

108TH CONGRESS
1ST SESSION

H. R. 2708

To provide for the security of commercial nuclear power plants and facilities designated by the Nuclear Regulatory Commission.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2003

Mr. SAXTON introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the security of commercial nuclear power plants and facilities designated by the Nuclear Regulatory Commission.

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 Infrastructure
5 Security Act 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) CERTIFICATE HOLDER.—The term ‘certifi-
2 cate holder’ means the holder of a certificate of com-
3 pliance issued by the Commission.

4 “(2) FEDERAL SECURITY COORDINATOR.—The
5 term ‘Federal security coordinator’ means the Fed-
6 eral security coordinator assigned to a regional office
7 of the Commission.

8 “(3) DESIGN BASIS THREAT.—The term ‘design
9 basis threat’ means the threat components or capa-
10 bility of an adversary against which a nuclear facil-
11 ity is responsible for defending under regulations,
12 orders, or other directives of the Commission.

13 “(4) LICENSEE.—The term ‘licensee’ means the
14 holder of a license issued by the Commission.

15 “(b) SECURITY EXAMINATION.—

16 “(1) IN GENERAL.—The Commission, in coordi-
17 nation with the Secretary of Homeland Security and
18 in consultation with other agencies and State and
19 local governments as appropriate, shall examine—

20 “(A) classification of threats against des-
21 ignated nuclear facilities as—

22 “(i) a type of threat falling under the
23 responsibilities of the Federal Government,
24 including an act by an enemy of the

1 United States, whether a foreign govern-
2 ment or any other person;

3 “(ii) a type of threat falling under the
4 responsibility of a State or local govern-
5 ment; or

6 “(iii) a type of threat the defense
7 against which the Commission determines
8 should be the responsibility of a licensee or
9 certificate holder;

10 “(B) coordination of Federal, State, and
11 local security efforts to protect against terrorist
12 or other criminal attacks at designated nuclear
13 facilities;

14 “(C) the adequacy of planning to protect
15 the public health and safety in the event of a
16 terrorist attack against a designated nuclear fa-
17 cility, including—

18 “(i) matters relating to the adequacy
19 of emergency planning zones;

20 “(ii) matters relating to the adequacy
21 and coordination of Federal, State, and
22 local emergency planning and other meas-
23 ures; and

1 “(iii) matters relating to the adequacy
2 of security plans for designated nuclear fa-
3 cilities;

4 “(D) the system of threat levels, consistent
5 with the Homeland Security Advisory System
6 used to categorize the threats pertinent to des-
7 ignated nuclear facilities, including—

8 “(i) procedures to ensure coordinated
9 Federal, State, and local responses to
10 changing threat levels for designated nu-
11 clear facilities;

12 “(ii) monitoring of threats against
13 designated nuclear facilities; and

14 “(iii) procedures to notify licensees
15 and certificate holders of a designated nu-
16 clear facility of changes in threat levels;

17 “(E) the hiring and training standards for
18 members of private security forces at des-
19 ignated nuclear facilities;

20 “(F) the coordination of Federal resources
21 to expedite and improve the process of con-
22 ducting background checks under section 149;
23 and

24 “(G) the creation by the Secretary of
25 Homeland Security of a program to provide

1 technical assistance and training for the Na-
2 tional Guard, State law enforcement agencies,
3 and local law enforcement agencies to respond,
4 as appropriate, to threats against a designated
5 nuclear facility, including recommendations for
6 the establishment of a grant program to assist
7 State and local governments in carrying out any
8 recommended actions under this section.

9 “(2) REPORT.—Not later than 1 year after
10 completion of the security examination under para-
11 graph (1), the Commission and the Secretary of
12 Homeland Security shall submit to the President
13 and Congress, in classified and unclassified form, a
14 report with recommendations and findings.

15 “(c) REVISION OF DESIGN BASIS THREATS.—

16 “(1) IN GENERAL.—Not later than 180 days
17 after completion of the security examination under
18 subsection (b), the Commission shall by regulation
19 revise the design basis threats promulgated before
20 the date of enactment of this section as the Commis-
21 sion determines to be appropriate based on the secu-
22 rity examination.

23 “(2) PROTECTION OF SAFEGUARDS INFORMA-
24 TION.—

1 “(A) IN GENERAL.—In promulgating any
2 regulations under this subsection, the Commis-
3 sion shall ensure protection of safeguards infor-
4 mation in accordance with section 147 and of
5 classified national security information.

6 “(B) PROCEDURE.—Notwithstanding any
7 requirement of chapter 5 of title 5, United
8 States Code, or any other law, the Commission
9 may conduct rulemaking under this subsection
10 in a manner that fully protects safeguards in-
11 formation and classified national security infor-
12 mation.

13 “(d) THREAT LEVELS.—Not later than 150 days
14 after the date of submission of the report under subsection
15 (b)(2), the Commission shall establish a system for the
16 determination of threat levels pertinent to—

17 “(1) designated nuclear facilities; and

18 “(2) materials designated by the Commission.

19 “(e) SECURITY PLANS.—

20 “(1) IN GENERAL.—Pursuant to any action
21 taken by the Commission under subsection (e)(1) to
22 revise a design basis threat, not later than 1 year
23 after the date of the revision, the Commission shall
24 require each licensee or certificate holder of a des-
25 ignated nuclear facility to—

1 “(A) revise the security plan to ensure that
2 the designated nuclear facility protects against
3 the appropriate design basis threats; and

4 “(B) submit the security plan to the Com-
5 mission for review.

6 “(2) REVIEW SCHEDULE.—The Commission
7 shall establish a priority schedule for conducting re-
8 views of security plans based on the proximity of the
9 designated nuclear facility to large population areas.

10 “(3) UPGRADES TO SECURITY.—The Commis-
11 sion shall ensure that the licensee or certificate hold-
12 er of each designated nuclear facility makes any
13 changes to security and the security plan required
14 from the Commission review on a schedule estab-
15 lished by the Commission, but not to exceed 18
16 months after completion of the review.

17 “(f) EMERGENCY RESPONSE PLANS.—

18 “(1) IN GENERAL.—Not later than 21 months
19 after the date of enactment of this section, the Com-
20 mission shall review, in consultation with the Sec-
21 retary of Homeland Security and, as appropriate,
22 State and local governments, the emergency re-
23 sponse plans for each designated nuclear facility to
24 ensure that each emergency response plan provides

1 for protection of persons in the emergency response
2 planning zone.

3 “(2) ASPECTS OF REVIEW.—The Commission
4 shall ensure that each emergency response plan pro-
5 vides, as appropriate to the type of designated nu-
6 clear facility, for—

7 “(A) the protection of public health and
8 safety, including the ability to implement pro-
9 tective measures;

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

12 “(C) notification procedures;

13 “(D) communication and coordination
14 among emergency response personnel;

15 “(E) dissemination of information to the
16 public, both prior to, and in the event of, a ra-
17 diological emergency;

18 “(F) adequate emergency facilities and
19 equipment at and around the designated nu-
20 clear facility;

21 “(G) the use of methods, systems, and
22 equipment for assessing and monitoring actual
23 or potential impacts of an emergency;

24 “(H) a range of protective actions for the
25 public;

1 “(I) means for controlling radiological ex-
2 posures and other hazardous exposures for
3 emergency response personnel;

4 “(J) appropriate medical services for con-
5 taminated individuals;

6 “(K) general plans for recovery and re-
7 entry; and

8 “(L) radiological emergency response
9 training.

10 “(3) SCHEDULE.—The Commission shall estab-
11 lish a priority schedule for conducting reviews of
12 emergency response plans for designated nuclear fa-
13 cilities based on the proximity of such facilities to
14 large population areas.

15 “(4) UPGRADES TO EMERGENCY RESPONSE
16 PLAN.—The Commission shall ensure that the li-
17 censee or certificate holder of each designated nu-
18 clear facility revises, as necessary, the emergency re-
19 sponse plan for review by the Commission on a
20 schedule established by the Commission.

21 “(g) TRAINING PROGRAM.—

22 “(1) IN GENERAL.—Not later than 1 year after
23 submission of the report under subsection (b)(2), the
24 President shall establish, based on and consistent
25 with the findings and recommendations contained in

1 the report submitted under subsection (b)(2), a pro-
2 gram to provide technical assistance and training for
3 the National Guard and State and local law enforce-
4 ment agencies in responding to threats against a
5 designated nuclear facility.

6 “(2) GRANTS.—The President may provide
7 grants to State and local governments to assist in
8 carrying out this section.

9 “(3) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated such sums
11 as are necessary to carry out this subsection.

12 “(h) EMPLOYEE SECURITY.—

13 “(1) REVIEW.—Not later than 180 days after
14 the date of enactment of this section, the Commis-
15 sion shall review and update as appropriate the ac-
16 cess and training standards for employees of a des-
17 ignated nuclear facility.

18 “(2) DISQUALIFICATION OF INDIVIDUALS WHO
19 PRESENT NATIONAL SECURITY RISKS.—The Com-
20 mission shall establish qualifications and procedures,
21 in addition to fingerprinting for criminal history
22 record checks conducted under section 149, to en-
23 sure that no individual who presents a threat to na-
24 tional security is employed at a designated nuclear
25 facility.

1 “(i) FEDERAL SECURITY COORDINATORS.—

2 “(1) REGIONAL OFFICES.—Not later than 180
3 days after the date of enactment of this section, the
4 Commission shall assign a Federal security coordi-
5 nator, under the employment of the Commission, to
6 each region of the Commission.

7 “(2) RESPONSIBILITIES.—The Federal security
8 coordinator shall be responsible for—

9 “(A) communicating with the Commission
10 and other Federal, State, and local authorities
11 concerning threats, including threats against a
12 designated nuclear facility;

13 “(B) ensuring that a designated nuclear
14 facility maintains security consistent with the
15 security plan in accordance with the appro-
16 priate threat level; and

17 “(C) assisting in the coordination of secu-
18 rity measures among—

19 “(i) the private security force at a
20 designated nuclear facility; and

21 “(ii) Federal, State, and local authori-
22 ties, as appropriate.

23 “(j) CLASSIFIED INFORMATION.—Nothing in this
24 section supersedes any law (including a regulation) gov-

1 urning the disclosure of classified information or safe-
2 guards information.”.

3 (b) FINGERPRINTING FOR CRIMINAL HISTORY
4 RECORD CHECKS.—Section 149 of the Atomic Energy Act
5 of 1954 (42 U.S.C. 2169) is amended—

6 (1) in subsection a.—

7 (A) by striking “a. The Nuclear” and all
8 that follows through “section 147.” and insert-
9 ing the following:

10 “a. IN GENERAL.—

11 “(1) REQUIREMENTS.—The Commission shall
12 require—

13 “(A) each licensee, certificate holder, or
14 applicant for a license or certificate to operate
15 a utilization facility under section 103 or
16 104(b); and

17 “(B) each licensee or applicant for a li-
18 cense to possess or use radioactive material or
19 other property subject to regulation by the
20 Commission that the Commission determines to
21 be of such significance to the public health and
22 safety or the common defense and security as
23 to warrant fingerprinting and background
24 checks;

1 to fingerprint each individual who is permitted
2 unescorted access to the facility, radioactive mate-
3 rial, or other property or is permitted access to safe-
4 guards information under section 147.”;

5 (B) by striking “All fingerprints” and in-
6 serting the following:

7 “(2) SUBMISSION TO THE ATTORNEY GEN-
8 ERAL.—All fingerprints”;

9 (C) by striking “The costs” and inserting
10 the following;

11 “(3) COSTS.—The costs”;

12 (D) by striking “Notwithstanding” and in-
13 serting the following:

14 “(4) PROVISION TO LICENSEE, CERTIFICATE
15 HOLDER, OR APPLICANT.—Notwithstanding”; and

16 (E) by striking “licensee or applicant”
17 each place it appears and inserting “licensee,
18 certificate holder, or applicant for a license or
19 certificate”;

20 (2) in subsection c., by striking “, subject to
21 public notice and comment, regulations” and insert-
22 ing “requirements”;

23 (3) by redesignating subsection d. as subsection
24 e.; and

1 (4) by inserting after subsection c. the fol-
2 lowing:

3 “d. USE OF OTHER BIOMETRIC METHODS.—Any re-
4 quirement for a person to conduct fingerprinting under
5 this section may be satisfied by using any other biometric
6 method used for identification by the Attorney General.”.

7 **SEC. 4. OFFICE OF NUCLEAR SECURITY AND INCIDENT RE-**
8 **SPONSE.**

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

12 **“SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT**
13 **RESPONSE.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CERTIFICATE HOLDER.—The term ‘certifi-
16 cate holder’ has the meaning given the term in sec-
17 tion 170C(a) of the Atomic Energy Act of 1954.

18 “(2) DESIGNATED NUCLEAR FACILITY.—The
19 term ‘designated nuclear facility’ has the meaning
20 given the term in section 11 of the Atomic Energy
21 Act of 1954 (42 U.S.C. 2014).

22 “(3) DIRECTOR.—The term ‘Director’ means
23 the Director of Nuclear Security and Incident Re-
24 sponse appointed under subsection (c) to head the
25 Office.

1 “(4) LICENSEE.—The term ‘licensee’ has the
2 meaning given the term in section 170C(a) of the
3 Atomic Energy Act of 1954.

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

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

10 “(c) DIRECTOR.—

11 “(1) APPOINTMENT.—The Commission may ap-
12 point and remove from office a Director of Nuclear
13 Security and Incident Response.

14 “(2) DUTIES.—

15 “(A) IN GENERAL.—The Director shall
16 perform such functions as the Commission dele-
17 gates to the Director.

18 “(B) FUNCTIONS.—The functions dele-
19 gated to the Director may include—

20 “(i) carrying out security, safeguards,
21 and incident responses relating to—

22 “(I) any facility owned or oper-
23 ated by a Commission licensee or cer-
24 tificate holder;

1 “(II) any property owned or in
2 the possession of a licensee or certifi-
3 cate holder that—

4 “(aa) is significant to the
5 common defense and security; or

6 “(bb) is being transported to
7 or from a facility described in
8 clause (i); and

9 (III) any other activity of a li-
10 censee or certificate holder, subject to
11 the requirements of the Atomic En-
12 ergy Act of 1954 (42 U.S.C. 2011 et
13 seq.), that is significant to the com-
14 mon defense and security;

15 “(ii) for a facility or material licensed
16 or certified under the Atomic Energy Act
17 of 1954 (42 U.S.C. 2011 et seq.)—

18 “(I) developing contingency plans
19 for dealing with threats, thefts, and
20 sabotage; and

21 “(II) monitoring, reviewing, and
22 evaluating security and safeguards;

23 “(iii) recommending upgrades to in-
24 ternal accounting systems for special nu-
25 clear and other materials licensed or cer-

1 tified under the Atomic Energy Act of
2 1954 (42 U.S.C. 2011 et seq.); and

3 “(iv) developing and recommending
4 standards and amendments to the stand-
5 ards of the Commission relating to the du-
6 ties described in clauses (i) through (iii);
7 and

8 “(E) carrying out any other safeguards
9 and physical security functions and incident re-
10 sponse functions that the Commission deter-
11 mines to be appropriate.

12 “(3) CONSULTATION.—In carrying out the du-
13 ties under paragraph (2), the Director shall, to the
14 extent practicable, consult and coordinate with other
15 Federal agencies.

16 “(d) SECURITY RESPONSE EVALUATIONS.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this section, the Commis-
19 sion shall establish a security response evaluation
20 program to assess the ability of each designated nu-
21 clear facility to defend against threats in accordance
22 with the security plan for the designated nuclear fa-
23 cility.

24 “(2) FREQUENCY OF EVALUATIONS.—Not less
25 than once every 3 years, the Commission shall con-

1 duct and document security response evaluations at
2 each designated nuclear facility to assess the ability
3 of the private security force of the designated nu-
4 clear facility to defend against applicable design
5 basis threats.

6 “(3) SECURITY EXEMPTION.—The Commission
7 may suspend activities under this section if the Com-
8 mission determines that the security response eval-
9 uations would compromise security at any des-
10 ignated nuclear facility in accordance with a height-
11 ened threat level.

12 “(4) ACTIVITIES.—The security response eval-
13 uation shall include force-on-force exercises that sim-
14 ulate the security threats consistent with the design
15 basis threats applicable to the designated nuclear fa-
16 cility.

17 “(5) PERFORMANCE CRITERIA.—The Commis-
18 sion shall establish performance criteria for judging
19 the security response evaluations.

20 “(6) CORRECTIVE ACTION.—

21 “(A) IN GENERAL.—When any of the per-
22 formance criteria established under paragraph
23 (5) are not satisfied—

24 “(i) the licensee or certificate holder
25 shall promptly correct any defects in per-

1 performance identified by the Commission in
2 the security response evaluation; and

3 “(ii) the Commission shall conduct an
4 additional security response evaluation
5 within 9 months to confirm that the li-
6 censee or certificate holder satisfies the
7 performance criteria established under
8 paragraph (5).

9 “(B) 2 CONSECUTIVE FAILURES TO SAT-
10 ISFY PERFORMANCE CRITERIA.—

11 “(i) IN GENERAL.—If a designated
12 nuclear facility fails to satisfy the perform-
13 ance criteria established under paragraph
14 (5) in 2 consecutive security response eval-
15 uations, the Commission shall issue an
16 order specifying the corrective actions that
17 must be taken by the licensee or certificate
18 holder of the designated nuclear facility.

19 “(ii) FAILURE TO TAKE CORRECTIVE
20 ACTION.—If the licensee or certificate hold-
21 er of a designated nuclear facility does not
22 take the corrective action specified by the
23 Commission within 30 days after the date
24 of issuance of an order under clause (i),
25 and the Commission determines that the

1 failure could compromise public health and
2 safety, the Commission shall assess a civil
3 penalty under section 234 of the Atomic
4 Energy Act of 1954 (42 U.S.C. 2282).

5 “(C) EFFECT.—Nothing in this paragraph
6 limits any enforcement authority of the Com-
7 mission to take action in response to defi-
8 ciencies identified through security evaluations.

9 “(7) REPORTS.—Not less often than once every
10 year, the Commission shall submit to Congress and
11 the President a report, in classified form and unclas-
12 sified form, that describes the results of each secu-
13 rity response evaluation under this paragraph for
14 the previous year.

15 “(e) EMERGENCY RESPONSE EXERCISES.—

16 “(1) IN GENERAL.—Not less than once every 2
17 years, the Commission, in coordination with the Sec-
18 retary of Homeland Security shall observe and
19 evaluate emergency response exercises to assess the
20 ability of Federal, State, and local emergency re-
21 sponse agencies and emergency response personnel
22 of a licensee or certificate holder to respond to a ra-
23 diological emergency at the designated nuclear facil-
24 ity in accordance with the emergency response plans.

1 “(2) ACTIVITIES.—In carrying out their func-
2 tions under paragraph (1), the Commission and the
3 Secretary of Homeland Security shall evaluate—

4 “(A) the response capabilities, response
5 times, and coordination and communication ca-
6 pabilities of the response personnel; and

7 “(B) the effectiveness and adequacy of
8 emergency response and the ability to take pro-
9 tective actions.

10 “(3) PLANS.—The Commission shall ensure
11 that the emergency response plan for a designated
12 nuclear facility is revised to correct for any defi-
13 ciencies identified by an evaluation under this sub-
14 section.

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

19 “(A) the results of each emergency re-
20 sponse exercise under this subsection conducted
21 in the previous year; and

22 “(B) each revision of an emergency re-
23 sponse plan made under paragraph (3) for the
24 previous year that is substantive in nature.

1 “(f) EFFECT.—Nothing in this section limits any au-
2 thority of the Department of Energy relating to the secu-
3 rity and safeguarding of special nuclear materials, high-
4 level radioactive waste, and nuclear facilities resulting
5 from all activities under the jurisdiction of the Depart-
6 ment.”.

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

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

10 (A) in paragraph (1), by striking “licens-
11 ing and regulation involving” and inserting “li-
12 censing, regulation, and, except as otherwise
13 provided under section 212, carrying out safety
14 reviews, safeguards, and physical security of”;
15 and

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

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

19 (A) in paragraph (1)—

20 (i) by striking “including” and insert-
21 ing “not including”; and

22 (ii) by striking “and materials.” and
23 inserting “and materials, to the extent that
24 the safeguards and security functions are
25 delegated to the Office of Nuclear Security

1 and Incident Response under section
2 212.”.

3 (B) in paragraph (2)—

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

5 (ii) by striking “, as amended,” and

6 all that follows through the period and in-
7 serting “(42 U.S.C. 2011 et seq.)”.

8 **SEC. 5. GUARDING OF NUCLEAR FACILITIES, EQUIPMENT,**
9 **AND MATERIAL.**

10 (a) TRANSPORTING OF SHORT-BARRELED SHOTGUN
11 OR RIFLE.—Section 922 of title 18, United States Code,
12 is amended—

13 (1) in subsection (a)(4), by striking “or licensed
14 collector,” and inserting the following: “licensed col-
15 lector, or a licensee or certificate holder under title
16 I of the Atomic Energy Act of 1954 (42 U.S.C.
17 2011 et seq.), or an employee or contractor of such
18 a licensee or certificate holder, that holds the license
19 or certificate for the purpose of establishing and
20 maintaining an on-site physical protection system
21 and security organization required by Federal law or
22 for the purpose of licensee-authorized or certificate
23 holder-authorized training or transportation of nu-
24 clear material or equipment,”; and

25 (2) in subsection (o)(2)—

1 (A) in subparagraph (A), by striking “or”
2 at the end;

3 (B) in subparagraph (B), by striking the
4 period at the end and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(C) a transfer to a licensee or certificate hold-
7 er under title I of the Atomic Energy Act of 1954
8 (42 U.S.C. 2011 et seq.) for purposes of establishing
9 and maintaining an on-site physical protection sys-
10 tem and security organization required by Federal
11 law, or possession by an employee or contractor of
12 the licensee or certificate holder on-site for such pur-
13 poses or off-site for purposes of licensee-authorized
14 or certificate holder-authorized training or transpor-
15 tation of nuclear materials or equipment.”.

16 (b) AUTHORIZATION FOR IMPORTATION OF FIREARM
17 OR AMMUNITION.—Section 925(d)(1) of title 18, United
18 States Code, is amended—

19 (1) by inserting “(A)” before “is being”; and

20 (2) by inserting after the semicolon the fol-
21 lowing: “or

22 “(B) is being imported or brought in for trans-
23 fer to a licensee or certificate holder under title I of
24 the Atomic Energy Act of 1954 (42 U.S.C. 2011 et
25 seq.) for purposes of establishing and maintaining

1 an on-site physical protection system and security
2 organization required by Federal law;”.

3 (c) INTERSTATE TRANSPORTATION OF FIREARMS.—
4 Section 926A of title 18, United States Code, is amend-
5 ed—

6 (1) by striking “Notwithstanding” and insert-
7 ing the following:

8 “(a) IN GENERAL.—Notwithstanding”; and

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

10 “(b) LICENSEES AND CERTIFICATE HOLDERS OF
11 THE NUCLEAR REGULATORY COMMISSION.—Notwith-
12 standing any other provision of any law or any rule or
13 regulation of a State or any political subdivision of a
14 State, a licensee or certificate holder under title I of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or
16 an employee or contractor of such a licensee or certificate
17 holder, that is not otherwise prohibited by this chapter
18 from transporting, shipping, receiving, or possessing a
19 firearm shall be entitled to transport and possess a fire-
20 arm for purposes of establishing and maintaining an on-
21 site physical protection system and security organization
22 required by Federal law, and for purposes of licensee-au-
23 thorized or certificate holder-authorized training or trans-
24 portation of nuclear material or equipment.”.

1 (d) SEMIAUTOMATIC ASSAULT WEAPONS; LARGE CA-
2 PACITY AMMUNITION FEEDING DEVICES.—Section 922 of
3 title 18, United States Code, is amended—

4 (1) in subsection (v)(4)(B)—

5 (A) by inserting “or certificate holder”
6 after “licensee” each place that term appears;

7 (B) by inserting “or certificate holder-au-
8 thorized” after “licensee-authorized”; and

9 (C) by inserting “or equipment” after
10 “materials”; and

11 (2) in subsection (w)(3)(B)—

12 (A) by inserting “or certificate holder”
13 after “licensee” each place that term appears;

14 (B) by inserting “or certificate holder-au-
15 thorized” after “licensee-authorized”; and

16 (C) by inserting “or equipment” after
17 “materials”.

18 **SEC. 6. TREATMENT OF ACCELERATOR-PRODUCED AND**
19 **OTHER RADIOACTIVE MATERIAL AS BYPROD-**
20 **UCT MATERIAL.**

21 (a) DEFINITION OF BYPRODUCT MATERIAL.—Sec-
22 tion 11e. of the Atomic Energy Act of 1954 (42 U.S.C.
23 2014(e)) is amended—

24 (1) by striking “means (1) any radioactive” and
25 inserting “means—

1 “(1) any radioactive”;

2 (2) by striking “material, and (2) the tailings”

3 and inserting “material;

4 “(2) the tailings”; and

5 (3) by striking “content.” and inserting “con-

6 tent; and

7 “(3)(A) any discrete source of radium-226; or

8 “(B) any material that—

9 “(i) has been made radioactive by use of a

10 particle accelerator; and

11 “(ii) is produced, extracted, or converted

12 after extraction, before, on, or after the date of

13 enactment of this paragraph, for use in a com-

14 mercial, medical, or research activity; and

15 “(4) any discrete source of naturally occurring

16 radioactive material, other than source material

17 that—

18 “(A) the Nuclear Regulatory Commission

19 determines (after consultation with the Admin-

20 istrator of the Environmental Protection Agen-

21 cy, the Secretary of Energy, the Secretary of

22 Homeland Security, and the head of any other

23 appropriate Federal agency), would pose a

24 threat similar to that posed by a discrete source

1 of radium-226 to the public health and safety
2 or the common defense and security; and

3 “(B) before, on, or after the date of enact-
4 ment of this paragraph, is extracted or con-
5 verted after extraction, for use in a commercial,
6 medical, or research activity.”.

7 (b) AGREEMENTS.—Section 274b. of the Atomic En-
8 ergy Act of 1954 (42 U.S.C. 2021) is amended—

9 (1) by redesignating paragraphs (3) and (4) as
10 paragraphs (5) and (6), respectively; and

11 (2) by inserting after paragraph (2) the fol-
12 lowing:

13 “(3) byproduct materials (as defined in section
14 11e.(3));

15 “(4) byproduct materials (as defined in section
16 11e.(4));”.

17 (c) REGULATIONS.—

18 (1) IN GENERAL.—Not later than the effective
19 date of this section, the Nuclear Regulatory Com-
20 mission shall promulgate final regulations estab-
21 lishing such requirements and standards as the
22 Commission considers necessary for the acquisition,
23 possession, transfer, use, or disposal of byproduct
24 material (as defined in paragraphs (3) and (4) of

1 section 11e. of the Atomic Energy Act of 1954 (as
2 added by subsection (a))).

3 (2) COOPERATION.—The Commission shall co-
4 operate with the States in formulating the regula-
5 tions under paragraph (1).

6 (3) TRANSITION.—To ensure an orderly transi-
7 tion of regulatory authority with respect to byprod-
8 uct material as defined in paragraphs (3) and (4) of
9 section 11e. of the Atomic Energy Act of 1954 (as
10 added by subsection (a)), not later than 180 days
11 before the effective date of this section, the Nuclear
12 Regulatory Commission shall prepare and provide
13 public notice of a transition plan developed in co-
14 ordination with States that—

15 (A) have not, before the effective date of
16 this section, entered into an agreement with the
17 Commission under section 274b. of the Atomic
18 Energy Act of 1954 (42 U.S.C. 2021); or

19 (B) in the case of a State that has entered
20 into such an agreement, has not, before the ef-
21 fective date of this section, applied for an
22 amendment to the agreement that would permit
23 assumption by the State of regulatory responsi-
24 bility for such byproduct material.

1 (d) EFFECTIVE DATE.—Except with respect to mat-
2 ters that the Nuclear Regulatory Commission determines
3 are required to be addressed earlier to protect the public
4 health and safety or to promote the common defense and
5 security, the amendments made by this section take effect
6 on the date that is 4 years after the date of enactment
7 of this Act.

8 **SEC. 7. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
9 **WEAPONS.**

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

15 **SEC. 8. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

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

18 (1) in the first sentence, by striking “or who in-
19 tentiously and willfully attempts” and inserting “or
20 who attempts or conspires”;

21 (2) in paragraph (2), by striking “storage facil-
22 ity” and inserting “storage, treatment, or disposal
23 facility”;

24 (3) in paragraph (3)—

1 (A) by striking “such a utilization facility”
2 and inserting “a utilization facility licensed
3 under this Act”; and

4 (B) by striking “or” at the end;

5 (4) in paragraph (4)—

6 (A) by striking “facility licensed” and in-
7 serting “uranium conversion or nuclear fuel
8 fabrication facility licensed or certified”; and

9 (B) by striking the period at the end and
10 inserting a semicolon; and

11 (5) by inserting after paragraph (4) the fol-
12 lowing:

13 “(5) any production, utilization, waste storage,
14 waste treatment, waste disposal, uranium enrich-
15 ment, or nuclear fuel fabrication facility subject to
16 licensing or certification under this Act during con-
17 struction of the facility, if the destruction or damage
18 caused or attempted to be caused could adversely af-
19 fect public health and safety during the operation of
20 the facility;

21 “(6) any primary facility or backup facility
22 from which a radiological emergency preparedness
23 alert and warning system is activated; or

24 “(7) any radioactive material or other property
25 subject to regulation by the Nuclear Regulatory

1 Commission that, before the date of the offense, the
2 Nuclear Regulatory Commission determines, by
3 order or regulation published in the Federal Reg-
4 ister, is of significance to the public health and safe-
5 ty or to common defense and security;”.

6 **SEC. 9. EVALUATION OF ADEQUACY OF ENFORCEMENT**
7 **PROVISIONS.**

8 Not later than 90 days after the date of enactment
9 of this Act, the Attorney General and the Nuclear Regu-
10 latory Commission shall submit to Congress a report that
11 assesses the adequacy of the criminal enforcement provi-
12 sions in chapter 18 of the Atomic Energy Act of 1954
13 (42 U.S.C. 221 et seq.).

14 **SEC. 10. PROTECTION OF WHISTLEBLOWERS.**

15 Section 211(a)(2) of the Energy Reorganization Act
16 (42 U.S.C. 5851) is amended—

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

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

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

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

1 **SEC. 11. TECHNICAL AND CONFORMING AMENDMENT.**

2 The table of contents of the Atomic Energy Act of
3 1954 (42 U.S.C. prec. 2011) is amended by adding at the
4 end of the items relating to chapter 14 the following:

“Sec. 170B. Uranium supply.

“Sec. 170C. Protection of designated nuclear facilities.”.

5 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) IN GENERAL.—There are authorized to be appro-
7 priated such sums as are necessary to carry out the
8 amendments made by this title.

9 (b) AGGREGATE AMOUNT OF CHARGES.—Section
10 6101 of the Omnibus Budget Reconciliation Act of 1990
11 (42 U.S.C. 2214(c)(2)(A)) is amended—

12 (1) in clause (i), by striking “and” at the end;

13 (2) in clause (ii), by striking the period at the
14 end and inserting “; and” and

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

16 “(iii) amounts appropriated to the Com-
17 mission for homeland security activities of the
18 Commission for the fiscal year, except for the
19 costs of fingerprinting and background checks
20 required by section 149 of the Atomic Energy
21 Act of 1954 (42 U.S.C. 2169) and the costs of
22 conducting security inspections.”.

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