



One Hundred Sixteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

January 14, 2020

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Government Affairs Committee
United States Senate
Washington, DC 20510

Dear Senator Johnson:

I write to urge you, as the Chairman of the Senate Committee on Homeland Security and Government Affairs (HSGAC), to join me in acting quickly to reauthorize the Chemical Facility Anti-Terrorism Standards (CFATS) program. As the threats this country faces continue to evolve – from escalating tensions with Iran to domestic terrorism – we cannot allow a vital national security program designed to defend our nation’s most dangerous chemical facilities against terrorist attacks to expire. Unless Congress acts, the Department of Homeland Security’s (DHS) authority to carry out this program will expire in April 2020.¹

Given U.S. tensions with Iran, we must act to fortify CFATS and not let it expire. In recent weeks, Iranian officials have publicly stated their intention to retaliate against the U.S. in response to the recent airstrike that killed Iranian commander Qassem Soleimani. Indeed, DHS warned in a recent National Terrorism Advisory System Bulletin shortly after the airstrike, “Iran likely views terrorist activities as an option to deter or retaliate” against adversaries, and “previous homeland-based plots have included, among other things, scouting and planning against infrastructure targets and cyber enabled attacks against a range of U.S.-based targets.”²

The current threat landscape is precisely the type of threat landscape that CFATS was created to address. Former Homeland Security Secretary Michael Chertoff established the CFATS program in 2007 in response to credible terrorist threats to U.S. chemical plants. Every DHS Secretary from Chertoff to former Secretary Kirstjen Nielsen have warned that facilities with large amounts of

¹ H.R. 251, *Chemical Facility Anti-Terrorism Standards Program Extension Act of 2019*, Pub. L. 116-2 (Jan. 18, 2019), extending the authority set forth in H.R. 4007, the *Protecting and Securing Chemical Facilities Against Terrorist Attacks Act of 2014*, Pub. L. 113-254 (Dec. 18, 2014).

² U.S. Department of Homeland Security, *National Terrorism Advisory System Bulletin - January 4, 2020*, available at <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-january-4-2020>.

hazardous chemicals are rich targets for terrorists who may plan to steal, release, or exploit such chemicals to harm Americans.³

As you know, through CFATS, DHS works with high risk chemical facilities to ensure they have strong cybersecurity and physical security measures in place to prevent dangerous chemicals from being used to carry out an attack. To date, thousands of 'high risk' facilities in the U.S. have reduced or removed dangerous chemicals or other onsite risks in order to comply with CFATS.⁴ This regulatory program has historically enjoyed broad, bipartisan support on and off Capitol Hill, from industry and advocates alike.

On June 26, 2019, the Committee on Homeland Security marked up, H.R. 3256, the *Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2019*, introduced by Rep. Cedric Richmond, which would reauthorize CFATS for five years with various improvements to the program. H.R. 3256 is the product of years of diligent oversight and stakeholder outreach to build on the progress that has been made since CFATS was established in 2007. The House has continued to engage and deliberate on the terms of a long-term CFATS reauthorization since that time.

Unfortunately, the Senate has not taken action on CFATS since it amended H.R. 251, the *CFATS Extension Act of 2019*, which I authored early this Congress to prevent the program from expiring in January 2019. At that time, you expressed your commitment to working together on CFATS reauthorization, and even insisted on a 15-month reauthorization - rather than a full two years - in order to force Congress to act on a more condensed timeline.

In November 2018, you noted on the Senate Floor that the goal of the program, "to help prevent terrorists from carrying out an attack with dangerous chemicals," is indeed "a very worthy goal."⁵ And again, in a June 2019 roundtable, you recognized the "rare" success of CFATS in "creating an atmosphere" of collaboration between DHS and industry and expressed support for a long-term reauthorization to provide certainty to the regulated community.⁶ In that spirit, I ask that you work with me on a long-term extension to continue the program and provide a measure of certainty to the regulated community.

At the same time, I also recognize that April is rapidly approaching, and Congress must act to ensure the survival of the program. With that in mind, this week I will introduce a bill to temporarily extend CFATS for a period of two years. This is hardly the outcome I envisioned at the beginning of this Congress; however, I realize that at this late stage, it is the only responsible option.

³ Correspondence from Kirstjen Nielsen, Secretary of Homeland Security, to Rep. Bennie G. Thompson, U.S. House of Representatives Committee on Homeland Security (Nov. 29, 2018) (on file with Committee staff) ("[W]e continue to face one of the most serious terrorist threat environments since 9/11. Foreign terrorist organizations are urging recruits to use simple weapons, including toxic chemicals, to target public spaces and events.").

⁴ U.S. Department of Homeland Security, National Programs & Protection Directorate, *CFATS Semi-Annual Performance Reports to Congress* for Fiscal Years 2015-2017 (FOUO), at Table 3.

⁵ 164 Cong. Rec. Vol. S7224, Nov. 29, 2018 (statement of Sen. Ron Johnson).

⁶ U.S. Senate Committee on Homeland Security and Government Affairs, *Roundtable - Sensibly Reforming the Chemical Facility Anti-Terrorism Standards Program* (Jun. 4, 2019).

I hope that you will join me in my efforts to prevent the CFATS program from lapsing and work toward a comprehensive long-term reauthorization for this critical national security program.

Sincerely,



BENNIE G. THOMPSON
Chairman

cc: The Honorable Michael Rogers, Ranking Member, Committee on Homeland Security,
U.S. House of Representatives

The Honorable Gary Peters, Ranking Member, Committee on Homeland Security and
Government Affairs, U.S. Senate

The Honorable Cedric L. Richmond, Chairman, Subcommittee on Cybersecurity,
Infrastructure Protection, and Innovation, Committee on Homeland Security, U.S. House
of Representatives

The Honorable John Katko, Ranking Member, Subcommittee on Cybersecurity,
Infrastructure Protection, and Innovation, Committee on Homeland Security, U.S. House
of Representatives

The Honorable Frank Pallone, Chairman, Committee on Energy and Commerce, U.S.
House of Representatives

The Honorable Greg Walden, Ranking Member, Committee on Energy and Commerce,
U.S. House of Representatives

The Honorable Paul Tonko, Chairman, Subcommittee on Environment and Climate
Change, Committee on Energy and Commerce, U.S. House of Representatives

The Honorable John Shimkus, Ranking Member, Subcommittee on Environment and
Climate Change, Committee on Energy and Commerce, U.S. House of Representatives

The Honorable Nancy Pelosi, Speaker, U.S. House of Representatives

The Honorable Kevin McCarthy, Minority Leader, U.S. House of Representatives

The Honorable Steny Hoyer, Majority Leader, U.S. House of Representatives

The Honorable Mitch McConnell, Majority Leader, U.S. Senate

The Honorable Charles E. Schumer, Minority Leader, U.S. Senate