

108TH CONGRESS  
1ST SESSION

# H. R. 2761

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 HOUSE OF REPRESENTATIVES

JULY 16, 2003

Mrs. LOWEY (for herself, Mr. MARKEY, and Mr. ENGEL) introduced the following bill; which was referred to the Committee on Energy and Commerce

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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—

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

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

2 “jj. DESIGN BASIS THREAT.—The term ‘design basis  
3 threat’ means the design basis threat established by the  
4 Commission under section 73.1 of title 10, Code of Fed-  
5 eral Regulations (or any successor regulation developed  
6 under section 170C).

7 “kk. SENSITIVE NUCLEAR FACILITY.—The term  
8 ‘sensitive nuclear facility’ means—

9 “(1) a commercial nuclear power plant and as-  
10 sociated spent fuel storage facility;

11 “(2) a decommissioned nuclear power plant and  
12 associated spent fuel storage facility;

13 “(3) a category I fuel cycle facility;

14 “(4) a gaseous diffusion plant; and

15 “(5) any other facility licensed by the Commis-  
16 sion, or used in the conduct of an activity licensed  
17 by the Commission, that the Commission determines  
18 should be treated as a sensitive nuclear facility  
19 under section 170C.”.

20 **SEC. 3. NUCLEAR SECURITY.**

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

1 **“SEC. 170C. PROTECTION OF SENSITIVE NUCLEAR FACILI-**  
2 **TIES AGAINST THE DESIGN BASIS THREAT.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) NUCLEAR SECURITY FORCE.—The term  
5 ‘nuclear security force’ means the nuclear security  
6 force established under subsection (b)(1).

7 “(2) FUND.—The term ‘Fund’ means the Nu-  
8 clear Security Fund established under subsection  
9 (e).

10 “(3) QUALIFICATION STANDARD.—The term  
11 ‘qualification standard’ means a qualification stand-  
12 ard established under subsection (d)(2)(A).

13 “(4) SECURITY PLAN.—The term ‘security plan’  
14 means a security plan developed under subsection  
15 (b)(2).

16 “(b) NUCLEAR SECURITY.—The Commission shall—

17 “(1) establish a nuclear security force, the  
18 members of which shall be employees of the Com-  
19 mission, to provide for the security of all sensitive  
20 nuclear facilities against the design basis threat; and

21 “(2) develop and implement a security plan for  
22 each sensitive nuclear facility to ensure the security  
23 of all sensitive nuclear facilities against the design  
24 basis threat.

25 “(c) SECURITY PLANS.—

1           “(1) IN GENERAL.—Not later than 180 days  
2 after the date of enactment of this section, the Com-  
3 mission shall develop a security plan for each sen-  
4 sitive nuclear facility to ensure the protection of  
5 each sensitive nuclear facility against the design  
6 basis threat.

7           “(2) ELEMENTS OF THE PLAN.—A security  
8 plan shall prescribe—

9           “(A) the deployment of the nuclear secu-  
10 rity force, including—

11           “(i) numbers of the members of the  
12 nuclear security force at each sensitive nu-  
13 clear facility;

14           “(ii) tactics of the members of the nu-  
15 clear security force at each sensitive nu-  
16 clear facility; and

17           “(iii) capabilities of the members of  
18 the nuclear security force at each sensitive  
19 nuclear facility;

20           “(B) other protective measures, includ-  
21 ing—

22           “(i) designs of critical control systems  
23 at each sensitive nuclear facility;

24           “(ii) restricted personnel access to  
25 each sensitive nuclear facility;

1           “(iii) perimeter site security, internal  
2           site security, and fire protection barriers;

3           “(iv) increases in protection for spent  
4           fuel storage areas;

5           “(v) placement of spent fuel in dry  
6           cask storage; and

7           “(vi) background security checks for  
8           employees and prospective employees; and

9           “(C) a schedule for completing the require-  
10          ments of the security plan not later than 18  
11          months after the date of enactment of this sec-  
12          tion.

13          “(3) ADDITIONAL REQUIREMENTS.—A holder  
14          of a license for a sensitive nuclear facility under sec-  
15          tion 103 or 104 or the State or local government in  
16          which a sensitive nuclear facility is located may peti-  
17          tion the Commission for additional requirements in  
18          the security plan for the sensitive nuclear facility.

19          “(4) IMPLEMENTATION OF SECURITY PLAN.—  
20          Not later than 270 days after the date of enactment  
21          of this section, the Commission, in consultation with  
22          a holder of a license for a sensitive nuclear facility  
23          under section 103 or 104, shall, by direct action of  
24          the Commission or by order requiring action by the  
25          licensee, implement the security plan for the sen-

1 sensitive nuclear facility in accordance with the schedule  
2 under paragraph (2)(C).

3 “(5) SUFFICIENCY OF SECURITY PLAN.—If at  
4 any time the Commission determines that the imple-  
5 mentation of the requirements of the security plan  
6 for a sensitive nuclear facility is insufficient to en-  
7 sure the security of the sensitive nuclear facility  
8 against the design basis threat, the Commission  
9 shall immediately submit to Congress and the Presi-  
10 dent a classified report that—

11 “(A) identifies the vulnerability of the sen-  
12 sitive nuclear facility; and

13 “(B) recommends actions by Federal,  
14 State, or local agencies to eliminate the vulner-  
15 ability.

16 “(d) NUCLEAR SECURITY FORCE.—

17 “(1) IN GENERAL.—Not later than 90 days  
18 after the date of the enactment of this section, the  
19 Commission, in consultation with other Federal  
20 agencies, as appropriate, shall establish a program  
21 for the hiring and training of the nuclear security  
22 force.

23 “(2) HIRING.—

24 “(A) QUALIFICATION STANDARDS.—Not  
25 later than 30 days after the date of enactment

1 of this section, the Commission shall establish  
2 qualification standards that individuals shall be  
3 required to meet to be hired by the Commission  
4 as members of the nuclear security force.

5 “(B) EXAMINATION.—The Commission  
6 shall develop and administer a nuclear security  
7 force personnel examination for use in deter-  
8 mining the qualification of individuals seeking  
9 employment as members of the nuclear security  
10 force.

11 “(C) CRIMINAL AND SECURITY BACK-  
12 GROUND CHECKS.—The Commission shall re-  
13 quire that an individual to be hired as a mem-  
14 ber of the nuclear security force undergo a  
15 criminal and security background check.

16 “(D) DISQUALIFICATION OF INDIVIDUALS  
17 WHO PRESENT NATIONAL SECURITY RISKS.—  
18 The Commission, in consultation with the heads  
19 of other Federal agencies, as appropriate, shall  
20 establish procedures, in addition to any back-  
21 ground check conducted under subparagraph  
22 (B), to ensure that no individual who presents  
23 a threat to national security is employed as a  
24 member of the nuclear security force.

25 “(3) ANNUAL PROFICIENCY REVIEW.—

1           “(A) IN GENERAL.—The Commission shall  
2 provide that an annual evaluation of each mem-  
3 ber of the nuclear security force is conducted  
4 and documented.

5           “(B) REQUIREMENTS FOR CONTINU-  
6 ATION.—An individual employed as a member  
7 of the nuclear security force may not continue  
8 to be employed in that capacity unless the eval-  
9 uation under subparagraph (A) demonstrates  
10 that the individual—

11                   “(i) continues to meet all qualification  
12 standards;

13                   “(ii) has a satisfactory record of per-  
14 formance and attention to duty; and

15                   “(iii) has the knowledge and skills  
16 necessary to vigilantly and effectively pro-  
17 vide for the security of a sensitive nuclear  
18 facility against the design basis threat.

19           “(4) TRAINING.—

20                   “(A) IN GENERAL.—The Commission shall  
21 provide for the training of each member of the  
22 nuclear security force to ensure each member  
23 has the knowledge and skills necessary to pro-  
24 vide for the security of a sensitive nuclear facil-  
25 ity against the design basis threat.



1           “(B) TRAINING PLAN.—Not later than 60  
2           days after the date of enactment of this section,  
3           the Commission shall develop a plan for the  
4           training of members of the nuclear security  
5           force.

6           “(C) USE OF OTHER AGENCIES.—The  
7           Commission may enter into a memorandum of  
8           understanding or other arrangement with any  
9           other Federal agency with appropriate law en-  
10          forcement responsibilities, to provide personnel,  
11          resources, or other forms of assistance in the  
12          training of members of the nuclear security  
13          force.

14          “(e) NUCLEAR SECURITY FUND.—

15                 “(1) ESTABLISHMENT.—There is established in  
16                 the Treasury of the United States a fund to be  
17                 known as the ‘Nuclear Security Fund’, which shall  
18                 be used by the Commission to administer programs  
19                 under this section to provide for the security of sen-  
20                 sitive nuclear facilities.

21                 “(2) DEPOSITS IN THE FUND.—The Commis-  
22                 sion shall deposit in the Fund—

23                         “(A) the amount of fees collected under  
24                         paragraph (5); and

1           “(B) amounts appropriated under sub-  
2 section (f).

3           “(3) INVESTMENT OF AMOUNTS.—

4           “(A) IN GENERAL.—The Secretary of the  
5 Treasury shall invest such portion of the Fund  
6 as is not, in the judgment of the Secretary of  
7 the Treasury, required to meet current with-  
8 draws. Investments may be made only in in-  
9 terest-bearing obligations of the United States.

10           “(B) ACQUISITION OF OBLIGATIONS.—For  
11 the purpose of investments under subparagraph  
12 (A), obligations may be acquired—

13                   “(i) on original issue at the issue  
14 price; or

15                   “(ii) by purchase of outstanding obli-  
16 gations at the market price.

17           “(C) SALE OF OBLIGATIONS.—Any obliga-  
18 tion acquired by the Fund may be sold by the  
19 Secretary of the Treasury at the market price.

20           “(D) CREDITS TO FUND.—The interest on,  
21 and the proceeds from the sale or redemption  
22 of, any obligations held in the Fund shall be  
23 credited to and form a part of the Fund.

1           “(4) USE OF AMOUNTS IN THE FUND.—The  
2           Commission shall use amounts in the Fund to pay  
3           the costs of—

4                   “(A) salaries, training, and other expenses  
5                   of the nuclear security force; and

6                   “(B) developing and implementing security  
7                   plans.

8           “(5) FEE.—To ensure that adequate amounts  
9           are available to provide assistance under paragraph  
10          (4), the Commission shall assess licensees a fee in  
11          an amount determined by the Commission.

12          “(f) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated such sums as are nec-  
14          essary to carry out this section.”.

15          (b) IMPLEMENTATION.—The Commission shall com-  
16          plete the full implementation of the amendment made by  
17          subsection (a) as soon as practicable after the date of en-  
18          actment of this Act, but in no event later than 270 days  
19          after the date of enactment of this Act.

20          (c) TECHNICAL AND CONFORMING AMENDMENT.—  
21          The table of contents for chapter 14 of the Atomic Energy  
22          Act of 1954 (42 U.S.C. prec. 2011) is amended by adding  
23          at the end the following:

“170B. Uranium supply.

“170C. Protection of sensitive nuclear facilities against the design basis  
threat.”.

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