

106TH CONGRESS
1ST SESSION

S. 1470

To amend the Clean Air Act to ensure that adequate actions are taken to detect, prevent, and minimize the consequences of accidental releases that result from criminal activity that may cause substantial harm to public health, safety, and the environment.

IN THE SENATE OF THE UNITED STATES

JULY 30, 1999

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to ensure that adequate actions are taken to detect, prevent, and minimize the consequences of accidental releases that result from criminal activity that may cause substantial harm to public health, safety, and the environment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Security Act
5 of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the Federal Bureau of Investigation and the
2 Agency for Toxic Substances and Disease Registry
3 believe that the possibility of terrorist and criminal
4 attacks on chemical plants poses a serious threat to
5 human health, safety, and the environment;

6 (2) limiting public access to chemical accident
7 information does not address the underlying problem
8 of the vulnerability of chemical plants to criminal at-
9 tack; on the contrary, providing public access to
10 chemical accident information may create substantial
11 incentives to reduce such vulnerability;

12 (3) there are significant opportunities to pre-
13 vent criminal attack on chemical plants by employ-
14 ing inherently safer technologies in the manufacture
15 and use of chemicals; such technologies may offer in-
16 dustry substantial savings by reducing the need for
17 site security, secondary containment, buffer zones,
18 mitigation, and liability insurance;

19 (4) chemical plants have a general duty to de-
20 sign and maintain safe facilities to prevent criminal
21 activity that may result in harm to human health,
22 safety and the environment; and

23 (5) if the Attorney General determines that
24 chemical plants have not taken adequate actions to
25 protect themselves from criminal attack, the Attor-

1 ney General must establish a program to ensure that
2 such actions are taken.

3 **SEC. 3. PREVENTION OF CRIMINAL RELEASES.**

4 (a) PURPOSE AND GENERAL DUTY.—Section
5 112(r)(1) of the Clean Air Act (42 U.S.C. 7412(r)(1)) is
6 amended by striking the second sentence and inserting the
7 following: “Each owner and each operator of a stationary
8 source that produces, processes, handles, or stores such
9 a substance has a general duty in the same manner and
10 to the same extent as the duty imposed under section 5
11 of the Occupational Safety and Health Act of 1970 (29
12 U.S.C. 654) to identify hazards that may result from an
13 accidental release or criminal release using appropriate
14 hazard assessment techniques, to ensure design and main-
15 tenance of safe facilities taking such actions as are nec-
16 essary to prevent accidental releases and criminal releases,
17 and to minimize the consequences of any accidental release
18 or criminal release that does occur.”.

19 (b) DEFINITIONS.—Section 112(r)(2) of the Clean
20 Air Act (42 U.S.C. 7412(r)(2)) is amended—

21 (1) by redesignating subparagraphs (B) and
22 (C) as subparagraphs (E) and (F), respectively; and

23 (2) by inserting after subparagraph (A) the fol-
24 lowing:

1 “(B) CRIMINAL RELEASE.—The term
2 ‘criminal release’ means—

3 “(i) a release of a regulated substance
4 from a stationary source into the environ-
5 ment that is caused, in whole or in part,
6 by a criminal act; and

7 “(ii) a release into the environment of
8 a regulated substance that has been re-
9 moved from a stationary source, in whole
10 or in part, by a criminal act.

11 “(C) DESIGN AND MAINTENANCE OF SAFE
12 FACILITIES.—The term ‘design and mainte-
13 nance of safe facilities’ means, with respect to
14 the facilities at a stationary source, the prac-
15 tices of—

16 “(i) preventing or reducing the vulner-
17 ability of the stationary source to a release
18 of a regulated substance through use of in-
19 herently safer technology to the maximum
20 extent practicable;

21 “(ii) reducing any vulnerability of the
22 stationary source that remains after taking
23 the measures described in clause (i)
24 through secondary containment, control, or

1 mitigation equipment to the maximum ex-
2 tent practicable;

3 “(iii) reducing any vulnerability of the
4 stationary source that remains after taking
5 the measures described in clauses (i) and
6 (ii) by—

7 “(I) making the facilities impreg-
8 nable to intruders to the maximum
9 extent practicable; and

10 “(II) improving site security and
11 employee training to the maximum ex-
12 tent practicable; and

13 “(iv) reducing the potential con-
14 sequences of any vulnerability of the sta-
15 tionary source that remains after taking
16 the measures described in clauses (i)
17 through (iii) through the use of buffer
18 zones between the stationary source and
19 surrounding populations (including buffer
20 zones between the stationary source and
21 residences, schools, hospitals, senior cen-
22 ters, shopping centers and malls, sports
23 and entertainment arenas, public roads
24 and transportation routes, and other popu-
25 lation centers).

1 “(D) USE OF INHERENTLY SAFER TECH-
2 NOLOGY.—

3 “(i) IN GENERAL.—The term ‘use of
4 inherently safer technology’ means use of a
5 technology, product, raw material, or prac-
6 tice that, as compared to the technology,
7 products, raw materials, or practices cur-
8 rently in use—

9 “(I) reduces or eliminates the
10 possibility of release of a toxic, vola-
11 tile, corrosive, or flammable substance
12 prior to secondary containment, con-
13 trol, or mitigation; and

14 “(II) reduces or eliminates the
15 hazards to public health and the envi-
16 ronment associated with the release or
17 potential release of a substance de-
18 scribed in subclause (I).

19 “(ii) INCLUSIONS.—The term ‘use of
20 inherently safer technology’ includes input
21 substitution, process redesign, product re-
22 formulation, procedure simplification, and
23 technology modification so as to—

24 “(I) use less hazardous or benign
25 substances;

1 “(II) moderate pressures or tem-
2 peratures;

3 “(III) reduce the likelihood and
4 potential consequences of human
5 error;

6 “(IV) improve inventory control
7 and chemical use efficiency; and

8 “(V) reduce or eliminate storage,
9 transportation, and handling of haz-
10 ardous chemicals.”.

11 (c) DETERMINATION AND REGULATIONS.—Section
12 112(r) of the Clean Air Act (42 U.S.C. 7412(r)) is amend-
13 ed by adding at the end the following:

14 “(12) PREVENTION OF CRIMINAL RELEASES.—

15 “(A) DETERMINATION OF ADEQUACY.—

16 Not later than 1 year after the date of enact-
17 ment of this paragraph, the Attorney General,
18 in consultation with the Administrator, shall de-
19 termine whether the owners or operators of sta-
20 tionary sources have taken adequate actions, in-
21 cluding the design and maintenance of safe fa-
22 cilities, to detect, prevent, and minimize the
23 consequences of criminal releases that may
24 cause substantial harm to public health, safety,
25 and the environment.

1 “(B) CHEMICAL SECURITY REGULA-
2 TIONS.—If the Attorney General determines,
3 under subparagraph (A), that adequate actions
4 have not been taken, the Attorney General, in
5 consultation with the Administrator, shall pro-
6 mulgate, not later than 2 years after the date
7 of enactment of this paragraph, requirements to
8 ensure that owners or operators of stationary
9 sources take adequate actions, including the de-
10 sign and maintenance of safe facilities, to de-
11 tect, prevent, and minimize the consequences of
12 criminal releases that may cause substantial
13 harm to public health, safety, and the environ-
14 ment.”.

15 **SEC. 4. REGULATIONS.**

16 The Administrator of the Environmental Protection
17 Agency and the Attorney General may promulgate such
18 regulations as are necessary to carry out this Act and the
19 amendments made by this Act.

20 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated to the Ad-
22 ministrators of the Environmental Protection Agency and
23 the Attorney General such sums as are necessary to carry

- 1 out this Act and the amendments made by this Act, to
- 2 remain available until expended.

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