

(d) Right of action

Nothing in this subchapter confers upon any person except the Secretary or his or her designee a right of action against an owner or operator of a covered chemical facility to enforce any provision of this subchapter.

(Pub. L. 107-296, title XXI, §2104, as added Pub. L. 113-254, §2(a), Dec. 18, 2014, 128 Stat. 2912; amended Pub. L. 115-278, §2(g)(8)(B), Nov. 16, 2018, 132 Stat. 4180.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113-254, see Effective and Termination Dates note below.

AMENDMENTS

2018—Subsec. (c)(2). Pub. L. 115-278 substituted “Director of Cybersecurity and Infrastructure Security” for “Under Secretary responsible for overseeing critical infrastructure protection, cybersecurity, and other related programs of the Department appointed under section 113(a)(1)(H) of this title”.

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on the date that is 4 years after such effective date, see sections 4(a) and 5 of Pub. L. 113-254, set out as notes under section 621 of this title.

§ 625. Whistleblower protections**(a) Procedure for reporting problems****(1) Establishment of a reporting procedure**

Not later than 180 days after December 18, 2014, the Secretary shall establish, and provide information to the public regarding, a procedure under which any employee or contractor of a chemical facility of interest may submit a report to the Secretary regarding a violation of a requirement under this subchapter.

(2) Confidentiality

The Secretary shall keep confidential the identity of an individual who submits a report under paragraph (1) and any such report shall be treated as a record containing protected information to the extent that the report does not consist of publicly available information.

(3) Acknowledgment of receipt

If a report submitted under paragraph (1) identifies the individual making the report, the Secretary shall promptly respond to the individual directly and shall promptly acknowledge receipt of the report.

(4) Steps to address problems

The Secretary—

(A) shall review and consider the information provided in any report submitted under paragraph (1); and

(B) may take action under section 624 of this title if necessary to address any substantiated violation of a requirement under this subchapter identified in the report.

(5) Due process for facility owner or operator**(A) In general**

If, upon the review described in paragraph (4), the Secretary determines that a violation of a provision of this subchapter, or a

regulation prescribed under this subchapter, has occurred, the Secretary may—

(i) institute a civil enforcement under section 624(a) of this title; or

(ii) if the Secretary makes the determination under section 624(c) of this title, issue an emergency order.

(B) Written orders

The action of the Secretary under paragraph (4) shall be in a written form that—

(i) describes the violation;

(ii) states the authority under which the Secretary is proceeding; and

(iii) describes the standards and procedures for obtaining relief from the order.

(C) Opportunity for review

After taking action under paragraph (4), the Secretary shall provide for review of the action if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(D) Expiration of effectiveness of order

If a petition for review of an action is filed under subparagraph (C) and the review under that subparagraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the violation providing a basis for the action continues to exist.

(6) Retaliation prohibited**(A) In general**

An owner or operator of a chemical facility of interest or agent thereof may not discharge an employee or otherwise discriminate against an employee with respect to the compensation provided to, or terms, conditions, or privileges of the employment of, the employee because the employee (or an individual acting pursuant to a request of the employee) submitted a report under paragraph (1).

(B) Exception

An employee shall not be entitled to the protections under this section if the employee—

(i) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

(ii) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

(b) Protected disclosures

Nothing in this subchapter shall be construed to limit the right of an individual to make any disclosure—

(1) protected or authorized under section 2302(b)(8) or 7211 of title 5;

(2) protected under any other Federal or State law that shields the disclosing individual against retaliation or discrimination for having made the disclosure in the public interest; or

(3) to the Special Counsel of an agency, the inspector general of an agency, or any other

employee designated by the head of an agency to receive disclosures similar to the disclosures described in paragraphs (1) and (2).

(c) Publication of rights

The Secretary, in partnership with industry associations and labor organizations, shall make publicly available both physically and online the rights that an individual who discloses information, including security-sensitive information, regarding problems, deficiencies, or vulnerabilities at a covered chemical facility would have under Federal whistleblower protection laws or this subchapter.

(d) Protected information

All information contained in a report made under this subsection (a)¹ shall be protected in accordance with section 623 of this title.

(Pub. L. 107–296, title XXI, §2105, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2914.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on the date that is 4 years after such effective date, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 626. Relationship to other laws

(a) Other Federal laws

Nothing in this subchapter shall be construed to supersede, amend, alter, or affect any Federal law that—

(1) regulates (including by requiring information to be submitted or made available) the manufacture, distribution in commerce, use, handling, sale, other treatment, or disposal of chemical substances or mixtures; or

(2) authorizes or requires the disclosure of any record or information obtained from a chemical facility under any law other than this subchapter.

(b) States and political subdivisions

This subchapter shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this section, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this section and the law of that State.

(Pub. L. 107–296, title XXI, §2106, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2915.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

¹ So in original.

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on the date that is 4 years after such effective date, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 627. CFATS regulations

(a) General authority

The Secretary may, in accordance with chapter 5 of title 5, promulgate regulations or amend existing CFATS regulations to implement the provisions under this subchapter.

(b) Existing CFATS regulations

(1) In general

Notwithstanding section 4(b) of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, each existing CFATS regulation shall remain in effect unless the Secretary amends, consolidates, or repeals the regulation.

(2) Repeal

Not later than 30 days after December 18, 2014, the Secretary shall repeal any existing CFATS regulation that the Secretary determines is duplicative of, or conflicts with, this subchapter.

(c) Authority

The Secretary shall exclusively rely upon authority provided under this subchapter in—

- (1) determining compliance with this subchapter;
- (2) identifying chemicals of interest; and
- (3) determining security risk associated with a chemical facility.

(Pub. L. 107–296, title XXI, §2107, as added Pub. L. 113–254, §2(a), Dec. 18, 2014, 128 Stat. 2916.)

TERMINATION OF SECTION

For termination of section by section 5 of Pub. L. 113–254, see Effective and Termination Dates note below.

REFERENCES IN TEXT

Section 4(b) of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, referred to in subsec. (b)(1), is section 4(b) of Pub. L. 113–254, Dec. 18, 2014, 128 Stat. 2919, which repealed section 550 of Pub. L. 109–295, formerly set out as a Regulations note under section 121 of this title, effective as of the date that is 30 days after Dec. 18, 2014.

EFFECTIVE AND TERMINATION DATES

Section effective on the date that is 30 days after Dec. 18, 2014, and authority provided under this section to terminate on the date that is 4 years after such effective date, see sections 4(a) and 5 of Pub. L. 113–254, set out as notes under section 621 of this title.

§ 628. Small covered chemical facilities

(a) Definition

In this section, the term “small covered chemical facility” means a covered chemical facility that—

- (1) has fewer than 100 employees employed at the covered chemical facility; and
- (2) is owned and operated by a small business concern (as defined in section 632 of title 15).

(b) Assistance to facilities

The Secretary may provide guidance and, as appropriate, tools, methodologies, or computer