

108TH CONGRESS
1ST SESSION

S. 131

To amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2003

Mr. REID (for himself, Mrs. CLINTON, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. HARKIN, and Mr. EDWARDS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Security Act
5 of 2003”.

6 **SEC. 2. DEFINITIONS.**

7 Section 11 of the Atomic Energy Act of 1954 (42
8 U.S.C. 2014) is amended—

1 (1) by redesignating subsection jj. as subsection
2 ii.; and

3 (2) by adding at the end the following:

4 “(jj) PRIVATE SECURITY FORCE.—The term ‘private
5 security force’, with respect to a sensitive nuclear facility,
6 means personnel hired or contracted by the licensee of the
7 sensitive nuclear facility to provide security at the sen-
8 sitive nuclear facility.

9 “(kk) SENSITIVE NUCLEAR FACILITY.—

10 “(1) IN GENERAL.—The term ‘sensitive nuclear
11 facility’ means a facility licensed by the Commission
12 (or the portion of a facility used in the conduct of
13 an activity licensed by the Commission).

14 “(2) INCLUSIONS.—The term ‘sensitive nuclear
15 facility’ includes—

16 “(A) an operating commercial nuclear
17 power plant;

18 “(B) an independent spent fuel storage fa-
19 cility;

20 “(C) any portion of a commercial nuclear
21 power plant that is being decommissioned or a
22 portion of a commercial nuclear power plant
23 that contains material licensed by the Commis-
24 sion;

25 “(D) a category I fuel cycle facility; and

1 “(E) a gaseous diffusion plant.”.

2 **SEC. 3. NUCLEAR FACILITY SECURITY.**

3 (a) IN GENERAL.—Chapter 14 of the Atomic Energy
4 Act of 1954 (42 U.S.C. 2201 et seq.) is amended by add-
5 ing at the end the following:

6 **“SEC. 170C. PROTECTION OF SENSITIVE NUCLEAR FACILI-**
7 **TIES.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ANTITERRORISM TEAM.—The term
10 ‘antiterrorism team’ means the Nuclear Infrastruc-
11 ture Antiterrorism Team established under sub-
12 section (h).

13 “(2) FEDERAL SECURITY COORDINATOR.—The
14 term ‘Federal security coordinator’ means the Fed-
15 eral security coordinator assigned to a sensitive nu-
16 clear facility under subsection (k).

17 “(3) TASK FORCE.—The term ‘task force’
18 means the task force on nuclear infrastructure secu-
19 rity established by subsection (b).

20 “(4) THREAT.—The term ‘threat’ means a
21 threat identified under subsection (c).

22 “(5) THREAT LEVEL.—The term ‘threat level’
23 means a threat level determined under subsection
24 (d).

1 “(b) TASK FORCE ON NUCLEAR INFRASTRUCTURE
2 SECURITY.—

3 “(1) ESTABLISHMENT.—There is established a
4 task force on nuclear infrastructure security.

5 “(2) MEMBERSHIP.—The task force shall be
6 comprised of—

7 “(A) the chairman of the Commission, who
8 shall serve as chairperson of the task force;

9 “(B) the Secretary of Homeland Security;

10 “(C) the Secretary of Defense;

11 “(D) the Secretary of Transportation;

12 “(E) the Administrator of the Environ-
13 mental Protection Agency;

14 “(F) the Attorney General;

15 “(G) the Secretary of State;

16 “(H) the Director of the Central Intel-
17 ligence Agency;

18 “(I) the Secretary of Health and Human
19 Services; and

20 “(J) the Director of the Federal Emer-
21 gency Management Agency.

22 “(3) DUTIES.—

23 “(A) IN GENERAL.—The task force, in
24 consultation with other Federal, State, and
25 local agencies, stakeholders, and members of

1 the public, as appropriate, shall examine the
2 protection of sensitive nuclear facilities from po-
3 tential terrorist threats.

4 “(B) SECURITY REVIEW.—

5 “(i) IN GENERAL.—The task force
6 shall examine—

7 “(I) the classification of threats
8 as—

9 “(aa) an act falling under
10 the responsibilities of the Federal
11 Government (including an act by
12 an enemy of the United States);
13 or

14 “(bb) an act involving a type
15 of risk that the licensees of the
16 Commission should be respon-
17 sible for guarding against;

18 “(II) coordination of Federal,
19 State, and local security efforts for
20 protection of land, water, and ground
21 access to sensitive nuclear facilities in
22 the event of a terrorist attack or at-
23 tempted terrorist attack;

24 “(III) the adequacy of existing
25 emergency planning zones to protect

1 the public health and safety in the
2 event of a terrorist attack against a
3 sensitive nuclear facility;

4 “(IV) the adequacy and coordina-
5 tion of Federal, State, and local emer-
6 gency planning, evacuation, and other
7 measures to protect the public health
8 and safety in the event of a terrorist
9 attack against a sensitive nuclear fa-
10 cility;

11 “(V) the threats that sensitive
12 nuclear facilities must protect against
13 to prevent acts of radiological sabo-
14 tage and theft of special nuclear ma-
15 terial;

16 “(VI) the system of threat levels,
17 consistent with the Homeland Secu-
18 rity Advisory System, used to cat-
19 egorize the threats against a sensitive
20 nuclear facility, including—

21 “(aa) procedures to ensure
22 coordinated Federal, State, and
23 local responses to changing
24 threat levels for sensitive nuclear
25 facilities;

1 “(bb) monitoring of threats
2 against sensitive nuclear facili-
3 ties; and

4 “(cc) procedures to notify li-
5 censees of a sensitive nuclear fa-
6 cility of changes in threat levels;

7 “(VII) the development, imple-
8 mentation, and revision of security
9 plans for sensitive nuclear facilities;

10 “(VIII) the establishment of the
11 antiterrorism team under subsection
12 (h);

13 “(IX) the hiring and training
14 standards for members of private se-
15 curity forces at sensitive nuclear fa-
16 cilities, in accordance with subsection
17 (i);

18 “(X) the coordination of Federal
19 resources to expedite and improve the
20 process of performing background
21 checks on employees with access to
22 sensitive nuclear facilities; and

23 “(XI) the creation of a program
24 to provide technical assistance and
25 training for the national guard, State

1 law enforcement agencies, and local
2 law enforcement agencies to respond,
3 as appropriate, to threats against a
4 sensitive nuclear facility, including
5 recommendations for the establish-
6 ment of a grant program for State
7 and local governments to carry out
8 any recommended requirements under
9 this section.

10 “(ii) THREATS.—The threats to be ex-
11 amined include—

12 “(I) threats comparable to the
13 events of September 11, 2001;

14 “(II) cyber or biochemical
15 threats;

16 “(III) attacks on a sensitive nu-
17 clear facility by multiple coordinated
18 teams of a large number of individ-
19 uals;

20 “(IV) attacks from several per-
21 sons employed at the sensitive nuclear
22 facility, some of whom may have so-
23 phisticated knowledge of the oper-
24 ations of the sensitive nuclear facility;

1 “(V) attacks from individuals
2 willing to commit suicide to carry out
3 the attacks;

4 “(VI) water-based and air-based
5 attacks;

6 “(VII) attacks using explosive de-
7 vices of considerable size and modern
8 weaponry;

9 “(VIII) fire, especially fire of
10 long duration; and

11 “(IX) any combination of those
12 threats.

13 “(4) REPORT.—

14 “(A) IN GENERAL.—Not later than 120
15 days after the date of enactment of this section,
16 the task force shall submit to the President and
17 Congress, in classified form and unclassified
18 form, a report with recommendations and find-
19 ings.

20 “(B) REVISION.—The task force shall re-
21 vise the recommendations periodically, but not
22 less than once every 3 years.

23 “(c) THREATS TO SENSITIVE NUCLEAR FACILI-
24 TIES.—

1 “(1) IN GENERAL.—Not later than 150 days
2 after the task force submits the report under sub-
3 section (b)(4), the Commission shall promulgate reg-
4 ulations, based on and consistent with the findings
5 and recommendations of the task force, identifying
6 the threats that sensitive nuclear facilities must pro-
7 tect against to prevent acts of radiological sabotage
8 and the theft of special nuclear material at sensitive
9 nuclear facilities.

10 “(2) PROTECTION OF SAFEGUARDS INFORMA-
11 TION.—In promulgating regulations under this sub-
12 section, the Commission shall ensure protection of
13 safeguards information in accordance with section
14 147.

15 “(d) THREAT LEVELS.—Not later than 150 days
16 after the task force submits the report under subsection
17 (b)(4), the Commission shall promulgate regulations,
18 based on and consistent with the findings and rec-
19 ommendations of the task force, establishing a system for
20 the determination of multiple threat levels to describe the
21 threat conditions at sensitive nuclear facilities.

22 “(e) SECURITY PLANS.—

23 “(1) IN GENERAL.—Not later than 1 year after
24 the date on which the Commission establishes the
25 threats under subsection (c), the Commission shall

1 review, based on and consistent with the findings
2 and recommendations of the task force, the security
3 plan for each sensitive nuclear facility to ensure that
4 each sensitive nuclear facility protects against those
5 threats.

6 “(2) ASPECTS OF REVIEW.—The Commission
7 shall ensure that the security plan provides for—

8 “(A) the deployment and capabilities of the
9 private security force at the sensitive nuclear
10 facility for each threat level;

11 “(B) coordination between the private se-
12 curity force and the antiterrorism team for the
13 sensitive nuclear facility, as appropriate for
14 each threat level;

15 “(C) secure operation of vital equipment,
16 such as control room equipment and backup
17 warning systems;

18 “(D) access restrictions;

19 “(E) security cameras, fire protection bar-
20 riers, and other physical security measures;

21 “(F) protection of spent fuel, including op-
22 tions such as placement of spent fuel in dry
23 cask storage;

24 “(G) background security checks for em-
25 ployees and prospective employees; and

1 “(H) coordination among licensees of sen-
2 sitive nuclear facilities and appropriate Federal,
3 state, and local emergency response personnel.

4 “(3) SCHEDULE.—The Commission shall estab-
5 lish a priority schedule for conducting reviews of se-
6 curity plans based on the vulnerability of each sen-
7 sitive nuclear facility and the proximity of the sen-
8 sitive nuclear facility to large population areas.

9 “(4) FINDINGS.—

10 “(A) IN GENERAL.—Not later than 30
11 days after the review of each security plan, the
12 Commission shall submit to Congress and the
13 licensee of each sensitive nuclear facility rec-
14 ommendations, findings, and a schedule for im-
15 plementation of changes to security that shall
16 be made not later than 18 months after comple-
17 tion of the review of the security plan.

18 “(B) FORM.—The report submitted to
19 Congress under subparagraph (A) shall be sub-
20 mitted in classified and unclassified form.

21 “(5) UPGRADES TO SECURITY PLAN.—Not later
22 than 30 days after the review of each security plan,
23 the Commission shall ensure that the licensee of
24 each sensitive nuclear facility revises, as necessary,

1 its security plan consistent with the findings under
2 paragraph (4).

3 “(6) UPGRADES TO SECURITY.—The Commis-
4 sion shall ensure that the licensee of each sensitive
5 nuclear facility makes any changes to security re-
6 quired by the security plan according to the Com-
7 mission schedule.

8 “(f) EMERGENCY RESPONSE PLANS.—

9 “(1) IN GENERAL.—Not later than 150 days
10 after the task force submits the report under sub-
11 section (b)(4), the Commission shall review, based
12 on and consistent with the findings and rec-
13 ommendations of the task force, the emergency re-
14 sponse plans for each sensitive nuclear facility to en-
15 sure that each emergency response plan provides
16 protection for persons living in the emergency re-
17 sponse planning zones.

18 “(2) ASPECTS OF REVIEW.—The Commission
19 shall ensure that each emergency response plan pro-
20 vides for—

21 “(A) the protection of public health and
22 safety, including the ability to implement pro-
23 tective measures;

24 “(B) clear definition and assignment of re-
25 sponsibilities of emergency response personnel;

1 “(C) notification procedures;

2 “(D) communication and coordination
3 among emergency response personnel;

4 “(E) dissemination of information to the
5 public, both prior to, and in the event of, a ra-
6 diological emergency;

7 “(F) adequate emergency facilities and
8 equipment at and around the sensitive nuclear
9 facility;

10 “(G) the use of methods, systems, and
11 equipment for assessing and monitoring actual
12 or potential impacts of a radiological emer-
13 gency;

14 “(H) appropriate evacuation and sheltering
15 and the prophylactic use of potassium iodide;

16 “(I) means for controlling radiological ex-
17 posures;

18 “(J) appropriate medical services;

19 “(K) plans for recovery and reentry; and

20 “(L) radiological emergency response
21 training.

22 “(3) SCHEDULE.—The Commission shall estab-
23 lish a priority schedule for conducting reviews of
24 emergency response plans for sensitive nuclear facili-
25 ties based on the relative degrees of vulnerability of

1 sensitive nuclear facilities and the proximity of sen-
2 sitive nuclear facilities to large population areas.

3 “(4) FINDINGS.—

4 “(A) IN GENERAL.—Not later than 30
5 days after the review of each emergency re-
6 sponse plan, the Commission shall submit to
7 Congress and the licensee of each sensitive nu-
8 clear facility recommendations and findings.

9 “(B) FORM.—The report submitted to
10 Congress under subparagraph (A) shall be sub-
11 mitted in classified and unclassified form.

12 “(5) UPGRADES TO EMERGENCY RESPONSE
13 PLAN.—Not later than 30 days after completion of
14 the review of each emergency response plan, the
15 Commission shall ensure that the licensee of each
16 sensitive nuclear facility revises, as necessary, the
17 emergency response plan for the sensitive nuclear fa-
18 cility consistent with the findings under paragraph
19 (4).

20 “(g) FEDERAL COORDINATION.—Not later than 90
21 days after the task force submits the report under sub-
22 section (b)(4), the Commission shall promulgate regula-
23 tions, based on and consistent with the findings and rec-
24 ommendations of the task force, establishing the cir-

1 cumstances under which the Commission shall request the
2 President to—

3 “(1) deploy the Coast Guard to a sensitive nu-
4 clear facility;

5 “(2) provide for the protection of air space in
6 the vicinity of a sensitive nuclear facility; or

7 “(3) deploy the antiterrorism team.

8 “(h) NUCLEAR INFRASTRUCTURE ANTITERRORISM
9 TEAM.—

10 “(1) ESTABLISHMENT.—Not later than 1 year
11 after the task force submits the report under sub-
12 section (b)(4), the President shall establish, based
13 on and consistent with the findings and rec-
14 ommendations of the task force, the Nuclear Infra-
15 structure Antiterrorism Team.

16 “(2) PURPOSE.—The purpose of the
17 antiterrorism team shall be to provide protection for
18 the perimeter of sensitive nuclear facilities against
19 the threats identified under subsection (c), in coordi-
20 nation with other Federal, State, local, and private
21 entities, as appropriate, consistent with the security
22 plan for each sensitive nuclear facility.

23 “(i) TRAINING PROGRAM.—

24 “(1) IN GENERAL.—Not later than 180 days
25 after the task force submits the report under sub-

1 section (b)(4)(B), the President shall establish,
2 based on and consistent with findings and rec-
3 ommendations of the task force, a program to pro-
4 vide technical assistance and training for the Na-
5 tional Guard and State and local law enforcement
6 agencies in responding to threats against a sensitive
7 nuclear facility.

8 “(2) GRANTS.—The President may provide
9 grants, consistent with the findings and rec-
10 ommendations of the task force, to State and local
11 governments to assist in carrying out this section.

12 “(3) AUTHORIZATION OF APPROPRIATIONS.—
13 There are authorized to be appropriated such sums
14 as are necessary to carry out this subsection.

15 “(j) EMPLOYEE SECURITY.—

16 “(1) REVIEW.—Not later than 90 days after
17 the task force submits the report under subsection
18 (b)(4), the Commission, taking into consideration
19 recommendations of the task force, shall review and
20 update the hiring and training standards for employ-
21 ees of a sensitive nuclear facility.

22 “(2) CRIMINAL AND SECURITY BACKGROUND
23 CHECKS.—The Commission shall require that—

1 “(A) each employee at a sensitive nuclear
2 facility pass a criminal and security background
3 check; and

4 “(B) criminal and security background
5 checks be updated on a periodic basis, as appro-
6 priate.

7 “(3) DISQUALIFICATION OF INDIVIDUALS WHO
8 PRESENT NATIONAL SECURITY RISKS.—The Com-
9 mission, based on and consistent with the findings
10 and recommendations of the task force, shall estab-
11 lish qualifications and procedures, in addition to any
12 criminal and security background check conducted
13 under paragraph (2), to ensure that no individual
14 who presents a threat to national security is em-
15 ployed at a sensitive nuclear facility.

16 “(k) FEDERAL SECURITY COORDINATORS.—

17 “(1) IN GENERAL.—Not later than 120 days
18 after the task force submits the report under sub-
19 section (b)(4), the Commission, based on and con-
20 sistent with findings and recommendations of the
21 task force, shall promulgate regulations for the hir-
22 ing and training of Federal security coordinators.

23 “(2) ASSIGNMENT OF FEDERAL SECURITY CO-
24 ORDINATORS.—Not later than 60 days after the
25 Commission promulgates regulations under para-

1 graph (1), the Commission shall assign a Federal se-
2 curity coordinator, under the employment of the
3 Commission, at each sensitive nuclear facility.

4 “(3) RESPONSIBILITIES.—The Federal security
5 coordinator shall be responsible for—

6 “(A) communicating with the Commission
7 and other Federal, State, and local authorities
8 concerning threats, including threats against
9 the sensitive nuclear facility;

10 “(B) ensuring that the sensitive nuclear
11 facility maintains security consistent with the
12 security plan in accordance with the appro-
13 priate threat level; and

14 “(C) ensuring full and active coordination
15 of security measures among—

16 “(i) the private security force at the
17 sensitive nuclear facility;

18 “(ii) the antiterrorism team; and

19 “(iii) other Federal, State, and local
20 authorities, as appropriate.

21 “(l) CLASSIFIED INFORMATION.—Nothing in this
22 section shall be construed to supersede any existing law
23 (including a regulation) governing the disclosure of classi-
24 fied information or safeguards information.”.

1 **SEC. 4. OFFICE OF NUCLEAR SECURITY AND INCIDENT RE-**
2 **SPONSE.**

3 (a) IN GENERAL.—Title II of the Energy Reorga-
4 nization Act of 1974 (42 U.S.C. 5841 et seq.) is amended
5 by adding at the end the following:

6 **“SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT**
7 **RESPONSE.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ANTITERRORISM TEAM.—The term
10 ‘antiterrorism team’ has the meaning given the term
11 in section 170C(a) of the Atomic Energy Act of
12 1954.

13 “(2) ASSISTANT DIRECTOR.—The term ‘Assist-
14 ant Director’ means the Assistant Director for Secu-
15 rity Response.

16 “(3) DIRECTOR.—The term ‘Director’ means
17 the Director of Nuclear Security and Incident Re-
18 sponse appointed under subsection (c).

19 “(4) MOCK TERRORIST TEAM.—The term ‘mock
20 terrorist team’ means the mock terrorist team de-
21 scribed in subsection (d)(3).

22 “(5) OFFICE.—The term ‘Office’ means the Of-
23 fice of Nuclear Security and Incident Response es-
24 tablished by subsection (b).

25 “(6) SENSITIVE NUCLEAR FACILITY.—The term
26 ‘sensitive nuclear facility’ has the meaning given the

1 term in section 11 of the Atomic Energy Act of
2 1954 (42 U.S.C. 2014).

3 “(7) THREAT.—The term ‘threat’ has the
4 meaning given the term in section 170C(a) of the
5 Atomic Energy Act of 1954.

6 “(8) UNIT.—The term ‘Unit’ means the Secu-
7 rity Response Unit established under subsection
8 (d)(1).

9 “(b) ESTABLISHMENT OF OFFICE.—There is estab-
10 lished in the Commission the Office of Nuclear Security
11 and Incident Response.

12 “(c) DIRECTOR.—

13 “(1) APPOINTMENT.—The Commission may ap-
14 point and terminate a Director of Nuclear Security
15 and Incident Response to head the Office.

16 “(2) DUTIES.—The Director shall perform any
17 duties delegated by the Commission to the Director,
18 including—

19 “(A) carrying out security, safeguards, and
20 incident responses relating to—

21 “(i) any facility licensed or certified
22 under this Act;

23 “(ii) any property owned or in the
24 possession of a Commission licensee or cer-
25 tificate holder that—

1 “(I) is significant to the common
2 defense and security; or

3 “(II) is being transported to or
4 from a facility described in clause (i);
5 and

6 “(iii) any other activity of a Commis-
7 sion licensee or certificate holder, subject
8 to the requirements of this Act, that is sig-
9 nificant to the common defense and secu-
10 rity;

11 “(B) for a facility or material licensed or
12 certified under the Atomic Energy Act of 1954
13 (42 U.S.C. 2011 et seq.)—

14 “(i) developing contingency plans for
15 dealing with threats, thefts, and sabotage;
16 and

17 “(ii) monitoring, reviewing, and evalu-
18 ating security and safeguards;

19 “(C) recommending upgrades to internal
20 accounting systems for special nuclear and
21 other materials licensed or certified under the
22 Atomic Energy Act of 1954 (42 U.S.C. 2011 et
23 seq.);

24 “(D) developing and recommending stand-
25 ards and amendments to the standards of the

1 Commission relating to the duties described in
2 subparagraphs (A) through (C); and

3 “(E) carrying out any other safeguards
4 and physical security functions that the Com-
5 mission determines to be appropriate.

6 “(3) CONSULTATION.—In carrying out the du-
7 ties under paragraph (2), the Director shall, to the
8 maximum extent practicable, consult and coordinate
9 with—

10 “(A) other officers of the Commission; and

11 “(B) other Federal agencies.

12 “(d) SECURITY RESPONSE UNIT.—

13 “(1) ESTABLISHMENT.—There is established in
14 the Office the Security Response Unit.

15 “(2) HEAD OF UNIT.—The Unit shall be head-
16 ed by an Assistant Director for Security Response.

17 “(3) MOCK TERRORIST TEAM.—The personnel
18 of the Unit shall include a mock terrorist team com-
19 prised of—

20 “(A) a number of individuals, consistent
21 with the threat, who have advanced knowledge
22 of special weapons and tactics comparable to
23 special operations forces of the Armed Forces;

24 “(B) nuclear engineers, as appropriate;

1 “(C) individuals with knowledge of the op-
2 erations of the sensitive nuclear facility who are
3 capable of actively disrupting the normal oper-
4 ations of the sensitive nuclear facility; and

5 “(D) any other individual that the Com-
6 mission determines should be a member of the
7 mock terrorist team.

8 “(4) SECURITY RESPONSE EVALUATIONS.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this section, the
11 Commission shall establish a security response
12 evaluation program to assess the ability of each
13 sensitive nuclear facility to defend against the
14 threats in accordance with the security plan for
15 the sensitive nuclear facility.

16 “(B) FREQUENCY OF EVALUATIONS.—Not
17 less than once every 3 years, the Commission
18 shall conduct and document security response
19 evaluations at each sensitive nuclear facility to
20 assess the ability of the private security force,
21 in cooperation with the antiterrorism team, at
22 the sensitive nuclear facility to defend against
23 the threat.

24 “(C) SECURITY EXEMPTION.—The Com-
25 mission may suspend activities under this sec-

1 tion if the Commission determines that the se-
2 curity response evaluations would compromise
3 security at any sensitive nuclear facility in ac-
4 cordance with a heightened threat level.

5 “(D) ACTIVITIES.—The security response
6 evaluation shall include force-on-force exercises
7 by the mock terrorist team against the sensitive
8 nuclear facility that simulate air, water, and
9 land assaults, as appropriate.

10 “(E) PERFORMANCE CRITERIA.—The
11 Commission shall establish performance criteria
12 for judging the security response evaluations.

13 “(F) CORRECTIVE ACTION.—

14 “(i) IN GENERAL.—When any of the
15 performance criteria established under sub-
16 paragraph (E) are not satisfied—

17 “(I) the licensee shall promptly
18 correct any defects in performance
19 identified by the Commission in the
20 security response evaluation; and

21 “(II) the Commission shall con-
22 duct an additional security response
23 evaluation within 6 months to confirm
24 that the licensee satisfies the perform-

1 ance criteria established under sub-
2 paragraph (E).

3 “(ii) 2 CONSECUTIVE FAILURES TO
4 SATISFY ALL PERFORMANCE CRITERIA.—

5 “(I) IN GENERAL.—If a sensitive
6 nuclear facility fails to satisfy the per-
7 formance criteria established under
8 subparagraph (E) in 2 consecutive se-
9 curity response evaluations, the Com-
10 mission shall issue an order specifying
11 the corrective actions that must be
12 taken by the licensee of the sensitive
13 nuclear facility.

14 “(II) FAILURE TO TAKE CORREC-
15 TIVE ACTION.—If the licensee of a
16 sensitive nuclear facility does not take
17 the corrective action specified by the
18 Commission within 30 days after the
19 date of issuance of an order under
20 subclause (I), the Commission shall
21 assess a civil penalty under section
22 234.

23 “(G) REPORTS.—Not less often than once
24 every year, the Commission shall submit to
25 Congress and the President a report, in classi-

1 fied form and unclassified form, that describes
2 the results of each security response evaluation
3 under this paragraph for the previous year.

4 “(e) EMERGENCY RESPONSE EXERCISES.—

5 “(1) IN GENERAL.—Not less than once every 2
6 years, the Commission, in coordination with the Di-
7 rector of the Federal Emergency Management Agen-
8 cy, shall conduct emergency response exercises to
9 evaluate the ability of Federal, State, and local
10 emergency response personnel to respond to a radio-
11 logical emergency at the sensitive nuclear facility in
12 accordance with the emergency response plans.

13 “(2) ACTIVITIES.—The emergency response ex-
14 ercises shall evaluate—

15 “(A) the response capabilities, response
16 times, and coordination and communication ca-
17 pabilities of the response personnel;

18 “(B) the effectiveness and adequacy of
19 emergency response and evacuation plans; and

20 “(C) the availability of potassium iodide or
21 other prophylactic medicines.

22 “(3) REVISION OF EMERGENCY RESPONSE
23 PLANS.—The Commission shall ensure that the
24 emergency response plan for a sensitive nuclear fa-

1 cility is revised to correct for any deficiencies identi-
2 fied by an evaluation under this subsection.

3 “(4) REPORTS.—Not less than once every year,
4 the Commission shall submit to the President and
5 Congress a report, in classified form and unclassified
6 form, that describes—

7 “(A) the results of each emergency re-
8 sponse exercise under this subsection conducted
9 in the previous year; and

10 “(B) each revision of an emergency re-
11 sponse plan made under paragraph (3) for the
12 previous year.

13 “(f) EFFECT.—Nothing in this section limits any au-
14 thority of the Department of Energy relating to the safe
15 operation of facilities under the jurisdiction of the Depart-
16 ment.”.

17 (b) CONFORMING AMENDMENTS.—Title II of the En-
18 ergy Reorganization Act of 1974 is amended—

19 (1) in section 203(b) (42 U.S.C. 5843(b))—

20 (A) in paragraph (1), by striking “licens-
21 ing and regulation involving” and inserting “li-
22 censing, regulation, and, except as otherwise
23 provided under section 212, carrying out safety
24 reviews, safeguards, and physical security of” ;
25 and

1 (B) in paragraph (2), by striking “and
2 safeguards”; and

3 (2) in section 204(b) (42 U.S.C. 5844(b))—

4 (A) in paragraph (1)—

5 (i) by striking “including” and insert-
6 ing “not including”; and

7 (ii) by striking “and materials.” and
8 inserting “and materials, to the extent that
9 the safeguards and security functions are
10 delegated to the Office of Nuclear Security
11 and Incident Response under section
12 212.”; and

13 (B) in paragraph (2)—

14 (i) by striking “and safeguards”; and

15 (ii) by striking “, as amended,” and
16 all that follows through the period and in-
17 serting “(42 U.S.C. 2011 et seq.)”.

18 **SEC. 5. CARRYING OF WEAPONS BY LICENSEE EMPLOYEES.**

19 Chapter 14 of title I of the Atomic Energy Act of
20 1954 (42 U.S.C. 2201 et seq.) (as amended by section
21 2(a)) is amended—

22 (1) in section 161, by striking subsection k. and
23 inserting the following:

24 “k. authorize—

1 “(1) to carry a firearm in the performance of
2 official duties such of its members, officers, and em-
3 ployees, such of the employees of its contractors and
4 subcontractors (at any tier) engaged in the protec-
5 tion of property under the jurisdiction of the United
6 States located at facilities owned by or contracted to
7 the United States or being transported to or from
8 such facilities, and such of the employees of persons
9 licensed or certified by the Commission (including
10 employees of contractors of licensees or certificate
11 holders) engaged in the protection of facilities owned
12 or operated by a Commission licensee or certificate
13 holder that are designated by the Commission or in
14 the protection of property of significance to the com-
15 mon defense and security located at facilities owned
16 or operated by a Commission licensee or certificate
17 holder or being transported to or from such facili-
18 ties, as the Commission considers necessary, in view
19 of site-specific conditions, in the interest of the com-
20 mon defense and security; and

21 “(2) to carry and use any other weapons, de-
22 vices, or ammunition in the performance of officials
23 duties, any employees of persons licensed or certified
24 by the Commission (including employees of contrac-
25 tors of licensees or certificate holders) who are

1 trained and qualified as guards and whose duty is
2 the protection of facilities or property described in
3 paragraph (1), regardless of whether the employees
4 are Federal, State, or local law enforcement offi-
5 cers;” and

6 (2) by adding at the end the following:

7 **“SEC. 170D. CARRYING OF WEAPONS.**

8 “(a) **AUTHORITY TO MAKE ARREST.—**

9 “(1) **IN GENERAL.—**A person authorized under
10 section 161k. to carry a firearm, other weapon, de-
11 vice, or ammunition may, while in the performance
12 of, and in connection with, official duties, detain or
13 arrest an individual without a warrant for any of-
14 fense against the United States committed in the
15 presence of the person or for any felony under the
16 laws of the United States if the person has a reason-
17 able ground to believe that the individual has com-
18 mitted or is committing such a felony.

19 “(2) **LIMITATION.—**An employee of a contractor
20 or subcontractor or of a Commission licensee or cer-
21 tificate holder (or a contractor of a licensee or cer-
22 tificate holder) authorized to make an arrest under
23 paragraph (1) may make an arrest only after the
24 Commission, licensee, or certificate holder has ap-

1 plied for and been granted authorization from the
2 Commission—

3 “(A) when the individual is within, or is in
4 flight directly from, the area in which the of-
5 fense was committed; and

6 “(B) in the enforcement of—

7 “(i) a law regarding the property of
8 the United States in the custody of the De-
9 partment of Energy, the Commission, or a
10 contractor of the Department of Energy or
11 Commission or a licensee or certificate
12 holder of the Commission;

13 “(ii) a law applicable to facilities
14 owned or operated by a Commission li-
15 censee or certificate holder that are des-
16 ignated by the Commission under section
17 161k.;

18 “(iii) a law applicable to property of
19 significance to the common defense and se-
20 curity that is in the custody of a licensee
21 or certificate holder or a contractor of a li-
22 censee or certificate holder of the Commis-
23 sion; or

1 “(iv) any provision of this Act that
2 subjects an offender to a fine, imprison-
3 ment, or both.

4 “(3) OTHER AUTHORITY.—The arrest authority
5 conferred by this section is in addition to any arrest
6 authority under other law.

7 “(4) GUIDELINES—

8 “(A) IN GENERAL.—The Secretary and the
9 Commission, with the approval of the Attorney
10 General, shall issue guidelines to implement sec-
11 tion 161k. and this subsection.

12 “(B) EFFECTIVE DATE.—The authority to
13 carry and use weapons, devices, or ammunition
14 provided to employees described in section
15 161k.(2) and the authority provided to those
16 employees under this subsection shall not be ef-
17 fective until the date on which guidelines issued
18 under subparagraph (A) become effective.”.

19 **SEC. 6. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
20 **WEAPONS.**

21 Section 229a. of the Atomic Energy Act of 1954 (42
22 U.S.C. 2278a(a)) is amended in the first sentence by in-
23 serting “or subject to the licensing authority of the Com-
24 mission or to certification by the Commission under this
25 Act or any other Act” before the period at the end.

1 **SEC. 7. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

2 Section 236a. of the Atomic Energy Act of 1954 (42
3 U.S.C. 2284(a)) is amended—

4 (1) in the first sentence, by striking “or who in-
5 tentiously and willfully attempts” and inserting “or
6 who attempts or conspires”;

7 (2) in paragraph (2), by striking “storage facil-
8 ity” and inserting “storage, treatment, or disposal
9 facility”;

10 (3) in paragraph (3)—

11 (A) by striking “such a utilization facility”
12 and inserting “a utilization facility licensed
13 under this Act”; and

14 (B) by striking “or” at the end;

15 (4) in paragraph (4)—

16 (A) by striking “facility licensed” and in-
17 serting “or nuclear fuel fabrication facility li-
18 censed or certified”; and

19 (B) by striking the period at the end and
20 inserting “; or”; and

21 (5) by inserting after paragraph (4) the fol-
22 lowing:

23 “(5) any production, utilization, waste storage,
24 waste treatment, waste disposal, uranium enrich-
25 ment, or nuclear fuel fabrication facility subject to
26 licensing or certification under this Act during con-

1 struction of the facility, if the destruction or damage
2 caused or attempted to be caused could adversely af-
3 fect public health and safety during the operation of
4 the facility;”.

5 **SEC. 8. EVALUATION OF ADEQUACY OF ENFORCEMENT**
6 **PROVISIONS.**

7 Not later than 90 days after the date of enactment
8 of this Act, the Attorney General and the Nuclear Regu-
9 latory Commission shall submit to Congress a report that
10 assesses the adequacy of the criminal enforcement provi-
11 sions in chapter 18 of the Atomic Energy Act of 1954
12 (42 U.S.C. 221 et seq.).

13 **SEC. 9. PROTECTION OF WHISTLEBLOWERS.**

14 Section 211(a)(2) of the Energy Reorganization Act
15 (42 U.S.C. 5851) is amended—

16 (1) in subparagraph (C), by striking “and” at
17 the end;

18 (2) in subparagraph (D), by striking the period
19 at the end and inserting “; and”; and

20 (3) by adding at the end the following:

21 “(E) a contractor or subcontractor of the
22 Commission.”.

23 **SEC. 10. TECHNICAL AND CONFORMING AMENDMENT.**

24 The table of contents of the Atomic Energy Act of
25 1954 (42 U.S.C. prec. 2011) is amended—

1 (1) by inserting after the item relating to sec-
2 tion 149 the following:

 “Sec. 149A. Access to nuclear facilities.”;

3 and

4 (2) by adding at the end of the item relating to
5 chapter 14 the following:

 “Sec. 170B. Uranium supply.

 “Sec. 170C. Protection of sensitive nuclear facilities.

 “Sec. 170D. Carrying of weapons.”.

6 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
8 as are necessary to carry out the amendments made by
9 this Act.

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