

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.

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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

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## 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           (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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