

109TH CONGRESS
2^D SESSION

H. R. 6348

To direct the Secretary of Homeland Security to provide for enhanced security of chemical facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2006

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Secretary of Homeland Security to provide for enhanced security of chemical facilities, 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. (a) No later than six months after the
4 date of enactment of this Act, the Secretary of Homeland
5 Security shall issue interim final regulations establishing
6 risk-based performance standards for security of chemical
7 facilities and requiring vulnerability assessments and the
8 development and implementation of site security plans for
9 chemical facilities: *Provided*, That such regulations shall
10 apply to chemical facilities that, in the discretion of the

1 Secretary, present high levels of security risk: *Provided*
2 *further*, That such regulations shall permit each such facil-
3 ity, in developing and implementing site security plans, to
4 select layered security measures that, in combination, ap-
5 propriately address the vulnerability assessment and the
6 risk-based performance standards for security for the fa-
7 cility: *Provided further*, That the Secretary may not dis-
8 approve a site security plan submitted under this section
9 based on the presence or absence of a particular security
10 measure, but the Secretary may disapprove a site security
11 plan if the plan fails to satisfy the risk-based performance
12 standards established by this section: *Provided further*,
13 That the Secretary may approve alternative security pro-
14 grams established by private sector entities, Federal,
15 State, or local authorities, or other applicable laws if the
16 Secretary determines that the requirements of such pro-
17 grams meet the requirements of this section and the in-
18 terim regulations: *Provided further*, That the Secretary
19 shall review and approve each vulnerability assessment
20 and site security plan required under this section: *Pro-*
21 *vided further*, That the Secretary shall not apply regula-
22 tions issued pursuant to this section to facilities regulated
23 pursuant to the Maritime Transportation Security Act of
24 2002, Public Law 107–295, as amended; Public Water
25 Systems, as defined by section 1401 of the Safe Drinking

1 Water Act, Public Law 93–523, as amended; Treatment
2 Works as defined in section 212 of the Federal Water Pol-
3 lution Control Act, Public Law 92–500, as amended; any
4 facility owned or operated by the Department of Defense
5 or the Department of Energy, or any facility subject to
6 regulation by the Nuclear Regulatory Commission.

7 (b) Interim regulations issued under this section shall
8 apply until the effective date of interim or final regulations
9 promulgated under other laws that establish requirements
10 and standards referred to in subsection (a) and expressly
11 supersede this section: *Provided*, That the authority pro-
12 vided by this section shall terminate three years after the
13 date of enactment of this Act.

14 (c) Notwithstanding any other provision of law and
15 subsection (b), information developed under this section,
16 including vulnerability assessments, site security plans,
17 and other security related information, records, and docu-
18 ments shall be given protections from public disclosure
19 consistent with similar information developed by chemical
20 facilities subject to regulation under section 70103 of title
21 46, United States Code: *Provided*, That this subsection
22 does not prohibit the sharing of such information, as the
23 Secretary deems appropriate, with State and local govern-
24 ment officials possessing the necessary security clearances,
25 including law enforcement officials and first responders,

1 for the purpose of carrying out this section, provided that
2 such information may not be disclosed pursuant to any
3 State or local law: *Provided further*, That in any pro-
4 ceeding to enforce this section, vulnerability assessments,
5 site security plans, and other information submitted to or
6 obtained by the Secretary under this section, and related
7 vulnerability or security information, shall be treated as
8 if the information were classified material.

9 (d) Any person who violates an order issued under
10 this section shall be liable for a civil penalty under section
11 70119(a) of title 46, United States Code: *Provided*, That
12 nothing in this section confers upon any person except the
13 Secretary a right of action against an owner or operator
14 of a chemical facility to enforce any provision of this sec-
15 tion.

16 (e) The Secretary of Homeland Security shall audit
17 and inspect chemical facilities for the purposes of deter-
18 mining compliance with the regulations issued pursuant
19 to this section.

20 (f) Nothing in this section shall be construed to su-
21 persede, amend, alter, or affect any Federal law that regu-
22 lates the manufacture, distribution in commerce, use, sale,
23 other treatment, or disposal of chemical substances or
24 mixtures.

1 (g) If the Secretary determines that a chemical facil-
2 ity is not in compliance with this section, the Secretary
3 shall provide the owner or operator with written notifica-
4 tion (including a clear explanation of deficiencies in the
5 vulnerability assessment and site security plan) and oppor-
6 tunity for consultation, and issue an order to comply by
7 such date as the Secretary determines to be appropriate
8 under the circumstances: *Provided*, That if the owner or
9 operator continues to be in noncompliance, the Secretary
10 may issue an order for the facility to cease operation, until
11 the owner or operator complies with the order.

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