

109TH CONGRESS
1ST SESSION

H. R. 4602

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2005

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Security Act
5 of 2005”.

6 **SEC. 2. DEFINITIONS.**

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

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

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

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

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

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

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

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

14 “(4) a gaseous diffusion plant; and

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

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

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

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

3 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

25 “(c) SECURITY PLANS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(d) NUCLEAR SECURITY FORCE.—

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

23 “(2) HIRING.—

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

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

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

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

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

25 “(3) ANNUAL PROFICIENCY REVIEW.—

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

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

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

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

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

19 “(4) TRAINING.—

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

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

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

14 “(e) NUCLEAR SECURITY FUND.—

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

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

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

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

3 “(3) INVESTMENT OF AMOUNTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

“170B. Uranium supply.

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

