

**AMENDMENT TO H.R. 901**  
**OFFERED BY MS. RICHARDSON OF CALIFORNIA**

In the matter proposed to be inserted as title XXI of the Homeland Security Act of 2002 by section 2 of the bill, redesignate sections 2104 through 2017 as sections 2105 through 2108, respectively, insert the following new section 2104, and amend the proposed amendment to the table of contents of such Act accordingly:

1 **“SEC. 2104. PROTECTIONS FOR WHISTLEBLOWERS AT**  
2 **CHEMICAL FACILITIES ASSOCIATED WITH**  
3 **THE RISK OF CHEMICAL FACILITY TER-**  
4 **RORIST INCIDENTS.**

5       “(a) ESTABLISHMENT.—The Secretary of shall es-  
6 tablish and provide information to the public regarding a  
7 process by which any person may submit a report to the  
8 Secretary regarding problems, deficiencies, or  
9 vulnerabilities at a chemical facility regulated pursuant to  
10 this title associated with the risk of a chemical facility ter-  
11 rorist incident.

12       “(b) CONFIDENTIALITY.—The Secretary shall keep  
13 confidential the identity of a person who submits a report  
14 under subsection (a), and any such report shall be treated

1 as protected information to the extent that it does not con-  
2 sist of publicly available information.

3 “(c) ACKNOWLEDGMENT OF RECEIPT.—If a report  
4 submitted under subsection (a) identifies the person sub-  
5 mitting the report, the Secretary shall respond promptly  
6 to such person to acknowledge receipt of the report.

7 “(d) STEPS TO ADDRESS PROBLEMS.—The Sec-  
8 retary shall review and consider the information provided  
9 in any report submitted under subsection (a) and shall,  
10 as necessary, take appropriate steps to address any prob-  
11 lem, deficiency, or vulnerability identified in the report.

12 “(e) RETALIATION PROHIBITED.—

13 “(1) PROHIBITION.—No owner or operator of a  
14 chemical facility regulated pursuant to this title, for-  
15 profit or not-for-profit corporation, association, or  
16 any contractor, subcontractor or agent thereof, may  
17 discharge any employee or otherwise discriminate  
18 against any employee with respect to the employee’s  
19 compensation, terms, conditions, or other privileges  
20 of employment because the employee (or any person  
21 acting pursuant to a request of the employee)—

22 “(A) notified the Secretary, the owner or  
23 operator of the chemical facility, or the employ-  
24 ee’s employer of an alleged violation of this  
25 title, including notification of such an alleged

1 violation through communications related to  
2 carrying out the employee's job duties;

3 "(B) refused to participate in any conduct  
4 that the employee reasonably believes is in non-  
5 compliance with any Federal law, if the em-  
6 ployee has identified the alleged noncompliance  
7 to the employer;

8 "(C) testified before or otherwise provided  
9 information relevant for Congress or for any  
10 Federal or State proceeding regarding the em-  
11 ployer's non-compliance with regulatory require-  
12 ments imposed pursuant to this title;

13 "(D) commenced, caused to be commenced,  
14 or is about to commence or cause to be com-  
15 menced a proceeding regarding the employer's  
16 non-compliance with regulatory requirements  
17 imposed pursuant to this title;

18 "(E) testified or is about to testify in any  
19 such proceeding; or

20 "(F) assisted or participated or is about to  
21 assist or participate in any manner in such a  
22 proceeding or in any other manner in such a  
23 proceeding or in any other action to regarding  
24 the employer's non-compliance with regulatory  
25 requirements imposed pursuant to this title.

1           “(2) ENFORCEMENT ACTION.—Any employee  
2 covered by this section who alleges discrimination by  
3 an employer in violation of paragraph (1) may bring  
4 an action governed by the rules and procedures,  
5 legal burdens of proof, and remedies applicable  
6 under subsections (d) through (h) of section 20109  
7 of title 49, United States Code. A party may seek  
8 district court review as set forth in subsection (d)(3)  
9 of such section not later than 90 days after receiving  
10 a written final determination by the Secretary of  
11 Labor.

12           “(3) PROHIBITED PERSONNEL PRACTICES AF-  
13 FECTING THE DEPARTMENT.—

14           “(A) IN GENERAL.—Notwithstanding any  
15 other provision of law, any individual holding or  
16 applying for a position within the Department  
17 of shall be covered by—

18           “(i) paragraphs (1), (8), and (9) of  
19 section 2302(b) of title 5, United States  
20 Code;

21           “(ii) any provision of law imple-  
22 menting any of such paragraphs by pro-  
23 viding any right or remedy available to an  
24 employee or applicant for employment in  
25 the civil service; and

1                   “(iii) any rule or regulation prescribed  
2                   under any such paragraph.

3                   “(B) RULE OF CONSTRUCTION.—Nothing  
4                   in this paragraph shall be construed to affect  
5                   any rights, apart from those referred to in sub-  
6                   paragraph (A), to which an individual described  
7                   in that subparagraph might otherwise be enti-  
8                   tled to under law.

9                   “(f) CHEMICAL FACILITY TERRORIST INCIDENT DE-  
10                  FINED.—For purposes of this section, the term ‘chemical  
11                  facility terrorist incident’ means any act or attempted act  
12                  of terrorism or terrorist activity committed at, near or  
13                  against a chemical facility, including—

14                   “(1) the release of a substance of concern from  
15                   a chemical facility;

16                   “(2) the theft, misappropriation, or misuse of a  
17                   substance of concern at a chemical facility; or

18                   “(3) the sabotage of a chemical facility or a  
19                   substance of concern at a chemical facility.”.



