HR 901 IH

112th CONGRESS

1st Session

H. R. 901

To amend the Homeland Security Act of 2002 to codify the requirement that the Secretary of Homeland Security maintain chemical facility anti-terrorism security regulations.

IN THE HOUSE OF REPRESENTATIVES

March 3, 2011

Mr. DANIEL E. LUNGREN of California (for himself, Mr. KING of New York, Mr. ROGERS of Alabama, Mr. MCCAUL, Mr. LONG, Mr. MARINO, Mr. WALBERG, and Mr. WALSH of Illinois) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Energy and Commerce, 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.

A BILL

To amend the Homeland Security Act of 2002 to codify the requirement that the Secretary of Homeland Security maintain chemical facility anti-terrorism security regulations.

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 Security Authorization Act of 2011'.

SEC. 2. CHEMICAL FACILITY ANTI-TERRORISM SECURITY REGULATIONS.

(a) In General- The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

`TITLE XXI--CHEMICAL FACILITY ANTI-TERRORISM SECURITY REGULATIONS

`SEC. 2101. CHEMICAL FACILITY ANTI-TERRORISM SECURITY REGULATIONS.

`(a) In General- The Secretary shall maintain, and revise as necessary, regulations to protect chemical facilities against terrorism and potential terrorist attacks. Such regulations shall include--
(1) risk-based performance standards for chemical facility security;

(2) requirements for chemical facility security vulnerability assessments; and

(3) requirements for the development and implementation of chemical facility site security plans.

(b) Facilities Regulated- The regulations required by subsection (a) shall apply to any chemical facility that the Secretary determines presents a high level of security risk with respect to acts of terrorism, except that the Secretary may not apply such regulations to any of the following:

(1) Any facility owned or operated by the Department of Defense.

(2) Any facility owned or operated by the Department of Energy.

(3) Any facility subject to regulation by the Nuclear Regulatory Commission.

(4) Any facility regulated under chapter 701 of title 46, United States Code.

(5) A public water system, as such term is defined by section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f(4)).

(6) A treatment works, as such term is defined by section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(c) Security Measures- The regulations required by subsection (a) shall provide that each such facility, in developing and implementing site security plans, be permitted to select layered security measures that, in combination, appropriately address the vulnerability assessment and the risk-based performance standards for security for the facility.

(d) Review-

(1) IN GENERAL- The Secretary shall review and approve or disapprove each vulnerability assessment and site security plan required under this title or by the regulations required by subsection (a).

(2) STANDARDS FOR DISAPPROVAL- The Secretary may not disapprove such a site security plan based on the presence or absence of a particular security measure, but the Secretary may disapprove such a site security plan if the plan fails to satisfy the risk-based performance standards established by the Secretary.

(e) Alternative Security Programs- The Secretary may approve any alternative security program established by a private sector entity or Federal, State, or local authority, or under another applicable law, if the Secretary determines that the requirements of such program meets the requirements of this title and any regulations issued or maintained pursuant to this title.

SEC. 2102. INFORMATION PROTECTION.

(a) In General- Notwithstanding any other provision of law, information developed pursuant to this title, or pursuant to the regulations required by section 2101(a), including vulnerability assessments,
site security plans, and other security related information, records, and documents shall be given protections from public disclosure consistent with similar information developed by chemical facilities subject to regulation under section 70103 of title 46, United States Code.

`(b) Sharing of Information-

`(1) STATE AND LOCAL GOVERNMENTS- This section does not prohibit the sharing of such information, as the Secretary determines appropriate, with State and local government officials possessing the appropriate security clearances, including emergency response providers, for the purpose of carrying out this title, as long as such information may not be disclosed pursuant to any State or local law.

`(2) CONGRESS- Nothing in this title shall permit or authorize the withholding of information from Congress or any committee or subcommittee thereof.

`(c) Administrative and Judicial Proceedings- In any proceeding to enforce this title, vulnerability assessments, site security plans, and other information submitted to or obtained by the Secretary under this title, and related vulnerability or security information, shall be treated as if the information were classified material.

`SEC. 2103. ENFORCEMENT.

`(a) In General- The Secretary shall audit and inspect chemical facilities subject to regulation under this title for the purposes of determining compliance with this title and the regulations required by section 2101(a).

`(b) Orders for Compliance- If the Secretary determines that a chemical facility is not in compliance with this title or the regulations required by section 2101(a), the Secretary shall provide the owner or operator of the facility with written notification (including a clear explanation of deficiencies in the vulnerability assessment and site security plan) and an opportunity for consultation, and issue an order to comply by such date as the Secretary determines to be appropriate under the circumstances.

`(c) Civil Penalties- Any person who violates an order issued under this title shall be liable for a civil penalty under section 70119(a) of title 46, United States Code.

`(d) Order To Cease Operation- If the owner or operator of a chemical facility subject to regulation under this title continues to be in noncompliance, the Secretary may issue an order for the facility to cease operation until the owner or operator complies with the order.

`(e) Exception- Nothing in this title confers upon any person except the Secretary a right of action against an owner or operator of a chemical facility to enforce any provision of this title.

`SEC. 2104. SCOPE.

`Nothing in this title shall be construed to supersede, amend, alter, or affect any Federal law that regulates the manufacture, distribution in commerce, use, sale, other treatment, or disposal of chemical substances or mixtures.
SEC. 2105. PREEMPTION.

This title shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance required under this title, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this title and the law of that State.

SEC. 2106. TERMINATION.

The authority provided by this title shall terminate on September 30, 2018.

SEC. 2107. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title $93,000,000 for each of fiscal years 2012 through 2018.

(b) Table of Contents- The table of contents in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new items:

TITLE XXI--CHEMICAL FACILITY ANTI-TERRORISM SECURITY REGULATIONS

Sec. 2101. Chemical facility anti-terrorism security regulations.

Sec. 2102. Information protection.

Sec. 2103. Enforcement.

Sec. 2104. Scope.

Sec. 2105. Preemption.

Sec. 2106. Termination.

Sec. 2107. Authorization of appropriations.

SEC. 3. CONFORMING REPEAL.


(b) Effective Date- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

END