

106TH CONGRESS  
1ST SESSION

# H. R. 1790

To provide for public disclosure of accidental release scenario information in risk management plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1999

Mr. BLILEY (by request) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Government Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for public disclosure of accidental release scenario information in risk management plans, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Safety Infor-  
5 mation and Site Security Act of 1999”.

6 **SEC. 2. PUBLIC AVAILABILITY OF ANALYSIS.**

7 (a) DEFINITIONS.—

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) RISK MANAGEMENT PLAN.—The term “risk  
5           management plan” means a risk management plan  
6           submitted by an owner or operator of a stationary  
7           source pursuant to section 112(r)(7)(B) of the Clean  
8           Air Act.

9           (3) OFF-SITE CONSEQUENCE ANALYSIS INFOR-  
10          MATION.—The term “off-site consequence analysis  
11          information” means those portions of a risk manage-  
12          ment plan, excluding the executive summary of such  
13          plan, consisting of an evaluation of one or more  
14          worst-case scenario or alternative scenario accidental  
15          releases of extremely hazardous substances listed  
16          pursuant to section 112(r)(3) of the Clean Air Act.

17          (4) STATE.—The term “State” means a State,  
18          the District of Columbia, the Commonwealth of  
19          Puerto Rico, the Virgin Islands, Guam, American  
20          Samoa, the Commonwealth of the Northern Mariana  
21          Islands, and Indian tribes as defined in section  
22          102(2) of the Federally Recognized Indian Tribe  
23          List Act of 1994 (25 U.S.C. 479a(2)).

24          (b) EXEMPTION FROM FREEDOM OF INFORMATION  
25          ACT.—Off-site consequence analysis information or infor-

1 mation derived therefrom, shall not be made available  
2 under section 552 of title 5, United States Code. Nothing  
3 in this section shall affect the obligation of the Adminis-  
4 trator under section 112(r)(7)(B)(iii) of the Clean Air Act  
5 to make available off-site consequence analysis informa-  
6 tion, or information derived therefrom, except as provided  
7 in subsection (c) of this section.

8 (c) DISTRIBUTION OF OFF-SITE CONSEQUENCE  
9 ANALYSIS INFORMATION.—

10 (1) No officer or employee of the United States  
11 shall make available in an electronic form off-site  
12 consequence analysis information except as provided  
13 in paragraphs (2), (6), and (7) of this subsection  
14 and subsection (e) of this section.

15 (2) The Administrator may make available in  
16 an electronic form off-site consequence analysis in-  
17 formation to a State or local government officer or  
18 employee only for official use.

19 (3)(A) In response to any request for off-site  
20 consequence analysis information, including a re-  
21 quest for risk management plans, the Administrator  
22 shall provide a copy of off-site consequence analysis  
23 information, but only in paper form. The conditions  
24 under which it shall be made available, including,  
25 but not limited to, the maximum number of requests

1 any single requester can make, and the maximum  
2 number of stationary sources for which off-site con-  
3 sequence analysis information may be made available  
4 in response to any single request, shall be deter-  
5 mined by the Administrator in implementing guid-  
6 ance, pursuant to subsection (d)(1) of this section.  
7 An officer or employee of the United States may not  
8 otherwise distribute off-site consequence analysis in-  
9 formation in paper form, except as provided in para-  
10 graphs (4) and (6) of this subsection, and subsection  
11 (e) of this section.

12 (B) Consistent with this paragraph, the Admin-  
13 istrator shall promptly respond to off-site con-  
14 sequence analysis information requests. The Admin-  
15 istrator may levy a fee applicable to processing re-  
16 quests that recovers the Administrator's cost of  
17 processing such requests and reproducing such infor-  
18 mation in paper form.

19 (4) At the request of a State or local govern-  
20 ment officer acting in his or her official capacity, the  
21 Administrator may provide to such officer in paper  
22 form, only for official use, the off-site consequence  
23 analysis information submitted for the stationary  
24 sources located in the State in which the State or  
25 local government officer serves.

1           (5) Notwithstanding any provision of State or  
2 local law, and except as provided in subsection (e)(2)  
3 of this section, an officer or employee of a State or  
4 local government may make off-site consequence  
5 analysis information available only to the extent offi-  
6 cers or employees of the United States would be per-  
7 mitted to make such information available, con-  
8 sistent with the guidance and any regulations issued  
9 pursuant to this section, except that a State or local  
10 government officer or employee may only make  
11 available such information that concerns stationary  
12 sources located in the State in which the officer or  
13 employee serves.

14           (6) The Administrator shall ensure that every  
15 risk management plan submitted to the Environ-  
16 mental Protection Agency is available in paper or  
17 electronic form for public inspection, but not copy-  
18 ing, during normal business hours, including in Gov-  
19 ernment Printing Office depository libraries. For  
20 purposes of this paragraph, the Administrator may  
21 make risk management plans available in electronic  
22 form only if the electronic form does not provide an  
23 electronic means of ranking stationary sources based  
24 on off-site consequence analysis information. The  
25 Government Printing Office shall assist the Adminis-

1       trator in implementing this paragraph. There are  
2       authorized to be appropriated to the Administrator  
3       and to the Government Printing Office such sums  
4       as may be necessary, to be available until expended,  
5       to carry out this paragraph.

6               (7) After consulting with other appropriate  
7       Federal agencies, the Administrator may make off-  
8       site consequence analysis information available to  
9       the public in an electronic form that does not in-  
10      clude information concerning the identity or the lo-  
11      cation of the stationary sources for which the infor-  
12      mation was submitted. No other officer or employee  
13      of the United States, nor any officer or employee of  
14      a State or local government, may make off-site con-  
15      sequence analysis information available to the public  
16      in such form except as authorized by the Adminis-  
17      trator.

18              (8) Any officer or employee of the United  
19      States, or any officer or employee of a State or local  
20      government, who knowingly violates a restriction or  
21      prohibition established by this subsection shall be  
22      fined under section 3571 of title 18, United States  
23      Code, imprisoned for not more than one year, or  
24      both.

1           (9) The Administrator may collect and main-  
2           tain records that reflect the identity of individuals  
3           and persons seeking access to information under this  
4           section only to the extent that such collection and  
5           maintenance is relevant and necessary to accomplish  
6           a legal purpose of the Environmental Protection  
7           Agency that is required to be accomplished by stat-  
8           ute or by executive order of the President. Any such  
9           records shall be subject to section 552a of title 5,  
10          United States Code. An officer or employee of a  
11          State or local government may collect and maintain  
12          records identifying individuals and persons seeking  
13          access to information under this section only to the  
14          extent that such collection and maintenance is rel-  
15          evant and necessary to accomplish a legal purpose of  
16          their employing agency that is required to be accom-  
17          plished by State statute.

18          (d) IMPLEMENTING GUIDANCE AND ADDITIONAL AU-  
19          THORITIES.—

20                (1) Within 60 days of the enactment of this  
21                provision, the Administrator shall issue guidance set-  
22                ting forth procedures and methods for making off-  
23                site consequence analysis information available to  
24                the public consistent with the provisions of this sec-  
25                tion. The Administrator shall consult with other ap-

1 appropriate Federal agencies in developing the guid-  
2 ance. The Administrator may revise such guidance,  
3 as circumstances warrant, in consultation with the  
4 appropriate Federal agencies. Guidance issued pur-  
5 suant to this subsection, and any revision thereof,  
6 shall not be subject to judicial review. The Adminis-  
7 trator may issue regulations in place of such guid-  
8 ance to the extent the Administrator deems appro-  
9 priate.

10 (2) The Administrator is authorized to pre-  
11 scribe such regulations as are necessary to carry out  
12 the Administrator's functions under this section.  
13 The Administrator may delegate to any officer or  
14 employee of the Environmental Protection Agency  
15 such of the Administrator's powers or duties under  
16 this section as the Administrator may deem nec-  
17 essary or expedient. Regulations issued pursuant to  
18 this subsection shall be subject to judicial review to  
19 the same extent and in the same manner as regula-  
20 tions issued pursuant to section 112(r)(7) of the  
21 Clean Air Act.

22 (e) AGENTS AND CONTRACTORS.—

23 (1) An officer or employee of the United States  
24 may make off-site consequence analysis information  
25 available in any form to officers and employees of

1 agents and contractors of a Federal Government of-  
2 fice only for official use. For purposes of this sec-  
3 tion, such officers and employees of agents and con-  
4 tractors shall be treated as officers and employees of  
5 the United States and shall be subject to the same  
6 restrictions and sanctions as apply to officers and  
7 employees of the United States under this section.

8 (2) An officer or employee of a State or local  
9 government may make off-site consequence analysis  
10 information available in any form to officers and em-  
11 ployees of agents and contractors of the State or  
12 local government only for official use. For purposes  
13 of this section, such officers and employees of agents  
14 and contractors shall be treated as officers and em-  
15 ployees of the State or local government and shall be  
16 subject to the same restrictions and sanctions as  
17 apply to officers and employees of the State or local  
18 government under this section.

19 (f) ORDER AUTHORITY.—The Administrator may ex-  
20 ercise the authority provided under section 112(r)(9) of  
21 the Clean Air Act to withhold, or prevent the release of,  
22 off-site consequence analysis information when the Admin-  
23 istrator determines that release of such information may  
24 present an imminent and substantial endangerment to  
25 human health or welfare or the environment.

1 (g) SEPARABILITY OF PROVISIONS.—If any provision  
2 of this section is held invalid, the remainder of this section  
3 shall not be affected thereby.

4 **SEC. 3. SITE SECURITY STUDY AND RECOMMENDATIONS.**

5 Subject to the availability of appropriations, the At-  
6 torney General, utilizing available data to the extent pos-  
7 sible and in consultation with appropriate governmental  
8 agencies, affected industry, and the public, may review  
9 current industry practices regarding site security and the  
10 effectiveness of this Act. The Attorney General may peri-  
11 odically report to Congress regarding recommendations re-  
12 lated to enhancing site security practices and the need for  
13 continued implementation or modification of this Act.

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