To enhance security and protect against terrorist attacks at chemical facilities.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2005

Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. COLEMAN, Mr. CARPER, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To enhance security and protect against terrorist attacks at chemical facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Chemical Facility Anti-Terrorism Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act:

(1) CHEMICAL SOURCE.—The term “chemical source” means a facility designated as a chemical source by the Secretary under section 3.
(2) Critical Infrastructure.—The term “critical infrastructure” has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(3) Department.—The term “Department” means the Department of Homeland Security.

(4) Environment.—The term “environment” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(5) Higher Risk Tier.—The term “higher risk tier” means a tier designated by the Secretary as a higher risk tier under section 3(e)(3).

(6) MTSA-Regulated Facilities.—The term “MTSA-regulated facility” means a facility subject to the security requirements under chapter 701 of title 46, United States Code (commonly known as the “Maritime Transportation Security Act”).

(7) Owner or Operator.—The term “owner or operator” means any person who owns, leases, operates, controls, or supervises a chemical source.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(10) **SECURITY MEASURE.**—

(A) **IN GENERAL.**—The term “security measure” means an action to ensure or enhance the security of a chemical source against a terrorist incident.

(B) **INCLUSIONS.**—The term “security measure”, with respect to a chemical source, includes measures such as—

(i) employee training and background and identification authentication checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to ensure or enhance the security of a chemical source from a terrorist incident;
(vii) the implementation of measures and controls to prevent, protect against, or reduce the consequences of a terrorist incident, including—

(I) contingency and evacuation plans;

(II) early warning systems; and

(III) the relocation, hardening of the storage or containment, modification, processing, substitution, or reduction of substances of concern; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(11) SUBSTANCE OF CONCERN.—The term “substance of concern” means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r));

(B) ammonium nitrate, in a quantity to be determined by the Secretary by regulation; and
(C) any other chemical substance designated as a substance of concern by the Secretary under section 3(i) in quantities equal to or exceeding the threshold quantities established under section 3(i), based on the potential extent of death, injury, or serious adverse effects to human health and safety or the environment or the potential impact on national or economic security or critical infrastructure caused by a terrorist incident involving the chemical substance.

(12) **TERRORISM.**—The term “terrorism” has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(13) **TERRORIST INCIDENT.**—The term “terrorist incident” means—

(A) a terrorist attack against a chemical source;

(B) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(C) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.
SEC. 3. DESIGNATION AND TIERING OF CHEMICAL SOURCES.

(a) DESIGNATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) promulgate regulations establishing criteria for designating chemical sources by using the risk factors described in subsection (b) and by evaluating the types of facilities described in subsection (c) that shall be considered in designating chemical sources; and

(2) designate chemical sources in existence as of that date.

(b) RISK FACTORS TO BE CONSIDERED.—In establishing criteria under subsection (a)(1) for designating chemical sources, the Secretary shall consider—

(1) the perceived threat to a facility, including a consideration of adversary capabilities and intent, preparedness, target attractiveness, and deterrence capabilities;

(2) the potential extent and likelihood of death, injury, or serious adverse effects to human health and safety or to the environment caused by a terrorist incident at a facility;

(3) the threats to or potential impact on national security or critical infrastructure caused by a terrorist incident at a facility;
(4) the potential threats or harm to the economy that would result from a terrorist incident at a facility, including whether a facility is the sole supplier, or the producer of a high percentage, of a product that is critical to the economy, the chemical industry, or national security;

(5) the proximity of a facility to population centers;

(6) the nature and quantity of substances of concern at a facility; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and safety, critical infrastructure, and national and economic security.

(e) CRITERIA FOR FACILITIES.—In establishing criteria under subsection (a)(1) for designating chemical sources, the Secretary shall—

(1) consider any facility that is a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)) for which the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii));
(2) consider any other facility that produces, uses, or stores a substance of concern; and

(3) determine whether any additional facility (including, as of the date of the determination, any facility that is operational and any facility that will become operational in the future) shall be designated chemical sources under this Act.

(d) EXCLUSIONS.—In designating facilities as chemical sources, the Secretary shall not include any facility owned or operated by the Department of Defense or the Department of Energy.

(e) TIRED SECURITY SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate rules establishing a risk-based tier system of chemical sources that—

(A) shall be based on the criteria established by the Secretary under subsection (a)(1);

(B) consists of several tiers of chemical sources;

(C) to the maximum extent practicable, enables a chemical source to develop appropriate site-specific measures to meet the security performance standards established under sub-
section (f) for the tier applicable to the chemical source; and

(D) provides guidance to the owner or operator of a chemical source regarding the steps that would enable the chemical source to move to a lower risk tier, if the owner or operator seeks to move to a lower risk tier.

(2) Determination of Tier.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine the tier applicable to each chemical source designated under subsection (a)(2).

(3) Higher Risk Tiers.—The Secretary shall designate 1 or more tiers established under paragraph (1) as higher risk tiers.

(f) Security Performance Standards.—

(1) In General.—The Secretary shall establish security performance standards appropriate to the risk-based tiers established under subsection (e).

(2) Contents.—The security performance standards established under paragraph (1) shall—

(A) set increasingly strict security requirements as the level of risk for the tier increases;

(B) enable a chemical source to select security measures that, in combination, satisfy
the security performance standards established by the Secretary; and

(C) be based on the criteria in section 4(a)(2).

(3) GUIDANCE.—

(A) IN GENERAL.—The Secretary shall provide guidance to a chemical source regarding the types of security measures that, if applied, could satisfy the security performance standards.

(B) ALTERNATE MEASURES.—The owner or operator of a chemical source shall have flexibility to employ different security measures than those contained in the guidance described in subparagraph (A) if such measures satisfy the security performance standards established for the tier applicable to the chemical source.

(g) NOTICE TO FACILITIES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall notify facilities that may be designated as chemical sources regarding the review of facilities and designation of chemical sources to be conducted under this Act, including the timeline for such review and designation.

(h) SUBSEQUENT DETERMINATIONS.—
(1) Periodic review of determinations.—
Not later than 3 years after the designation of
chemical sources under subsection (a)(2), and every
3 years thereafter, the Secretary shall, after consid-
ering the criteria established under subsection (a)(1)
and the exclusions under subsection (d), determine
whether to designate any additional facility as a
chemical source or remove the designation of any
particular facility as a chemical source.

(2) Other review.—In addition to the peri-
odic review required under paragraph (1), the Sec-
retary may, after considering the criteria established
under subsection (a)(1) and the exclusions under
subsection (d), designate a facility as chemical
source or remove the designation of any facility as
a chemical source.

(3) Duty to report.—

(A) Facilities becoming operational.—

(i) In general.—Each facility de-
scribed in clause (ii) shall file a petition
with the Secretary for a determination on
whether that facility should be designated
as a chemical source not later than 180
days after the later of—
(I) the date of the promulgation of final rules under subsection (a)(1); or

(II) the date that facility becomes operational.

(ii) FACILITIES COVERED.—A facility described in this clause is a facility—

(I) that becomes operational on or after the date of the designation of chemical sources under subsection (a)(2); and

(II) at which a threshold quantity of a substance of concern is present.

(B) EXISTING FACILITIES.—

(i) IN GENERAL.—Each facility described in clause (ii) shall submit a petition to the Secretary for a determination on whether that facility should be designated as a chemical source not later than 180 days after the later of—

(I) the date of the promulgation of final regulations under subsection (a)(1); or
(II) the date on which the threshold quantity of a substance of concern is first present at that facility.

(ii) FACILITIES COVERED.—A facility described in this clause is a facility—

(I) for which the owner or operator is not required to complete a risk management plan under section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii));

(II) that is operational before the date of the promulgation of the final rules establishing criteria for designating chemical sources under subsection (a)(1); and

(III) at which a threshold quantity of a substance of concern is present.

(C) CONSULTATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a mechanism for the Secretary to receive notice in a timely fashion of a facility required by the Administrator to complete a risk management
plan in accordance with section 112(r)(7)(B)(ii)
of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)).

(D) REGULATIONS.—The Secretary may promulgate regulations to carry out this para-
graph.

(i) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CON-
CERN.—

(1) IN GENERAL.—The Secretary may, by regu-
lation—

(A) designate a chemical substance, in a particular threshold quantity, as a substance of concern under this Act;

(B) exempt a chemical substance from designation as a substance of concern under this Act; and

(C) establish or revise the threshold quantity for a chemical substance to be designated a substance of concern.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or establishing or revising the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious ad-
verse effects to human health and safety or the envi-
ronment and the potential impact on national secu-

rity, the economy, or critical infrastructure that
would result from a terrorist incident involving the
chemical substance.

(3) REGULATIONS.—The Secretary may make a
designation, exemption, or revision under paragraph
(1) in the regulations promulgated under subsection
(a)(1).

SEC. 4. VULNERABILITY ASSESSMENTS, SITE SECURITY
PLANS, AND EMERGENCY RESPONSE PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after
the date of enactment of this Act, the Secretary
shall promulgate regulations that require the owner
or operator of each chemical source—

(A) to conduct a vulnerability assessment,
evaluating the vulnerability of the chemical
source to a terrorist incident;

(B) to prepare and implement a site secu-
rity plan that addresses the risks identified in
the vulnerability assessment; and

(C) to prepare and implement an emer-
gency response plan or prepare and implement
an addendum to an existing emergency re-
sponse plan to include response planning for a terrorist incident.

(2) **REGULATORY CRITERIA.**—The regulations promulgated under paragraph (1)—

(A) shall be risk-based, performance based, and flexible; and

(B) shall include consideration of—

(i) the criteria established by the Secretary under section 3(a)(1);

(ii) cost and technical feasibility; and

(iii) scale of operations.

(3) **CO-LOCATED CHEMICAL SOURCES.**—The regulations promulgated under paragraph (1) shall permit the development and implementation of co-ordinated vulnerability assessments, site security plans, and emergency response plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(4) **SHARING OF THREAT INFORMATION.**—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide State and local government officials and an owner or operator of a chemical
source with threat information that is relevant to the chemical source in particular or to the chemical sector in general.

(5) CONTENTS OF VULNERABILITY ASSESSMENT.—A vulnerability assessment shall—

(A) be based on a rigorous methodology developed or endorsed by the Secretary;

(B) incorporate any threat information provided under paragraph (4);

(C) address the appropriate security performance standards established by Secretary under section 3(f); and

(D) include an analysis of—

(i) physical security;

(ii) communication systems;

(iii) electronic, computer, or other automated systems which are utilized by the chemical source;

(iv) the sufficiency of security measures relative to the threats and consequences of a terrorist incident, including vulnerabilities at the chemical source arising from the nature and quantities of substances of concern and the use, storage, or handling of substances of concern; and
(v) other areas, as determined by the Secretary.

(6) CONTENTS OF SITE SECURITY PLAN.—A site security plan shall—

(A) indicate the tier applicable to the chemical source, as determined by the Secretary under section 3(e)(2);

(B) address the risks identified in the vulnerability assessment;

(C) address the appropriate security performance standards established by Secretary under section 3(f);

(D) include security measures appropriate to the tier level of the chemical source that address the risks identified in the vulnerability assessment and are sufficient to deter, to the maximum extent practicable, a terrorist incident or a substantial threat of such an incident;

(E) include security measures to mitigate the consequences of a terrorist incident;

(F) describe, at a minimum, particular plans, processes, or procedures that could be used by or at the chemical source in the event of a terrorist incident;
(G) identify the roles and responsibilities of employees at the chemical source;

(H) identify steps taken by the chemical source to coordinate security measures and plans for response to a terrorist incident with Federal, State, and local government officials, including law enforcement and first responders and specify the security officer who will be the point of contact for the National Incident Management System and Federal, State, and local law enforcement and first responders; and

(I) describe the training, drills (including periodic unannounced drills), exercises, and security actions of persons at the chemical source, to be carried out under the plan to deter, to the maximum extent practicable, a terrorist incident or a substantial threat of such an incident.

(7) CONTENTS OF EMERGENCY RESPONSE PLAN.—

(A) IN GENERAL.—An emergency response plan shall—

(i) specifically address the consequences of a terrorist incident identified in the vulnerability assessment prepared under paragraph (4);
(ii) be consistent with the site security plan prepared under paragraph (6); and

(iii) identify the roles and responsibilities of employees at the chemical source.

(B) RELATIONSHIP TO THE NATIONAL CONTINGENCY PLAN.—

(i) IN GENERAL.—Except as provided in clause (ii), an emergency response plan shall be a Federally approved or certified emergency response plan in effect on the date of enactment of this Act that is—

(I) consistent with guidance provided by the National Response Team established under the National Contingency Plan created under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605); and

(II) modified to satisfy the requirements of subparagraph (A).

(ii) NO EXISTING PLAN.—The owner or operator of a chemical source that does not have a Federally approved or certified emergency response plan in effect on the
date of enactment of this Act shall follow
the guidance provided by the National Re-
response Team established under the Na-
tional Contingency Plan created under sec-
tion 105 of the Comprehensive Environ-
mental Response, Compensation, and Li-
ability Act of 1980 (42 U.S.C. 9605) in
developing an emergency response plan to
meet the specific considerations of that
chemical source.

(C) Protection of Security Information.—If, in order meet the requirements of
this paragraph, the owner or operator of a
chemical source is required to include in an
emergency response plan information, the re-
lease of which would be detrimental to the secu-
ry of the source, that information shall be sep-
arated in a security addendum to the emer-
gecy response plan.

(8) Guidance to Chemical Sources.—Not
later than 1 year after the date of enactment of this
Act, the Secretary shall publish guidance to assist
owners and operators of chemical sources in com-
plying with this Act, including advice on aspects of
compliance with this Act that may be unique to small business concerns.

(b) Certification and Submission.—

(1) In general.—Not later than 6 months after the date of the promulgation of regulations under subsection (a)(1), each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented, or is implementing, a site security plan and an emergency response plan in accordance with this Act.

(2) Submission.—Not later than 6 months after the date of the promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall submit to the Secretary copies of the vulnerability assessment, site security plan, and emergency response plan of the chemical source for review.

(3) Failure to comply.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment, site security plan, or emergency response plan in accordance with paragraph (2), the Secretary may issue an order requiring the certification and submission of a vulner-
ability assessment, site security plan, or emergency
response plan in accordance with this section.

(c) Review by the Secretary.—
   (1) In general.—The Secretary shall review
   the vulnerability assessment, site security plan, and
   emergency response plan submitted by the owner or
   operator of a chemical source under subsection
   (b)(2) to determine whether the assessment and
   plans and the implementation of such plans comply
   with this section.

   (2) Disapproval.—The Secretary shall dis-
   approve a vulnerability assessment, site security
   plan, or emergency response plan submitted under
   subsection (b)(2) if the Secretary determines that
   the vulnerability assessment, site security plan,
   emergency response plan, or the implementation of
   such plans does not comply with this section.

   (3) Compliance.—
      (A) In general.—If the Secretary dis-
      approves a vulnerability assessment, site secu-
      rity plan, or emergency response plan of a
      chemical source under paragraph (2), the Sec-
      retary—

      (i) shall provide the owner or operator
      of the chemical source a written notifica-
tion of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, emergency response plan, or implementation of the site security plan;

(ii) shall consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance;

(iii) if, following consultation under clause (ii), the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, shall issue an order requiring the owner or operator to correct specified deficiencies; and

(iv) if the owner or operator continues to be in noncompliance, may issue an order for the chemical source to cease operation.

(B) COMPLIANCE FOR HIGHER RISK TIERS.—

(i) IN GENERAL.—Not later than 1 year after the later of the date of the promulgation of regulations under subsection (a)(1) and the date of the promulgation of
regulations under section 3(e), the Secretary shall—

(I) determine whether to approve, disapprove, or modify the vulnerability assessment, site security plan, and emergency response plan submitted under subsection (b)(2) by a chemical source in a higher risk tier; and

(II) determine whether a chemical source in a higher risk tier is operating in compliance with the site security plan and emergency response plan submitted by the chemical source under subsection (b)(2).

(ii) ENFORCEMENT.—The Secretary may issue an order to a chemical source in a higher risk tier to cease operation if the Secretary—

(I) disapproves the vulnerability assessment, site security plan, or emergency response plan submitted under subsection (b)(2) by a chemical source in a higher risk tier; or

(II) determines that a chemical source in a higher risk tier is not op-
erating in compliance with the site sec-

urity plan or emergency response

plan submitted by the chemical source

under subsection (b)(2).

(C) Compliance for other tiers.—Not

later than 5 years after the date of the submis-

sion of the vulnerability assessment, site secu-

rity plan, and emergency response plan by a

chemical source that is not in a higher risk tier

under subsection (b)(2), the Secretary shall

complete the review of the assessment and

plans and make a determination regarding com-

pliance with this section.

(D) Subsequent review.—The Sec-

retary may conduct subsequent reviews and de-

terminations of compliance under this Act for a

chemical source on a schedule as determined to

be appropriate by the Secretary, with priority

given to chemical sources in a higher risk tier.

(d) Submission and Certification of

Changes.—

(1) In general.—Not later than 60 days after

the date on which a change is made to a chemical

source that affects the security of the chemical
source, the owner or operator of the chemical source
shall—

(A) notify the Secretary in writing;
(B) provide a description of the change at
the chemical source; and
(C) either—
(i) request a waiver from resubmitting
the vulnerability assessment, security plan,
and emergency response plan; or
(ii) review and resubmit the vulner-
ability assessment, site security plan, and
emergency response plan, with the appro-
priate modifications.

(2) NOTICE AND REQUEST.—If the Secretary
determines that additional modification of a vulner-
ability assessment, site security plan, or emergency
response plan is required, the Secretary shall—
(A) provide a written notice to the chem-
ical source owner or operator, requiring modi-
fications addressing any matters specified in
the notice; and
(B) provide the owner or operator of the
chemical source not less than 60 days after the
de date of the notice under subparagraph (A) to
submit proposed modifications.
(3) TEMPORARY SECURITY MEASURES.—During the period before the Secretary approves a modified vulnerability assessment, site security plan, or emergency response plan or issues a waiver, an owner or operator of a chemical source shall ensure temporary security measures are implemented.

(e) MTSA-REGULATED FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (4), a chemical source that is also a MTSA-regulated facility shall comply with this Act.

(2) COMPLIANCE.—

(A) IN GENERAL.—A chemical source that is also a MTSA-regulated facility shall review its facility security assessment, facility security plan, and emergency response plan and make any modifications necessary to comply with the security performance standards established for the tier applicable to the chemical source under section 3(f) and the requirements of subsection (a)(1).

(B) SUBMISSION.—Not later than 180 days after the date on which the Secretary promulgates regulations under subsection (a)(1), the owner or operator of a chemical source that is also a MTSA-regulated facility shall—
(i) submit the facility security assessment, facility security plan, and emergency response plan, with any appropriate modifications under subparagraph (A), for the chemical source to the Federal Maritime Security Coordinator for the area in which the chemical source is located and the Secretary for approval; and

(ii) certify in writing to the Federal Maritime Security Coordinator for the area in which the facility is located and the Secretary that—

(I) the facility security assessment and facility security plan for the facility are in compliance with the security performance standards for the tier applicable to the chemical source under section 3(f) and the requirements under subsection (a)(1); and

(II) the owner or operator has submitted an approved or certified emergency response plan required under chapter 701 of title 46, United States Code, to the Federal Maritime
Security Coordinator for the area in which the facility is located.

(3) Review by the Secretary.—In accordance with the procedures under subsection (c), the Secretary, in consultation with the Federal Maritime Security Coordinator for the area in which a chemical source that is also a MTSA-regulated facility is located, shall determine whether a facility security assessment and facility security plan submitted under paragraph (2)(B) meets the security performance standards established by the Secretary under section 3(f) and the requirements under subsection (a)(1).

(4) Exemption.—A chemical source that is a MTSA-regulated facility is exempt from section 6(d) of this Act.

(5) Integration and Coordination.—

(A) In general.—The Secretary shall implement this Act and chapter 701 of title 46, United States Code, in as consistent and integrated manner as possible.

(B) Coast Guard.—The Secretary shall ensure coordination between the Under Secretary for Preparedness and the Coast Guard Commandant in carrying out this Act.
(f) **ALTERNATIVE SECURITY PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary may consider a petition submitted by any person that describes—

(A) alternate procedures, protocols, and standards established by an industry entity, Federal, State, or local government authorities, or other applicable laws; and

(B) the scope of chemical sources to which such program would apply.

(2) **REVIEW.**—The Secretary may review the requirements of any alternative security program submitted under paragraph (1) to determine whether a vulnerability assessment, security plan, or emergency response plan prepared under that program meets each required element under subsection (a)(1) for a vulnerability assessment, security plan, and emergency response plan submitted under subsection (b)(2).

(3) **DETERMINATION.**—

(A) **IN GENERAL.**—If the Secretary determines that a vulnerability assessment, security plan, or emergency response plan prepared under that alternative security program meets each required element under subsection (a)(1) for a vulnerability assessment, security plan,
and emergency response plan submitted under subsection (b)(2), the Secretary shall notify the petitioner that any chemical source covered by that program may submit an assessment or plan prepared under that program without further revision.

(B) OTHER DETERMINATIONS.—If the Secretary determines that a vulnerability assessment, security plan, or emergency response plan prepared under that alternative security program does not meet each required element under subsection (a)(1) for a vulnerability assessment, security plan, and emergency response plan submitted under subsection (b)(2)—

(i) the Secretary may specify what modifications would be necessary to meet the required elements for a vulnerability assessment, security plan, or emergency response plan submitted under subsection (b)(2); and

(ii) a chemical source covered by that program may submit the assessment or plans with the specified modifications.
(C) FORM.—Any action taken by the Secretary under this paragraph shall be made by rule, regulation, or order.

(4) REVIEW.—Nothing in this subsection shall relieve the Secretary of the obligation—

(A) to review the vulnerability assessment, security plan, and emergency response plan submitted by each chemical source under this section according to the performance standards established by section 3(f) and the requirements under subsection (a)(1); or

(B) to approve or disapprove each submission on an individual basis.

(g) PERIODIC REVIEW.—

(1) IN GENERAL.—On the timeline established by the Secretary under paragraph (2), the owner or operator of a chemical source shall—

(A) review the adequacy of the vulnerability assessment, site security plan, and emergency response plan for the chemical source;

(B) certify to the Secretary that the chemical source has completed the review and implemented any necessary modifications to the vulnerability assessment, site security plan, or emergency response plan; and
(C) provide to the Secretary a description
of any changes to the vulnerability assessment,
site security plan, or emergency response plan.

(2) TIMING.—The Secretary shall establish a
timeline for review appropriate to the tier level of
the chemical source that requires a review—

(A) for a higher risk tier, not later than 1
year after the date of approval of a vulner-
ability assessment, site security plan, and emer-
gency response plan under subsection (b)(1)
and not less often than every 3 years thereafter;
and

(B) for all other tiers, not later than 5
years after the date of approval of a vulner-
ability assessment, site security plan, and emer-
gency response plan under subsection (b)(1)
and not less often than every 5 years thereafter.

SEC. 5. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION
OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a
chemical source shall retain a copy of the vulnerability as-
assessment, site security plan, and emergency response plan
for the chemical source for not less than 5 years after the
date on which such assessment or plan was approved by
the Secretary under section 4(c).
(b) Right of Entry.—

(1) In General.—In carrying out this Act, the Secretary or the designee of the Secretary, on presentation of credentials, shall have a right of entry to, on, or through—

(A) the premises of a chemical source; and

(B) any premises on which any record required to be maintained under subsection (a) is located.

(2) Audits and Inspections.—

(A) In General.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct, or require the conduct of, facility security audits and inspections, the requirements of which may be established by rule, regulation, or order.

(B) Scope.—Audits and inspections under subparagraph (A) shall ensure and evaluate compliance with this Act.

(c) Requests for Records.—In carrying out this Act, the Secretary may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and
(2) any other documentation necessary for
the—

(A) review or analysis of a vulnerability as-

essment or security plan; or

(B) implementation of a security plan.

(d) COMPLIANCE.—If the Secretary determines that
an owner or operator of a chemical source is not maintain-

ing, producing, or permitting access to records or to the
premises of the chemical source as required by this sec-
tion, the Secretary may issue an order requiring compli-
ance with the relevant provisions of this section.

SEC. 6. INFRASTRUCTURE PROTECTION AND IMPLEMENTA-

TION.

(a) COORDINATION.—

(1) IN GENERAL.—The Secretary shall ensure
effective chemical security planning and response by
providing the necessary infrastructure, leadership,
technical assistance, guidance, and accountability for
security planning and response in areas surrounding
chemical sources.

(2) WITH OTHER LAW.—The Secretary shall
model the regulations promulgated, organizations es-

tablished, and actions taken under this section on
the requirements of sections 70102, 70103, 70104,
and 70112 of title 46, United States Code.
(3) WITH COMMITTEES.—The Secretary, and those in positions assigned under this section, shall coordinate with other Federal area security and response committees in order to provide a unified and effective Federal effort for security and response organizational infrastructure for the Nation. Nothing in this section shall supersede any other Federal area security or response committee and the entities established under this section shall be organized to complement such other committees.

(b) COMPLIANCE OFFICE.—

(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this Act, the Secretary shall establish an office under the Assistant Secretary for Infrastructure Protection that shall be responsible for implementing and enforcing this Act.

(2) ACTIVITIES.—The Secretary, acting through the Assistant Secretary for Infrastructure Protection, shall—

(A) provide leadership, guidance, planning, technical assistance, resources, and conduct oversight activities to establish an effective chemical security planning and response infrastructure for the Nation;
(B) provide leadership, personnel, training, equipment, other resources as necessary, and technical assistance to—

(i) Federal, State and local government agencies;

(ii) Infrastructure Protection Regional Security Offices; and

(iii) Area Security Committees, as requested by the Federal Area Security Coordinator;

(C) coordinate with law enforcement agencies, first responders, and chemical sources regarding the response to a potential or actual terrorist incident at a chemical source;

(D) review and approve each Area Security Plan submitted under subsection (d); and

(E) coordinate with the Office of State and Local Government Coordination and Preparedness of the Department, to ensure some homeland security grants administered by the Department support the plans required under this section.

(e) INFRASTRUCTURE PROTECTION REGIONAL SECURITY OFFICES.— 
(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish in each Federal Emergency Management Agency Region an Infrastructure Protection Regional Security Office, for purposes of carrying out this Act and coordinating regional security, as described in this section.

(2) **MEMBERSHIP AND DUTIES.**—Each Infrastructure Protection Regional Security Office shall—

(A) consist of—

(i) the personnel of the Infrastructure Protection Office of the Department within the region; and

(ii) a regional security advisory staff, to be appointed by the Secretary;

(B) review and approve each Area Security Plan for the region to ensure coordination between regions and States;

(C) oversee implementation of this Act to ensure consistent implementation within the region, in conjunction with the strategic mission and policies of, and guidance from, the Department; and

(D) perform other functions as assigned by the Secretary necessary to implement the re-
requirements of this Act or help protect other critical infrastructure.

(d) Area Security Committees and Plans.—

(1) Designation of Areas and Federal Area Security Coordinators.—

(A) Deadline.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate geographic areas for the Area Committees established under paragraph (2).

(B) Requirements.—In designating areas under subparagraph (A), the Secretary shall ensure that—

(i) except as provided in subparagraph (C), all parts of the United States are included in an area; and

(ii) no area is larger than a single State, although an area may incorporate portions of more than 1 State, based on the organization and number of chemical sources in a geographic area.

(C) Exclusion.—Any area designated under section 70103(a)(2)(G) of title 46, United States Code, shall not be included in any area designated under this Act.
(2) Establishment and designation.—

(A) Committees.—There is established for each area designated by the Secretary under paragraph (1) an Area Security Committee, comprised of members appointed by the Secretary, in consultation with State and local government officials, from qualified and effected security and response personnel of Federal, State, and local government agencies, chemical sources, local emergency planning and response entities, other critical infrastructure sectors, and other appropriate organizations.

(B) Coordinator.—For each area designated by the Secretary under paragraph (1), the Secretary shall designate a Federal Area Security Coordinator with knowledge of and experience in the activities required under this subsection.

(3) Duties.—

(A) Committees.—Each Area Security Committee, under the direction of the Federal Area Security Coordinator for the area assigned to such Area Security Committee, shall—

(i) meet not less frequently than twice per year;
(ii) prepare the Area Security Plan described in paragraph (4) for that area and submit the Area Security Plan to the Secretary for approval; and

(iii) coordinate with Federal, State, and local government officials and chemical sources to enhance the security and response planning of those officials and to assure effective preplanning of joint security and response efforts, including exercises, drills, evacuations, sheltering, and rescue.

(B) COORDINATOR.—Each Federal Area Security Coordinator shall, for the area assigned to such official—

(i) conduct audits and inspections of chemical sources under this Act;

(ii) provide appropriate guidance and support to chemical sources; and

(iii) perform such other duties as are required by the Area Security Committee or the Secretary.

(4) AREA SECURITY PLANS.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, each
Area Security Committee shall prepare and submit to the Secretary for approval an Area Security Plan for the area assigned to such Area Security Committee.

(B) PLAN REQUIREMENTS.—The Area Security Plan shall—

(i) coordinate the resources of the area assigned to the Area Security Committee to deter a potential or actual terrorist incident at a chemical source in that area, or to respond to a terrorist incident at a chemical source in that area;

(ii) coordinate with the National Infrastructure Protection Plan, the National Response Plan, the site security plan of any chemical source located in the area assigned to the Area Security Committee, other appropriate national security and response plans, and the Area Security Plans for contiguous areas;

(iii) reflect security and response post-incident investigative reports, as determined by the Secretary;

(iv) describe in detail the responsibilities of an owner or operator of a chemical
source (based upon the approved site security plan for the chemical source) and of Federal, State, and local government agencies in responding to potential or actual terrorist incident at a chemical source operating in the area assigned to the Area Security Committee;

(v) describe the area covered by the plan, list the assets and resources available to respond to a terrorist incident, and include any other information the Secretary requires;

(vi) be updated periodically by the Area Security Committee; and

(vii) provide for coordination with the appropriate Federal, State and local government agencies or members of local entities that plan for emergency releases from chemical sources regarding how local populations that may be affected by a release are provided with information, including evacuation planning, sheltering in place, and areas of refuge.
(5) Review.—Not later than 24 months after
the date of enactment of this Act, the Secretary
shall—

(A) review each Area Security Plan devel-
oped under paragraph (4);

(B) require amendments to any plan that
does not meet the requirements of this section;
and

(C) approve each plan that meets the re-
quirements of this section.

(e) Area Exercises and Drills.—

(1) In General.—The Secretary shall periodi-
cally conduct drills and exercises, some without prior
notice, including full functional and communications
exercises of security and response capability in each
area for which an Area Security Plan is required
under this section and under the site security plan
and emergency response plans of relevant chemical
sources.

(2) Scope of Participation.—The drills and
exercises conducted under paragraph (1) may in-
clude participation by—

(A) Federal, State, and local government
agencies, including law enforcement and first
responders;
(B) the owner and operator of any chemical source in the area;

(C) members of local entities that plan for emergency releases;

(D) representatives of other critical infrastructure; and

(E) other participants as determined appropriate by the Secretary or the designee of the Secretary.

(3) REPORTS.—The Secretary shall publish annual reports on drills under this subsection, including assessments of the effectiveness of the plans described in paragraph (1), lessons learned, and a list of any amendments made to improve any plan described in paragraph (1). The annual reports shall not include protected information.

SEC. 7. HEIGHTENED SECURITY MEASURES.

(a) IN GENERAL.—If the Secretary determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against the chemical sector, the Secretary may issue an order to the owner or operator of a chemical source setting forth mandatory security measures. Only the Secretary or the designee of the Secretary may issue an order under this section.
(b) Period of Order.—

(1) In General.—Any order issued by the Secretary under subsection (a) shall be effective upon issuance and shall remain in effect for a period of not more than 90 days, unless the Secretary files an action in an appropriate United States district court before the expiration of that 90-day period.

(2) Effect of Filing.—If the Secretary files an action described in paragraph (1), an order issued by the Secretary under subsection (a) shall remain in effect for 14 days in addition to the 90-day period under paragraph (1), or for such shorter or longer period as may be authorized by the court in which such action is filed.

Sec. 8. Penalties.

(a) Administrative Penalties.—

(1) Penalties.—The Secretary may impose an administrative penalty of not more than $25,000 per day, and not more than a maximum of $1,000,000 per year, for failure to comply with an order or directive issued by the Secretary under this Act.

(2) Notice and Hearing.—Before imposing a penalty under paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—
(A) a written notice of the proposed penalty; and

(B) not later than 30 days after the date on which the person receives the notice, the opportunity to request a hearing on the proposed penalty.

(3) PROCEDURES.—The Secretary shall promulgate regulations establishing procedures for administrative hearings and appropriate review, including necessary deadlines.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—The Secretary may bring an action in a United States district court against any owner or operator of a chemical source that violates or fails to comply with any order or directive issued by the Secretary under this Act or a site security plan approved by the Secretary under this Act.

(2) RELIEF.—In any action under paragraph (1), a court may issue an order for injunctive relief and may award a civil penalty of not more than $50,000 for each day on which a violation occurs or a failure to comply continues.

(e) CRIMINAL PENALTIES.—An owner or operator of a chemical source who knowingly violates any order issued by the Secretary under this Act or knowingly fails to com-
ply with a site security plan approved by the Secretary under this Act shall be fined not more than $50,000 for each day of such violation, imprisoned not more than 2 years, or both.

SEC. 9. PROTECTION OF INFORMATION.

(a) Disclosure Exemptions.—

(1) Records of the Department.—

(A) In general.—Except as provided in subsection (b), the Department shall not be required under section 552 of title 5, United States Code, to make available to the public a record described in subparagraph (B).

(B) Records not disclosed.—A record described in this subparagraph is—

(i) a vulnerability assessment, site security plan, or a security addendum to an emergency response plan obtained by the Department under section 4;

(ii) an area security plan required under section 6(d)(4);

(iii) materials developed or produced by a chemical source exclusively in preparation of documents referred to in clause (i) and obtained by the Department under section 4; or
(iv) any record developed exclusively for the purposes of this Act by the Department, or produced exclusively for the purposes of this Act by a chemical source and obtained by the Department under section 4, to the extent that the record contains information that—

(I) describes a specific chemical source or the specific vulnerabilities of a chemical source;

(II) was taken from a record described in clause (i) or (ii) or from a copy of such record in possession of the chemical source; and

(III) would, if disclosed, be detrimental to the security of a chemical source.

(2) RECORDS OF OTHER AGENCIES.—

(A) IN GENERAL.—A Federal agency other than the Department shall not be required under section 552 of title 5, United States Code, to make available to the public a record described in subparagraph (C).

(B) REFERRAL OF REQUESTS.—If a Federal agency other than the Department receives
a request under section 552 of title 5, United
States Code, for a record described in clause (i)
or clause (ii)(I) of subparagraph (C), the agen-
cy, without consideration by the agency of
whether subparagraph (C)(ii)(II) is satisfied—

(i) shall not disclose the record; and

(ii) shall refer the request to the De-
partment for processing and response.

(C) RECORDS NOT DISCLOSED.—A record
described in this subparagraph is any record—

(i) described in paragraph (1)(B) that
was shared by the Department with the
agency under this section; and

(ii) produced exclusively for the pur-
poses of this Act by the agency, to the ex-
tent that the record contains information
that—

(I) describes a specific chemical
source or the specific vulnerabilities of
a chemical source;

(II) was taken from a record de-
scribed in clause (i); and

(III) would, if disclosed, be detri-
mental to the security of a chemical
source.
(3) Records of state or local government agencies.—

(A) In general.—A State or local government agency shall not be required under any State or local law providing for public access to information to make available to the public a record described in subparagraph (B).

(B) Records not disclosed.—A record described in this subparagraph is any record—

(i) described in paragraph (1)(B) that was shared by the Department with the State or local government agency under section 6; and

(ii) produced exclusively for the purposes of this Act by the State or local government agency, to the extent that the record contains information that—

(I) describes a specific chemical source or the specific vulnerabilities of a chemical source; and

(II) was taken from a record described in clause (i) or (ii) or from a copy of such document in possession of the chemical source.

(b) Public Information.—
(1) IN GENERAL.—

   (A) INFORMATION DISCLOSED.—Except as provided in subparagraph (B), the following records shall be made available to the public under section 552 of title 5, United States Code:

   (i) CERTIFICATIONS.—A certification under section 4(b)(1).

   (ii) ORDER FOR FAILURE TO COMPLY.—An order under section 4(b)(3).

   (iii) COMPLIANCE CERTIFICATES.—A certificate of compliance under paragraph (2).

   (iv) OTHER ORDERS.—The identity of any chemical source and the owner or operator of the chemical source for which any other order or any approval or disapproval is issued under this Act, together with information identifying the applicable order, approval, or disapproval.

   (B) EXCEPTION.—

   (i) IN GENERAL.—If the Secretary makes a specific finding and determination with respect to a particular chemical source that releasing any record described
in subparagraph (A) regarding that chemical source would increase the risk to the security of any chemical source, the Secretary may establish a period, not to exceed 6 months, during which the record shall not be made available to the public under section 552 of title 5, United States Code.

(ii) Extension.—Not more than 60 days before to the expiration of a period established under clause (i) (or an extension of such period under this clause), the Secretary may extend the period for an additional period not to exceed 6 months if the Secretary makes a specific finding and determination with respect to a particular chemical source that releasing any record described in subparagraph (A) regarding that chemical source would increase the risk to the security of any chemical source.

(iii) Notice to GAO.—If the Secretary determines not to allow a record to be made available to the public under clause (i) or extends the period of nondisclosure under clause (ii), the Secretary
shall submit to the Comptroller General of the United States, for inclusion and evaluation in the reports under section 12, a detailed statement—

(I) identifying the chemical source;

(II) describing the record;

(III) explaining the basis for the Secretary’s determination; and

(IV) describing any security measures being implemented by the chemical source.

(2) Certification of Compliance.—When the Secretary determines that a chemical source is in compliance with the requirements of this Act, the Secretary shall issue and make available for public inspection a certificate of approval that contains the following statement: "________ (chemical source name) ________ is in compliance with the Chemical Facility Anti-Terrorism Act of 2005.”.

(3) Report to Congress.—Not less frequently than once each year, the Secretary shall submit to Congress a public report on the performance of chemical sources under the Act, in the aggregate,
including a description of common problems, solutions, and industry best practices.

(c) Development of Protocols.—

(1) In General.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials and in a manner consistent with existing protections for sensitive or classified information, shall, by regulation, establish confidentiality protocols for maintenance and use of records described in paragraphs (1)(B), (2)(C), and (3)(B) of subsection (a).

(2) Requirements for Protocols.—The protocols established under paragraph (1) shall ensure, to the maximum extent practicable, that—

(A) the records shall be maintained in a secure location; and

(B) access to records shall be limited—

(i) as may be necessary to—

(I) enable enforcement of this Act; or

(II) address an imminent and substantial threat to security, health, safety, or the environment;
(ii) to State or local law enforcement officials, first responders, or other State or local government officials granted access to records for the purpose of carrying out this Act; and

(iii) to other persons granted access for the purpose of carrying out this Act.

(3) OTHER PROCEDURES IN PROTOCOLS.—The protocols established under paragraph (1) shall also—

(A) provide for the labeling of any record described in paragraph (1)(B), (2)(C), or (3)(B) of subsection (a), to enable the sensitive information in such record to be traced back to the specific document from which the information was derived;

(B) accommodate the making of disclosures under sections 2302(b)(8) and 7211 of title 5, United States Code, and provide guidance to employees as to how to make such disclosures without compromising security;

(C) include procedures applicable to a request under section 552 of title 5, United States Code, requiring that any portion of a record that reasonably may be separated shall
be provided to a person requesting the record after redaction of any portion that is exempt from disclosure;

(D) establish procedures by which a record described in paragraph (1)(B), (2)(C), or (3)(B) of subsection (a) may become subject to the requirements regarding public disclosure under section 552 of title 5, United States Code, when, because of changed circumstances or the passage of time, disclosure of the record would not be detrimental to the security of a chemical source.

(d) Process for Reporting Problems.—

(1) Establishment of a Reporting Process.—The Secretary shall establish, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding problems, deficiencies, or vulnerabilities at a chemical source.

(2) Confidentiality.—The Secretary shall keep confidential the identity of a person who submits a report under paragraph (1) and any such report shall be treated as a record described in subsection (a)(1)(B), to the extent that it does not consist of publicly available information.
(3) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary shall respond promptly to such person and acknowledge receipt of the report.

(4) STEPS TO ADDRESS PROBLEMS.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take whatever steps the Secretary determines appropriate to address any problems, deficiencies, or vulnerabilities identified.

(5) RETALIATION PROHIBITED.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the compensation to, or terms, conditions, or privileges of the employment of, such employee because the employee (or a person acting pursuant to a request of the employee) made a report under paragraph (1).

(6) GAO REPORTING.—The Comptroller General of the United States shall, in the reports under section 12—

(A) describe the number and type of problems, deficiencies, and vulnerabilities reported on under this subsection; and
(B) evaluate the Secretary's efforts in addressing such problems, deficiencies, and vulnerabilities.

(e) PROTECTED DISCLOSURES.—Nothing in this Act shall be construed to limit—

(1) the right of an individual to make any disclosure—

(A) protected or authorized under section 2302(b)(8) or 7211 of title 5, United States Code; or

(B) to the Special Counsel, the inspector general of an agency, or any other employee designated by the head of an agency to receive similar disclosures; or

(2) the applicability or enforcement of sections 818 and 820 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (Public Law 109–115).

(f) MATERIALS NOT HELD BY AGENCIES.—Nothing in this Act shall be construed to limit the rights or obligations of any chemical source, any entity that is not a Federal, State, or local government agency in possession of a record described in paragraphs (1)(B), (2)(C), and (3)(B) of subsection (a), or any individual, with respect
to the withholding or disclosure of any information or record held by the chemical source, entity, or individual, regardless of whether or not the Department has received or possesses similar or identical information or a similar or identical record.

(g) Disclosure of Independently Furnished Information.—

(1) In General.—Nothing in this Act shall be construed to affect the handling, treatment, or disclosure of a record or information obtained from a chemical source under any other law.

(2) Other Authority.—Nothing in this Act shall be construed to affect any authority or obligation of an agency to disclose any record that the agency receives independently of a record that is exempt under this section from the public disclosure requirements under section 552 of title 5, United States Code, regardless of whether or not the Department has an identical or similar record that is so exempt.

(h) Other Obligations Unaffected.—

(1) In General.—Nothing in this section affects any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government.
agency under, or otherwise to comply with, any other law.

(2) No use of information to gain governmental benefit.—The owner or operator of a chemical source may not use any record described in paragraph (1)(B), (2)(C), or (3)(B) of subsection (a) to satisfy any legal requirement or obligation other than a requirement under this Act or to obtain any grant, permit, contract, benefit (including agency forbearance, loans, or deduction or modifications of agency penalties or rulings) or other governmental approval.

(i) Availability of Information to Congress.—Nothing in this Act shall be construed to authorize information to be withheld from Congress.

(j) Penalties for Unauthorized Disclosure.—Any officer or employee of a Federal, State, or local government agency who, in a manner or to an extent not authorized by law, knowingly discloses any record described in paragraph (1)(B), (2)(C), or (3)(B) of subsection (a) shall—

(1) be imprisoned not more than 1 year, fined under chapter 227 of title 18, United States Code, or both; and
(2) if an officer or employee of the Government, be removed from Federal office or employment.

SEC. 10. STATE AND OTHER LAWS.

(1) IN GENERAL.—Nothing in this Act shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance respecting chemical facility security that is more stringent than a regulation, requirement, or standard of performance in effect under this Act, or shall otherwise impair any right or jurisdiction of the States with respect to chemical facilities within such States unless there is an actual conflict between a provision of this Act and the law of the State.

(2) OTHER REQUIREMENTS.—Nothing in this Act shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance, including air or water pollution requirements, that are directed at problems other than reducing damage from terrorist attacks.

SEC. 11. CHEMICAL SECURITY REPORTING.

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the
Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives an update of the national strategy for the chemical sector required to be submitted by the Secretary to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives by February 10, 2006.

SEC. 12. REVIEW BY THE GOVERNMENT ACCOUNTABILITY OFFICE.

(a) ACCESSIBILITY.—The Secretary shall provide access to the Government Accountability Office of any document or information required to be submitted to, generated by, or otherwise in the possession of the Department under this Act.

(b) REVIEW AND REPORTS.—

(1) IN GENERAL.—Not later than January 1 of the first year following the calendar year in which the regulations are promulgated under section 4(a)(1), and on January 1 of each year thereafter, the Government Accountability Office shall submit a report described under paragraph (2) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives and the Com-
mittee on Energy and Commerce of the House of Representatives.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) a review of site security plans, vulnerability assessments, and emergency response plans under this Act; and

(B) a determination of whether such plans and assessments are in compliance with this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.