under the Maritime Transportation Security Act of 2002 (Public Law 107-295, 116 Stat. 2064), public water systems or wastewater treatment facilities, facilities owned and operated by the Department of Defense or the Department of Energy, and facilities subject to regulation by the Nuclear Regulatory Commission or in accordance with the Atomic Energy Act of 1954—are not subject to regulation under CFATS and are referred to as excluded facilities. See 6 U.S.C. § 621(4); 6 C.F.R. § 27.110(b). In addition, pursuant to its authority under 6 C.F.R. § 27.210(c), DHS has extended the deadline for submitting CFATS reports until further notice for certain agricultural production facilities, such as farms, ranches, turfgrass growers, golf courses, nurseries, and public and private parks. See Notice to Agricultural Facilities About Requirement To Complete DHS' Chemical Security Assessment Tool, 73 Fed. Reg. 1640 (Jan. 9, 2008).

⁹Executive Order 13650—*Improving Chemical Facility Safety and Security* 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. See Exec. Order No. 13,650 (Aug. 1, 2013), 78 Fed. Reg. 48,029 (Aug. 7, 2013).

communities if released.¹⁰ At the time, DHS required that facilities self-report the Distance of Concern—an area in which exposure to a toxic chemical cloud could cause serious injury or fatalities from short-term exposure—as part of its Top-Screen.¹¹ We estimated that more than 2,700 facilities with a toxic release threat had misreported the Distance of Concern and therefore recommended that DHS (1) develop a plan to implement a new Top-Screen to address errors in the Distance of Concern submitted by facilities, and (2) identify potentially miscategorized facilities that could cause the greatest harm and verify that the Distance of Concern of these facilities report is accurate.¹² DHS has fully addressed both of these recommendations. Specifically, in response to the first recommendation, DHS implemented an updated Top-Screen survey in October 2016 and now collects data from facilities and conducts more accurate modeling to determine the actual area of impact (formerly called the Distance of Concern), rather than relying on the facilities' calculation. In response to the second recommendation, DHS officials reported in November 2016 that they reassessed all facility Top-Screens that reported threshold quantities of chemicals posing a toxic release threat, and identified 158 facilities with the potential to cause the greatest harm. In April 2018, DHS officials reported that all of these facilities have since been reassessed using updated Top-Screen information and, where appropriate, assigned a risk tier.

Assessing Risk and Prioritizing Facilities

DHS has also taken actions to better assess regulated facilities' risks in order to place the facilities into the appropriate risk tier. In April 2013, we reported that DHS's risk assessment approach did not consider all of the

¹⁰[GAO-15-614](#).

¹¹Any chemical facility that possesses any of the 322 chemicals in the quantities that meet or exceed the threshold quantity or concentration outlined in Appendix A to the DHS CFATS rule is required to complete the Chemical Security Assessment Tool (CSAT) Top Screen—which is the initial screening tool or document whereby the facility is to provide DHS various data, including the name and location of the facility and the chemicals and their quantities at the site. See 6 C.F.R. § 27.200(b); see also 72 Fed. Reg. 65,396 (Nov. 20, 2007) (codified at 6 C.F.R. pt. 27, App. A).

¹²We recalculated the Distance of Concern for a generalizable sample of facilities—a simple random sample of 475 facilities from the population of 36,811 facilities that submitted Top-Screens since the inception of the CFATS program in 2007 through January 2, 2015—and compared these results to what facilities reported in their Top-Screen submission. Based upon this sample, we estimated that 4,173 facilities with a toxic release chemical misreported the Distance of Concern, with an associated 95 percent confidence interval of 2,798 to 5,822 facilities.

elements of threat, vulnerability, and consequence associated with a terrorist attack involving certain chemicals. Our work showed that DHS's CFATS risk assessment methodology was based primarily on consequences from human casualties, but did not consider economic consequences, as called for by the National Infrastructure Protection Plan (NIPP) and the CFATS regulation. We also found that (1) DHS's approach was not consistent with the NIPP because it treated every facility as equally vulnerable to a terrorist attack regardless of location or on-site security and (2) DHS was not using threat data for 90 percent of the tiered facilities—those tiered for the risk of theft or diversion—and using 5-year-old threat data for the remaining 10 percent of those facilities that were tiered for the risks of toxic chemical release or sabotage. We recommended that DHS enhance its risk assessment approach to incorporate all elements of risk and conduct an independent peer review after doing so. DHS agreed with our recommendations and has implemented actions to address both of them.

Specifically, with regard to our recommendation that DHS enhance its risk assessment approach to incorporate all elements of risk, DHS worked with Sandia National Laboratories to develop a model to estimate the economic consequences of a chemical attack. In addition, DHS worked with Oak Ridge National Laboratory to devise a new tiering methodology, called the Second Generation Risk Engine. In so doing, DHS revised the CFATS threat, vulnerability, and consequence scoring methods to better cover the range of CFATS security issues. Additionally, with regard to our recommendation that DHS conduct a peer review after enhancing its risk assessment approach, DHS conducted peer reviews and technical reviews with government organizations and facility owners and operators, and worked with Sandia National Laboratories to verify and validate the CFATS program's revised risk assessment methodology.

To further enhance its risk assessment approach, in the fall of 2016, DHS also revised its Chemical Security Assessment Tool (CSAT), which supports DHS efforts to gather information from facilities to assess their risk. According to DHS officials, the new tool—called CSAT 2.0—is intended to eliminate duplication and confusion associated with DHS's original CSAT. DHS officials told us that they have improved the tool by revising some questions in the original CSAT to make them easier to understand; eliminating some questions; and pre-populating data from one part of the tool to another so that users do not have to retype the same information multiple times. DHS officials also told us that the facilities that have used the CSAT 2.0 have provided favorable feedback that the new tool is more efficient and less burdensome than the original

CSAT. Finally, DHS officials told us that, as of June 2018, DHS completed all notifications and processed tiering results for all but 226 facilities. DHS officials did not provide an estimated target completion date for these pending risk assessments, noting that completing the assessments is highly dependent on the facilities providing the necessary Top-Screen information.

Reviewing and Approving Facility Site Security Plans

DHS has also made progress reviewing and approving facility site security plans by reducing the time it takes to review these plans and eliminating the backlog of plans awaiting review. In April 2013, we reported that DHS revised its procedures for reviewing facilities' security plans to address DHS managers' concerns that the original process was slow, overly complicated, and caused bottlenecks in approving plans.¹³ We estimated that it could take DHS another 7 to 9 years to review the approximately 3,120 plans in its queue at that time. We also estimated that, given the additional time needed to do compliance inspections, the CFATS program would likely be implemented in 8 to 10 years. We did not make any recommendations for DHS to improve its procedures for reviewing facilities' security plans because DHS officials reported that they were exploring ways to expedite the process, such as reprioritizing resources and streamlining inspection requirements. In July 2015, we reported that DHS had made substantial progress in addressing the backlog—estimating that it could take between 9 and 12 months for DHS to review and approve security plans for the approximately 900 remaining facilities.¹⁴ DHS officials attributed the increased approval rate to efficiencies in DHS's review process, updated guidance, and a new case management system. Subsequently, DHS reported in its December 2016 semi-annual report to Congress that it had eliminated its approval backlog.¹⁵

Finally, we found in our 2017 review that DHS took action to implement an Expedited Approval Program (EAP).¹⁶ The CFATS Act of 2014

¹³[GAO-13-353](#).

¹⁴[GAO-15-614](#).

¹⁵Department of Homeland Security, National Protection and Programs Directorate, *Implementation Status of the Chemical Facility Anti-Terrorism Standards: Second Semiannual, Fiscal Year 2016 Report to Congress* (Washington, D.C.: December 9, 2016).

¹⁶[GAO-17-502](#).

required that DHS create the EAP as another option that tier 3 and tier 4 chemical facilities may use to develop and submit security plans to DHS.¹⁷ Under the program, these tier 3 and 4 facilities may develop a security plan based on specific standards published by DHS (as opposed to the more flexible performance standards using the standard, non-expedited process). DHS issued guidance intended to help facilities prepare and submit their EAP security plans to DHS, which includes an example that identifies prescriptive security measures that facilities are to have in place. According to committee report language, the EAP was expected to reduce the regulatory burden on smaller chemical companies, which may lack the compliance infrastructure and the resources of large chemical facilities, and help DHS to process security plans more quickly.¹⁸ If a tier 3 or 4 facility chooses to use the expedited option, DHS is to review the plan to determine if it is facially deficient, pursuant to the reporting requirements of the CFATS Act of 2014.¹⁹ If DHS approves the EAP site security plan, it is to subsequently conduct a compliance inspection.

In 2017, we found that DHS had implemented the EAP and had reported to Congress on the program, as required by the CFATS Act of 2014.²⁰ In

¹⁷See 6 U.S.C. § 622(c)(4). 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 security plan. An alternative security program is a third-party or industry organization program, a local authority, state, or federal government program, or any element or aspect thereof that DHS determines meets the requirements of the regulation and provides an equivalent level of security to that established by the regulation. See 6 C.F.R. § 27.105. Chemical facilities assessed by DHS and considered to be high-risk are placed into one of four risk-based tiers (with tier 1 being the highest risk tier and 4 being the lowest).

¹⁸S. Rep. No. 113-263, at 9-10 (Sept. 18, 2014).

¹⁹A facially deficient site security plan is defined as a security plan that does not support a certification that the security measures in the plan address the security vulnerability assessment and risk-based performance standards, based on a review of the facility's site security plan, the facility's Top-Screen, the facility's security vulnerability assessment, or any other information that the facility submits to ISCD or ISCD obtains from a public source or other source. 6 U.S.C. § 621(7). Specifically, ISCD determines that an EAP site security plan is deficient if it: does not include existing or planned measures which satisfy applicable Risk Based Performance Standard; materially deviates from at least one EAP security measure without adequately explaining that the facility has a comparable security measure; and/or contains a misrepresentation, omission, or inaccurate description of at least one EAP security measure. A facility is to implement any planned security measures within 12 months of the EAP site security plan's approval because ISCD has determined that it is unlikely that all required security measures will be in place when a facility submits its plan to ISCD.

²⁰[GAO-17-502](#).

addition, as of June 2018, according to DHS officials, only 18 of the 3,152 facilities eligible to use the EAP had opted to use it. DHS officials attributed the low participation to several possible factors including:

- DHS had implemented the expedited program after most eligible facilities already submitted standard (non-expedited) security plans to DHS;
- facilities may consider the expedited program's security measures to be too strict and prescriptive, not providing facilities the flexibility of the standard process; and
- the lack of an authorization inspection may discourage some facilities from using the expedited program because this inspection provides useful information about a facility's security.²¹

We also found in 2017 that recent changes made to the CFATS program could affect the future use of the expedited program.²² As discussed previously, DHS has revised its methodology for determining the level of each facility's security risk, which could affect a facility's eligibility to participate in the EAP.

Inspecting Facilities and Ensuring Compliance

In our July 2015 report, we found that DHS began conducting compliance inspections in September 2013, and by April 2015, had conducted inspections of 83 of the inspected 1,727 facilities that had approved security plans.²³ Our analysis showed that nearly half of the facilities were not fully compliant with their approved site security plans and that DHS had not used its authority to issue penalties because DHS officials found it more productive to work with facilities to bring them into compliance. We also found that DHS did not have documented processes and procedures for managing the compliance of facilities that had not implemented planned measures by the deadlines outlined in their plans. We recommended that DHS document processes and procedures for managing compliance to provide more reasonable assurance that facilities implement planned measures and address security gaps. DHS

²¹An authorization inspection consists of an initial, physical review of the facility to determine if the Top-Screen, security vulnerability assessment, and site security plan accurately represent and address the risks for the facility.

²²[GAO-17-502](#).

²³[GAO-15-614](#).

agreed and has since taken steps toward implementing this recommendation. Specifically, DHS revised CFATS Standard Operating Procedures that, as of February 2019, we are reviewing to determine if they sufficiently document the processes and procedures currently being used to track noncompliant facilities and ensure facilities implement planned measures as outlined in their approved site security plans.

In August 2018, we reported that our analysis of DHS data since our 2015 report showed that DHS has made substantial progress in conducting and completing compliance inspections.²⁴ Specifically, our analysis showed that DHS increased the number of compliance inspections completed per year since DHS began conducting compliance inspections in 2013 and that, for the 2,466 high-risk facilities with an approved site security plan as of May 2018, DHS had conducted 3,553 compliance inspections.²⁵ Of these, DHS issued corrective actions to two facilities that were not in compliance with their approved site security plan.²⁶

In our August 2018 report, we also found that DHS developed a new methodology and performance measure for the CFATS program in order to evaluate security changes made by high-risk chemical facilities, but that the methodology does not measure the program's impact on reducing a facility's vulnerability to an attack. We found that DHS could take steps to evaluate vulnerability reduction resulting from the CFATS compliance inspection process. We recommended that DHS incorporate vulnerability into the new methodology to help measure the reduction in the vulnerability of high-risk facilities to a terrorist attack, and use that data in assessing the CFATS program's performance in lowering risk and enhancing national security. DHS agreed and is taking steps to implement this recommendation. Specifically, in September 2018, DHS reported making progress towards the implementation of two new

²⁴[GAO-18-538](#).

²⁵In accordance with the CFATS regulations, as a general matter, DHS intends to require facilities in Tiers 1 and 2 to update their Top-Screen every 2 years, and for Tiers 3 and 4 every 3 years. DHS conducts compliance inspections on a regular and recurring basis. DHS officials stated that compliance inspections are prioritized based on several factors including tier and the number of planned security enhancements required at facilities.

²⁶In addition to these two corrective actions, we reported in August 2018 that, since fiscal year 2015, DHS has issued five additional orders to four high-risk facilities with final penalties totaling \$38,691.88. Of these five orders, three included the failure of a facility to submit an approvable security plan and two included the failure of a facility to submit a Top-Screen.

performance metrics by the end of the first quarter of fiscal year 2019. DHS officials stated that these metrics should, among other things, evaluate the progress of individual facilities in enhancing their security while part of the CFATS program and be used to demonstrate an increase in the security posture across the population of CFATS facilities.

Conducting Stakeholder and First Responder Outreach

In April 2013, we reported that DHS took various actions to work with facility owners and operators, including increasing the number of visits to facilities to discuss enhancing security plans, but that some trade associations had mixed views on the effectiveness of DHS's outreach.²⁷ We found that DHS solicited informal feedback from facility owners and operators in its efforts to communicate and work with them, but did not have an approach for obtaining systematic feedback on its outreach activities. We recommended that DHS take action to solicit and document feedback on facility outreach consistent with DHS efforts to develop a strategic communication plan. DHS agreed and has implemented this recommendation by developing a questionnaire to solicit feedback on outreach with industry stakeholders and began using the questionnaire in October 2016.

In August 2018, we reported that DHS shares some CFATS information with first responders and emergency planners, but these stakeholders may not have all of the information they need to minimize the risk of injury or death when responding to incidents at high-risk facilities.²⁸ While certain facilities are required under the Emergency Planning and Community Right-to-Know Act of 1986 to report some chemical inventory information, which local officials told us they rely on to prepare for and respond to incidents at chemical facilities, we found over 200 chemicals covered by CFATS that may not be covered by these reporting requirements.²⁹ We also reported that DHS developed a secure interface called the Infrastructure Protection (IP) Gateway that provides access to CFATS facility-specific information that may be missing from required

²⁷ [GAO-13-353](#).

²⁸ [GAO-18-538](#).

²⁹ Under Section 312 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), facilities are required to submit an emergency and hazardous chemical inventory form—referred to as a Tier II form. See 42 U.S.C. § 11022. The purpose of this form is to provide state and local officials and the public with specific information on potential hazards. This includes the locations and amount of hazardous chemicals present at a facility during the previous calendar year.

reporting. However, we found that the IP Gateway is not widely used at the local level and officials from 13 of 15 selected Local Emergency Planning Committees we contacted—consisting of first responders and covering 373 CFATS high-risk facilities—said they did not have access to CFATS data in the IP Gateway. We recommended that DHS should take actions to encourage access to and wider use of the IP Gateway and explore other opportunities to improve information-sharing with first responders and emergency planners. DHS concurred with this recommendation and reported in September 2018 that they are taking actions to implement it. Specifically, DHS has revised three fact sheets and an outreach presentation to include information on the IP Gateway and how to request access to it. In addition, DHS plans to ensure contact is made with first responders representing the top 25 percent of CFATS high-risk chemical facilities by no later than March 2019 so that they are properly prepared to respond to incidents at these facilities.

Chairman Thompson, Ranking Member Rogers, and Members of the Committee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgements

If you or your staff members have any questions about this testimony, please contact me at (202) 512-3841 or andersonn@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 work include Ben Atwater, Assistant Director; Hugh Paquette, Analyst-in-Charge; Chuck Bausell, Michele Fejfar, Tracey King, and Tom Lombardi.

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Website: <https://www.gao.gov/fraudnet/fraudnet.htm>

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800, U.S. Government Accountability Office, 441 G Street NW, Room 7149, Washington, DC 20548

Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707, U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548

