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

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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.

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 Security Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

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

(2) limiting public access to chemical accident information does not address the underlying problem of the vulnerability of chemical plants to criminal attack; on the contrary, providing public access to chemical accident information may create substantial incentives to reduce such vulnerability;

(3) there are significant opportunities to prevent criminal attack on chemical plants by employing inherently safer technologies in the manufacture and use of chemicals; such technologies may offer industry substantial savings by reducing the need for site security, secondary containment, buffer zones, mitigation, and liability insurance;

(4) chemical plants have a general duty to design and maintain safe facilities to prevent criminal activity that may result in harm to human health, safety and the environment; and

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

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

SEC. 3. PREVENTION OF CRIMINAL RELEASES.

(a) PURPOSE AND GENERAL DUTY.—Section 112(r)(1) of the Clean Air Act (42 U.S.C. 7412(r)(1)) is amended by striking the second sentence and inserting the following: ''Each owner and each operator of a stationary source that produces, processes, handles, or stores such a substance has a general duty in the same manner and to the same extent as the duty imposed under section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654) to identify hazards that may result from an accidental release or criminal release using appropriate hazard assessment techniques, to ensure design and maintenance of safe facilities taking such actions as are necessary to prevent accidental releases and criminal releases, and to minimize the consequences of any accidental release or criminal release that does occur.''.

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

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

(2) by inserting after subparagraph (A) the following:

"(B) CRIMINAL RELEASE.—The term 'criminal release' means—

"(i) a release of a regulated substance from a stationary source into the environment that is caused, in whole or in part, by a criminal act; and

"(ii) a release into the environment of a regulated substance that has been removed from a stationary source, in whole or in part, by a criminal act.

"(C) DESIGN AND MAINTENANCE OF SAFE FACILITIES.—The term 'design and maintenance of safe facilities' means, with respect to the facilities at a stationary source, the practices of—

"(i) preventing or reducing the vulnerability of the stationary source to a release of a regulated substance through use of inherently safer technology to the maximum extent practicable;

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

mitigation equipment to the maximum extent practicable;

''(iii) reducing any vulnerability of the stationary source that remains after taking the measures described in clauses (i) and (ii) by—

''(I) making the facilities impregnable to intruders to the maximum extent practicable; and

''(II) improving site security and employee training to the maximum extent practicable; and

''(iv) reducing the potential consequences of any vulnerability of the stationary source that remains after taking the measures described in clauses (i) through (iii) through the use of buffer zones between the stationary source and surrounding populations (including buffer zones between the stationary source and residences, schools, hospitals, senior centers, shopping centers and malls, sports and entertainment arenas, public roads and transportation routes, and other population centers).

"(D) USE OF INHERENTLY SAFER TECHNOLOGY.—

"(i) IN GENERAL.—The term 'use of inherently safer technology' means use of a technology, product, raw material, or practice that, as compared to the technology, products, raw materials, or practices currently in use—

"(I) reduces or eliminates the possibility of release of a toxic, volatile, corrosive, or flammable substance prior to secondary containment, control, or mitigation; and

"(II) reduces or eliminates the hazards to public health and the environment associated with the release or potential release of a substance described in subclause (I).

"(ii) INCLUSIONS.—The term 'use of inherently safer technology' includes input substitution, process redesign, product reformulation, procedure simplification, and technology modification so as to—

"(I) use less hazardous or benign substances;

''(II) moderate pressures or temperatures;

''(III) reduce the likelihood and potential consequences of human error;

''(IV) improve inventory control and chemical use efficiency; and

''(V) reduce or eliminate storage, transportation, and handling of hazardous chemicals.''.

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

''(12) PREVENTION OF CRIMINAL RELEASES.—

''(A) DETERMINATION OF ADEQUACY.—Not later than 1 year after the date of enactment of this paragraph, the Attorney General, in consultation with the Administrator, shall determine whether the owners or operators of stationary sources have taken adequate actions, including the design and maintenance of safe facilities, to detect, prevent, and minimize the consequences of criminal releases that may cause substantial harm to public health, safety, and the environment.

"(B) CHEMICAL SECURITY REGULATIONS.—If the Attorney General determines, under subparagraph (A), that adequate actions have not been taken, the Attorney General, in consultation with the Administrator, shall promulgate, not later than 2 years after the date of enactment of this paragraph, requirements to ensure that owners or operators of stationary sources take adequate actions, including the design and maintenance of safe facilities, to detect, prevent, and minimize the consequences of criminal releases that may cause substantial harm to public health, safety, and the environment.".

SEC. 4. REGULATIONS.

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

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator of the Environmental Protection Agency and the Attorney General such sums as are necessary to carry

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

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