

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4007
OFFERED BY MR. HORSFORD**

Insert after section 3 the following (and renumber
the subsequent sections accordingly):

1 SEC. 4. WHISTLEBLOWER PROTECTIONS.

2 (a) ESTABLISHMENT.—The Secretary shall establish
3 a process by which any person may provide information
4 to the Secretary to assist in the identification of a facility
5 of interest or, in the case of a covered chemical facility,
6 information regarding problems, deficiencies, or
7 vulnerabilities at a covered chemical facility associated
8 with the risk of a chemical facility terrorist incident.

9 (b) CONFIDENTIALITY.—The Secretary shall keep
10 confidential the identity of a person who submits a report
11 under subsection (a), and any such report shall be treated
12 as protected information under section 3 of this Act to
13 the extent that it does not consist of publicly available in-
14 formation.

15 (c) ACKNOWLEDGMENT OF RECEIPT.—If a report
16 submitted under subsection (a) identifies the person sub-
17 mitting the report, the Secretary shall respond promptly
18 to such person to acknowledge receipt of the report.

1 (d) STEPS TO ADDRESS PROBLEMS.—The Secretary
2 shall review and consider the information provided in any
3 report submitted under subsection (a) and shall, as nec-
4 essary, take appropriate steps under this title to address
5 any problem, deficiency, or vulnerability identified in the
6 report.

7 (e) RETALIATION PROHIBITED.—

8 (1) PROHIBITION.—No owner or operator of a
9 covered chemical facility, for-profit or not-for-profit
10 corporation, association, or any contractor, subcon-
11 tractor or agent thereof, may discharge any em-
12 ployee or otherwise discriminate against any em-
13 ployee with respect to the employee's compensation,
14 terms, conditions, or other privileges of employment
15 because the employee (or any person acting pursu-
16 ant to a request of the employee)—

17 (A) notified the Secretary, the owner or
18 operator of a covered chemical facility, or the
19 employee's employer of an alleged violation of
20 this title, including notification of such an al-
21 leged violation through communications related
22 to carrying out the employee's job duties;

23 (B) refused to participate in any conduct
24 that the employee reasonably believes is in non-
25 compliance with a requirement of this title, if

1 the employee has identified the alleged non-
2 compliance to the employer;

3 (C) testified before or otherwise provided
4 information relevant for Congress or for any
5 Federal or State proceeding regarding any pro-
6 vision (or proposed provision) of this title;

7 (D) commenced, caused to be commenced,
8 or is about to commence or cause to be com-
9 menced a proceeding under this title;

10 (E) testified or is about to testify in any
11 such proceeding; or

12 (F) assisted or participated or is about to
13 assist or participate in any manner in such a
14 proceeding or in any other manner in such a
15 proceeding or in any other action to carry out
16 the purposes of this title.

17 (2) ENFORCEMENT ACTION.—Any employee
18 covered by this section who alleges discrimination by
19 an employer in violation of paragraph (1) may bring
20 an action governed by the rules and procedures,
21 legal burdens of proof, and remedies applicable
22 under subsections (d) through (h) of section 20109
23 of title 49, United States Code. A party may seek
24 district court review as set forth in subsection (d)(3)
25 of such section not later than 90 days after receiving

1 a written final determination by the Secretary of
2 Labor.

3 (3) PROHIBITED PERSONNEL PRACTICES AF-
4 FECTING THE DEPARTMENT.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of law, any individual holding or
7 applying for a position within the Department
8 shall be covered by—

9 (i) paragraphs (1), (8), and (9) of sec-
10 tion 2302(b) of title 5, United States
11 Code;

12 (ii) any provision of law implementing
13 any of such paragraphs by providing any
14 right or remedy available to an employee
15 or applicant for employment in the civil
16 service; and

17 (iii) any rule or regulation prescribed
18 under any such paragraph.

19 (B) RULE OF CONSTRUCTION.—Nothing in
20 this paragraph shall be construed to affect any
21 rights, apart from those referred to in subpara-
22 graph (A), to which an individual described in
23 that subparagraph might otherwise be entitled
24 to under law.

