



1 plan is required to be submitted under sec-  
2 tion 70103(c) of title 46, United States  
3 Code, may be considered by that owner or  
4 operator to have satisfied the requirement  
5 for passing a security background check  
6 otherwise required under section 2115 for  
7 purposes of granting the individual access  
8 to restricted areas or critical assets of a  
9 covered chemical facility that is owned or  
10 operated by the same owner or operator.

Page 25, line 1, redesignate subparagraph (C) as subparagraph (D).

Page 25, line 3, strike “the Secretary” and insert “the Commandant of the Coast Guard, after consultation with the Secretary,”.

Page 25, line 7, redesignate subparagraph (D) as subparagraph (E).

Page 25, line 14, redesignate subparagraph (E) as subparagraph (F).

Page 25, line 23, insert a period after “duplicative”.

Page 26, beginning on line 8, strike “As appropriate, security vulnerability assessments or site” and insert “Site”.

Page 26, line 14, strike “TRAINING” and insert “ANNUAL TRAINING”.

Page 26, line 20, insert “, as relevant to the role or responsibility of such covered individual” after “shall”.

Page 27, line 24, insert “and” after the semicolon.

Page 28, lines 1 through 5, strike subparagraphs (J) and (K) and insert the following:

1           “(J) include a discussion of appropriate  
2           emergency response procedures, including pro-  
3           cedures to mitigate the effects of a chemical fa-  
4           cility terrorist incident.

5           “(3) EQUIVALENT TRAINING.—During any  
6           year, with respect to any covered individual with  
7           roles or responsibilities under paragraph (1), an  
8           owner or operator of a covered chemical facility may  
9           satisfy any of the training requirements for such  
10          covered individual under subparagraphs (A), (B),  
11          (C), (D), (E), or (J) of paragraph (2) through train-  
12          ing that such owner or operator certifies, in a man-  
13          ner prescribed by the Secretary, as equivalent.

14          “(4) WORKER TRAINING GRANT PROGRAM.—

15                 “(A) AUTHORITY.—The Secretary shall es-  
16                 tablish a grant program to award grants to or  
17                 enter into cooperative agreements with eligible

1 entities to provide for the training and edu-  
2 cation of covered individuals with roles or re-  
3 sponsibilities described in paragraph (1) and  
4 first responders and emergency response pro-  
5 viders that would respond to a chemical facility  
6 terrorist incident.

7 “(B) ADMINISTRATION.—The Secretary  
8 shall seek to enter into an agreement with the  
9 National Institute for Environmental Health  
10 Sciences to make and administer grants or co-  
11 operative agreements under this paragraph.

12 “(C) USE OF FUNDS.—The recipient of  
13 funds under this paragraph shall use such  
14 funds to provide for the training and education  
15 of covered individuals with roles or responsibil-  
16 ities described in paragraph (1), first respond-  
17 ers, and emergency response providers, includ-  
18 ing—

19 “(i) the annual mandatory training  
20 specified in paragraph (2); and

21 “(ii) other appropriate training to  
22 protect nearby persons, property, critical  
23 infrastructure, or the environment from  
24 the effects of a chemical facility terrorist  
25 incident.

1           “(D) ELIGIBLE ENTITIES.—For purposes  
2           of this paragraph, an eligible entity is a non-  
3           profit organization with demonstrated experi-  
4           ence in implementing and operating successful  
5           worker or first responder health and safety or  
6           security training programs.

Page 28, after line 5, insert the following:

7           “(g) STATE, REGIONAL, OR LOCAL GOVERNMENTAL  
8           ENTITIES.—No covered chemical facility shall be required  
9           under State, local, or tribal law to provide a vulnerability  
10          assessment or site security plan described under this title  
11          to any State, regional, local, or tribal government entity  
12          solely by reason of the requirement under subsection (a)  
13          that the covered chemical facility submit such an assess-  
14          ment and plan to the Secretary.

Page 29, beginning on line 13, strike “applicable  
chemical security performance standards are” and insert  
“the site security plan of the facility is”.

Page 29, beginning on line 17, strike “applicable  
chemical security performance standards” and insert  
“the site security plan of the facility”.

Page 29, line 19, insert “site” before “security  
plan”.

Page 29, line 22, strike “or safety” and insert “safety, or regular operations”.

Page 30, after line 4, insert the following:

1       “(d) CHEMICAL FACILITY INSPECTORS AUTHOR-  
2       IZED.—During the period of fiscal years 2010 and 2011,  
3       subject to the availability of appropriations for such pur-  
4       pose, the Secretary shall increase by not fewer than 100  
5       the total number of chemical facility inspectors within the  
6       Department to ensure compliance with this title.

Page 30, beginning on line 5, amend section 2105  
to read as follows:

7       **“SEC. 2105. RECORDS.**

8       “(a) REQUEST FOR RECORDS.—In carrying out this  
9       title, the Secretary may require submission of, or on pres-  
10      entation of credentials may at reasonable times obtain ac-  
11      cess to and copy, any records, including any records main-  
12      tained in electronic format, necessary for—

13               “(1) reviewing or analyzing a security vulner-  
14      ability assessment or site security plan submitted  
15      under section 2103; or

16               “(2) assessing the implementation of such a site  
17      security plan.

18      “(b) PROPER HANDLING OF RECORDS.—In accessing  
19      or copying any records under subsection (a), the Secretary

1 shall ensure that such records are handled and secured  
2 appropriately in accordance with section 2110.

Page 33, line 24, strike “, after providing an opportunity” and all that follows through “the Secretary,” on page 34, line 2.

Page 34, line 3, insert “after providing notice to the owner or operator of the covered chemical facility and an opportunity for such owner or operator to appeal the Secretary’s determination,” before “issue an order”.

Page 39, line 11, strike “, that is provided to the” and all that follows through “of this title” on line 14.

Page 39, line 15, strike “is” and insert “shall be”.

Page 39, line 17, strike “may” and insert “shall”.

Page 39, line 18, strike “State or local law” and insert “State, local, or tribal law”.

Page 39, beginning on line 20, amend subsection (b) to read as follows:

3 “(b) INFORMATION SHARING.—

4 “(1) IN GENERAL.—The Secretary shall pre-  
5 scribe such regulations, and may issue such orders,  
6 as necessary to prohibit the unauthorized disclosure

1 of protected information, as described in subsection  
2 (g).

3 “(2) SHARING OF PROTECTED INFORMATION.—

4 The regulations under paragraph (1) shall provide  
5 standards for and facilitate the appropriate sharing  
6 of protected information with and between Federal,  
7 State, local, and tribal authorities, emergency re-  
8 sponse providers, law enforcement officials, des-  
9 ignated supervisory and nonsupervisory covered  
10 chemical facility personnel with security, operational,  
11 or fiduciary responsibility for the facility, and des-  
12 ignated facility employee representatives, if any.  
13 Such standards shall include procedures for the  
14 sharing of all portions of a covered chemical facili-  
15 ty’s vulnerability assessment and site security plan  
16 relating to the roles and responsibilities of covered  
17 individuals under section 2103(f)(1) with a rep-  
18 resentative of each certified or recognized bargaining  
19 agent representing such covered individuals, if any,  
20 or, if none, with at least one supervisory and at least  
21 one non-supervisory employee with roles or respon-  
22 sibilities under section 2103(f)(1).

23 “(3) PENALTIES.—Protected information, as  
24 described in subsection (g), shall not be shared ex-  
25 cept in accordance with the regulations under para-

1 graph (1). Any person who purposefully publishes,  
2 divulges, discloses, or makes known protected infor-  
3 mation in any manner or to any extent not author-  
4 ized by the standards provided by the regulations  
5 under paragraph (1), shall, upon conviction, be im-  
6 prisoned for not more than one year or fined in ac-  
7 cordance with the provisions of chapter 227 of title  
8 18, United States Code, applicable to class A mis-  
9 demeanors, or both, and, in the case of Federal em-  
10 ployees or officeholders, shall be removed from Fed-  
11 eral office or employment.

Page 40, line 5, strike “In a proceeding under this title” and insert “In any judicial or administrative proceeding”.

Page 40, beginning on line 6, strike “, or related vulnerability or security information,”.

Page 40, line 8, strike “in any judicial or administrative action”.

Page 40, line 12, strike “1321” and insert “1381”.

Page 40, line 24, strike “Nothing” and insert “Except as provided in section 2103(g), nothing”.

Page 40, line 25, strike “Federal, State, or local agency” and insert “Federal, State, local, or tribal government agency”.

Page 41, line 2, strike “Federal, State, or local” and insert “Federal, State, local, or tribal”.

Page 41, beginning on line 8, strike “submitted to the Secretary under this title” insert “, including any assessment required under section 2111”.

Page 41, beginning on line 15, strike “exclusively”.

Page 42, beginning on line 3, strike “provided to or created by” and insert “required to be provided to, or documents and records created by,”.

Page 42, after line 5, insert the following:

1                   “(v) Documents directly related to se-  
2                   curity drills and training exercises, security  
3                   threats and breaches of security, and  
4                   maintenance, calibration, and testing of se-  
5                   curity equipment.

Page 42, line 6, insert “, documents, or records” after “information”.

Page 43, beginning on line 3, amend subsections (a) and (b) to read as follows:

1 “(a) ASSESSMENT REQUIRED.—

2 “(1) ASSESSMENT.—The owner or operator of  
3 a covered chemical facility shall include in the site  
4 security plan conducted pursuant to section 2103,  
5 an assessment of methods to reduce the con-  
6 sequences of a terrorist attack on that chemical fa-  
7 cility, including—

8 “(A) a description of the methods to re-  
9 duce the consequences of a terrorist attack im-  
10 plemented and considered for implementation  
11 by the covered chemical facility;

12 “(B) the degree to which each method to  
13 reduce the consequences of a terrorist attack, if  
14 already implemented, has reduced, or, if imple-  
15 mented, could reduce, the potential extent of  
16 death, injury, or serious adverse effects to  
17 human health resulting from a release of a sub-  
18 stance of concern;

19 “(C) the technical feasibility, costs, avoided  
20 costs (including liabilities), personnel implica-  
21 tions, savings, and applicability of implementing  
22 each method to reduce the consequences of a  
23 terrorist attack; and

1           “(D) any other information that the owner  
2           or operator of the covered chemical facility con-  
3           sidered in conducting the assessment.

4           “(2) FEASIBLE.—For the purposes of this sub-  
5           section, the term ‘feasible’ means feasible with the  
6           use of best technology, techniques, and other means  
7           which the Secretary finds, after examination for effi-  
8           cacy under field conditions and not solely under lab-  
9           oratory conditions, are available for use at the cov-  
10          ered chemical facility.

11          “(b) IMPLEMENTATION.—

12           “(1) IMPLEMENTATION.—

13           “(A) IN GENERAL.—The owner or operator  
14           of a covered chemical facility that is assigned to  
15           tier 1 or tier 2 because of the potential extent  
16           and likelihood of death, injury, and serious ad-  
17           verse effects to human health, the environment,  
18           critical infrastructure, public health, homeland  
19           security, national security, and the national  
20           economy from a release of a substance of con-  
21           cern at the covered chemical facility, shall im-  
22           plement methods to reduce the consequences of  
23           a terrorist attack on the chemical facility if the  
24           Director of the Office of Chemical Facility Se-  
25           curity determines, in his or her discretion,

1 based in part on an assessment conducted pur-  
2 suant to subsection (a), that the implementa-  
3 tion of such methods at the facility—

4 “(i) would significantly reduce the  
5 risk of death, injury, or serious adverse ef-  
6 fects to human health resulting from a  
7 chemical facility terrorist incident but—

8 “(I) would not increase the in-  
9 terim storage of a substance of con-  
10 cern outside the facility;

11 “(II) would not directly result in  
12 the creation of a new covered chemical  
13 facility assigned to tier 1 or tier 2 be-  
14 cause of the potential extent and like-  
15 lihood of death, injury, and serious  
16 adverse effects to human health, the  
17 environment, critical infrastructure,  
18 public health, homeland security, na-  
19 tional security, and the national econ-  
20 omy from a release of a substance of  
21 concern at the covered chemical facil-  
22 ity; or

23 “(III) would not result in the re-  
24 assignment of an existing covered  
25 chemical facility from tier 3 or tier 4

1 to tier 1 or tier 2 because of the po-  
2 tential extent and likelihood of death,  
3 injury, and serious adverse effects to  
4 human health, the environment, crit-  
5 ical infrastructure, public health,  
6 homeland security, national security,  
7 and the national economy from a re-  
8 lease of a substance of concern at the  
9 covered chemical facility;

10 “(ii) can feasibly be incorporated into  
11 the operation of the covered chemical facil-  
12 ity; and

13 “(iii) would not significantly and de-  
14 monstrably impair the ability of the owner  
15 or operator of the covered chemical facility  
16 to continue the business of the facility at  
17 its location.

18 “(B) WRITTEN DETERMINATION.—A de-  
19 termination by the Director of the Office of  
20 Chemical Facility Security pursuant to sub-  
21 paragraph (A) shall be made in writing and in-  
22 clude the basis and reasons for such determina-  
23 tion.

24 “(C) MARITIME FACILITIES.—With respect  
25 to a covered chemical facility for which a secu-

1 rity plan is required under section 70103(e) of  
2 title 46, United States Code, a written deter-  
3 mination pursuant to subparagraph (A) shall be  
4 made only after consultation with the Captain  
5 of the Port for the area in which the covered  
6 chemical facility is located.

7 “(2) REVIEW OF INABILITY TO COMPLY.—

8 “(A) IN GENERAL.—An owner or operator  
9 of a covered chemical facility who is unable to  
10 comply with the Director’s determination under  
11 paragraph (1) shall, within 120 days of receipt  
12 of the Director’s determination, provide to the  
13 Secretary a written explanation that includes  
14 the reasons therefor. Such written explanation  
15 shall specify whether the owner or operator’s in-  
16 ability to comply arises under clause (ii) or (iii)  
17 of paragraph (1)(A), or both.

18 “(B) REVIEW.—Not later than 120 days of  
19 receipt of an explanation submitted under sub-  
20 paragraph (A), the Secretary, after consulting  
21 with the owner or operator of the covered chem-  
22 ical facility who submitted such explanation, as  
23 well as experts in the subjects of environmental  
24 health and safety, security, chemistry, design  
25 and engineering, process controls and imple-

1           mentation, maintenance, production and oper-  
2           ations, chemical process safety, and occupa-  
3           tional health, as appropriate, shall provide to  
4           the owner or operator a written determination,  
5           in his or her discretion, of whether implementa-  
6           tion shall be required pursuant to paragraph  
7           (1). If the Secretary determines that implemen-  
8           tation is required, the Secretary shall issue an  
9           order that establishes the basis for such deter-  
10          mination, including the findings of the relevant  
11          experts, the specific methods selected for imple-  
12          mentation, and a schedule for implementation  
13          of the methods at the facility.

Page 45, after line 15, insert the following:

14          “(c) GUIDANCE FOR FARM SUPPLIES MERCHANT  
15          WHOLESALEERS.—

16                 “(1) IN GENERAL.—The Secretary shall provide  
17          guidance and, as appropriate, tools, methodologies,  
18          or computer software, to assist farm supplies mer-  
19          chant wholesalers in complying with the require-  
20          ments of this section.

21                 “(2) DEFINITION.—For purposes of this sub-  
22          section, the term ‘farm supplies merchant whole-  
23          saler’ means a covered chemical facility that is pri-  
24          marily engaged in the merchant wholesale distribu-

1       tion of farm supplies such as animal feeds, fer-  
2       tilizers, agricultural chemicals, pesticides, plant  
3       seeds, and plant bulbs.

Page 45, line 16, redesignate subsection (c) as sub-  
section (d).

Page 45, line 19, strike “to chemical facilities”.

Page 46, line 23, redesignate subsection (d) as sub-  
section (e).

Page 47, line 11, strike “or” after the semicolon.

Page 48, line 4, strike the period at the end and in-  
sert “; or”.

Page 48, after line 4, add the following new para-  
graph:

4           “(4) any public water system subject to the pro-  
5       visions of the Safe Drinking Water Act (42 U.S.C.  
6       300f et seq.).

Page 48, line 21, strike “and”.

Page 48, line 22, insert “, and the Fair Credit Re-  
porting Act (15 U.S.C. 1681 et seq.)” before the final pe-  
riod.

Page 49, after line 2, insert the following new sub-  
section:

1       “(c) ACCESS.—Nothing in this title shall abridge or  
2 deny access to a chemical facility site to any person where  
3 required or permitted under any other law or regulation.

Page 49, line 8, strike “33” and insert “53”.

Page 51, beginning on line 9, strike “an individual with access to restricted areas or critical assets of a covered chemical facility, including”.

Page 52, line 17, strike “unreasonably”.

Page 53, beginning on line 1, amend subsections (b) and (c) to read as follows:

4       “(b) MISREPRESENTATION.—The regulations re-  
5 quired by subsection (a)(1) shall set forth that it shall be  
6 a misrepresentation under subsection (a)(2)(E) to at-  
7 tribute an adverse employment decision, including removal  
8 or suspension of the employee, to such regulations unless  
9 the owner or operator finds, after opportunity for appro-  
10 priate redress under the processes provided under sub-  
11 section (c)(1) and (c)(2) that the person subject to such  
12 adverse employment decision—

13           “(1) has been convicted of, has been found not  
14 guilty of by reason of insanity, or is under want,  
15 warrant, or indictment for a permanent disqualifying  
16 criminal offense listed in part 1572 of title 49, Code  
17 of Federal Regulations;

1           “(2) was convicted of or found not guilty by  
2           reason of insanity of an interim disqualifying crimi-  
3           nal offense listed in part 1572 of title 49, Code of  
4           Federal Regulations, within 7 years of the date on  
5           which the covered chemical facility performs the se-  
6           curity background check;

7           “(3) was incarcerated for an interim disquali-  
8           fying criminal offense listed in part 1572 of title 49,  
9           Code of Federal Regulations, and released from in-  
10          carceration within 5 years of the date that the chem-  
11          ical facility performs the security background check;

12          “(4) is determined by the Secretary to be on  
13          the consolidated terrorist watchlist; or

14          “(5) is determined, as a result of the security  
15          background check, not to be legally authorized to  
16          work in the United States.

17          “(c) REDRESS PROCESS.—Upon the issuance of reg-  
18          ulations under subsection (a), the Secretary shall—

19                 “(1) require the owner or operator to provide  
20                 an adequate and prompt redress process for a per-  
21                 son subject to a security background check under  
22                 subsection (a)(1) who is subjected to an adverse em-  
23                 ployment decision, including removal or suspension  
24                 of the employee, due to such regulations that is con-  
25                 sistent with the appeals process established for em-

1 employees subject to consumer reports under the Fair  
2 Credit Reporting Act (15 U.S.C. 1681 et seq.), as  
3 in force on the date of enactment of this title;

4 “(2) provide an adequate and prompt redress  
5 process for a person subject to a security back-  
6 ground check under subsection (a)(1) who is sub-  
7 jected to an adverse employment decision, including  
8 removal or suspension of the employee, due to a de-  
9 termination by the Secretary under subsection  
10 (b)(4), that is consistent with the appeals process es-  
11 tablished under section 70105(c) of title 46, United  
12 States Code, including all rights to hearings before  
13 an administrative law judge, scope of review, and a  
14 review of an unclassified summary of classified evi-  
15 dence equivalent to the summary provided in part  
16 1515 of title 49, Code of Federal Regulations;

17 “(3) provide an adequate and prompt redress  
18 process for a person subject to a security back-  
19 ground check under subsection (a)(1) who is sub-  
20 jected to an adverse employment decision, including  
21 removal or suspension of the employee, due to a vio-  
22 lation of subsection (a)(2)(E), which shall not pre-  
23 clude the exercise of any other rights available under  
24 collective bargaining agreements or applicable laws;

1           “(4) have the authority to order an appropriate  
2           remedy, including reinstatement of the person sub-  
3           ject to a security background check under subsection  
4           (a)(1), if the Secretary determines that the adverse  
5           employment decision was made in violation of the  
6           regulations required under subsection (a)(1) or as a  
7           result of an erroneous determination by the Sec-  
8           retary under subsection (b)(4);

9           “(5) ensure that the redress processes required  
10          under paragraphs (1), (2), or (3) afford to the per-  
11          son a full disclosure of any public-record event cov-  
12          ered by subsection (b) that provides the basis for an  
13          adverse employment decision; and

14          “(6) ensure that the person subject to a secu-  
15          rity background check under subsection (a)(1) re-  
16          ceives the person’s full wages and benefits until all  
17          redress processes under this subsection are ex-  
18          hausted.

Page 56, beginning on line 6, amend subsection (e)  
to read as follows:

19          “(e) SAVINGS CLAUSE.—

20                 “(1) RIGHTS AND RESPONSIBILITIES.—Nothing  
21                 in this section shall be construed to abridge any  
22                 right or responsibility of a person subject to a secu-  
23                 rity background check under subsection (a)(1) or an

1 owner or operator of a covered chemical facility  
2 under any other Federal, State, local, or tribal law  
3 or collective bargaining agreement.

4 “(2) EXISTING RIGHTS.—Nothing in this sec-  
5 tion shall be construed as creating any new right or  
6 modifying any existing right of an individual to ap-  
7 peal a determination by the Secretary as a result of  
8 a check against a terrorist watch list.

Page 57, beginning on line 12, amend subsection (h)  
to read as follows:

9 “(h) DEPARTMENT-CONDUCTED SECURITY BACK-  
10 GROUND CHECK.—The regulations under subsection  
11 (a)(1) shall set forth a process by which the Secretary,  
12 on an ongoing basis, shall determine whether alternate se-  
13 curity background checks conducted by the Department  
14 are sufficient to meet the requirements of this section such  
15 that no additional security background check under this  
16 section is required for an individual for whom such a  
17 qualifying alternate security background check was con-  
18 ducted. The Secretary may require a facility to which the  
19 individual will have unescorted access to sensitive or re-  
20 stricted areas to submit identifying information about the  
21 individual and the alternate security background check  
22 conducted for that individual to the Secretary in order to  
23 enable the Secretary to verify the validity of the alternate

1 security background check. Such regulations shall provide  
2 that no security background check under this section is  
3 required for an individual holding a transportation secu-  
4 rity card issued under section 70105 of title 46, United  
5 States Code.

Page 57, beginning on line 17, amend section 2116  
to read as follows:

6 **“SEC. 2116. CITIZEN ENFORCEMENT.**

7 “(a) IN GENERAL.—Except as provided in subsection  
8 (c), any person may commence a civil action on such per-  
9 son’s own behalf—

10 “(1) against any governmental entity (including  
11 the United States, any other governmental instru-  
12 mentality or agency, and any federally owned-con-  
13 tractor operated facility, to the extent permitted by  
14 the eleventh amendment to the Constitution) alleged  
15 to be in violation of any order that has become effec-  
16 tive pursuant to this title; or

17 “(2) against the Secretary, for an alleged fail-  
18 ure to perform any act or duty under this title that  
19 is not discretionary for the Secretary.

20 “(b) COURT OF JURISDICTION.—

21 “(1) IN GENERAL.—Any action under sub-  
22 section (a)(1) shall be brought in the district court  
23 for the district in which the alleged violation oc-

1 curred. Any action brought under subsection (a)(2)  
2 may be brought in the district court for the district  
3 in which the alleged violation occurred or in the  
4 United States District Court of the District of Co-  
5 lumbia.

6 “(2) RELIEF.—The district court shall have ju-  
7 risdiction, without regard to the amount in con-  
8 troversy or the citizenship of the parties to enforce  
9 the order referred to in subsection (a)(1), to order  
10 such governmental entity to take such action as may  
11 be necessary, or both, or, in an action commenced  
12 under subsection (a)(2), to order the Secretary to  
13 perform the non-discretionary act or duty, and to  
14 order any civil penalties, as appropriate, under sec-  
15 tion 2107.

16 “(c) ACTIONS PROHIBITED.—No action may be com-  
17 menced under subsection (a) prior to 60 days after the  
18 date on which the person commencing the action has given  
19 notice of the alleged violation to—

20 “(1) the Secretary; and

21 “(2) in the case of an action under subsection  
22 (a)(1), any governmental entity alleged to be in vio-  
23 lation of an order.

1       “(d) NOTICE.—Notice under this section shall be  
2 given in such manner as the Secretary shall prescribe by  
3 regulation.

4       “(e) INTERVENTION.—In any action under this sec-  
5 tion, the Secretary, if not a party, may intervene as a mat-  
6 ter of right.

7       “(f) COSTS.—The court, in issuing any final order  
8 in any action brought pursuant to this section, may award  
9 costs of litigation (including reasonable attorney and ex-  
10 pert witness fees) to the prevailing or substantially pre-  
11 vailing party, whenever the court determines such an  
12 award is appropriate. The court may, if a temporary re-  
13 straining order or preliminary injunction is sought, require  
14 the filing of a bond or equivalent security in accordance  
15 with the Federal Rules of Civil Procedure.

16       “(g) OTHER RIGHTS PRESERVED.—Nothing in this  
17 section shall restrict any right which any person (or class  
18 of persons) may have under any statute or common law.

Page 60, line 10, redesignate section 2117 as section  
2118.

Page 60, after line 9, insert the following:

1 **“SEC. 2117. CITIZEN PETITIONS.**

2 “(a) IN GENERAL.—The Secretary shall issue regula-  
3 tions to establish a petition process for petitions described  
4 in subsection (b), including—

5 “(1) the format for petitions;

6 “(2) the procedures for investigation of claims;

7 “(3) the procedures for response to petitions,  
8 including timelines; and

9 “(4) the procedures for de novo review of re-  
10 sponses to petitions by the Office of the Inspector  
11 General for the Department of Homeland Security;

12 “(b) PETITIONS.—The regulations issued pursuant to  
13 subsection (a) shall allow any person to file a petition with  
14 the Secretary—

15 “(1) identifying any person (including the  
16 United States and any other governmental instru-  
17 mentality or agency, to the extent permitted by the  
18 eleventh amendment to the Constitution) alleged to  
19 be in violation of any standard, regulation, condi-  
20 tion, requirement, prohibition, plan, or order that  
21 has become effective under this title; and

22 “(2) describing the alleged violation of any  
23 standard, regulation, condition, requirement, prohi-  
24 bition, plan, or order that has become effective  
25 under this title by that person;

1           “(c) REQUIREMENTS.—Upon issuance of regulations  
2 under subsection (a), the Secretary shall—

3                   “(1) accept all petitions described under sub-  
4 section (b) that meet the requirements of the regula-  
5 tions promulgated under subsection (a);

6                   “(2) investigate all allegations contained in ac-  
7 cepted petitions;

8                   “(3) determine whether enforcement action will  
9 be taken concerning the alleged violation or viola-  
10 tions;

11                   “(4) respond to all accepted petitions promptly  
12 and in writing;

13                   “(5) include in all responses to petitions a brief  
14 and concise statement, to the extent permitted under  
15 section 2110, of the allegations, the steps taken to  
16 investigate, the determination made, and the reasons  
17 for such determination;

18                   “(6) maintain an internal record including all  
19 protected information related to the determination;  
20 and

21                   “(7) provide an opportunity for review by the  
22 Department of Homeland Security Inspector General  
23 on the full record, including protected information,  
24 for all determinations made under such regulations.

25           “(d) FINAL AGENCY ACTION.—

1           “(1) ONGOING ENFORCEMENT PROCEEDINGS.—  
2           Any determination by the Secretary to pursue en-  
3           forcement action in response to a petition under this  
4           section shall not constitute final agency action be-  
5           cause of ongoing enforcement proceedings.

6           “(2) DETERMINATION NOT TO PURSUE EN-  
7           FORCEMENT.—Any determination by the Secretary  
8           not to pursue enforcement action in response to a  
9           petition under this section shall constitute final  
10          agency action.

Page 62, line 22, insert “and a description of such  
implemented methods” after “attack”.

Page 63, line 6, strike “and” after the semicolon.

Page 63, after line 6, insert the following new sub-  
paragraph:

11           “(J) the number of terrorist watchlist  
12           checks done by the Secretary in order to comply  
13           with the requirements of this title, the number  
14           of appeals pursuant to the redress processes  
15           under paragraphs (2) and (3) section 2115(c),  
16           and the time taken for such appeals; and

Page 63, line 7, strike “(J)” and insert “(K)”.

Page 63, line 14, redesignate section 2118 as section 2119.

Page 64, beginning on line 5, amend subsection (b) to read as follows:

1           (b) CLERICAL AMENDMENT.—The table of contents  
2 in section 1(b) of such Act is amended by adding at the  
3 end the following:

“TITLE XXI—REGULATION OF SECURITY PRACTICES AT  
CHEMICAL FACILITIES

- “Sec. 2101. Definitions.
- “Sec. 2102. Risk-based designation and ranking of chemical facilities.
- “Sec. 2103. Security vulnerability assessments and site security plans.
- “Sec. 2104. Site inspections.
- “Sec. 2105. Records.
- “Sec. 2106. Timely sharing of threat information.
- “Sec. 2107. Enforcement.
- “Sec. 2108. Whistleblower protections.
- “Sec. 2109. Federal preemption.
- “Sec. 2110. Protection of information.
- “Sec. 2111. Methods to reduce the consequences of a terrorist attack.
- “Sec. 2112. Applicability.
- “Sec. 2113. Savings clause.
- “Sec. 2114. Office of Chemical Facility Security.
- “Sec. 2115. Security background checks of covered individuals at certain chemical facilities.
- “Sec. 2116. Citizen enforcement.
- “Sec. 2117. Citizen petitions.
- “Sec. 2118. Annual report to Congress.
- “Sec. 2119. Authorization of appropriations.”.

