

S 2145

Chemical Facility Anti-Terrorism Act of 2006

Congress: 109 (2005–2007, Ended)

Chamber: Senate

Policy Area: Emergency Management

Introduced: Dec 19, 2005

Current Status: By Senator Collins from Committee on Homeland Security and Governmental Affairs filed written report

Latest Action: By Senator Collins from Committee on Homeland Security and Governmental Affairs filed written report. Report No. 109-332. Additional views filed. (Sep 11, 2006)

Official Text: <https://www.congress.gov/bill/109th-congress/senate-bill/2145>

Sponsor

Name: Sen. Collins, Susan M. [R-ME]

Party: Republican • State: ME • Chamber: Senate

Cosponsors (7 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Carper, Thomas R. [D-DE]	D · DE		Dec 19, 2005
Sen. Coleman, Norm [R-MN]	R · MN		Dec 19, 2005
Sen. Levin, Carl [D-MI]	D · MI		Dec 19, 2005
Sen. Lieberman, Joseph I. [D-CT]	D · CT		Dec 19, 2005
Sen. Corzine, Jon S. [D-NJ]	D · NJ		Dec 21, 2005
Sen. Salazar, Ken [D-CO]	D · CO		Jun 20, 2006
Sen. Schumer, Charles E. [D-NY]	D · NY		Jul 21, 2006

Committee Activity

Committee	Chamber	Activity	Date
Homeland Security and Governmental Affairs Committee	Senate	Reported By	Jun 26, 2006

Subjects & Policy Tags

Policy Area:

Emergency Management

Related Bills

Bill	Relationship	Last Action
109 HR 5695	Related bill	Nov 17, 2006: House Committee on Energy and Commerce Granted an extension for further consideration ending not later than Dec. 8, 2006.
109 HR 4999	Identical bill	Apr 24, 2006: Referred to the Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity.

Chemical Facility Anti-Terrorism Act of 2006 - (Sec. 3) Requires the Secretary of Homeland Security to: (1) establish criteria for designating chemical sources using specified risk factors and evaluating types of facilities; (2) designate existing chemical sources; and (3) promulgate rules establishing a risk-based tier system of chemical sources that enables a source to develop appropriate site-specific measures to meet the security performance standards for the applicable tier. Requires such rules to provide guidance on steps that would enable the source to move to a lower risk tier.

(Sec. 4) Directs the Secretary to: (1) promulgate regulations that require chemical source owners to make vulnerability assessments, site security plans, and emergency response plans; (2) provide state and local officials and a source owner with relevant threat information; (3) provide guidance to assist source owners in complying with this Act; and (4) review assessments and plans to determine compliance and provide written notice regarding compliance to owners.

Prohibits the Secretary from disapproving a site security plan based on the presence or absence of a particular security measure if it satisfies the security performance standards established for the applicable tier. Provides for temporary security measures.

Permits the development and implementation of coordinated assessments and plans if more than one chemical source is operating at a single location or at contiguous locations. Requires site security plans to include security measures that, in combination, are sufficient to deter a terrorist incident or a substantial threat of such an incident and that increase the security of automated systems.

Requires chemical sources regulated under the Maritime Transportation Security Act to comply with this Act.

(Sec. 5) Requires the owner of a chemical source to retain a copy of the vulnerability assessment, site security plan, and emergency response plan for at least five years after approval by the Secretary. Grants the Secretary the right to enter the premises of a chemical source and any premises on which a required record is located. Requires the Secretary to conduct facility security audits and inspections to ensure and evaluate compliance with this Act.

Requires the Secretary to conduct annual audits or inspections of higher-risk-tier sources. Permits the Secretary to exempt a source from annual audits or inspections if the source has been found in compliance for five consecutive years.

(Sec. 6) Requires the Secretary to: (1) provide the necessary infrastructure, leadership, technical assistance, guidance, and accountability for security planning and response in areas surrounding chemical sources; (2) coordinate with other federal area security and response committees to provide a unified and effective federal effort; and (3) establish an office under the Assistant Secretary for Infrastructure Protection that shall be responsible for implementing and enforcing this Act.

Directs the Secretary to: (1) establish in each Federal Emergency Management Agency (FEMA) Region an Infrastructure Protection Regional Security Office; (2) designate geographic areas for Area Security Committees which shall prepare Area Security Plans for the Secretary's approval; (3) review Area Security Plans; (4) conduct drills and exercises, including full functional and communications exercises of security and response capability in each area for which an Area Security Plan is required and under the site security plan and emergency response plans of relevant chemical sources; and (5) publish annual reports on such drills.

(Sec. 7) Authorizes the Secretary to order an owner to implement heightened security measures for a chemical source if

necessary to respond to a threat assessment or to a specific threat against the chemical sector. Limits the period of the order to 90 days, subject to extensions.

(Sec. 8) Prescribes administrative and civil penalties for failure to comply with an order or directive or with a site security plan. Requires an owner to knowingly and willfully violate an order, or fail to comply with a plan, to be subject to criminal penalties.

(Sec. 9) Provides that the Department of Homeland Security (DHS) shall not be required to make protected information available to the public under the Freedom of Information Act (FOIA). Requires any other federal agency to refer any FOIA request for protected information to DHS. Provides that no state or local government agency shall be required under any state or local law to make protected information available to the public. Makes specified certifications and orders exempt from disclosure to the public.

Authorizes the Secretary, upon determining that releasing a record regarding a particular chemical source would not increase the risk to the security of that source, to make the record available to the public under FOIA. Requires the Secretary to submit to the Comptroller General a detailed statement describing a record barred from public disclosure that identifies the chemical source, explains the basis for the Secretary's determination, and describes security measures being implemented by the source.

Requires the Secretary to: (1) issue a certificate of approval upon determining that a chemical source is in compliance with Act requirements; (2) submit to Congress a public report on the performance of chemical sources under the Act; and (3) establish confidentiality protocols for maintenance and use of records containing protected information. Requires such protocols to ensure that records are maintained in a secure location and that access is limited: (1) as necessary to enable enforcement of this Act or to address an imminent and substantial threat to security, health, safety, or the environment; (2) to state or local law enforcement officials, first responders, or other state or local government officials granted access for the purpose of carrying out this Act; and (3) to others granted access for the purpose of carrying out this Act.

Directs the Secretary to: (1) establish, and provide information to the public regarding, a process by which a person may submit a report to the Secretary regarding problems, deficiencies, or vulnerabilities at a chemical source; and (2) keep confidential the identity of a person who submits such a report, which shall be treated as a record containing protected information to the extent that it does not consist of publicly available information. Prohibits an employer from discriminating against any employee for making such a report. Directs the Comptroller General to: describe the problems, deficiencies, and vulnerabilities reported and evaluate the Secretary's efforts in addressing them.

Sets penalties for unauthorized disclosures of protected information. Prohibits the Government Accountability Office (GAO) from making protected information available to the public, except as provided under this Act.

(Sec. 10) Provides that nothing in this Act shall preclude a state or political subdivision thereof from adopting or enforcing any regulation respecting chemical facility security that is more stringent than a regulation in effect under this Act.

(Sec. 11) Directs the Secretary to submit to specified congressional committees an update of the national strategy for the chemical sector.

(Sec. 12) Directs the Secretary to provide GAO access to DHS documents or information required under this Act. Requires GAO, each January 1, to report to specified congressional committees on whether site security plans, vulnerability assessments, and emergency response plans are in compliance with this Act.

(Sec. 13) Sets forth provisions regarding judicial actions challenging regulations and agency actions under this Act.

(Sec. 14) Secure Handling of Ammonium Nitrate Act of 2006 - Directs the Secretary to regulate the handling and purchase of ammonium nitrate to prevent its misappropriation or use in violation of the law.

Requires the Secretary to require: (1) handlers to register facilities, sell or distribute ammonium nitrate only to handlers and purchasers registered under this section, and maintain records of sale or distribution that include the name, address, telephone number, and registration number of the immediate subsequent purchaser; and (2) purchasers to be registered. Authorizes the Secretary to establish a process for periodic monitoring or auditing of handler records to determine compliance with such requirements.

Sets forth penalties for violations. Grants the U.S. district courts exclusive jurisdiction over any action for civil damages against a handler for any harm or damage resulting from the use of ammonium nitrate in violation of law.

(Sec. 15) Authorizes appropriations.

### Actions Timeline

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- **Sep 11, 2006:** By Senator Collins from Committee on Homeland Security and Governmental Affairs filed written report. Report No. 109-332. Additional views filed.
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- **Jun 26, 2006:** Committee on Homeland Security and Governmental Affairs. Reported by Senator Collins with an amendment in the nature of a substitute. Without written report.
- **Jun 26, 2006:** Committee on Homeland Security and Governmental Affairs. Reported by Senator Collins with an amendment in the nature of a substitute. Without written report.
- **Jun 26, 2006:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 495.
- **Jun 15, 2006:** Committee on Homeland Security and Governmental Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jun 14, 2006:** Committee on Homeland Security and Governmental Affairs. Committee consideration and Mark Up Session held.
- **Dec 19, 2005:** Introduced in Senate
- **Dec 19, 2005:** Sponsor introductory remarks on measure. (CR S14065-14067)
- **Dec 19, 2005:** Read twice and referred to the Committee on Homeland Security and Governmental Affairs.