Washington, DC, and for other purposes.

S. CON. RES. 65

At the request of Mr. BURR, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 65, a concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and their Medicaid prospective payment system.

S. RES. 408

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 408, a resolution expressing the sense of the Senate that the President should declare lung cancer a public health priority and should implement a comprehensive interagency program that will reduce lung cancer mortality by at least 50 percent by 2015.

S. RES. 409

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. Res. 409, a resolution supporting democracy, development, and stabilization in Haiti.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 409, supra.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. Res. 409, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. KERRY):

S. 2482. A bill to authorize funding for State-administered bridge loan programs, to increase the access of small businesses to export assistance center services in areas in which the President declared a major disaster as a result of Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005, to authorize additional disaster loans, to require reporting regarding the administration of the disaster loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, I come to the floor with my ranking member and leader on this issue, Senator JOHN KERRY of Massachusetts, to speak for a few moments about a bill the two of us are going to introduce today, the Gulf Coast Open for Business Act of 2006, by Senators LANDRIEU, KERRY and others. Let me first commend my colleague and thank him for joining me here today. He will be giving more details about the act, which he has worked with my staff and others to craft, so let me add some personal perspective.

I stand here again, on behalf of the people of Louisiana, and the whole gulf coast, who have just been devastated by the two most powerful storms to ever hit the United States in recorded history, and as you yourself know, because you were down in the gulf and have been a frequent champion for our cause. It is still hard, though, to describe to our colleagues the current situation there. Not only were these two hurricanes quite powerful, at some point category 4 and 5, which are killer storms, but just as devastating was the flooding that ensued by the collapse of the Federal levee system—a collapse because of inadequate engineering. Both the hurricanes and the flooding have literally devastated a major metropolitan area which sits in the heart of America's only energy coast, the gulf coast, and has been devastating to large and small businesses alike. We are here today to talk about our small businesses and their struggle for survival. They are indeed the backbone of our economic recovery.

We have first focused on levees, appropriately, and gulf coast restoration efforts, without which no recovery will be possible. We have also tried to struggle keeping children in school, keeping families sheltered, literally from the elements in temporary housing, when we think 7 months on after Katrina and Rita, recovery is going to start with our small businesses.

As I mentioned, yesterday marked the seven month anniversary of Hurricane Katrina. Katrina was the most destructive hurricane ever to hit the United States. The next month, in September, Hurricane Rita hit the Louisiana and Texas coast. It was the second most powerful hurricane ever to hit the United States, wreaking havoc on the southwestern part of my state and the east Texas coast. This one-two punch devastated Louisiana lives, communities and jobs, stretching from Cameron Parish in the west to Plaquemines Parish in the east.

We are now rebuilding our State and the wide variety of communities that were devastated by Rita and Katrina, areas representing a diverse mix of population, income and cultures. We hope to restore the region's uniqueness and its greatness. To do that, we need to rebuild our local economies for now and far into the future.

Before last year's storms, Louisiana had 86,000 small businesses, employing over 850,000 people. Their annual payroll was $21.9 billion.

My State estimates that there were 71,000 businesses in the Katrina and Rita disaster zones. A total of 18,752 of these businesses catastrophically destroyed. However, on a wider scale, according to the U.S. Chamber of Commerce, over 125,000 small and medium-sized businesses in the gulf region were disrupted by Katrina and Rita. As of this month, local chambers of commerce report that as many as two-thirds of their members had not resumed business operations. We will never succeed without these small businesses. They will be the key to the revitalization. I am here with my colleague to say that the regular approach, the standard operation, the mousetrap that we created to handle past disasters is simply not sufficient.

Some of the people who work for the Small Business Administration and FEMA are terrific. You could not find better human beings on the face of the Earth. But it is not the individual human beings who are lacking here; it is the system that is insufficient and inadequate to the task.

Senator KERRY and I come to the floor today to speak about this bill that will create new models, create enhanced help from the Federal Government so that the businesses in Louisiana can at least be met halfway in their struggle to get their roofs back on, their inventories back in supply, and new markets opened up, since the markets around them have collapsed. The communities they served and hold to are in some cases destroyed, in others dispersed across the country. If we don't help them now, building a strong gulf coast will be all the more difficult without our small businesses.

After talking to the business leaders and small businesses in my State, there are three things that they need right now: technical assistance, contracting assistance, and assistance with SBA disaster loans. For example, many of our small businesses need help navigating the SBA assistance programs or, with much of their customer base in other States, others are now looking overseas for new markets. Our bill includes a provision to waive the $100,000 cap on portability grants to SBDCs and allows SBDCs to receive these grants for disaster relief. Our bill also contains funds for the SBA to create a gulf coast international finance specialist, based in the gulf, who would provide essential technical assistance for small businesses looking for export financing.

It is vital to the economic recovery in Louisiana that our small businesses are given the opportunity to take part in the reconstruction of their State. Our businesses want to help rebuild their communities, but continue to have trouble getting Federal recovery contracts and keep getting mixed signals from FEMA.

With these facts in mind, our bill sets a small business prime contracting goal of 30 percent for Federal emergency contracts to rebuild the affected areas. This is to ensure that small businesses, particularly those located in the disaster area and that employ individuals in the affected areas, should receive a fair share of Federal contracting dollars. Our bill also makes the disaster areas eligible for HUBZones status to promote business growth.

Our businesses are struggling to deal with the SBA bureaucracy. Too often,

when they get action on their loan application, it is a letter of rejection rather than a check.

The SBA has repeatedly touted how it has staffed up and increased its loan processing productivity in recent months. They even cite record loan approvals in the gulf. But recent numbers show it is still taking the SBA 104 days to process and close on a business application. That is time many struggling businesses that are holding on by their fingernails in a challenging environment simply do not have.

Many times, when businesses are approved for an SBA loan, they find the terms and conditions to be unduly burdensome. Some are put in the position of having to make payments while they take care of expenses they have incurred for the months they spent waiting for the loan.

Our bill provides substantive relief to small businesses in the disaster areas by allowing them to defer repayment of disaster loans for 1 year from the time they received the loan. This will give them time to resume operations and build back a customer base as displaced residents gradually return home. Our bill also increases the SBA's disaster mitigation loan amounts so that borrowers can more effectively invest in products such as sea walls or storm shutters, that mitigate against damage from future disasters.

It is important to not only address our current needs from past hurricanes but to also look ahead to the next hurricane season—which is only 63 days away. I am concerned that the SBA has not incorporated 'lessons learned' from recent storms. I am concerned that they remain unprepared for what may be another active hurricane season—if not in my State then perhaps in other coastal States in 2007.

One provision included in our bill is a requirement that the SBA submit to Congress a detailed proactive disaster response plan by June 1, 2006, the start of the 2006 Atlantic hurricane season. I want to make sure the SBA is ready to respond should that become necessary.

As we reflect on the 7-month anniversary of the worst natural disaster to hit our Nation, now is the time for action—not words or empty promises. Today, right here in the Senate, is a time for fresh ideas and fiscally responsible plans to help our small businesses rebuild.

I urge my colleagues to support this important legislation.

With that, I turn the floor over to Senator KERRY who will go into additional detail about the Gulf Coast Open for Business Act. I thank him for his leadership, not only for this week but since the week of the storm. Our chairwoman, Senator SNOWE along with Senator KERRY, have focused a great deal of their own efforts from outside of our region to help our small businesses. I commend them for their continued efforts and, along with my fellow Senator from Louisiana, Mr. VITTER, look forward to working with them in the coming months to give our small businesses the help they need so that they may rebuild and prosper once again.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, first of all, I thank the Senator from Louisiana. She has been terrific to work with on this issue, but, more important, she is absolutely tenacious with respect to the recovery issues in her State. I think she has offered tremendous leadership in the Senate on a constant basis. On almost every bill that comes through, she has fought to find a way to assist with the recovery. It has been a pleasure to work with her. I know she has to go to another meeting. I am pleased to join with her in introducing this legislation today.

Senator LANDRIEU has tried to spread the word that New Orleans has plenty to offer, that people should not be scared away by negative press reports but instead be looking for opportunities to help rebuild one of our greatest cities.

According to the U.S. Chamber of Commerce, more than 125,000 small and medium sized businesses were disrupted or destroyed by the hurricanes. It's been seven months since the Gulf was hit by the hurricanes, and it is time to take a look at the long-term needs of businesses in the region if we are going to truly foster an economic recovery.

It is well known, the SBA's disaster loan program has done an abysmal job of getting out capital to businesses and homeowners over the past seven months, still with almost 80,000 applications to be processed out of 400,000 applications submitted. To help clear out the backlog, this bill enlists the agency's private-sector lending partners to help process loans. They are experienced SBA lenders, and in exchange for their expertise, SBA would pay them a fee to process loans. This is much faster than building a separate infrastructure of lenders, losing time to train them, when the experience and infrastructure already exists. Along with the American Bankers Associations, we urged the SBA back in November to enlist the agency's private-sector lending partners to help process loans. SBA refused, saying they had a better idea. That idea failed. With this bill, SBA can increase processing, get small businesses their loans faster, and local lenders can participate in the recovery of their communities.

We also identified a need for export assistance. There is an interesting phenomenon occurring right now as a result of Katrina. Companies from around the globe, having witnessed the tragedy of New Orleans, are trying to reach out to businesses along the Gulf Coast. For companies that had already established relationships overseas, this has meant big bucks. Many smaller businesses, however, don't have those relationships and are struggling to take advantage of these new international opportunities. The U.S. Export Assistance Centers, or USEACs, are ready and willing to help, and they are a tremendous resource for businesses looking to branch into foreign markets. But the problem is that the Small Business administration doesn't have an employee in the New Orleans USEAC to help direct businesses to the financing programs that they need. Senator LANDRIEU and I recognize that this is because the SBA's international trade resources are stretched too thinly, so we are authorizing extra funds for the SBA to use in hiring an employee for the New Orleans USEAC.

Shortly after Hurricane Katrina hit, Small Business Development Centers across the country decided to devote all the funds in the portability grant program, which is designed to help communities recover after suffering significant job losses, to helping the Gulf Coast SBDCs. Not only did the SBDC community sacrifice money to help their colleagues in the Gulf, they tried to volunteer employees and other resources. Unfortunately, the good intentions of the SBDC network were stopped by legal technicalities. Limitations on the amount of money a State could get for a portability grant and restrictions on SBDC employees working outside of their State hampered recovery efforts. Senator LANDRIEU and I were disturbed to hear of these problems, and with our legislation today we will correct these problems so that bureaucracy isn't preventing the Gulf Coast recovery.

This bill also focuses on contracting opportunities for small businesses. The full participation of this Nation's small businesses, particularly those in and around the affected region, in the rebuilding effort is essential to the long-term success of the region's economy. New Orleans, in particular, was a city built on a foundation of small business and they will be the driving force behind its rebuilding.

Unfortunately, not enough is being done to ensure this participation. Just last week, I sent a letter to FEMA about their failure to award approximately $1.5 billion in relief, recovery, and rebuilding contracts to small businesses. They told Senator LANDRIEU and me, and the other members of the Small Business Committee in November that they would award those contracts by February 1. We were disappointed that it would be another four months to get those funds to small businesses that desperately needed the work, but we were even more appalled when the deadline came and went, with no action from FEMA.

Thus, this legislation has a number of provisions to help small businesses

in the disaster areas compete for Federal contracts in the short term and in any future disaster recovery effort.

This bill would make the declared disaster areas an Historically Underutilized Business Zone (HUBZone). This would give a preference to small businesses in the disaster zone when they bid on Federal contracts.

To help jumpstart the local economies affected by Hurricanes Katrina and Rita and Wilma, the bill requires the Federal Government to award 30 percent of prime contracts and 40 percent of subcontract dollars spent on disaster relief, recovery or reconstruction in the four affected States to be awarded to small businesses. Small businesses performing work in the area are more likely to turn over Federal dollars in the local economy, reinvigorating the local economy. The provision also includes a requirement of a weekly small business utilization report from the Gulf Coast region.

The bill includes a change to the Stafford Act, requiring that 10 percent of immediate disaster recovery contracts, such as debris removal, distribution of supplies, and reconstruction are awarded to firms located in or near an area designated as a federal disaster area by the President. This will put more local people back to work and help a region's economic recovery after a disaster.

This legislation will increase access for small businesses seeking contracting opportunities but limited by their ability to get bonded. Expanding access to bonding will increase small business participation, but will also protect the Federal Government from significant cost overruns and lack of performance in a contract.

Mr. President, 43 percent of businesses that close following a disaster never reopen, and an additional 29 percent of businesses close down permanently within two years of a natural disaster. It's been seven months, but we still have a chance to make a difference and mitigate bankruptcies and foster the startup and growth of new small businesses to rebuild the Gulf region. I hope that my colleagues and the administration will give this bill consideration and not repeat the past months of obstruction that have hurt local small businesses and homeowners. It is inexcusable that the bipartisan bill we put forward with Senators SNOWE and VITTER in September has been stalled.

I thank my colleague Senator LANDRIEU for her leadership and look forward to traveling with her soon to Louisiana to visit with businesses and families that still need our help.

Mr. ENSIGN (for himself, Mr. VITTER, and Mr. ISAKSON):

S. 2483. A bill to establish a Law Enforcement Assistance Force in the Department of Homeland Security to facilitate the contributions of retired law enforcement officers during major disasters; to the Committee on Homeland Security and Governmental Affairs.

Mr. ENSIGN. Mr. President, the hours immediately following a disaster are critical to rescue and recovery efforts. Local law enforcement is often overburdened and staff is spread thin. As we saw in New Orleans, a lack of police presence can result in chaos and disorder which can affect the ability of first responders to conduct rescue operations.

In the immediate aftermath of Hurricane Katrina, volunteer first responders from throughout the country went to New Orleans and Biloxi to assist local law enforcement. Unfortunately, many of these volunteers encountered red tape that left them frustrated and idle rather than using their expertise to aid efforts.

Because there is a desire from retired police officers to offer their experience and expertise in times of crisis, today, along with my colleague Senator VITTER, I will be introducing the Law Enforcement Assistance Force Act to assist local law enforcement.

The Law Enforcement Assistance Force Act would allow a retired law enforcement officer, whose certifications are current, to apply to the Secretary of Homeland Security to serve in the force. These retired police officers would be detailed to Federal, State, or local government law enforcement agencies to assist in the event of a major disaster. They would work under the direct supervision of existing law enforcement agencies and would be deputized and certified to perform the duties of a law enforcement agent. The force would serve as temporary first responders to supplement local efforts in search and rescue efforts as well as in protecting public safety. These retired officers have the skills to save lives and we should empower them to do so.

At a time of emergency when we should be tapping into all available resources, we cannot ignore the expertise of retired law enforcement officers who still have the ability and willingness to help those in need. We should take advantage of the fact that retired officers possess a wealth of talent and experience in dealing with emergency situations. Their assistance can save lives and contribute greatly to our communities.

Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. MENENDEZ, Mr. DURBIN, and Mr. BIDEN):

S. 2486. A bill to ensure that adequate actions are taken to detect, prevent, and minimize the consequences of chemical releases that result from terrorist attacks and other criminal activity that may cause substantial harm to public health and safety and the environment; to the Committee on Homeland Security and Governmental Affairs.

Mr. LAUTENBERG. Mr. President, I rise today to introduce the Chemical Security and Safety Act, a bill to protect our communities and citizens from terrorism. This measure is cosponsored by Senators OBAMA, KERRY, MENENDEZ, DURBIN, and BIDEN.

All of our States have a significant number of industrial facilities that manufacture or use chemicals. And we are all concerned about the potential of terrorist attacks on these facilities, which could threaten millions of lives.

I have advocated stronger security measures for chemical facilities for years. We needed better security at our chemical facilities even before 9/11—and that need is even more urgent today. Richard Falkenrath, a former top presidential advisor on homeland security, has said, ''I am aware of no other category of potential terrorist targets that presents as great a danger'' as chemical facilities.

There are about 15,000 chemical manufacturers and storage facilities nationwide, including about 110 in heavily populated areas. The greatest area of vulnerability is in South Kearney, NJ, where 12 million people live in proximity to the Kuehne Chemical plant. A chemical catastrophe at this facility could endanger the life and health of people caught in the path of the prevailing winds.

The State of New Jersey has taken strong action to protect its citizens from this threat. Last year, New Jersey required that chemical facilities adopt a practice known as inherently safer technology. That means exactly what it says—if products can be manufactured using safer chemicals, then factories must do so.

But last week, the Bush administration sent a signal that it wants to override the right of States to require inherently safer technology. Basically, the administration wants to trust chemical facilities to protect the American people.

This approach is wrong, and it is a timid response to a dangerous threat. Trusting large corporations to do the right thing didn't work with Enron—and it won't protect the American people from a chemical catastrophe.

The Chemical Security and Safety Act offers real protection from a chemical catastrophe. It will require every chemical facility in the Nation to adopt inherently safer technology. It will protect the rights of States to enact tough chemical security standards to protect their citizens. It will improve physical security at chemical plants, with a requirement for stronger perimeter barriers. And it will establish whistleblower protections for employees who expose security risks at chemical facilities, and guarantee that workers have a role in securing the safety of facilities.

This is a strong, comprehensive approach. Some might say it goes too far. But as someone whose State lost 700 people on 9/11, I don't think we can ever go too far in protecting the American people from a terrorist attack on a chemical facility.

We have waited long enough. We need to take action now to protect the American people from a chemical catastrophe. I hope all of my colleagues will support the Chemical Security and Safety Act.

I ask unanimous consent that the text of the Chemical Security and Safety Act be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2486

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 Security and Safety Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal Bureau of Investigation, the Department of Justice, the Department of Homeland Security, the Government Accountability Office, the Environmental Protection Agency, the Congressional Research Service, and the Agency for Toxic Substances and Disease Registry believe that the possibility of terrorist and criminal attacks on chemical plants poses a serious threat to public health and safety and the environment;

(2) there are significant opportunities to prevent harmful consequences of criminal attacks on chemical plants by employing inherently safer technologies in the manufacture and use of chemicals;

(3) inherently safer technologies may offer industry substantial savings by reducing the need for site security, secondary containment, buffer zones, mitigation, evacuation plans, regulatory compliance, and liability insurance; and

(4) owners and operators of chemical plants have a general duty to design, operate, and maintain safe facilities to prevent criminal activity that may result in harm to public health or safety or the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CLASSIFIED INFORMATION.—The term ''classified information'' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.).

(3) COMMITTEE.—The term ''Committee'' means a committee established under section 7(a).

(4) COMMITTEE-ELIGIBLE EMPLOYEE.—The term ''committee-eligible employee'' means an employee who—

(A) is not an independent contractor, subcontractor, or consultant;

(B) is not employed by an off-site company affiliated with the owner or operator of the relevant stationary source; and

(C) does not have supervisory or managerial responsibilities at the relevant stationary source.

(5) COMMITTEE-ELIGIBLE STATIONARY SOURCE.—The term ''committee-eligible stationary source'' means a stationary source that has 15 or more full-time equivalent employees.

(6) CRIMINAL RELEASE.—The term ''criminal release'' means—

(A) a release of a substance of concern from a stationary source into the environment that is caused, in whole or in part, by a criminal act, including an act of terrorism; and

(B) a release into the environment of a substance of concern that has been removed from a stationary source, in whole or in part, by a criminal act, including an act of terrorism.

(7) DESIGN, OPERATION, AND MAINTENANCE OF SAFE FACILITIES.—The term ''design, operation, and maintenance of safe facilities'' means, with respect to the facilities at a stationary source, the practices of preventing or reducing the possibility of releasing a substance of concern—

(A) through use of inherently safer technology, to the maximum extent practicable;

(B) through secondary containment, control, or mitigation equipment, to the maximum extent practicable;

(C) by—

(i) making the facilities impregnable to intruders, to the maximum extent practicable; and

(ii) improving site security and employee training, to the maximum extent practicable;

(D) through the use of buffer zones between the stationary source and surrounding populations (including buffer zones between the stationary source and residences, schools, hospitals, senior centers, shopping centers and malls, sports and entertainment arenas, public roads and transportation routes, and other population centers);

(E) through increased coordination with State and local emergency officials, law enforcement agencies, and first responders, to the maximum extent practicable; and

(F) through outreach to the surrounding community, to the maximum extent practicable.

(8) EMPLOYEE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''employee'' means any individual employed by the owner or operator of a stationary source that produces, processes, handles, or stores a substance of concern.

(B) TRAINING.—For purposes of section 8, the term ''employee'' includes any employee of a construction or maintenance contractor working at a stationary source that produces, processes, handles, or stores a substance of concern.

(9) EMPLOYEE REPRESENTATIVE.—The term ''employee representative'' means a duly recognized collective bargaining representative at a stationary source.

(10) EMPLOYER.—The term ''employer'' includes—

(A) an employee of any employer, agent, contractor, or subcontractor subject to the provisions of this Act or engaged in the production, storage, security or transportation of a harmful chemical; and

(B) an employee, agent, contractor, or subcontractor of the Department of Homeland Security or any other Federal, State, or local government agency with responsibility for enforcing any provision of this Act.

(11) FIRST RESPONDER.—The term ''first responder'' includes Federal, State, and local emergency public safety, law enforcement, emergency response, and emergency medical (including hospital emergency facilities) agencies and authorities.

(12) OUTREACH TO THE SURROUNDING COMMUNITY.—The term ''outreach to the surrounding community'' includes education of residents near a stationary source regarding—

(A) emergency procedures in the case of a terrorist attack;

(B) evacuation procedures, routes, and travel times; and

(C) what actions to take to minimize exposure to and physical harm caused by substances of concern.

(13) OWNER OR OPERATOR.—The term ''owner or operator of a stationary source'' means any person who owns, leases, controls, or supervises a stationary source.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(15) STATIONARY SOURCE.—The term ''stationary source'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)) and includes any chemical facility designated by the Secretary under section 5(d) of this Act.

(16) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means any substance listed under section 112(r)(3) of the Clean Air Act (42 U.S.C. 7412(r)(3)) in a threshold quantity or any other substance designated by the Secretary under section 5(d) of this Act in a threshold quantity.

(17) THRESHOLD QUANTITY.—The term ''threshold quantity'' means, with respect to a substance, the quantity established for the substance—

(A) under section 112(r)(5) of the Clean Air Act (42 U.S.C. 7412(r)(5)); or

(B) by the Secretary under section 5(d) of this Act.

(18) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term ''use of inherently safer technology'' means use of a technology, product, raw material, or practice that, as compared to the technology, products, raw materials, or practices currently in use—

(i) significantly reduces or eliminates the possibility of the release of a substance of concern; and

(ii) significantly reduces or eliminates the hazards to public health and safety and the environment associated with the release or potential release of a substance described in clause (i).

(B) INCLUSIONS.—The term ''use of inherently safer technology'' includes chemical substitution, process redesign, product reformulation, and procedural and technological modification so as to—

(i) use less hazardous or benign substances;

(ii) use a smaller quantity of a substance of concern;

(iii) moderate pressures or temperatures;

(iv) reduce the likelihood and potential consequences of human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 4. PREVENTION OF CRIMINAL RELEASES.

(a) GENERAL DUTY.—Each owner and each operator of a stationary source that produces, processes, handles, or stores any substance of concern has a general duty, in the same manner and to the same extent as the duty imposed under section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)), to—

(1) identify hazards that may result from a criminal release using appropriate hazard assessment techniques;

(2) ensure the design, operation, and maintenance of safe facilities by taking such actions as are necessary to prevent criminal releases; and

(3) eliminate or significantly reduce the consequences of any criminal release that does occur.

(b) WORKER PARTICIPATION.—In carrying out its general duty to identify hazards under subsection (a), the owner or operator of a stationary source shall involve the employees of the stationary source in each aspect of ensuring the design, operation, and maintenance of safe facilities.

SEC. 5. DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE SECRETARY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator and State and local government agencies responsible for planning for and responding to criminal releases and providing emergency health care, shall promulgate regulations to designate certain stationary sources and substances of concern as high priority categories, based on the severity of the threat posed by a criminal release from the stationary sources.

(b) FACTORS TO BE CONSIDERED.—

(1) IN GENERAL.—In designating high priority categories under subsection (a), the Secretary, in consultation with the Administrator, shall consider—

(A) the severity of the harm that could be caused by a criminal release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Secretary, in consultation with the Administrator, determines to be appropriate.

(2) INDIVIDUAL CONSIDERATION.—In designating high priority categories under subsection (a), the Secretary shall consider each stationary source individually and shall not summarily exclude any type of stationary source that would otherwise be considered a high priority under paragraph (1).

(3) INITIAL DESIGNATION.—In designating high priority categories for the first time under subsection (a), the Secretary shall ensure that not fewer than 3,000 stationary sources are within a high priority category.

(c) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator, the United States Chemical Safety and Hazard Investigation Board, and the State and local government agencies described in subsection (a), shall promulgate regulations to require each owner or operator of a stationary source that is within a high priority category designated under subsection (a), in consultation with local law enforcement, first responders, employees, and employee representatives, to take adequate actions (including the design, operation, and maintenance of safe facilities) to detect, prevent, and eliminate or significantly reduce the consequences of terrorist attacks and other criminal releases that may cause harm to public health or safety.

(2) SOURCE REPORTS.—Not later than 6 months after the date on which regulations are promulgated under paragraph (1), each owner or operator of a stationary source that is within a high priority category designated under subsection (a) shall submit a report to the Secretary that includes—

(A) an assessment of the vulnerability of the stationary source to a terrorist attack or other criminal release;

(B) an assessment of the hazards that may result from a criminal release of a substance of concern using appropriate hazard assessment techniques;

(C) a prevention, preparedness, and response plan that incorporates the results of the vulnerability and hazard assessments under subparagraphs (A) and (B), respectively;

(D) a statement as to how the prevention, preparedness, and response plan meets the requirements of the regulations established under paragraph (1);

(E) a statement as to how the prevention, preparedness, and response plan meets the general duty requirements under section 4(a);

(F) a discussion of the consideration of the elements of design, operation, and maintenance of safe facilities, including the practicability of implementing each element;

(G) a statement describing how and when employees and employee representatives (if any) were consulted in considering the design, operation, and maintenance of safe facilities and in preparing the report under this paragraph.

(d) ADDITION OF SUBSTANCES OF CONCERN OR STATIONARY SOURCES.—For the purpose of designating high priority categories under subsection (a) or any subsequent revision of the regulations promulgated under subsection (c)(1), the Secretary, in consultation with the Administrator, may designate—

(1) any additional substance that, in a specified threshold quantity, poses a serious threat as a substance of concern; or

(2) any chemical facility as a stationary source.

(e) REVIEW AND REVISION OF REGULATIONS.—Not later than 5 years after the dates of promulgation of regulations under each of subsections (a) and (c)(1), and not less often than every 5 years thereafter, the Secretary, in consultation with the Administrator, shall review the regulations and make any necessary revisions.

SEC. 6. REVIEW AND CERTIFICATION OF REPORTS.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator, shall review each report submitted under section 5(c)(2) to determine whether the stationary source covered by the report is in compliance with regulations promulgated under section 5(c)(1).

(b) CERTIFICATION OF COMPLIANCE.—

(1) IN GENERAL.—The Secretary shall certify each determination under subsection (a) in writing.

(2) INCLUSIONS.—A certification under paragraph (1) indicating the stationary source is in compliance with the regulations under section 5(c)(1) shall include a checklist indicating the consideration by such stationary source of the use of each element of design, operation, and maintenance of safe facilities.

(c) DEADLINE FOR COMPLETION.—

(1) HIGHEST PRIORITY STATIONARY SOURCES.—Not later than 6 months after the date on which reports are required to be submitted under section 5(c)(2), the Secretary shall complete the review and certification of the 600 highest priority stationary sources designated under section 5(a).

(2) OTHER HIGH PRIORITY STATIONARY SOURCES.—Not later than 2 years after the date on which reports are required to be submitted under section 5(c)(2), the Secretary shall complete the review and certification of all reports submitted under that section.

(d) COMPLIANCE ASSISTANCE.—

(1) DEFINITION.—In this subsection, the term ''determination'' means a determination by the Secretary that, with respect to a report submitted under section 5(c)(2)—

(A) the report does not comply with regulations promulgated under section 5(c)(1);

(B) a threat exists that is beyond the scope of the plan submitted with the report; or

(C) the implementation of the plan submitted with the report is insufficient.

(2) DETERMINATION BY SECRETARY.—If the Secretary, after consultation with the Administrator, makes a determination, the Secretary shall—

(A) notify the stationary source of the determination; and

(B) in coordination with the Administrator and the United States Chemical Safety and Hazard Investigation Board, provide advice and technical assistance to bring the stationary source into compliance.

(e) RECERTIFICATION.—Not later than 3 years after the date of submission of a report under section 5(c)(2), and not less often than every 2 years thereafter, the owner or operator of the stationary source covered by the report, shall—

(1) review the adequacy of the report;

(2) certify to the Secretary that the stationary source has completed the review; and

(3) as appropriate, submit to the Secretary any changes to the assessments or plan in the report.

SEC. 7. SAFETY AND SECURITY COMMITTEES.

(a) IN GENERAL.—Not later than 6 months after the date of promulgation of regulations under section 5(a), the owner or operator of a committee-eligible stationary source shall establish a safety and security committee for that stationary source.

(b) COMMITTEE COMPOSITION.—

(1) IN GENERAL.—A Committee shall be composed of committee-eligible employees and managerial employees.

(2) MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—

(i) IN GENERAL.—The Secretary, in consultation with the Administrator, shall promulgate regulations establishing the number of members of a Committee that are required.

(ii) CONTENTS.—The regulations promulgated under clause (i) shall—

(I) establish a number of members of a Committee that is directly proportional to the number of employees at a committee-eligible stationary source; and

(II) permit the number of members of a Committee to be increased above that established by regulation by mutual agreement between committee-eligible employees and managerial employees.

(B) RATIO.—The number of committee-eligible employees serving as members of a Committee shall be equal to or greater than the number of managerial employees serving as members.

(C) ALTERNATES.—An alternate member of a Committee may be designated if a member of a Committee is temporarily unavailable.

(D) PLACE OF EMPLOYMENT.—All members of a Committee shall be employed at the committee-eligible stationary source for which the Committee was established.

(3) SELECTION OF COMMITTEE-ELIGIBLE EMPLOYEE MEMBERS.—

(A) IN GENERAL.—At a committee-eligible stationary source that has an employee representative, the employee representative shall select the committee-eligible employee members of the Committee.

(B) NO EMPLOYEE REPRESENTATIVES.—

(i) IN GENERAL.—At a committee-eligible stationary source that does not have an employee representative, the owner or operator of the committee-eligible stationary source shall actively solicit volunteers from among

committee-eligible employees who may potentially be exposed to a substance of concern.

(ii) INSUFFICIENT VOLUNTEERS.—If there is not a sufficient number of volunteers under clause (i), the owner or operator of the committee-eligible stationary source shall select additional committee-eligible employees to serve as members of the Committee.

(4) CO-CHAIRPERSONS.—A member of a Committee who is a committee-eligible employee and a member of a Committee who is a managerial employee shall serve as co-chairpersons of the Committee.

(c) LISTS OF MEMBERS.—The owner or operator of a committee-eligible stationary source shall prominently post at the stationary source a current list of all members of the Committee of the stationary source that includes the name and work location of each member and whether each member is a committee-eligible employee or a managerial employee.

(d) MEETINGS; QUORUMS; ACTION.—

(1) MEETINGS.—A Committee shall meet not less frequently than once per month at a time, date, and location agreed to by the Committee.

(2) QUORUM.—A majority of members of a Committee shall constitute a quorum for the transaction of Committee business.

(3) ACTION.—Any action by a Committee shall require an affirmative vote of a majority of the members present.

(e) AUTHORITY.—A Committee shall—

(1) identify, discuss, and make recommendations to the owner or operator of the committee-eligible stationary source concerning potential hazards and risks relevant to security, safety, and health and potential responses to those hazards and risks;

(2) survey the facility of the committee-eligible stationary source for potential security, safety, and health vulnerabilities;

(3) establish a schedule to conduct, not less frequently than once per month, a survey described in paragraph (2) of all or part of the committee-eligible stationary source;

(4) as soon as is practicable, assist in the investigation of an accident, criminal release, fire, explosion, or an incident in which there was a significant risk of an accident, criminal release, fire, or explosion; and

(5) participate in the development, review, or revision of any vulnerability assessment, hazard assessment, or prevention, preparedness, and response plan.

(f) RECOMMENDATIONS.—

(1) IN WRITING.—Any recommendations made by a Committee shall be made in writing.

(2) REVIEW.—At each meeting, a Committee shall review the status of any recommendation made by the Committee that the Committee has not determined to be resolved.

(3) NONUNANIMOUS RECOMMENDATIONS.—If a recommendation of a Committee is not unanimous, the owner or operator of the committee-eligible stationary source shall document the differing views of the members of the Committee and maintain records regarding any such recommendation.

(g) EXISTING COMMITTEES.—

(1) IN GENERAL.—A safety and health, environmental, or similar committee established at a committee-eligible stationary source before the date specified in subsection (a) that meets the requirements of this section may be designated as the Committee for the committee-eligible stationary source under a written agreement between the owner or operator of the committee-eligible stationary source and the employee representative of the committee-eligible stationary source.

(2) NO EMPLOYEE REPRESENTATIVE.—If there is no employee representative at a committee-eligible stationary source, the owner or operator of a stationary source may designate a safety and health, environmental or similar committee described in paragraph (1) as the Committee for the committee-eligible stationary source.

SEC. 8. EMPLOYEE TRAINING.

(a) IN GENERAL.—The owner or operator of a stationary source shall annually provide each employee with 4 hours of training—

(1) regarding the requirements of this Act, as applicable to the stationary source;

(2) identifying and discussing substances of concern that pose a risk to the community and first responders;

(3) discussing the prevention, preparedness, and response plan for the stationary source, including off-site consequence impacts;

(4) identifying opportunities to reduce or eliminate the vulnerability of a stationary source to a criminal release of a substance of concern through the use of the elements of design, operation, and maintenance of safe facilities; and

(5) discussing appropriate emergency response procedures.

(b) NONDUPLICATION.—Training provided under this section shall be in addition to any training required to be provided by the owner or operator of a stationary source under any other Federal or State law.

(c) DOCUMENTATION.—The owner or operator of a stationary source that is within a high priority category designated under section 5(a) shall—

(1) submit an annual written certification to the Secretary stating that the owner or operator has met the requirements for employee training under this section; and

(2) maintain a list of all employees who have received training under this section.

SEC. 9. INSPECTIONS, MONITORING, ENTRY, AND RECORDKEEPING.

(a) IN GENERAL.—For purposes of determining whether any owner or operator of a stationary source is in compliance with this Act or is properly carrying out any provision of this Act, the Secretary and the Administrator (or a designee of the Secretary or the Administrator) may take any action that the Administrator is authorized to take under paragraphs (7) and (9) of section 112(r) and section 114 of the Clean Air Act (42 U.S.C. 7412(r) and 7414).

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary and the Administrator shall establish a program to conduct regular inspections of stationary sources, and shall prioritize inspection of stationary sources that are within a high priority category designated under section 5(a).

(2) TYPES OF INSPECTION.—The program established under paragraph (1) shall—

(A) include inspections without notice and inspections with notice; and

(B) require that not fewer than 25 percent of inspections under the program shall be without notice.

(c) RECEIPT OF NOTICE.—

(1) IN GENERAL.—When providing notice to the owner or operator of a stationary source of an inspection or investigation under this Act, the Secretary or the Administrator (or a designee of the Secretary or the Administrator) shall instruct the owner or operator of the stationary source to, immediately upon receipt of the notification—

(A) post a notice, or a copy of any notice provided by the Secretary or the Administrator (or a designee of the Secretary or the Administrator), indicating that there will be an inspection or investigation, which shall be conspicuously displayed in the area of the stationary source subject to the inspection or investigation; and

(B) provide a copy of the notice posted under subparagraph (A) to an employee representative at the stationary source, if any.

(2) EXPLANATIONS.—

(A) IN GENERAL.—If the Secretary or the Administrator (or a designee of the Secretary or the Administrator) provides a written explanation of the purpose, scope, procedures, progress, or outcome of an inspection or investigation under this Act to the owner or operator of a stationary source, any employee of that stationary source shall be entitled to view a copy of the written explanation.

(B) INSTRUCTIONS.—The Secretary or the Administrator (or a designee of the Secretary or the Administrator) shall instruct the owner or operator of a stationary source receiving a written explanation described in subparagraph (A) to, not later than 24 hours after receiving the written explanation—

(i) conspicuously display the written explanation in the area subject to the inspection or investigation; and

(ii) provide a copy of the written explanation to an employee representative at the stationary source, if any.

(d) PROCEDURES.—

(1) PARTICIPATION BY EMPLOYEES.—

(A) IN GENERAL.—An official conducting an inspection or investigation of a stationary source under this Act shall instruct the owner or operator of the stationary source to afford the opportunity to participate in the inspection or investigation, and to accompany the official during the inspection or investigation to—

(i) an employee who works in, or is familiar with, the portion of the facility being inspected or investigated; and

(ii) an employee representative of the employees of the stationary source, if applicable.

(B) ADDITIONAL EMPLOYEES.—

(i) IN GENERAL.—Except as provided in clause (ii), an official described in subparagraph (A) may, if the official determines that doing so will aid in the inspection or investigation by the official, permit any additional employee representative of the employees of the stationary source or any additional employee to accompany the official, including permitting a different employee, employee representative, or representative of the owner or operator of the stationary source to accompany the official during different phases of the inspection or investigation.

(ii) EXCEPTION.—Clause (i) shall not apply to portions of an inspection or investigation in which an official described in subparagraph (A) is exclusively examining written records.

(C) MEETINGS.—If the official described in subparagraph (A) conducts a meeting with the management of a stationary source to explain the purpose, scope, procedures, progress, or outcome of an inspection or investigation under this Act, the official shall instruct the owner or operator of the stationary source to invite to the meeting any employee and employee representative that participated in the inspection or investigation. If the official determines it is necessary, the official shall arrange and conduct a separate meeting with any employee and employee representative that participated in the inspection or investigation.

(2) EXCLUSION OF INDIVIDUALS.—An official conducting an inspection or investigation of

a stationary source under this Act may prohibit any individual whose conduct interferes with a fair and orderly inspection or investigation from accompanying the official on the inspection or investigation.

(3) INTERVIEWS.—An official conducting an inspection or investigation of a stationary source under this Act may—

(A) interview any person at the stationary source that the official determines is necessary to effectuate the purposes of this Act; and

(B) conduct any interview under subparagraph (A) outside the presence of the owner or operator, manager, or other personnel of the stationary source, if determined to be appropriate by the official.

(4) CLASSIFIED INFORMATION.—In the case of a stationary source that contains classified information, only persons who are authorized to have access to such information may accompany an official conducting an inspection or investigation of a stationary source under this Act in areas of the stationary source in which such information is located.

(e) RECORDKEEPING.—The owner or operator of a stationary source that is required to submit a report under section 5(c)(2) shall maintain on the premises of the stationary source a current copy of the report for the stationary source and any such report previously submitted.

SEC. 10. ENFORCEMENT.

(a) COMPLIANCE ORDERS.—

(1) ISSUANCE.—

(A) IN GENERAL.—If, after the date that is 30 days after the date described in subparagraph (B), a stationary source is not in compliance with this Act, the Secretary, in consultation with the Administrator, may issue an order directing compliance by the owner or operator of the stationary source.

(B) DATE.—The date described in this subparagraph is—

(i) the date on which the Secretary provides notice to a stationary source that the stationary source is not in compliance with this Act; or

(ii) if the failure to comply with this Act relates to a report submitted under section 5(c)(2), the later of the date on which the Secretary first provides assistance, or a stationary source receives notice, under section 6(d)(2).

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

(b) PENALTIES.—

(1) CIVIL PENALTIES.—Any owner or operator of a stationary source that is within a high priority category designated under section 5(a) that violates, or fails to comply with, any order under subsection (a) may, in an action brought in a United States district court, be subject to a civil penalty of not more than $50,000 for each day in which the violation occurs or the failure to comply continues.

(2) CRIMINAL PENALTIES.—Any owner or operator of a stationary source that is within a high priority category designated under section 5(a) that knowingly violates, or fails to comply with, any order under subsection (a) shall—

(A) in the case of a first violation or failure to comply, be fined not less than $5,000 nor more than $50,000 per day of violation or failure to comply, imprisoned for not more than 2 years, or both; and

(B) in the case of a subsequent violation or failure to comply, be fined not less than $10,000 nor more than $50,000 per day of violation or failure to comply, imprisoned for not more than 4 years, or both.

(3) ADMINISTRATIVE PENALTIES.—

(A) PENALTY ORDERS.—The Secretary, in consultation with the Administrator, may impose an administrative penalty order of not more than $50,000 per day, and not more than a maximum of $2,000,000 per year, for failure to comply with an order or directive issued by the Secretary under subsection (a).

(B) NOTICE AND HEARING.—Before issuing an order described in subparagraph (A), the Secretary shall provide to the person against which the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

(c) ABATEMENT ACTIONS.—

(1) IN GENERAL.—If the Secretary, in consultation with local law enforcement officials, determines that the threat of a terrorist attack exists that warrants additional measures to prevent or reduce the possibility of releasing a substance of concern at 1 or more stationary sources, the Secretary shall notify each such stationary source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the Secretary determines that a stationary source has not taken appropriate action in response to a notification under paragraph (1), the Secretary shall notify the stationary source, the Administrator, and the Attorney General that actions taken by the stationary source in response to the notification are insufficient.

(3) RELIEF.—

(A) IN GENERAL.—If the Secretary makes a notification under paragraph (2), the Secretary or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including an order directing the stationary source to cease operation and such other orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The United States district court for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Secretary or Attorney General requests under subparagraph (A).

SEC. 11. PROTECTION OF INFORMATION.

(a) DISCLOSURE EXEMPTION.—Except with respect to certifications under section 6(b), orders issued under section 10(a), and best practices established under section 13(4), all documents provided to the Secretary under this Act, and all information that describes a specific vulnerability at a specific stationary source derived from those documents, shall be exempt from disclosure under section 552 of title 5, United States Code.

(b) STATE AND LOCAL GOVERNMENT AGENCIES.—Notwithstanding any other provision of Federal, State, or local law, no State or local government agency shall be required to disclose any documents provided by a stationary source under this Act, or any information that describes a specific vulnerability at a specific stationary source derived from those documents, except with respect to certifications under section 6(b), orders issued under section 10(a), and best practices established under section 13(4).

(c) DEVELOPMENT OF PROTOCOLS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall develop such protocols as are necessary to protect the documents described in subsection (a), including the reports submitted under section 5(c)(2) and the information contained in those reports, from unauthorized disclosure.

(2) DEADLINE.—As soon as is practicable, but not later than 1 year after the date of enactment of this Act, the Secretary shall complete the development of protocols under paragraph (1) and shall ensure that the protocols are in effect before the date on which the Administrator receives any report under this Act.

(d) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(1) the handling, treatment, or disclosure of information obtained from a stationary source under any other law;

(2) any obligation of the owner or operator of a stationary source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(3) the public disclosure of information derived from documents or information described in subsection (a), so long as the information disclosed—

(A) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(B) does not identify any particular stationary source; and

(C) is not reasonably likely to increase the probability or consequences of a criminal release.

SEC. 12. EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Administrator, in consultation with other Federal agencies and State and local government officials (including local law enforcement and first responders), shall promulgate regulations requiring stationary sources within high priority categories to participate in emergency preparedness exercises, including ''table top'' exercises, training, drills (including evacuation drills), and other activities determined to be appropriate by the Secretary and Administrator.

(b) CONSIDERATIONS.—The Secretary and Administrator shall structure the emergency preparedness exercises under subsection (a), including the contents and frequency of the exercises, based on the threat posed to the public by a criminal release at a stationary source.

SEC. 13. ASSISTANCE TO STATIONARY SOURCES.

The Secretary, in consultation with the Administrator, shall establish an information clearinghouse to assist stationary sources in complying with this Act that includes scalable best practices for—

(1) using methodologies for the assessment of vulnerabilities, threats, and inherently safer technology;

(2) developing prevention preparedness and response plans;

(3) coordinating with local law enforcement, first responders, and duly recognized collective bargaining representatives at stationary sources, or, in the absence of such a representative, other appropriate personnel;

(4) implementing inherently safer technologies, including descriptions of—

(A) combinations of covered sources and substances of concern for which the inherently safer technologies could be appropriate;

(B) the scope of current use and availability of the technologies;

(C) the costs and cost savings resulting from inherently safer technologies;

(D) technological transfer and business practices that enable or encourage inherently safer technologies; and

(E) such other information as the Secretary determines to be appropriate.

SEC. 14. PROTECTION OF WHISTLEBLOWERS.

(a) DISCRIMINATION AGAINST EMPLOYEE.—No employer may discharge any employee or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) notified the employer, the Department of Homeland Security, or any other appropriate agency of Federal, State, or local government of an alleged violation of this Act or of a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical;

(2) refused to engage in any practice made unlawful by this Act, if the employee has identified the alleged illegality to the employer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision of this Act or of a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical;

(4) commenced, caused to be commenced, or intends to commence or cause to be commenced a proceeding under this Act, or a proceeding for the administration or enforcement of any requirement imposed under this Act;

(5) testified or intends to testify in any proceeding described in paragraph (4); or

(6) assisted or participated or intends to assist or participate in any manner in a proceeding described in paragraph (4) or in any other action to carry out the purposes of this Act.

(b) COMPLAINT, FILING, AND NOTIFICATION.—

(1) IN GENERAL.—Except as provided in subsection (g), any employee who believes that such employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which the violation occurred, file (or have any person file on behalf of such employee) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the Secretary and the person named in the complaint of the filing of the complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—Upon receipt of a complaint under paragraph (1), the Secretary of Labor shall conduct an investigation of the violation alleged in the complaint.

(B) COMPLETION.—Not later than 30 days after the date on which the Secretary of Labor receives a complaint under paragraph (1), the Secretary of Labor shall—

(i) complete the investigation under subparagraph (A); and

(ii) notify the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed the violation, in writing, of the results of the investigation.

(C) ORDER.—

(i) IN GENERAL.—Except as provided in clause (ii), not later than 90 days after the date on which the Secretary of Labor receives a complaint under paragraph (1), the Secretary of Labor shall issue an order that provides the relief prescribed by paragraph (3) or denies the complaint.

(ii) EXCEPTION.—Clause (i) shall not apply to a proceeding on a complaint described in clause (i) that is terminated by the Secretary of Labor on the basis of a settlement entered into by the Secretary of Labor and the person alleged to have committed the violation of this section. The Secretary of Labor may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(iii) PROCEDURE.—An order of the Secretary of Labor under this subparagraph shall be made on the record after notice and opportunity for public hearing. Upon the conclusion of the hearing and the issuance of a recommended decision that the complaint has merit, the Secretary of Labor shall issue a preliminary order providing the relief prescribed in paragraph (3), but may not order compensatory damages, pending a final order.

(3) RELIEF.—

(A) IN GENERAL.—If the Secretary of Labor determines that a violation of subsection (a) alleged in a complaint under paragraph (1) of this subsection has occurred, the Secretary of Labor shall order the person who committed the violation to—

(i) take affirmative action to abate the violation; and

(ii) reinstate the complainant to the former position of such complainant, together with the compensation (including back pay), terms, conditions, and privileges of the employment of such complainant.

(B) COMPENSATORY DAMAGES.—If the Secretary of Labor determines that a violation of subsection (a) alleged in a complaint under paragraph (1) of this subsection has occurred, the Secretary of Labor may order the person who committed the violation to provide compensatory damages to the complainant.

(C) COSTS AND EXPENSES.—If an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued, as determined by the Secretary of Labor.

(D) REQUIRED FINDING.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any conduct described in paragraphs (1) through (6) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(c) DISMISSAL.—

(1) IN GENERAL.—The Secretary of Labor shall dismiss a complaint filed under subsection (b)(1), and shall not conduct the investigation required under subsection (b)(2), if the complainant has failed to make a prima facie showing that any conduct described in paragraphs (1) through (6) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(2) OTHER BASIS FOR ACTION.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required by paragraph (1), the Secretary of Labor shall dismiss a complaint filed under subsection (b)(1), and shall not conduct the investigation required under subsection (b)(2), if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of the conduct described in paragraph (1) of this subsection.

(d) DISTRICT COURT REVIEW.—If, by the date that is 1 year after the date on which a complaint was filed under subsection (b)(1), the Secretary of Labor has not issued a final decision regarding the complaint and there is no showing that the delay is due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in an appropriate United States district court, which shall have jurisdiction over such an action without regard to the amount in controversy.

(e) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—Any person adversely affected or aggrieved by an order issued under subsection (b) or (c) may obtain review of the order in the United States court of appeals for the circuit in which the violation alleged in the complaint occurred.

(2) TIMING.—A petition for review under paragraph (1) shall be filed not later than 60 days after the date on which the order described in paragraph (1) is issued.

(3) PROCEDURES.—The procedures under chapter 7 of title 5, United States Code shall apply to any review under this subsection.

(4) STAYS.—Unless ordered by the court, the commencement of proceedings under this subsection shall not operate as a stay of the order of the Secretary of Labor.

(5) EXCLUSIVITY.—An order of the Secretary of Labor with respect to which review could have been obtained under paragraph (1) shall not be the subject of judicial review in any criminal or other civil proceeding.

(f) ENFORCEMENT.—

(1) BY THE SECRETARY OF LABOR.—

(A) IN GENERAL.—If a person has failed to comply with an order issued under subsection (b)(2)(C), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce the order.

(B) SCOPE OF RELIEF.—In an action brought under this paragraph, the United States district court may grant all appropriate relief, including injunctive relief, compensatory and exemplary damages.

(2) OTHER ENFORCEMENT.—

(A) IN GENERAL.—Not earlier than the date that is 90 days after an order was issued under subsection (b)(2)(C), any person on whose behalf the order was issued may commence a civil action against the person to whom the order was issued in any appropriate United States district court to require compliance with the order.

(B) JURISDICTION.—The United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce an order described in subparagraph (A).

(C) SCOPE OF RELIEF.—In an action brought under this paragraph, the United States district court may award costs of litigation (including reasonable attorney and expert witness fees).

(3) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding under section 1361 of title 28, United States Code.

(g) DELIBERATE VIOLATIONS.—Subsection (b)(1) shall not apply with respect to any employee who, acting without direction from the employer of such employee, deliberately causes a violation of any requirement of this Act.

(h) NONPREEMPTION.—Nothing in this section expands, preempts, diminishes, or otherwise affects any right otherwise available to an employee under Federal, State, or local law or any collective bargaining agreement to redress the discharge of such employee or other discriminatory action taken by the employer against such employee.

(i) WHISTLEBLOWER INFORMATION.—

(1) DHS.—The Secretary, in consultation with the Secretary of Labor, shall establish and publicize information regarding mechanisms (including a hotline and a website)

through which any person (including an employee, individual residing near a stationary source, first responder, and local official) may report an alleged violation of this Act, a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical, or other such information.

(2) POSTING REQUIREMENT.—The provisions of this section shall be prominently posted in any place of employment to which this Act applies.

(j) INVESTIGATION OF ALLEGATIONS.—

(1) IN GENERAL.—The Secretary shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

(A) the filing of a complaint under subsection (b)(1) arising from the allegation; or

(B) any investigation by the Secretary of Labor, or other action, under this subsection in response to a complaint under subsection (b)(1).

(2) EFFECT OF DETERMINATION.—A determination by the Secretary of Labor under this section that a violation of subsection (a) has not occurred shall not be considered by the Secretary in determining whether a substantial safety hazard exists.

SEC. 15. REGULATIONS.

(a) COORDINATION WITH EXISTING LAW.—In promulgating regulations and establishing enforcement procedures under this Act, the Secretary, in consultation with the Administrator, shall, to the extent practicable and to the extent such requirements meet or exceed the requirements of this Act, minimize duplication of the requirements for risk assessments and response plans under chapter 701 of title 46, United States Code (commonly known as ''the Maritime Transportation Security Act''), the Clean Air Act (42 U.S.C. 7401 et seq.), and other Federal law.

(b) PROMULGATION OF ADDITIONAL REGULATIONS.—In addition to any regulations required under this Act, the Secretary and the Administrator may promulgate such regulations as are necessary to carry out this Act.

SEC. 16. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW OR AGREEMENTS.

Nothing in this Act affects any duty or other requirement imposed under any other Federal, State, or local law or any collective bargaining agreement.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary and the Administrator such sums as are necessary to carry out this Act, to remain available until expended.

Mr. OBAMA. Mr. President, I want to thank Senator LAUTENBERG, who has been a leader on chemical plant security for more than 20 years. He first introduced chemical safety legislation in 1985 and is an expert on the issue. I am proud to join him in introducing this bill.

The dangers that chemical plants present to our homeland security have been well documented. Industrial chemicals, such as chlorine, ammonia, phosgene, methyl bromide, hydrochloric and various other acids are routinely stored near cities in multi-ton quantities. These chemicals are extremely hazardous and identical to those used as weapons during the First World War.

Today, there are 111 facilities in the country where a catastrophic chemical release could threaten more than 1 million people. These plants represent some of the most attractive targets for terrorists looking to cause widespread death and destruction.

Despite this, security at our chemical plants is voluntary—left to the individual plant owners. While many chemical plant owners have taken steps to beef up security, too many have not. In Illinois, there have been recent reports by ABC–7 in Chicago of chemical plants with dilapidated fences, insufficient guard forces, and unprotected tanks of hazardous chemicals. These plants are basically stationary weapons of mass destruction. Their security is light, their facilities are easily entered, and their contents are deadly.

Nearly five years after September 11, the Federal Government has done virtually nothing to secure chemical plants. It is one of the great failures of this administration that needs to be addressed this year.

The Lautenberg-Obama bill is a huge step forward. It protects our communities in a responsible, but balanced way. There are features of this bill that should be a part of any chemical security legislation passed by this Congress.

Our legislation is risk-based. While all chemical facilities would have to take a number of concrete steps to improve security, only the highest-risk facilities would be subject to bill's strictest scrutiny and regulation by the Department of Homeland Security. These high-priority facilities would have to perform vulnerability assessments, develop prevention and response plans, submit to unscheduled inspections, and perform practice drills.

Our legislation is strict, but fair. Our bill replaces volunteer security standards with clearly defined Federal duties and regulations. While plant owners would not be able to substitute their own security standards, they would be able to come up with security plans that are tailored to each facility. And while the bill includes tough penalties for noncompliant facilities including strict fines and the threat of shutting down plants, it also minimizes duplicative requirements under other Federal laws.

The Lautenberg-Obama bill also protects state and local rights to establish security standards that match their local needs. States like New Jersey have been leaders in chemical security, and we do not want to cut these efforts off at the knees. The legislation also gives employees a seat at the table, by creating employee security committees, ensuring that employees are part of the security planning process, establishing security training requirements, and establishing tough whistleblower protections.

Our bill also includes all the methods to reduce risk. Our legislation requires security forces, perimeter defenses, hazard mitigation and emergency response. These are the ''guns, gates and guards'' that prevent terrorists from attacking plants and minimize the impact of an attack. But there are other ways to reduce risk that need to be part of the equation. Specifically, by employing safer technologies, we can reduce the attractiveness of chemical plants as a target.

This concept, known as Inherently Safer Technology, involves methods such as changing the flow of chemical processes to avoid dangerous chemical byproducts, reducing the pressures or temperatures of chemical reactions to minimize the risk of explosions, reducing inventories of dangerous chemicals and replacing dangerous chemicals with benign ones. Each one of these methods reduces the danger that chemical plants pose to our communities and makes them less appealing targets for terrorists.

The concept of IST was created thirty years ago by chemical industry insiders, and it has been embraced at different times by the Department of Homeland Security, the Department of Justice, the Environmental Protection Agency, foreign governments and states like New Jersey. Even the chemical industry itself has embraced IST, and many facilities across the country have already employed safer technologies.

Unfortunately, the chemical industry has been lobbying nonstop on this bill. They do not want IST, they do not want protection of state laws and they do not want strict regulations. So far, because the industry wields so much influence in Washington, it's been getting its way. For example, the Department of Homeland Security initially embraced the concept of Inherently Safer Technology in a 2004 draft chemical security plan, only to reverse itself after heavy industry lobbying in 2006. Secretary Chertoff's announcement last week, in front of an audience of chemical industry executives, very closely tracked the industry's talking points.

This is wrong. We cannot allow chemical industry lobbyists to dictate the terms of this debate. We cannot allow our security to be hijacked by corporate interests.

Senator LAUTENBERG and I will fight for strong legislation to pass the Senate. We believe that we can work with chemical plants so that new safety regulations are implemented in a way that is flexible enough for the industry yet stringent enough to protect the American people. I urge my colleagues to come together to pass meaningful security legislation this year.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 415—EXPRESSING THE CONTINUING SUPPORT OF THE SENATE TO THE JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC), AND COMMENDING THE EFFORTS OF THAT VITAL PROGRAM AS IT CARRIES OUT ITS MISSION OF INSTILLING THE VALUES OF CITIZENSHIP AND SERVICE IN THE HEARTS AND MINDS OF THE YOUTH OF THE UNITED STATES.

Mr. ENSIGN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 415

Whereas, since its inception in 1913, the Junior Reserve Officers' Training Corps has successfully functioned for over 90 years;

Whereas the Junior Reserve Officers' Training Corps has provided citizenship training, discipline, stability, and patriotic values to the youth of the United States throughout the Nation;

Whereas millions of students have benefitted from the Junior Reserve Officers' Training Corps;

Whereas, in 2005, there were over 500,000 students enrolled in Junior Reserve Officers' Training Corps programs in approximately 3,400 secondary schools; and

Whereas the Junior Reserve Officers' Training Corps is taught by a dedicated cadre of retired officers and staff non-commissioned officers of the Armed Forces who love the United States and who are working to secure its future: Now, therefore, be it

Resolved, That the Senate—

(1) expresses appreciation to the Junior Reserve Officers' Training Corps for—

(A) the leadership training that the program provides to the youth of the United States; and

(B) the outstanding results that the program has achieved;

(2) commends the professionalism and dedication displayed daily by the retired members of the United States Armed Forces who serve as instructors in the Junior Reserve Officers' Training Corps; and

(3) proudly honors the modern-day members of the Junior Reserve Officers' Training Corps, who represent a promising group of young men and women who continue to strive to achieve their full potential.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3191. Mr. FRIST (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

SA 3192. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra.

SA 3193. Mr. ALEXANDER (for himself, Mr. CORNYN, Mr. ISAKSON, Mr. COCHRAN, Mr. SANTORUM, Mr. FRIST, Mr. MCCONNELL, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3194. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3195. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3196. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3197. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3198. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3199. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3200. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3201. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3202. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3203. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3204. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3205. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3206. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3207. Mr. CORNYN proposed an amendment to amendment SA 3206 proposed by Mr. KYL (for himself and Mr. CORNYN) to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3208. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3209. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3210. Mr. BINGAMAN proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3211. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3212. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3213. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3191. Mr. FRIST (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

SA 3192. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Immigration Reform Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: