

Calendar No. 372

108TH CONGRESS
1ST SESSION**S. 1043****[Report No. 108-190]**

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

IN THE SENATE OF THE UNITED STATES

MAY 12, 2003

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

NOVEMBER 6, 2003

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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”.

1 **SEC. 2. DEFINITIONS.**

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

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

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

7 “**jj. DESIGNATED NUCLEAR FACILITY.**—The term
8 ‘designated nuclear facility’ means—

9 “(1) an operating commercial nuclear power
10 plant; and

11 “(2) any other facility owned or operated by a
12 licensee or certificate holder that the Commission
13 determines should be included within the meaning of
14 the term.

15 “**kk. PRIVATE SECURITY FORCE.**—The term ‘private
16 security force’, with respect to a designated nuclear facil-
17 ity, means personnel hired or contracted by the licensee
18 or certificate holder of the designated nuclear facility to
19 provide security at the designated nuclear facility.”.

20 **SEC. 3. DESIGNATED NUCLEAR FACILITY 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:

24 **“SEC. 170C. PROTECTION OF DESIGNATED NUCLEAR FA-
25 CILITIES.**

26 “(a) **DEFINITIONS.**—In this section:

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 the
10 date of completion of the security examination under
11 paragraph (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 the date of completion of the security examina-
18 tion under subsection (b), the Commission shall by
19 regulation revise the design basis threats promul-
20 gated before the date of enactment of this section as
21 the Commission determines to be appropriate based
22 on the security 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 24 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 erning 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 e., 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 e. 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 (e) 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 “(H) 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 (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(e)(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.”.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Nuclear Infrastructure*
 3 *Security Act of 2003”.*

4 **SEC. 2. DEFINITIONS.**

5 *Section 11 of the Atomic Energy Act of 1954 (42*
 6 *U.S.C. 2014) is amended—*

7 *(1) by redesignating subsection jj. as subsection*
 8 *ii.; and*

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

10 *“jj. DESIGNATED NUCLEAR FACILITY.—The term ‘des-*
 11 *ignated nuclear facility’ means a facility that the Commis-*
 12 *sion classifies as a designated nuclear facility under section*
 13 *170C(b).*

14 *“kk. PRIVATE SECURITY FORCE.—The term ‘private*
 15 *security force’, with respect to a designated nuclear facility,*
 16 *means personnel hired or contracted by the licensee or cer-*
 17 *tificate holder of the designated nuclear facility to provide*
 18 *security at the designated nuclear facility.”.*

19 **SEC. 3. DESIGNATED NUCLEAR FACILITY SECURITY.**

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

23 **“SEC. 170C. PROTECTION OF DESIGNATED NUCLEAR FA-**
 24 **CILITIES.**

25 *“(a) DEFINITIONS.—In this section:*

1 “(1) *CERTIFICATE HOLDER.*—*The term ‘certificate holder’ means the holder of a certificate of compliance issued by the Commission under this Act.*

2 “(2) *FEDERAL SECURITY COORDINATOR.*—*The*
3 *term ‘Federal security coordinator’ means a Federal*
4 *security coordinator as assigned under this Act.*

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

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

12 “(b) *CLASSES OF DESIGNATED NUCLEAR FACILITY.*—

13 “(1) *IN GENERAL.*—*Not later than 18 months*
14 *after the date of enactment of this section, the Com-*
15 *mission shall, by regulation, establish classes of des-*
16 *ignated nuclear facility.*

17 “(2) *CLASSIFICATION.*—*The Commission shall*
18 *classify facilities licensed by the Commission or issued*
19 *a certificate by the Commission, including—*

20 “(A) *commercial nuclear power plants;*

21 “(B) *independent spent fuel storage instal-*
22 *lations;*

23 “(C) *decommissioned nuclear power plants;*

1 “(D) fuel processing facilities;

2 “(E) gaseous diffusion facilities; and

3 “(F) any other facility that the Commission
4 determines should be classified as a designated
5 nuclear facility.

6 “(3) FACTORS.—In determining whether to clas-
7 sify a facility as a designated nuclear facility, the
8 Commission shall consider—

9 “(A) the nature or type of facility;

10 “(B) the nature or type of potential radio-
11 logical release from the facility; and

12 “(C) other factors relating to protecting
13 public health and safety, the environment, and
14 the common defense and security.

15 “(c) SECURITY EXAMINATION.—

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

20 “(A) potential threats to nuclear facilities,
21 as appropriate, including consideration of—

22 “(i) threats comparable to the events of
23 September 11, 2001;

24 “(ii) cyber threats, chemical threats,
25 and biological threats;

1 “(iii) attacks on nuclear facilities by
2 multiple coordinated teams of a large num-
3 ber of individuals;

4 “(iv) attacks by several persons, in-
5 cluding persons employed at the nuclear fa-
6 cility, some of whom may have sophisticated
7 knowledge of the operations of the nuclear
8 facility;

9 “(v) attacks by individuals willing to
10 commit suicide to carry out the attacks;

11 “(vi) intrusions originating from
12 water or from the air; and

13 “(vii) fire, especially fire of a long du-
14 ration;

15 “(B) classification of threats against nu-
16 clear facilities, as appropriate, as—

17 “(i) a type of threat falling under the
18 responsibilities of the Federal Government,
19 including an act by an enemy of the United
20 States, whether a foreign government or any
21 other person;

22 “(ii) a type of threat falling under the
23 responsibility of a State or local govern-
24 ment; or

1 “(iii) a type of threat the defense
2 against which should be the responsibility of
3 a licensee or certificate holder;

4 “(C) the national security response capa-
5 bility, including—

6 “(i) identification of the obligations
7 and authorities of the United States for pro-
8 tection of areas (including waterways,
9 ports, roadways, airspace, or facilities in
10 the vicinity of a nuclear facility) in the
11 event of a terrorist threat or a terrorist at-
12 tack against a nuclear facility, as appro-
13 priate;

14 “(ii) identification of the Federal,
15 State, and local agencies responsible for car-
16 rying out the obligations and authorities of
17 the United States identified under clause
18 (i); and

19 “(iii) coordination between the Fed-
20 eral, State and local agencies identified
21 under clause (ii), the Commission, and li-
22 censees or certificate holders of nuclear fa-
23 cilities, for protection of nuclear facilities
24 and adjacent areas in the event of a ter-
25 rorist threat or a terrorist attack;

1 “(D) coordination of Federal, State, and
2 local security efforts to protect against terrorist
3 or other criminal attacks at nuclear facilities, as
4 appropriate;

5 “(E) the adequacy of planning to protect
6 the public health and safety at and around nu-
7 clear facilities, as appropriate, in the event of a
8 terrorist attack against a nuclear facility, in-
9 cluding—

10 “(i) matters relating to the adequacy of
11 emergency planning zones;

12 “(ii) matters relating to the adequacy
13 and coordination of Federal, State, and
14 local emergency planning and other meas-
15 ures; and

16 “(iii) matters relating to the adequacy
17 of security plans for those nuclear facilities;

18 “(F) the system of threat levels, consistent
19 with the Homeland Security Advisory System,
20 used to categorize the threats pertinent to nuclear
21 facilities, as appropriate, including—

22 “(i) procedures to ensure coordinated
23 Federal, State, and local responses to chang-
24 ing threat levels for those nuclear facilities;

1 “(ii) monitoring of threats against
2 those nuclear facilities; and

3 “(iii) procedures to notify licensees and
4 certificate holders of those nuclear facilities
5 of changes in threat levels;

6 “(G) the hiring and training standards for
7 members of private security forces at nuclear fa-
8 cilities, as appropriate;

9 “(H) the coordination of Federal resources
10 to expedite and improve the process of con-
11 ducting background checks under section 149;

12 “(I) the establishment by the Secretary of
13 Homeland Security of a program to provide
14 technical assistance and training for the Na-
15 tional Guard, State law enforcement agencies,
16 and local law enforcement agencies to respond,
17 as appropriate, to threats against nuclear facili-
18 ties, as appropriate, including recommendations
19 for the establishment of a grant program to as-
20 sist State and local governments in carrying out
21 any recommendations under paragraph (3); and

22 “(J) options for protecting spent fuel stor-
23 age areas, such as dry cask storage, and associ-
24 ated infrastructure.

1 “(2) *COMPLETION.*—*The Commission and the*
2 *Secretary of Homeland Security shall complete the se-*
3 *curity examination under paragraph (1) not later*
4 *than 1 year after the date of enactment of this section.*

5 “(3) *REPORT.*—*Not later than 180 days after*
6 *completion of the security examination under para-*
7 *graph (1), the Commission and the Secretary of*
8 *Homeland Security shall submit to the President and*
9 *Congress, in classified and unclassified form, a report*
10 *with recommendations and findings.*

11 “(d) *REVISION OF DESIGN BASIS THREATS.*—

12 “(1) *IN GENERAL.*—*Not later than 180 days*
13 *after completion of the report under subsection (c)(3),*
14 *the Commission shall by regulation revise the design*
15 *basis threats promulgated before the date of enactment*
16 *of this section as the Commission determines to be ap-*
17 *propriate based on the security examination.*

18 “(2) *APPLICABILITY.*—*A revised design basis*
19 *threat under paragraph (1) shall apply to such classes*
20 *of designated nuclear facility as the Commission de-*
21 *termines to be appropriate.*

22 “(3) *PROTECTION OF SAFEGUARDS INFORMA-*
23 *TION.*—

24 “(A) *IN GENERAL.*—*In promulgating any*
25 *regulations under this subsection, the Commis-*

1 *sion shall ensure protection of information in ac-*
2 *cordance with chapter 12, section 181, and any*
3 *other applicable law.*

4 “(B) *EFFECT OF SECTION.*—*Nothing in this*
5 *section supersedes any law governing the disclo-*
6 *sure of classified information or safeguards in-*
7 *formation.*

8 “(C) *REPORTS TO CONGRESS ON WITHHELD*
9 *INFORMATION.*—

10 “(i) *REPORT.*—*Not later than 60 days*
11 *after the effective date of the regulations re-*
12 *quired by this subsection, the Commission*
13 *shall submit to Congress a report, in classi-*
14 *fied and unclassified form, describing any*
15 *classified information, safeguards informa-*
16 *tion, or other information that the Commis-*
17 *sion considered in promulgating the regula-*
18 *tions but did not make available to the pub-*
19 *lic because of the sensitive nature of the in-*
20 *formation.*

21 “(ii) *ORDERS TO LICENSEES OR CER-*
22 *TIFICATE HOLDERS.*—*Periodically, but not*
23 *less than once every 6 months, the Commis-*
24 *sion shall submit to Congress a report, in*
25 *classified and unclassified form, identifying*

1 *any orders or instructions to operators, li-*
2 *cencees, or certificate holders issued under*
3 *the regulations required by this subsection*
4 *that were not made public because of their*
5 *classified content, safeguards content, or*
6 *sensitive content.*

7 “(e) *THREAT LEVELS.*—*Not later than 150 days after*
8 *the date of submission of the report under subsection (c)(3),*
9 *the Commission shall establish a system for the determina-*
10 *tion of threat levels pertinent to—*

11 “(1) *such classes of designated nuclear facility as*
12 *the Commission determines to be appropriate; and*

13 “(2) *materials subject to this Act as designated*
14 *by the Commission.*

15 “(f) *SECURITY PLANS.*—

16 “(1) *IN GENERAL.*—*Pursuant to any action*
17 *taken by the Commission under subsection (d)(1) to*
18 *revise a design basis threat, not later than 30 days*
19 *after the revised design basis threat under subsection*
20 *(d) becomes effective, the Commission shall require*
21 *each licensee or certificate holder of a designated nu-*
22 *clear facility that is subject to the revised design basis*
23 *threat to—*

24 “(A) *revise the security plan of that des-*
25 *ignated nuclear facility to ensure that that des-*

1 *ignated nuclear facility protects against the ap-*
2 *propriate design basis threats; and*

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

5 “(2) *REVIEW SCHEDULE.—The Commission shall*
6 *establish a priority schedule for conducting reviews of*
7 *security plans based on—*

8 “(A) *the proximity of the designated nu-*
9 *clear facility to large population areas; and*

10 “(B) *other critical factors identified by the*
11 *Commission.*

12 “(3) *UPGRADES TO SECURITY.—The Commission*
13 *shall ensure that the licensee or certificate holder of*
14 *each designated nuclear facility that is subject to the*
15 *revised design basis threat makes any changes to secu-*
16 *rity and the security plan required from the Commis-*
17 *sion review on a schedule established by the Commis-*
18 *sion, but not to exceed 18 months after completion of*
19 *the review.*

20 “(g) *EMERGENCY RESPONSE PLANS AND PREPARED-*
21 *NESS.—*

22 “(1) *IN GENERAL.—The Commission and the*
23 *Secretary of Homeland Security, in consultation with*
24 *other Federal, State, and local government agencies,*
25 *as appropriate, shall review and update the require-*

1 *ments in effect on the date of enactment of this section*
2 *for on-site and off-site emergency response plans and*
3 *preparedness for response to an emergency involving*
4 *a designated nuclear facility in such classes of des-*
5 *ignated nuclear facility as the Commission deter-*
6 *mines to be appropriate to ensure that the require-*
7 *ments—*

8 *“(A) are adequate to protect public health*
9 *and safety;*

10 *“(B) provide reasonable assurance that the*
11 *plans can and will be implemented; and*

12 *“(C) provide reasonable assurance that ade-*
13 *quate protective measures can and will be taken*
14 *in the event of such an emergency.*

15 *“(2) REQUIREMENTS.—At a minimum, the up-*
16 *dated requirements applicable to a designated nuclear*
17 *facility under paragraph (1) shall provide for—*

18 *“(A) the establishment of, clear definition*
19 *of, assignment of, and assurance of the ability to*
20 *carry out, responsibilities of emergency response*
21 *organizations and personnel among the licensee*
22 *or certificate holder, State and local organiza-*
23 *tions, and other supporting organizations;*

24 *“(B) methods and procedures for the clear*
25 *and prompt notification of State and local re-*

1 *response organizations and the public by the li-*
2 *icensee or certificate holder;*

3 *“(C) methods and procedures for prompt*
4 *communication and coordination among emer-*
5 *gency response organizations and personnel and*
6 *the public;*

7 *“(D) dissemination of information to the*
8 *public, including pre-emergency education on a*
9 *periodic basis and in the event of an actual*
10 *emergency;*

11 *“(E) adequate emergency facilities and*
12 *equipment at and around the designated nuclear*
13 *facility;*

14 *“(F) the use of appropriate methods, sys-*
15 *tems, and equipment for assessing and moni-*
16 *toring actual and potential impacts of an emer-*
17 *gency, including a radiological emergency;*

18 *“(G) a range of protective actions for the*
19 *public, including appropriate evacuation and*
20 *sheltering and the prophylactic use of potassium*
21 *iodide;*

22 *“(H) means for controlling radiological ex-*
23 *posures and other hazardous exposures;*

24 *“(I) appropriate medical services;*

25 *“(J) recovery and reentry plans; and*

1 “(K) radiological emergency response train-
2 ing.

3 “(3) *FACTORS.*—*The updated requirements*
4 *under paragraph (1) shall address relevant factors,*
5 *including—*

6 “(A) *population density, topography, land*
7 *characteristics, access routes, and jurisdictional*
8 *boundaries;*

9 “(B) *unique aspects of an emergency result-*
10 *ing from a terrorist attack;*

11 “(C) *available technology and technical in-*
12 *novations; and*

13 “(D) *other factors, as determined by the*
14 *Commission or the Secretary of Homeland Secu-*
15 *rity.*

16 “(4) *STAKEHOLDER INVOLVEMENT.*—*In updat-*
17 *ing requirements under paragraph (1), the Commis-*
18 *sion and the Secretary of Homeland Security shall*
19 *include requirements for appropriate stakeholder in-*
20 *volvement in the planning and exercise process, in-*
21 *cluding the involvement of—*

22 “(A) *local governments;*

23 “(B) *large employers;*

24 “(C) *facilities such as schools, hospitals,*
25 *nursing homes, and prisons;*

1 “(D) *advocacy groups; and*

2 “(E) *other interested groups and individ-*
3 *uals near a designated nuclear facility.*

4 “(5) *REGULATIONS.—*

5 “(A) *IN GENERAL.—The Commission and*
6 *the Secretary of Homeland Security shall pro-*
7 *mulgate regulations implementing this subsection*
8 *not later than 180 days following the completion*
9 *of the report under subsection (c)(3).*

10 “(B) *EFFECTIVE DATE.—The regulations*
11 *shall take effect not later than 90 days after the*
12 *date of promulgation.*

13 “(6) *REVIEWS.—*

14 “(A) *IN GENERAL.—Not later than 60 days*
15 *after the effective date of the regulations under*
16 *paragraph (5), the Commission, in coordination*
17 *with the Secretary of Homeland Security and, as*
18 *appropriate, in consultation with other Federal,*
19 *State, and local government agencies, shall begin*
20 *reviewing on-site and off-site emergency response*
21 *plans and preparedness capabilities for compli-*
22 *ance with the regulations.*

23 “(B) *REVIEW SCHEDULE.—The Commis-*
24 *sion, in coordination with the Secretary of*
25 *Homeland Security, shall establish a priority*

1 *schedule for conducting reviews of emergency re-*
2 *ponse plans and preparedness capabilities*
3 *under subparagraph (A) based on the relative*
4 *vulnerability of the designated nuclear facilities*
5 *that are subject to the regulations and the prox-*
6 *imity of the designated nuclear facilities to high*
7 *population density areas.*

8 “(C) *REPORT.*—*The Commission, in coordi-*
9 *nation with the Secretary of Homeland Security,*
10 *shall submit to Congress a report, in classified*
11 *and unclassified form, describing the results of*
12 *each review conducted under subparagraph (A).*

13 “(7) *EFFECT OF SUBSECTION.*—*Nothing in this*
14 *subsection limits the authority of the Commission or*
15 *the Secretary of Homeland Security to take other ac-*
16 *tions for protection of the public health and safety,*
17 *the environment, or the common defense and security*
18 *under any other authority of the Commission or the*
19 *Secretary of Homeland Security.*

20 “(h) *EMPLOYEE SECURITY.*—

21 “(1) *REVIEW.*—*Not later than 180 days after the*
22 *date of enactment of this section, the Commission*
23 *shall review and update as appropriate the access and*
24 *training standards for employees of nuclear facilities.*

1 “(2) *DISQUALIFICATION OF INDIVIDUALS WHO*
2 *PRESENT NATIONAL SECURITY RISKS.—The Commis-*
3 *sion shall establish qualifications and procedures, in*
4 *addition to fingerprinting for criminal history record*
5 *checks conducted under section 149, to ensure that no*
6 *individual who presents a threat to national security*
7 *is employed at a designated nuclear facility in such*
8 *classes of designated nuclear facility as the Commis-*
9 *sion determines to be appropriate.*

10 “(i) *FEDERAL SECURITY COORDINATORS.—*

11 “(1) *REGIONAL OFFICES.—Not later than 18*
12 *months after the date of enactment of this section, the*
13 *Commission shall assign a Federal security coordi-*
14 *nator, under the employment of the Commission, to*
15 *each region of the Commission.*

16 “(2) *RESPONSIBILITIES.—The Federal security*
17 *coordinator shall be responsible for—*

18 “(A) *communicating with the Commission*
19 *and other Federal, State, and local authorities*
20 *concerning threats, including threats against a*
21 *designated nuclear facility in such classes of des-*
22 *ignated nuclear facilities as the Commission de-*
23 *termines to be appropriate;*

24 “(B) *ensuring that a designated nuclear fa-*
25 *cility in such classes of designated nuclear facil-*

1 *ity as the Commission determines to be appro-*
 2 *priate maintains security consistent with the se-*
 3 *curity plan in accordance with the appropriate*
 4 *threat level; and*

5 *“(C) assisting in the coordination of secu-*
 6 *rity measures among—*

7 *“(i) the private security force at a des-*
 8 *ignated nuclear facility in such classes of*
 9 *designated nuclear facilities as the Commis-*
 10 *sion determines to be appropriate; and*

11 *“(ii) Federal, State, and local authori-*
 12 *ties, as appropriate.*

13 *“(3) ADDITIONAL FEDERAL SECURITY COORDINA-*
 14 *TORS.—*

15 *“(A) IN GENERAL.—The Commission may*
 16 *assign an additional Federal security coordi-*
 17 *nator, as the Commission considers appropriate,*
 18 *to a Commission office on the site of a des-*
 19 *ignated nuclear facility.*

20 *“(B) REQUEST BY GOVERNOR.—The Gov-*
 21 *ernor of any State that contains a designated*
 22 *nuclear facility may request the assignment of*
 23 *an additional Federal security coordinator to 1*
 24 *or more designated nuclear facilities in that*
 25 *State.*

1 “(j) *NATIONAL SECURITY CAPABILITY.*—

2 “(1) *IN GENERAL.*—*Not later than 18 months*
3 *after the date of enactment of this section, the Presi-*
4 *dent shall identify the national security support ca-*
5 *pability to protect designated nuclear facilities*
6 *against terrorist threats and attacks.*

7 “(2) *ELEMENTS.*—*The national security support*
8 *capability shall use capabilities of such Federal agen-*
9 *cies identified in the report under subsection (c)(3), or*
10 *of other Federal, State, and local agencies, as the*
11 *President determines to be appropriate.*

12 “(3) *CAPABILITIES.*—

13 “(A) *IN GENERAL.*—*The national security*
14 *support capability shall provide assistance to the*
15 *private security force at each designated nuclear*
16 *facility in such classes of designated nuclear fa-*
17 *ilities as the Commission determines to be ap-*
18 *propriate, appropriate State and local agencies*
19 *including emergency response and law enforce-*
20 *ment agencies, and where appropriate, the Na-*
21 *tional Guard, in accordance with the obligations*
22 *and authorities of the United States, as identi-*
23 *fied in the report to Congress required under*
24 *subsection (c)(3).*

1 “(B) *COORDINATION.*—*The President shall*
2 *ensure that effective coordination exists between*
3 *Federal agencies, the Commission, and State and*
4 *local governments in planning and deployment*
5 *for prevention, deterrence, and response to actual*
6 *or potential terrorist attacks against such classes*
7 *of designated nuclear facility as the Commission*
8 *considers appropriate.*

9 “(4) *TRAINING PROGRAM.*—

10 “(A) *IN GENERAL.*—*The President shall es-*
11 *tablish a program to provide technical assistance*
12 *and training to Federal agencies, the National*
13 *Guard, and State and local law enforcement and*
14 *emergency response agencies in responding to*
15 *threats against a designated nuclear facility.*

16 “(B) *GRANTS.*—*The President may provide*
17 *grants to State and local governments to assist*
18 *in carrying out subparagraph (A).*

19 “(5) *AUTHORIZATION OF APPROPRIATIONS.*—
20 *There are authorized to be appropriated such sums as*
21 *are necessary to carry out this subsection.*

22 “(k) *CLASSIFIED INFORMATION.*—*Nothing in this sec-*
23 *tion supersedes any law governing the disclosure of classi-*
24 *fied information or safeguards information.”.*

1 (b) *FINGERPRINTING FOR CRIMINAL HISTORY RECORD*

2 *CHECKS.*—*Section 149 of the Atomic Energy Act of 1954*

3 *(42 U.S.C. 2169) is amended—*

4 (1) *in subsection a.—*

5 (A) *by striking “a. The Nuclear” and all*

6 *that follows through “section 147.” and inserting*

7 *the following:*

8 “*a. IN GENERAL.—*

9 “(1) *REQUIREMENTS.—*

10 “(A) *IN GENERAL.—The Commission shall*

11 *require—*

12 “(i) *each licensee, certificate holder, or*

13 *applicant for a license or certificate to oper-*

14 *ate a utilization facility under section 103*

15 *or 104(b); and*

16 “(ii) *each licensee or applicant for a*

17 *license to possess or use radioactive mate-*

18 *rial or other property subject to regulation*

19 *by the Commission that the Commission de-*

20 *termines to be of such significance to the*

21 *public health and safety or the common de-*

22 *fense and security as to warrant*

23 *fingerprinting and background checks;*

24 *to fingerprint each individual described in subpara-*

25 *graph (B).*

1 “(B) *INDIVIDUALS REQUIRED TO BE*
 2 *FINGERPRINTED.—The Commission shall require*
 3 *to be fingerprinted each individual who—*

4 “(i) *is permitted unescorted access to—*

5 “(I) *a utilization facility; or*

6 “(II) *radioactive material or other*
 7 *property identified by the Commission*
 8 *under subparagraph (A)(ii); or*

9 “(ii) *is permitted access to safeguards*
 10 *information under section 147.”;*

11 (B) *by striking “All fingerprints” and in-*
 12 *serting the following:*

13 “(2) *SUBMISSION TO THE ATTORNEY GEN-*
 14 *ERAL.—All fingerprints”;*

15 (C) *by striking “The costs” and inserting*
 16 *the following;*

17 “(3) *COSTS.—The costs”;*

18 (D) *by striking “Notwithstanding” and in-*
 19 *serting the following:*

20 “(4) *PROVISION TO LICENSEE, CERTIFICATE*
 21 *HOLDER, OR APPLICANT.—Notwithstanding”;* and

22 (E) *by striking “licensee or applicant” each*
 23 *place it appears and inserting “licensee, certifi-*
 24 *cate holder, or applicant for a license or certifi-*
 25 *cate”;*

1 (2) *by redesignating subsection d. as subsection*
 2 *e.; and*

3 (3) *by inserting after subsection c. the following:*

4 “*d. USE OF OTHER BIOMETRIC METHODS.—Any re-*
 5 *quirement for a person to conduct fingerprinting under this*
 6 *section may be satisfied by using any other biometric meth-*
 7 *od for identification approved for use by the Attorney Gen-*
 8 *eral.*”.

9 **SEC. 4. OFFICE OF NUCLEAR SECURITY AND INCIDENT RE-**
 10 **SPONSE.**

11 *(a) IN GENERAL.—Title II of the Energy Reorganiza-*
 12 *tion Act of 1974 (42 U.S.C. 5841 et seq.) is amended by*
 13 *adding at the end the following:*

14 **“SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT**
 15 **RESPONSE.**

16 “*(a) DEFINITIONS.—In this section:*

17 “*(1) CERTIFICATE HOLDER.—The term ‘certifi-*
 18 *cate holder’ has the meaning given the term in section*
 19 *170C(a) of the Atomic Energy Act of 1954.*

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

1 “(3) *DIRECTOR*.—The term ‘Director’ means the
2 *Director of Nuclear Security and Incident Response*
3 *appointed under subsection (c) to head the Office.*

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

7 “(5) *OFFICE*.—The term ‘Office’ means the *Office*
8 *of Nuclear Security and Incident Response established*
9 *by subsection (b).*

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

13 “(c) *DIRECTOR*.—

14 “(1) *APPOINTMENT*.—The Commission may ap-
15 *point and remove from office a Director of Nuclear*
16 *Security and Incident Response.*

17 “(2) *DUTIES*.—

18 “(A) *IN GENERAL*.—The Director shall per-
19 *form such functions as the Commission delegates*
20 *to the Director.*

21 “(B) *FUNCTIONS*.—The functions delegated
22 *to the Director may include—*

23 “(i) *carrying out security, safeguards,*
24 *and incident responses relating to—*

1 “(I) any facility subject to the ju-
2 risdiction of the Commission under the
3 Atomic Energy Act of 1954 (42 U.S.C.
4 2011 et seq.);

5 “(II) any property subject to the
6 jurisdiction of the Commission under
7 the Atomic Energy Act of 1954 (42
8 U.S.C. 2011 et seq.) that—

9 “(aa) is significant to the
10 common defense and security; or

11 “(bb) is being transported to
12 or from a facility described in
13 clause (i); and

14 “(III) any other activity of a li-
15 censee or certificate holder, subject to
16 the requirements of the Atomic Energy
17 Act of 1954 (42 U.S.C. 2011 et seq.),
18 that is significant to the common de-
19 fense and security;

20 “(ii) for a facility or material licensed
21 or certified under the Atomic Energy Act of
22 1954 (42 U.S.C. 2011 et seq.)—

23 “(I) developing contingency plans
24 for dealing with threats, thefts, and
25 sabotage; and

1 “(II) monitoring, reviewing, and
2 evaluating security and safeguards;

3 “(iii) recommending upgrades to inter-
4 nal accounting systems for special nuclear
5 and other materials licensed or certified
6 under the Atomic Energy Act of 1954 (42
7 U.S.C. 2011 et seq.); and

8 “(iv) developing and recommending
9 standards and amendments to the standards
10 of the Commission relating to the duties de-
11 scribed in clauses (i) through (iii); and

12 “(C) carrying out such other duties of the
13 Commission regarding safeguards and physical
14 security functions and incident response func-
15 tions as the Commission determines to be appro-
16 priate.

17 “(3) CONSULTATION.—In carrying out the duties
18 under paragraph (2), the Director shall, to the extent
19 practicable, consult and coordinate with other Federal
20 agencies.

21 “(d) SECURITY RESPONSE EVALUATIONS.—

22 “(1) IN GENERAL.—Not later than 1 year after
23 the date of enactment of this section, the Commission
24 shall establish a security response evaluation program
25 to assess the ability of each designated nuclear facility

1 *that is part of a class of designated nuclear facilities*
2 *that the Commission considers appropriate to defend*
3 *against threats in accordance with the security plan*
4 *for the designated nuclear facility.*

5 *“(2) FREQUENCY OF EVALUATIONS.—Not less*
6 *than once every 3 years, the Commission shall con-*
7 *duct and document security response evaluations at*
8 *each designated nuclear facility that is part of a class*
9 *of designated nuclear facilities that the Commission*
10 *considers appropriate to assess the ability of the pri-*
11 *vate security force of the designated nuclear facility*
12 *to defend against applicable design basis threats.*

13 *“(3) SECURITY EXEMPTION.—The Commission*
14 *may suspend activities under this section if the Com-*
15 *mission determines that the security response evalua-*
16 *tions would compromise security at any designated*
17 *nuclear facility in accordance with a heightened*
18 *threat level.*

19 *“(4) ACTIVITIES.—The security response evalua-*
20 *tion shall include force-on-force exercises that simu-*
21 *late the security threats consistent with the design*
22 *basis threats applicable to the designated nuclear fa-*
23 *cility.*

1 “(5) *PERFORMANCE CRITERIA.*—*The Commission*
2 *shall establish performance criteria for judging the se-*
3 *curity response evaluations.*

4 “(6) *CORRECTIVE ACTION.*—

5 “(A) *IN GENERAL.*—*When any of the per-*
6 *formance criteria established under paragraph*
7 *(5) are not satisfied—*

8 “(i) *the licensee or certificate holder*
9 *shall promptly correct any defects in per-*
10 *formance identified by the Commission in*
11 *the security response evaluation; and*

12 “(ii) *the Commission shall conduct an*
13 *additional security response evaluation*
14 *within 9 months to confirm that the licensee*
15 *or certificate holder satisfies the perform-*
16 *ance criteria established under paragraph*
17 *(5).*

18 “(B) *2 CONSECUTIVE FAILURES TO SATISFY*
19 *PERFORMANCE CRITERIA.*—

20 “(i) *IN GENERAL.*—*If a designated nu-*
21 *clear facility fails to satisfy the performance*
22 *criteria established under paragraph (5) in*
23 *2 consecutive security response evaluations,*
24 *the Commission shall issue an order speci-*
25 *fying the corrective actions that must be*

1 *taken by the licensee or certificate holder of*
2 *the designated nuclear facility.*

3 “(ii) *FAILURE TO TAKE CORRECTIVE*
4 *ACTION.—If the licensee or certificate holder*
5 *of a designated nuclear facility does not*
6 *take the corrective action specified by the*
7 *Commission within 30 days after the date*
8 *of issuance of an order under clause (i), the*
9 *Commission shall assess a civil penalty*
10 *under section 234 of the Atomic Energy Act*
11 *of 1954 (42 U.S.C. 2282).*

12 “(C) *EFFECT.—Nothing in this paragraph*
13 *limits any enforcement authority of the Commis-*
14 *sion to take action in response to deficiencies*
15 *identified through security evaluations.*

16 “(7) *REPORTS.—Not less often than once every*
17 *year, the Commission shall submit to Congress and*
18 *the President a report, in classified form and unclas-*
19 *sified form, that describes the results of each security*
20 *response evaluation under this paragraph for the pre-*
21 *vious year.*

22 “(e) *EMERGENCY RESPONSE EXERCISES.—*

23 “(1) *IN GENERAL.—Not less than once every 2*
24 *years, the Commission, in coordination with the Sec-*
25 *retary of Homeland Security and, as appropriate, in*

1 *consultation with other Federal, State, and local re-*
2 *sponse agencies and stakeholders, shall observe and*
3 *evaluate emergency response exercises to determine*
4 *whether—*

5 “(A) *on-site and off-site emergency response*
6 *plans for, and capabilities for response to an*
7 *emergency involving, each designated nuclear fa-*
8 *cility in such classes of designated nuclear facil-*
9 *ity as the Commission determines to be appro-*
10 *priate are adequate to protect public health and*
11 *safety; and*

12 “(B) *there is reasonable assurance that—*

13 “(i) *those plans and capabilities can*
14 *and will be implemented; and*

15 “(ii) *adequate protective measures can*
16 *and will be taken in the event of an emer-*
17 *gency.*

18 “(2) *ASSESSMENT OF ABILITY TO RESPOND.—*

19 *Exercises under paragraph (1) shall assess the ability*
20 *of Federal, State, and local emergency response agen-*
21 *cies and emergency response personnel of a licensee or*
22 *certificate holder to respond adequately to an emer-*
23 *gency involving the designated nuclear facility.*

24 “(3) *HIGH POPULATION DENSITY AREAS.—The*
25 *Commission, in coordination with the Secretary of*

1 *Homeland Security and, as appropriate, in consulta-*
2 *tion with other Federal, State, and local agencies and*
3 *stakeholders, may observe and evaluate exercises more*
4 *frequently at designated nuclear facilities located in*
5 *high population density areas.*

6 “(4) *PERFORMANCE-BASED APPROACH.—The*
7 *Commission, in cooperation with the Secretary of*
8 *Homeland Security, shall promptly establish perform-*
9 *ance criteria for use in evaluating the results of the*
10 *exercises under paragraph (1), including criteria re-*
11 *lating to—*

12 “(A) *response times and capabilities;*

13 “(B) *coordination and communication*
14 *among response personnel and organizations;*

15 “(C) *emergency equipment, public notifica-*
16 *tion systems, and communications networks;*

17 “(D) *feasible evacuation of individuals; and*

18 “(E) *other matters determined by the Com-*
19 *mission or the Secretary of Homeland Security.*

20 “(5) *SCENARIOS.—The evaluations under para-*
21 *graph (1) shall assess the ability of the emergency re-*
22 *sponse plans to protect public health and safety and*
23 *provide reasonable assurance that adequate protective*
24 *measures can and will be taken in responding to a*
25 *broad range of accident scenarios, including—*

1 “(A) *fast-breaking events that occur with*
2 *little or no warning;*

3 “(B) *radiological releases of significant*
4 *magnitude;*

5 “(C) *significant spontaneous evacuations;*

6 “(D) *significant shadow evacuations;*

7 “(E) *terrorist attacks; and*

8 “(F) *other scenarios determined by the*
9 *Commission or the Secretary of Homeland Secu-*
10 *rity.*

11 “(6) *DEFICIENCIES.—*

12 “(A) *NOTIFICATION.—The Commission, in*
13 *coordination with the Secretary of Homeland Se-*
14 *curity, shall promptly notify licensees or certifi-*
15 *cate holders, the Governor of any State that may*
16 *be affected, and any other appropriate Federal,*
17 *State, or local agencies or stakeholders of any*
18 *weaknesses or deficiencies in an emergency re-*
19 *sponse plan or in emergency preparedness capa-*
20 *bilities identified as the result of an evaluation*
21 *under paragraph (1).*

22 “(B) *FAILURE TO CORRECT.—If weaknesses*
23 *or deficiencies in emergency response plans or in*
24 *preparedness capabilities are not promptly cor-*
25 *rected, the Commission shall take appropriate*

1 *action under section 107 or other enforcement*
2 *authorities available to the Commission to—*

3 “(i) *ensure adequate protection of pub-*
4 *lic health and safety; and*

5 “(ii) *provide reasonable assurance that*
6 *plans can and will be implemented and*
7 *that adequate protective measures can and*
8 *will be taken in the event of an emergency.*

9 “(7) *REPORT.—Not less than once annually, the*
10 *Commission and the Secretary of Homeland Security*
11 *shall submit to the President and Congress a report,*
12 *in classified and unclassified form, that describes—*

13 “(A) *the results of each exercise evaluated in*
14 *the previous year; and*

15 “(B) *each revision of an emergency response*
16 *plan or emergency preparedness capabilities*
17 *made under paragraph (6) in the previous year*
18 *that is substantive in nature.*

19 “(8) *MAINTENANCE.—The Commission shall take*
20 *such action as is necessary to ensure that adequate*
21 *emergency response plans and capabilities are main-*
22 *tained during the intervals between exercises.*

23 “(9) *EFFECT OF SUBSECTION.—Nothing in this*
24 *subsection limits the authority of the Commission or*
25 *the Secretary of Homeland Security to take other ac-*

1 *tions for protection of the public health and safety,*
 2 *the environment, or the common defense and security*
 3 *under any other authority of the Commission or the*
 4 *Secretary of Homeland Security.*

5 “(f) *EFFECT.—Nothing in this section limits any au-*
 6 *thority of the Secretary of Energy relating to the security*
 7 *and safeguarding of special nuclear materials, high-level ra-*
 8 *dioactive waste, and nuclear facilities resulting from all ac-*
 9 *tivities under the jurisdiction of the Secretary.”.*

10 (b) *CONFORMING AMENDMENTS.—Title II of the En-*
 11 *ergy Reorganization Act of 1974 is amended—*

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

13 (A) *in paragraph (1), by striking “licensing*
 14 *and regulation involving” and inserting “licens-*
 15 *ing, regulation, and, except as otherwise pro-*
 16 *vided under section 212, carrying out safety re-*
 17 *views, safeguards, and physical security of”;* and

18 (B) *in paragraph (2), by striking “and*
 19 *safeguards”;* and

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

21 (A) *in paragraph (1)—*

22 (i) *by striking “including” and insert-*
 23 *ing “not including”;* and

24 (ii) *by striking “and materials.” and*
 25 *inserting “and materials, to the extent that*

1 *the safeguards and security functions are*
 2 *delegated to the Office of Nuclear Security*
 3 *and Incident Response under section 212.”;*
 4 *(B) in paragraph (2)—*
 5 *(i) by striking “and safeguards”; and*
 6 *(ii) by striking “, as amended,” and*
 7 *all that follows through the period and in-*
 8 *serting “(42 U.S.C. 2011 et seq.)”.*

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

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

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

1 *equipment authorized under the Atomic Energy Act of*
 2 *1954 (42 U.S.C. 2011 et seq.),”;* and

3 *(2) in subsection (o)(2)—*

4 *(A) in subparagraph (A), by striking “or”*
 5 *at the end;*

6 *(B) in subparagraph (B), by striking the*
 7 *period at the end and inserting “; or”;* and

8 *(C) by adding at the end the following:*

9 *“(C) a transfer to a licensee or certificate holder*
 10 *under title I of the Atomic Energy Act of 1954 (42*
 11 *U.S.C. 2011 et seq.) for purposes of establishing and*
 12 *maintaining an on-site physical protection system*
 13 *and security organization required by Federal law, or*
 14 *possession by an employee or contractor of the licensee*
 15 *or certificate holder on-site for such purposes or off-*
 16 *site for purposes of licensee-authorized or certificate*
 17 *holder-authorized training or transportation of nu-*
 18 *clear materials or equipment authorized under the*
 19 *Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).”.*

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

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

24 *(2) by inserting after the semicolon the following:*

25 *“or*

1 “(B) is being imported or brought in for transfer
2 to a licensee or certificate holder under title I of the
3 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)
4 for purposes of establishing and maintaining an on-
5 site physical protection system and security organiza-
6 tion required by Federal law;”.

7 (c) *INTERSTATE TRANSPORTATION OF FIREARMS.*—
8 Section 926A of title 18, United States Code, is amended—

9 (1) by striking “Notwithstanding” and inserting
10 the following:

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

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

13 “(b) *LICENSEES AND CERTIFICATE HOLDERS OF THE*
14 *NUCLEAR REGULATORY COMMISSION.*—Notwithstanding
15 any other provision of any law or any rule or regulation
16 of a State or any political subdivision of a State, a licensee
17 or certificate holder under title I of the Atomic Energy Act
18 of 1954 (42 U.S.C. 2011 et seq.), or an employee or con-
19 tractor of such a licensee or certificate holder, that is not
20 otherwise prohibited by this chapter from transporting,
21 shipping, receiving, or possessing a firearm shall be entitled
22 to transport and possess a firearm for purposes of estab-
23 lishing and maintaining an onsite physical protection sys-
24 tem and security organization required by Federal law, and
25 for purposes of licensee-authorized or certificate holder-au-

1 *thorized training or transportation of nuclear material or*
 2 *equipment authorized under the Atomic Energy Act of 1954*
 3 *(42 U.S.C. 2011 et seq.).”.*

4 *(d) IMPORTATION OF FIREARMS.—Section 5844 of the*
 5 *Internal Revenue Code of 1986 (26 U.S.C. 5844) is amend-*
 6 *ed—*

7 *(1) in paragraph (2), by striking “or” at the*
 8 *end;*

9 *(2) in paragraph (3), by inserting “or” after the*
 10 *semicolon; and*

11 *(3) by inserting after paragraph (3) the fol-*
 12 *lowing:*

13 *“(4) a machinegun or short-barreled shotgun*
 14 *being imported or brought in for transfer to a licensee*
 15 *or certificate holder under title I of the Atomic En-*
 16 *ergy Act of 1954 (42 U.S.C. 2011 et seq.) for purposes*
 17 *of establishing and maintaining an on-site physical*
 18 *protection system and security organization required*
 19 *by Federal law;” .*

20 *(e) SEMIAUTOMATIC ASSAULT WEAPONS; LARGE CA-*
 21 *PACITY AMMUNITION FEEDING DEVICES.—Section 922 of*
 22 *title 18, United States Code, is amended—*

23 *(1) in subsection (v)(4)(B)—*

24 *(A) by inserting “or certificate holder” after*
 25 *“licensee” each place that term appears;*

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

3 (C) by inserting “or equipment” after “ma-
4 terials”; and

5 (2) in subsection (w)(3)(B)—

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

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

10 (C) by inserting “or equipment” after “ma-
11 terials”.

12 **SEC. 6. SENSITIVE RADIOACTIVE MATERIAL SECURITY.**

13 Chapter 14 of the Atomic Energy Act of 1954 (42
14 U.S.C. 2201 et seq.) (as amended by section 3) is amended
15 by adding at the end the following:

16 **“SEC. 170D. SENSITIVE RADIOACTIVE MATERIAL SECURITY.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) SENSITIVE RADIOACTIVE MATERIAL.—

19 “(A) IN GENERAL.—The term ‘sensitive ra-
20 dioactive material’ means—

21 “(i) a material—

22 “(I) that is a source material, by-
23 product material, or special nuclear
24 material; or

1 “(II) that is any other radioactive
2 material (regardless of whether the ma-
3 terial is or has been licensed or other-
4 wise regulated under this Act) pro-
5 duced or made radioactive before or
6 after the date of enactment of this sec-
7 tion; and

8 “(ii) that is in such a form or quantity
9 or concentration that the Commission deter-
10 mines should be classified as ‘sensitive ra-
11 dioactive material’ that warrants improved
12 security and protection against loss, theft,
13 or sabotage.

14 “(B) *EXCLUSION.*—The term ‘sensitive ra-
15 dioactive material’ does not include nuclear fuel
16 or spent nuclear fuel.

17 “(2) *SECURITY THREAT.*—The term ‘security
18 threat’ means—

19 “(A) a threat of sabotage or theft of sen-
20 sitive radioactive material;

21 “(B) a threat of use of sensitive radioactive
22 material in a radiological dispersal device; and

23 “(C) any other threat of terrorist or other
24 criminal activity involving sensitive radioactive
25 material that could harm the health or safety of

1 *the public due primarily to radiological prop-*
2 *erties of the sensitive radioactive material, as de-*
3 *termined by the Commission.*

4 “(b) *DUTIES.—*

5 “(1) *IN GENERAL.—The Commission, in con-*
6 *sultation with Secretary of Homeland Security, Sec-*
7 *retary of Energy, Director of Central Intelligence, Di-*
8 *rector of the Federal Bureau of Investigation, Director*
9 *of the Customs Service, and Administrator of the En-*
10 *vironmental Protection Agency, shall—*

11 “(A) *evaluate the security of sensitive radio-*
12 *active material against security threats; and*

13 “(B) *recommend administrative and legisla-*
14 *tive actions to be taken to provide an acceptable*
15 *level of security against security threats.*

16 “(2) *CONSIDERATIONS.—In carrying out para-*
17 *graph (1), the Commission shall consider actions, as*
18 *appropriate to—*

19 “(A) *determine the radioactive materials*
20 *that should be classified as sensitive radioactive*
21 *materials;*

22 “(B) *develop a classification system for sen-*
23 *sitive radioactive materials that—*

24 “(i) *is based on the potential for use by*
25 *terrorists of sensitive radioactive material*

1 *and the extent of the threat to public health*
2 *and safety posed by that potential; and*

3 “(ii) takes into account—

4 “(I) radioactivity levels of sen-
5 sitive radioactive material;

6 “(II) the dispersibility of sensitive
7 radioactive material;

8 “(III) the chemical and material
9 form of sensitive radioactive material;

10 “(IV) the need to maintain access
11 by physicians and other medical pro-
12 fessionals to sensitive radioactive mate-
13 rial and pharmaceuticals containing
14 sensitive radioactive material for use
15 in connection with medical diagnosis
16 or treatment; and

17 “(V) other appropriate factors;

18 “(C) develop a national system for recovery
19 of sensitive radioactive material that is lost or
20 stolen, taking into account the classification sys-
21 tem established under subparagraph (B);

22 “(D) provide for the storage of sensitive ra-
23 dioactive material that is not currently in use in
24 a safe and secure manner;

1 “(E) develop a national tracking system for
2 sensitive radioactive material, taking into ac-
3 count the classification system established under
4 subparagraph (B);

5 “(F) develop methods to ensure the return
6 or proper disposal of sensitive radioactive mate-
7 rial;

8 “(G) consider export controls on sensitive
9 radioactive materials so that, to the extent fea-
10 sible, exports from the United States of sensitive
11 radioactive materials are made to foreign recipi-
12 ents that are willing and able to control the sen-
13 sitive radioactive materials in a manner that is
14 inimical to the common defense and security of
15 the United States; and

16 “(H) establish procedures to improve the se-
17 curity of sensitive radioactive material in use,
18 transportation, and storage.

19 “(3) PROCEDURES TO IMPROVE SECURITY.—The
20 procedures to improve the security of sensitive radio-
21 active material under paragraph (2)(H) may in-
22 clude—

23 “(A) periodic audits or inspections by the
24 Commission to ensure that sensitive radioactive

1 *material is properly secured and can be fully ac-*
2 *counted for;*

3 “(B) *evaluation by the Commission of secu-*
4 *rity measures taken by persons that possess sen-*
5 *sitive radioactive material;*

6 “(C) *imposition of increased fines for viola-*
7 *tions of regulations relating to security and safe-*
8 *ty measures applicable to persons that possess*
9 *sensitive radioactive material;*

10 “(D) *conduct of background checks on indi-*
11 *viduals with access to sensitive radioactive mate-*
12 *rial;*

13 “(E) *measures to ensure the physical secu-*
14 *rity of facilities in which sensitive radioactive*
15 *material is stored; and*

16 “(F) *screening of shipments of sensitive ra-*
17 *dioactive material to facilities that are particu-*
18 *larly at risk for sabotage to ensure that the ship-*
19 *ments do not contain explosives.*

20 “(c) *REPORT.—Not later than 1 year after the date*
21 *of enactment of this section, and not less frequently than*
22 *once every 3 years thereafter, the Commission shall submit*
23 *to the President and Congress a report in unclassified form*
24 *(with a classified annex, if necessary) describing the admin-*

1 *istrative and legislative actions recommended under sub-*
 2 *section (b)(1).*

3 “(d) *ADMINISTRATIVE ACTION.*—*Not later than 60*
 4 *days after the date of submission of the report under sub-*
 5 *section (c), the Commission shall take such actions as are*
 6 *appropriate to—*

7 “(1) *revise the system for licensing sensitive ra-*
 8 *dioactive materials; and*

9 “(2) *delegate the authority of the Commission to*
 10 *implement regulatory programs and requirements to*
 11 *States that enter into agreements with the Commis-*
 12 *sion to perform inspections and other functions on a*
 13 *cooperative basis as the Commission considers appro-*
 14 *priate.”.*

15 **SEC. 7. TREATMENT OF ACCELERATOR-PRODUCED AND**
 16 **OTHER RADIOACTIVE MATERIAL AS BYPROD-**
 17 **UCT MATERIAL.**

18 (a) *DEFINITION OF BYPRODUCT MATERIAL.*—*Section*
 19 *11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e))*
 20 *is amended—*

21 (1) *by striking “means (1) any radioactive” and*
 22 *inserting “means—*

23 *“(1) any radioactive”;*

24 (2) *by striking “material, and (2) the tailings”*
 25 *and inserting “material;*

1 “(2) the tailings”; and

2 (3) by striking “content.” and inserting “con-
3 tent; and

4 “(3)(A) any discrete source of radium-226 that
5 is produced, extracted, or converted after extraction,
6 before, on, or after the date of enactment of this para-
7 graph, for use in a commercial, medical, or research
8 activity; or

9 “(B) any material that—

10 “(i) has been made radioactive by use of a
11 particle accelerator; and

12 “(ii) is produced, extracted, or converted
13 after extraction, before, on, or after the date of
14 enactment of this paragraph, for use in a com-
15 mercial, medical, or research activity; and

16 “(4) any discrete source of naturally occurring
17 radioactive material, other than source material
18 that—

19 “(A) the Nuclear Regulatory Commission
20 determines (after consultation with the Adminis-
21 trator of the Environmental Protection Agency,
22 the Secretary of Energy, the Secretary of Home-
23 land Security, and the head of any other appro-
24 priate Federal agency), would pose a threat
25 similar to that posed by a discrete source of ra-

1 *dium-226 to the public health and safety or the*
2 *common defense and security; and*

3 “(B) *before, on, or after the date of enact-*
4 *ment of this paragraph, is extracted or converted*
5 *after extraction, for use in a commercial, med-*
6 *ical, 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 Commis-*
20 *sion shall promulgate final regulations establishing*
21 *such requirements and standards as the Commission*
22 *considers necessary for the acquisition, possession,*
23 *transfer, use, or disposal of byproduct material (as*
24 *defined in paragraphs (3) and (4) of section 11e. of*

1 *the Atomic Energy Act of 1954 (as added by sub-*
2 *section (a)).*

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

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

15 (A) *have not, before the effective date of this*
16 *section, entered into an agreement with the Com-*
17 *mission under section 274b. of the Atomic En-*
18 *ergy 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 effec-*
21 *tive date of this section, applied for an amend-*
22 *ment to the agreement that would permit as-*
23 *sumption by the State of regulatory responsi-*
24 *bility for such byproduct material.*

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 fab-
8 rication 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 enrichment,
15 or nuclear fuel fabrication facility subject to licensing
16 or certification under this Act during construction of
17 the facility, if the destruction or damage caused or at-
18 tempted to be caused could adversely affect public
19 health and safety during the operation of the facility;

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

23 “(7) any radioactive material or other property
24 subject to regulation by the Nuclear Regulatory Com-
25 mission that, before the date of the offense, the Nuclear

1 **SEC. 12. TECHNICAL AND CONFORMING AMENDMENT.**

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

 “SEC. 170B. Uranium supply.

 “SEC. 170C. Protection of designated nuclear facilities.

 “SEC. 170D. Sensitive radioactive material security.”.

5 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

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

9 *(b) AGGREGATE AMOUNT OF CHARGES.—Section 6101*
 10 *of the Omnibus Budget Reconciliation Act of 1990 (42*
 11 *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 Commis-*
 17 *sion for homeland security activities of the Com-*
 18 *mission for the fiscal year, except for the costs of*
 19 *fingerprinting and background checks required*
 20 *by section 149 of the Atomic Energy Act of 1954*
 21 *(42 U.S.C. 2169) and the costs of conducting se-*
 22 *curity inspections.”.*

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S. 1043

[Report No. 108-190]

A BILL

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

NOVEMBER 6, 2003

Reported with an amendment