

106TH CONGRESS
1ST SESSION

S. 880

AMENDMENTS

In the House of Representatives, U. S.,

July 21, 1999.

Resolved, That the bill from the Senate (S. 880) entitled “An Act to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Chemical Safety Infor-*
3 *mation, Site Security and Fuels Regulatory Relief Act”.*

4 ***SEC. 2. REMOVAL OF PROPANE SOLD BY RETAILERS AND***
5 ***OTHER FLAMMABLE FUELS FROM RISK MAN-***
6 ***AGEMENT LIST.***

7 *Section 112(r) of the Clean Air Act (42 U.S.C.*
8 *7412(r)) is amended—*

9 *(1) by redesignating subparagraphs (A) through*
10 *(C) of paragraph (4) as clauses (i) through (iii), re-*
11 *spectively, and indenting appropriately;*

1 (2) *by striking in paragraph (4) “Administrator*
2 *shall consider each of the following criteria—” and*
3 *inserting the following: “Administrator—*

4 *“(A) shall consider—”;*

5 (3) *in subparagraph (A)(iii) (as designated by*
6 *paragraphs (1) and (2)), of paragraph (4)by striking*
7 *the period at the end and inserting “; and”;*

8 (4) *by adding at the end of paragraph (4) the*
9 *following:*

10 *“(B) shall not list a flammable substance*
11 *when used as a fuel or held for sale as a fuel at*
12 *a retail facility under this subsection solely be-*
13 *cause of the explosive or flammable properties of*
14 *the substance, unless a fire or explosion caused*
15 *by the substance will result in acute adverse*
16 *heath effects from human exposure to the sub-*
17 *stance, including the unburned fuel or its com-*
18 *bustion byproducts, other than those caused by*
19 *the heat of the fire or impact of the explosion.”;*
20 *and*

21 (5) *by inserting the following new subparagraph*
22 *at the end of paragraph (2):*

23 *“(D) The term ‘retail facility’ means a sta-*
24 *tionary source at which more than one-half of*
25 *the income is obtained from direct sales to end*

1 *users or at which more than one-half of the fuel*
2 *sold, by volume, is sold through a cylinder ex-*
3 *change program.”.*

4 **SEC. 3. PUBLIC ACCESS TO OFF-SITE CONSEQUENCE ANAL-**
5 **YSIS INFORMATION.**

6 *(a) IN GENERAL.—Section 112(r)(7) of the Clean Air*
7 *Act (42 U.S.C. 7412(r)(7)) is amended by adding at the*
8 *end the following:*

9 “(H) *PUBLIC ACCESS TO OFF-SITE CON-*
10 *SEQUENCE ANALYSIS INFORMATION.—*

11 “(i) *DEFINITIONS.—In this subpara-*
12 *graph:*

13 “(I) *COVERED PERSON.—The*
14 *term ‘covered person’ means—*

15 “(aa) *an officer or employee*
16 *of the United States;*

17 “(bb) *an officer or employee*
18 *of an agent or contractor of the*
19 *Federal Government;*

20 “(cc) *an officer or employee*
21 *of a State or local government;*

22 “(dd) *an officer or employee*
23 *of an agent or contractor of a*
24 *State or local government;*

1 “(ee) an individual affiliated
2 with an entity that has been
3 given, by a State or local govern-
4 ment, responsibility for pre-
5 venting, planning for, or respond-
6 ing to accidental releases;

7 “(ff) an officer or employee
8 or an agent or contractor of an
9 entity described in item (ee); and

10 “(gg) a qualified researcher
11 under clause (vii).

12 “(II) OFFICIAL USE.—The term
13 ‘official use’ means an action of a Fed-
14 eral, State, or local government agency
15 or an entity referred to in subclause
16 (I)(ee) intended to carry out a function
17 relevant to preventing, planning for, or
18 responding to accidental releases.

19 “(III) OFF-SITE CONSEQUENCE
20 ANALYSIS INFORMATION.—The term
21 ‘off-site consequence analysis informa-
22 tion’ means those portions of a risk
23 management plan, excluding the execu-
24 tive summary of the plan, consisting of
25 an evaluation of 1 or more worst-case

1 *release scenarios or alternative release*
2 *scenarios, and any electronic data base*
3 *created by the Administrator from*
4 *those portions.*

5 “(IV) *RISK MANAGEMENT PLAN.*—
6 *The term ‘risk management plan’*
7 *means a risk management plan sub-*
8 *mitted to the Administrator by an*
9 *owner or operator of a stationary*
10 *source under subparagraph (B)(iii).*

11 “(ii) *REGULATIONS.*—*Not later than 1*
12 *year after the date of enactment of this sub-*
13 *paragraph, the President shall—*

14 “(I) *assess—*

15 “(aa) *the increased risk of*
16 *terrorist and other criminal activ-*
17 *ity associated with the posting of*
18 *off-site consequence analysis infor-*
19 *mation on the Internet; and*

20 “(bb) *the incentives created*
21 *by public disclosure of off-site con-*
22 *sequence analysis information for*
23 *reduction in the risk of accidental*
24 *releases; and*

1 “(II) based on the assessment
2 under subclause (I), promulgate regu-
3 lations governing the distribution of
4 off-site consequence analysis informa-
5 tion in a manner that, in the opinion
6 of the President, minimizes the likeli-
7 hood of accidental releases and the risk
8 described in subclause (I)(aa) and the
9 likelihood of harm to public health and
10 welfare, and—

11 “(aa) allows access by any
12 member of the public to paper
13 copies of off-site consequence anal-
14 ysis information for a limited
15 number of stationary sources lo-
16 cated anywhere in the United
17 States, without any geographical
18 restriction;

19 “(bb) allows other public ac-
20 cess to off-site consequence anal-
21 ysis information as appropriate;

22 “(cc) allows access for official
23 use by a covered person described
24 in any of items (cc) through (ff) of
25 clause (i)(I) (referred to in this

1 *subclause as a ‘State or local cov-*
 2 *ered person’) to off-site con-*
 3 *sequence analysis information re-*
 4 *lating to stationary sources lo-*
 5 *cated in the person’s State;*

6 *“(dd) allows a State or local*
 7 *covered person to provide, for offi-*
 8 *cial use, off-site consequence anal-*
 9 *ysis information relating to sta-*
 10 *tionary sources located in the per-*
 11 *son’s State to a State or local cov-*
 12 *ered person in a contiguous State;*
 13 *and*

14 *“(ee) allows a State or local*
 15 *covered person to obtain for offi-*
 16 *cial use, by request to the Admin-*
 17 *istrator, off-site consequence anal-*
 18 *ysis information that is not avail-*
 19 *able to the person under item (cc).*

20 *“(iii) AVAILABILITY UNDER FREEDOM*
 21 *OF INFORMATION ACT.—*

22 *“(I) FIRST YEAR.—Off-site con-*
 23 *sequence analysis information, and*
 24 *any ranking of stationary sources de-*
 25 *rived from the information, shall not*

1 *be made available under section 552 of*
2 *title 5, United States Code, during the*
3 *1-year period beginning on the date of*
4 *enactment of this subparagraph.*

5 *“(II) AFTER FIRST YEAR.—If the*
6 *regulations under clause (ii) are pro-*
7 *mulgated on or before the end of the*
8 *period described in subclause (I), off-*
9 *site consequence analysis information*
10 *covered by the regulations, and any*
11 *ranking of stationary sources derived*
12 *from the information, shall not be*
13 *made available under section 552 of*
14 *title 5, United States Code, after the*
15 *end of that period.*

16 *“(III) APPLICABILITY.—Sub-*
17 *clauses (I) and (II) apply to off-site*
18 *consequence analysis information sub-*
19 *mitted to the Administrator before, on,*
20 *or after the date of enactment of this*
21 *subparagraph.*

22 *“(iv) AVAILABILITY OF INFORMATION*
23 *DURING TRANSITION PERIOD.—The Admin-*
24 *istrator shall make off-site consequence*
25 *analysis information available to covered*

1 *persons for official use in a manner that*
 2 *meets the requirements of items (cc) through*
 3 *(ee) of clause (ii)(II), and to the public in*
 4 *a form that does not make available any in-*
 5 *formation concerning the identity or loca-*
 6 *tion of stationary sources, during the*
 7 *period—*

8 *“(I) beginning on the date of en-*
 9 *actment of this subparagraph; and*

10 *“(II) ending on the earlier of the*
 11 *date of promulgation of the regulations*
 12 *under clause (ii) or the date that is 1*
 13 *year after the date of enactment of this*
 14 *subparagraph.*

15 *“(v) PROHIBITION ON UNAUTHORIZED*
 16 *DISCLOSURE OF INFORMATION BY COVERED*
 17 *PERSONS.—*

18 *“(I) IN GENERAL.—Beginning on*
 19 *the date of enactment of this subpara-*
 20 *graph, a covered person shall not dis-*
 21 *close to the public off-site consequence*
 22 *analysis information in any form, or*
 23 *any statewide or national ranking of*
 24 *identified stationary sources derived*
 25 *from such information, except as au-*

1 *thorized by this subparagraph (including*
2 *the regulations promulgated under*
3 *clause (ii)). After the end of the 1-year*
4 *period beginning on the date of enact-*
5 *ment of this subparagraph, if regula-*
6 *tions have not been promulgated under*
7 *clause (ii), the preceding sentence shall*
8 *not apply.*

9 *“(II) CRIMINAL PENALTIES.—Not-*
10 *withstanding section 113, a covered*
11 *person that willfully violates a restric-*
12 *tion or prohibition established by this*
13 *subparagraph (including the regula-*
14 *tions promulgated under clause (ii))*
15 *shall, upon conviction, be fined for an*
16 *infraction under section 3571 of title*
17 *18, United States Code, (but shall not*
18 *be subject to imprisonment) for each*
19 *unauthorized disclosure of off-site con-*
20 *sequence analysis information, except*
21 *that subsection (d) of such section 3571*
22 *shall not apply to a case in which the*
23 *offense results in pecuniary loss unless*
24 *the defendant knew that such loss*
25 *would occur. The disclosure of off-site*

1 *consequence analysis information for*
2 *each specific stationary source shall be*
3 *considered a separate offense. The total*
4 *of all penalties that may be imposed on*
5 *a single person or organization under*
6 *this item shall not exceed \$1,000,000*
7 *for violations committed during any 1*
8 *calendar year.*

9 “(III) *APPLICABILITY.*—*If the*
10 *owner or operator of a stationary*
11 *source makes off-site consequence anal-*
12 *ysis information relating to that sta-*
13 *tionary source available to the public*
14 *without restriction—*

15 “(aa) *subclauses (I) and (II)*
16 *shall not apply with respect to the*
17 *information; and*

18 “(bb) *the owner or operator*
19 *shall notify the Administrator of*
20 *the public availability of the in-*
21 *formation.*

22 “(IV) *LIST.*—*The Administrator*
23 *shall maintain and make publicly*
24 *available a list of all stationary*

1 sources that have provided notification
2 under subclause (III)(bb).

3 “(vi) NOTICE.—The Administrator
4 shall provide notice of the definition of offi-
5 cial use as provided in clause (i)(III) and
6 examples of actions that would and would
7 not meet that definition, and notice of the
8 restrictions on further dissemination and
9 the penalties established by this Act to each
10 covered person who receives off-site con-
11 sequence analysis information under clause
12 (iv) and each covered person who receives
13 off-site consequence analysis information for
14 an official use under the regulations pro-
15 mulgated under clause (ii).

16 “(vii) QUALIFIED RESEARCHERS.—

17 “(I) IN GENERAL.—Not later than
18 180 days after the date of enactment of
19 this subparagraph, the Administrator,
20 in consultation with the Attorney Gen-
21 eral, shall develop and implement a
22 system for providing off-site con-
23 sequence analysis information, includ-
24 ing facility identification, to any
25 qualified researcher, including a quali-

1 *fied researcher from industry or any*
2 *public interest group.*

3 “(II) *LIMITATION ON DISSEMINA-*
4 *TION.—The system shall not allow the*
5 *researcher to disseminate, or make*
6 *available on the Internet, the off-site*
7 *consequence analysis information, or*
8 *any portion of the off-site consequence*
9 *analysis information, received under*
10 *this clause.*

11 “(viii) *READ-ONLY INFORMATION*
12 *TECHNOLOGY SYSTEM.—In consultation*
13 *with the Attorney General and the heads of*
14 *other appropriate Federal agencies, the Ad-*
15 *ministrator shall establish an information*
16 *technology system that provides for the*
17 *availability to the public of off-site con-*
18 *sequence analysis information by means of*
19 *a central data base under the control of the*
20 *Federal Government that contains informa-*
21 *tion that users may read, but that provides*
22 *no means by which an electronic or me-*
23 *chanical copy of the information may be*
24 *made.*

1 “(ix) *VOLUNTARY INDUSTRY ACCIDENT*
2 *PREVENTION STANDARDS.*—*The Environ-*
3 *mental Protection Agency, the Department*
4 *of Justice, and other appropriate agencies*
5 *may provide technical assistance to owners*
6 *and operators of stationary sources and*
7 *participate in the development of voluntary*
8 *industry standards that will help achieve*
9 *the objectives set forth in paragraph (1).*

10 “(x) *EFFECT ON STATE OR LOCAL*
11 *LAW.*—

12 “(I) *IN GENERAL.*—*Subject to*
13 *subclause (II), this subparagraph (in-*
14 *cluding the regulations promulgated*
15 *under this subparagraph) shall super-*
16 *sede any provision of State or local*
17 *law that is inconsistent with this sub-*
18 *paragraph (including the regulations).*

19 “(II) *AVAILABILITY OF INFORMA-*
20 *TION UNDER STATE LAW.*—*Nothing in*
21 *this subparagraph precludes a State*
22 *from making available data on the off-*
23 *site consequences of chemical releases*
24 *collected in accordance with State law.*

25 “(xi) *REPORT.*—

1 “(I) *IN GENERAL.*—Not later than
2 3 years after the date of enactment of
3 this subparagraph, the Attorney Gen-
4 eral, in consultation with appropriate
5 State, local, and Federal Government
6 agencies, affected industry, and the
7 public, shall submit to Congress a re-
8 port that describes the extent to which
9 regulations promulgated under this
10 paragraph have resulted in actions, in-
11 cluding the design and maintenance of
12 safe facilities, that are effective in de-
13 tecting, preventing, and minimizing
14 the consequences of releases of regulated
15 substances that may be caused by
16 criminal activity. As part of this re-
17 port, the Attorney General, using
18 available data to the extent possible,
19 and a sampling of covered stationary
20 sources selected at the discretion of the
21 Attorney General, and in consultation
22 with appropriate State, local, and Fed-
23 eral governmental agencies, affected in-
24 dustry, and the public, shall review the
25 vulnerability of covered stationary

1 *sources to criminal and terrorist activ-*
2 *ity, current industry practices regard-*
3 *ing site security, and security of trans-*
4 *portation of regulated substances. The*
5 *Attorney General shall submit this re-*
6 *port, containing the results of the re-*
7 *view, together with recommendations,*
8 *if any, for reducing vulnerability of*
9 *covered stationary sources to criminal*
10 *and terrorist activity, to the Committee*
11 *on Commerce of the United States*
12 *House of Representatives and the Com-*
13 *mittee on Environment and Public*
14 *Works of the United States Senate and*
15 *other relevant committees of Congress.*

16 *“(II) INTERIM REPORT.—Not*
17 *later than 12 months after the date of*
18 *enactment of this subparagraph, the*
19 *Attorney General shall submit to the*
20 *Committee on Commerce of the United*
21 *States House of Representatives and*
22 *the Committee on Environment and*
23 *Public Works of the United States Sen-*
24 *ate, and other relevant committees of*

1 Congress, an interim report that in-
2 cludes, at a minimum—

3 “(aa) the preliminary find-
4 ings under subclause (I);

5 “(bb) the methods used to de-
6 velop the findings; and

7 “(cc) an explanation of the
8 activities expected to occur that
9 could cause the findings of the re-
10 port under subclause (I) to be dif-
11 ferent than the preliminary find-
12 ings.

13 “(III) AVAILABILITY OF INFORMA-
14 TION.—Information that is developed
15 by the Attorney General or requested
16 by the Attorney General and received
17 from a covered stationary source for
18 the purpose of conducting the review
19 under subclauses (I) and (II) shall be
20 exempt from disclosure under section
21 552 of title 5, United States Code, if
22 such information would pose a threat
23 to national security.

24 “(xii) SCOPE.—This subparagraph—

1 “(I) applies only to covered per-
2 sons; and

3 “(II) does not restrict the dissemi-
4 nation of off-site consequence analysis
5 information by any covered person in
6 any manner or form except in the form
7 of a risk management plan or an elec-
8 tronic data base created by the Admin-
9 istrator from off-site consequence anal-
10 ysis information.

11 “(xiii) AUTHORIZATION OF APPRO-
12 PRIATIONS.—There are authorized to be ap-
13 propriated to the Administrator and the At-
14 torney General such sums as are necessary
15 to carry out this subparagraph (including
16 the regulations promulgated under clause
17 (ii)), to remain available until expended.”.

18 (b) REPORTS.—

19 (1) DEFINITION OF ACCIDENTAL RELEASE.—In
20 this subsection, the term “accidental release” has the
21 meaning given the term in section 112(r)(2) of the
22 Clean Air Act (42 U.S.C. 7412(r)(2)).

23 (2) REPORT ON STATUS OF CERTAIN AMEND-
24 MENTS.—Not later than 2 years after the date of en-
25 actment of this Act, the Comptroller General of the

1 *United States shall submit to Congress a report on*
2 *the status of the development of amendments to the*
3 *National Fire Protection Association Code for Lique-*
4 *fied Petroleum Gas that will result in the provision*
5 *of information to local emergency response personnel*
6 *concerning the off-site effects of accidental releases of*
7 *substances exempted from listing under section*
8 *112(r)(4)(B) of the Clean Air Act (as added by sec-*
9 *tion 3).*

10 (3) *REPORT ON COMPLIANCE WITH CERTAIN IN-*
11 *FORMATION SUBMISSION REQUIREMENTS.—Not later*
12 *than 3 years after the date of enactment of this Act,*
13 *the Comptroller General of the United States shall*
14 *submit to Congress a report that—*

15 (A) *describes the level of compliance with*
16 *Federal and State requirements relating to the*
17 *submission to local emergency response personnel*
18 *of information intended to help the local emer-*
19 *gency response personnel respond to chemical ac-*
20 *cidents or related environmental or public health*
21 *threats; and*

22 (B) *contains an analysis of the adequacy of*
23 *the information required to be submitted and the*
24 *efficacy of the methods for delivering the infor-*
25 *mation to local emergency response personnel.*

1 (c) *REEVALUATION OF REGULATIONS.*—*The President*
2 *shall reevaluate the regulations promulgated under this sec-*
3 *tion within 6 years after the enactment of this Act. If the*
4 *President determines not to modify such regulations, the*
5 *President shall publish a notice in the Federal Register stat-*
6 *ing that such reevaluation has been completed and that a*
7 *determination has been made not to modify the regulations.*
8 *Such notice shall include an explanation of the basis of such*
9 *decision.*

10 **SEC. 4. PUBLIC MEETING DURING MORATORIUM PERIOD.**

11 (a) *IN GENERAL.*—*Not later than 180 days after the*
12 *date of enactment of this Act, each owner or operator of*
13 *a stationary source covered by section 112(r)(7)(B)(ii) of*
14 *the Clean Air Act shall convene a public meeting, after rea-*
15 *sonable public notice, in order to describe and discuss the*
16 *local implications of the risk management plan submitted*
17 *by the stationary source pursuant to section*
18 *112(r)(7)(B)(iii) of the Clean Air Act, including a sum-*
19 *mary of the off-site consequence analysis portion of the*
20 *plan. Two or more stationary sources may conduct a joint*
21 *meeting. In lieu of conducting such a meeting, small busi-*
22 *ness stationary sources as defined in section 507(c)(1) of*
23 *the Clean Air Act may comply with this section by publicly*
24 *posting a summary of the off-site consequence analysis in-*
25 *formation for their facility not later than 180 days after*

1 *the enactment of this Act. Not later than 10 months after*
2 *the date of enactment of this Act, each such owner or oper-*
3 *ator shall send a certification to the director of the Federal*
4 *Bureau of Investigation stating that such meeting has been*
5 *held, or that such summary has been posted, within 1 year*
6 *prior to, or within 6 months after, the date of the enactment*
7 *of this Act. This section shall not apply to sources that em-*
8 *ploy only Program 1 processes within the meaning of regu-*
9 *lations promulgated under section 112(r)(7)(B)(i) of the*
10 *Clean Air Act.*

11 *(b) ENFORCEMENT.—The Administrator of the Envi-*
12 *ronmental Protection Agency may bring an action in the*
13 *appropriate United States district court against any person*
14 *who fails or refuses to comply with the requirements of this*
15 *section, and such court may issue such orders, and take such*
16 *other actions, as may be necessary to require compliance*
17 *with such requirements.*

Amend the title so as to read “An Act to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program, and for other purposes.”.

Attest:

Clerk.