

H.R. 3256, Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2019

As ordered reported by the House Committee on Homeland Security on June 19, 2019

By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	372	449
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

H.R. 3256 would extend the Chemical Facility Anti-Terrorism Standards (CFATS) program through May 1, 2025, and make several other changes to the program; the authority to carry out the current program will expire in April 2020. In total, CBO estimates that enacting H.R. 3256 would cost \$372 million over the 2020-2024 period; such spending would be subject to the appropriation of the estimated amounts (see Table 1). Another \$77 million would be spent after 2024 to pay for the costs of the program until its expiration. In addition, the bill would increase revenues by less than \$500,000 over the 2020-2029 period, CBO estimates.

Under CFATS, the Department of Homeland Security (DHS) regulates security at facilities that manufacture, store, or distribute any of more than 300 chemicals that could be used by terrorists to cause mass injury or death. The regulations set minimum standards for perimeter security, access control, personnel security, and cybersecurity to reduce the risk that those chemicals could be stolen, released, or sabotaged. DHS provides technical assistance and inspects regulated facilities to ensure that they meet those standards. For 2019, the Congress appropriated \$74 million for the CFATS program.

On the basis of amounts appropriated for the CFATS program, CBO estimates that extending the program through May 1, 2025, under current law would cost \$344 million over the



2020-2024 period. Because the extension in the bill would only cover five months of fiscal year 2020, the costs of implementing the extension are lower in that year.

In addition, H.R. 3256 would change the CFATS program in several ways. Specifically, the bill would require DHS to do the following:

- Allow owners and operators of regulated facilities to petition DHS to exempt from the standards some products and mixtures containing chemicals that are regulated under CFATS;
- Expedite the process through which DHS notifies owners and operators of security deficiencies;
- Establish procedures to investigate complaints from employees of regulated facilities who claim to have been punished for reporting information to DHS; and,
- Establish an advisory committee on chemical security.

On the basis of information from DHS, CBO estimates that implementing those changes would require DHS to hire about a dozen new full-time employees. Salaries for those employees and operating expenses to carry out the new requirements would cost \$23 million over the 2020-2024 period.

In total, reauthorizing the CFATS program would cost \$367 million over the 2020-2024 period, CBO estimates.

Table 1.
Estimated Increases in Spending Subject to Appropriation Under H.R. 3256

	By Fiscal Year, Millions of Dollars						2019-2024
	2019	2020	2021	2022	2023	2024	
Increases in Spending Subject to Appropriation							
CFATS Program Reauthorization							
Estimated Authorization Level	0	40	84	86	89	92	391
Estimated Outlays	0	31	74	84	88	90	367
Studies and Reports							
Estimated Authorization Level	0	5	*	*	*	*	5
Estimated Outlays	0	4	1	*	*	*	5
Total							
Estimated Authorization Level	0	45	84	86	89	92	396
Estimated Outlays	0	35	75	84	88	90	372

In addition to the amounts shown here, implementing H.R. 3256 would require an additional appropriation of \$55 million in 2025 to fund the operation of the program until May of that year, CBO estimates. Outlays from those amounts, in addition to outlays from amounts authorized from earlier years would total \$77 million over the 2025-2029 period; that spending would be subject to appropriation of the estimated amounts.

Enacting H.R. 3256 also would increase revenues by an insignificant amount over the 2020-2029 period.

CFATS = Chemical Facility Anti-Terrorism Standards; * = between zero and \$500,000.



H.R. 3256 also would require the Government Accountability Office and DHS to conduct several studies on the CFATS program and to report their findings to the Congress. CBO estimates that in addition to the costs described above, conducting the studies and preparing the reports would cost \$5 million over the 2020-2024 period.

Reauthorizing the CFATS program also would extend DHS's authority to levy civil penalties against owners or operators of facilities that fail to comply with orders to correct deficiencies in their security plans. Amounts collected under that authority would be deposited in the Treasury and recorded as revenues. CBO estimates that DHS would collect less than \$500,000 over the 2020-2029 period.

H.R. 3256 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) on operators of chemical facilities. CBO estimates that the total cost of the mandates would fall below the annual intergovernmental and private-sector thresholds established in UMRA (\$82 million and \$164 million, respectively in 2019, adjusted annually for inflation).

The bill would reauthorize existing security requirements, including vulnerability assessments and site security plans, under the Chemical Facility Anti-Terrorism Standards Program.

The bill also would require chemical facilities to:

- Retain a record of employee feedback, which is to be collected as part of the facilities' vulnerability assessment and site security plan process;
- Display a DHS-issued poster; and
- Make employees that participated in developing the site's vulnerability assessment and security plan available to DHS, upon request.

Finally, the bill would extend whistleblower protections to include former employees of a chemical facility. Current law prohibits employers from taking adverse actions against current, but not former, employees.

The incremental costs to comply with the mandates would be small because the facilities are either already complying with similar requirements under current law or because the additional requirements do not impose a significant administrative burden.

The CBO staff contacts for this estimate are William Ma (for federal costs) and Brandon Lever (for mandates). The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.