

WITHHOLD**Exemption 5**

**SUBSTITUTE FOR THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3773
OFFERED BY M. _____**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Foreign Intelligence
3 Surveillance Modernization Act of 2007".

4 **SEC. 2. DEFINITIONS.**

5 (a) **AGENT OF A FOREIGN POWER.**—Subsection
6 (b)(1) of section 101 of the Foreign Intelligence Surveil-
7 lance Act of 1978 (50 U.S.C. 1801) is amended—

8 (1) in subparagraph (B), by striking “; or” and
9 inserting “;”; and

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

11 “(D) is reasonably expected to possess,
12 control, transmit, or receive foreign intelligence
13 information while such person is in the United
14 States, provided that the certification required
15 under section 104(a)(6) or 303(a)(6) contains a
16 description of the kind of significant foreign in-
17 telligence information sought;”.

1 (b) ELECTRONIC SURVEILLANCE.—Subsection (f) of
2 such section is amended to read as follows:

3 “(f) ‘electronic surveillance’ means—

4 “(1) the installation or use of an electronic, me-
5 chanical, or other surveillance device for acquiring
6 information by intentionally directing surveillance at
7 a particular, known person who is reasonably be-
8 lieved to be located within the United States under
9 circumstances in which that person has a reasonable
10 expectation of privacy and a warrant would be re-
11 quired for law enforcement purposes; or

12 “(2) the intentional acquisition of the contents
13 of any communication under circumstances in which
14 a person has a reasonable expectation of privacy and
15 a warrant would be required for law enforcement
16 purposes, if both the sender and all intended recipi-
17 ents are reasonably believed to be located within the
18 United States.”.

19 (c) WIRE COMMUNICATION.—Subsection (l) of such
20 section is amended by striking subsection (l).

21 (d) MINIMIZATION PROCEDURES.—Subsection (h) of
22 such section is amended

23 (1) in subsection (3) by striking “; and” and in-
24 serting “.”; and

25 (2) by striking subsection (4).

1 (e) CONTENTS.—Subsection (n) of such section is
2 amended to read as follows:

3 “(n) ‘Contents’, when used with respect to a commu-
4 nication, includes any information concerning the sub-
5 stance, purport, or meaning of that communication.”.

6 **SEC. 3. ATTORNEY GENERAL AUTHORIZATION FOR ELEC-**
7 **TRONIC SURVEILLANCE.**

8 (a) IN GENERAL.—The Foreign Intelligence Surveil-
9 lance Act of 1978 (50 U.S.C. 1801 et seq.) is further
10 amended by striking section 102 and inserting the fol-
11 lowing:

12 “AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR
13 FOREIGN INTELLIGENCE PURPOSES

14 “SEC. 102. (a) IN GENERAL.—Notwithstanding any
15 other law, the President, acting through the Attorney Gen-
16 eral, may authorize electronic surveillance without a court
17 order under this title to acquire foreign intelligence infor-
18 mation for periods of up to one year if the Attorney Gen-
19 eral—

20 “(1) CERTIFIES IN WRITING UNDER OATH
21 THAT.—

22 “(A) THE ELECTRONIC SURVEILLANCE IS
23 DIRECTED AT.—

24 “(i) the acquisition of the contents of
25 communications of a foreign power, as de-

1 fined in paragraph (1), (2), or (3) of sec-
2 tion 101(a); or

3 “(ii) the acquisition of technical intel-
4 ligence, other than the spoken communica-
5 tions of individuals, from property or
6 premises under the control of a foreign
7 power, as defined in paragraph (1), (2), or
8 (3) of section 101(a); and

9 “(B) the proposed minimization procedures
10 with respect to such surveillance meet the defi-
11 nition of minimization procedures under section
12 101(h); and

13 “(2) reports such minimization procedures and
14 any changes thereto to the Permanent Select Com-
15 mittee on Intelligence of the House of Representa-
16 tives and the Select Committee on Intelligence of the
17 Senate at least 30 days prior to the effective date
18 of such minimization procedures, unless the Attor-
19 ney General determines immediate action is required
20 and promptly notifies the committees of such mini-
21 mization procedures and the reason for their becom-
22 ing effective immediately.

23 “(b) MINIMIZATION PROCEDURES.—An electronic
24 surveillance authorized under this section may be con-
25 ducted only in accordance with the Attorney General’s

1 certification and the minimization procedures. The Attor-
2 ney General shall assess compliance with such procedures
3 and shall report such assessments to the Permanent Select
4 Committee on Intelligence of the House of Representatives
5 and the Select Committee on Intelligence of the Senate
6 under the provisions of section 108(a).

7 “(c) SUBMISSION OF CERTIFICATION.—The Attorney
8 General shall promptly transmit under seal to the court
9 established under section 103(a) a copy of the certification
10 under subsection (a)(1). Such certification shall be main-
11 tained under security measures established by the Chief
12 Justice with the concurrence of the Attorney General, in
13 consultation with the Director of National Intelligence,
14 and shall remain sealed unless

15 “(1) an application for a court order with re-
16 spect to the surveillance is made under section 104;
17 or

18 “(2) the certification is necessary to determine
19 the legality of the surveillance under section 106(f).

20 “AUTHORIZATION FOR ACQUISITION OF FOREIGN
21 INTELLIGENCE INFORMATION

22 “SEC. 102A. (a) IN GENERAL.—Notwithstanding
23 any other law, the President, acting through the Attorney
24 General may, for periods of up to one year, authorize the
25 acquisition of foreign intelligence information concerning
26 persons reasonably believed to be outside the United

1 States if the Attorney General certifies in writing under
2 oath that the Attorney General has determined that—

3 “(1) the acquisition does not constitute elec-
4 tronic surveillance;

5 “(2) the acquisition involves obtaining the for-
6 eign intelligence information from or with the assist-
7 ance of a communications service provider, custo-
8 dian, or other person (including any officer, em-
9 ployee, agent, or other specified person of such serv-
10 ice provider, custodian, or other person) who has ac-
11 cess to communications, either as they are trans-
12 mitted or while they are stored, or equipment that
13 is being or may be used to transmit or store such
14 communications;

15 “(3) a significant purpose of the acquisition is
16 to obtain foreign intelligence information; and

17 “(4) the minimization procedures to be used
18 with respect to such acquisition activity meet the
19 definition of minimization procedures under section
20 101(h).

21 “(b) SPECIFIC PLACE NOT REQUIRED.—A certifi-
22 cation under subsection (a) is not required to identify the
23 specific facilities, places, premises, or property at which
24 the acquisition of foreign intelligence information will be
25 directed.

1 “(c) SUBMISSION OF CERTIFICATION.—The Attorney
2 General shall immediately transmit under seal to the court
3 established under section 103(a) a copy of a certification
4 made under subsection (a). Such certification shall be
5 maintained under security measures established by the
6 Chief Justice of the United States and the Attorney Gen-
7 eral, in consultation with the Director of National Intel-
8 ligence, and shall remain sealed unless the certification is
9 necessary to determine the legality of the acquisition
10 under section 102B.

11 “(d) MINIMIZATION PROCEDURES.—An acquisition
12 under this section may be conducted only in accordance
13 with the certification of the Attorney General and the
14 minimization procedures adopted by the Attorney General.
15 The Attorney General shall assess compliance with such
16 procedures and shall report such assessments to the Per-
17 manent Select Committee on Intelligence of the House of
18 Representatives and the Select Committee on Intelligence
19 of the Senate under section 108(a).

20 “DIRECTIVES RELATING TO ELECTRONIC SURVEILLANCE
21 AND OTHER ACQUISITIONS OF FOREIGN INTEL-
22 LIGENCE INFORMATION

23 “SEC. 102B.

24 “(a) DIRECTIVE.—With respect to an authorization
25 of electronic surveillance under section 102 or an author-

1 ization of an acquisition under section 102A, the Attorney
2 General may direct a person to—

3 “(1) immediately provide the Government with
4 all information, facilities, and assistance necessary
5 to accomplish the acquisition of foreign intelligence
6 information in such a manner as will protect the se-
7 crecy of the electronic surveillance or acquisition and
8 produce a minimum of interference with the services
9 that such person is providing to the target; and “(2)
10 maintain under security procedures approved by the
11 Attorney General and the Director of National Intel-
12 ligence any records concerning the electronic surveil-
13 lance or acquisition or the aid furnished that such
14 person wishes to maintain.

15 “(2) immediately provide the Government with
16 all information, facilities, and assistance necessary
17 to accomplish the acquisition of foreign intelligence
18 information in such a manner as will protect the se-
19 crecy of the electronic surveillance or acquisition and
20 produce a minimum of interference with the services
21 that such person is providing to the target; and

22 “(3) maintain under security procedures ap-
23 proved by the Attorney General and the Director of
24 National Intelligence any records concerning the

1 electronic surveillance or acquisition or the aid fur-
2 nished that such person wishes to maintain.

3 “(b) COMPENSATION.—The Government shall com-
4 pensate, at the prevailing rate, a person for providing in-
5 formation, facilities, or assistance pursuant to subsection
6 (a).

7 “(c) FAILURE TO COMPLY.—In the case of a failure
8 to comply with a directive issued pursuant to subsection
9 (a), the Attorney General may invoke the aid of the court
10 established under section 103(a) to compel compliance
11 with the directive. The court shall issue an order requiring
12 the person to comply with the directive if it finds that the
13 directive was issued in accordance with subsection (a) and
14 is otherwise lawful. Failure to obey an order of the court
15 may be punished by the court as contempt of court. Any
16 process under this section may be served in any judicial
17 district in which the person may be found.

18 “(d) REVIEW OF PETITIONS.—(1)(A) A person re-
19 ceiving a directive issued pursuant to subsection (a) may
20 challenge the legality of that directive by filing a petition
21 with the pool established under section 103(e)(1).

22 “(B) The presiding judge designated pursuant to sec-
23 tion 103(b) shall assign a petition filed under subpara-
24 graph (A) to one of the judges serving in the pool estab-
25 lished by section 103(e)(1). Not later than 24 hours after

1 the assignment of such petition, the assigned judge shall
2 conduct an initial review of the directive. If the assigned
3 judge determines that the petition is frivolous, the as-
4 signed judge shall immediately deny the petition and af-
5 firm the directive or any part of the directive that is the
6 subject of the petition. If the assigned judge determines
7 the petition is not frivolous, the assigned judge shall, with-
8 in 72 hours, consider the petition in accordance with the
9 procedures established under section 103(e)(2) and pro-
10 vide a written statement for the record of the reasons for
11 any determination under this subsection.

12 “(2) A judge considering a petition to modify or set
13 aside a directive may grant such petition only if the judge
14 finds that such directive does not meet the requirements
15 of this section or is otherwise unlawful. If the judge does
16 not modify or set aside the directive, the judge shall imme-
17 diately affirm such directive, and order the recipient to
18 comply with such directive.

19 “(3) Any directive not explicitly modified or set aside
20 under this subsection shall remain in full effect.

21 “(e) APPEALS.—The Government or a person receiv-
22 ing a directive reviewed pursuant to subsection (d) may
23 file a petition with the Court of Review established under
24 section 103(b) for review of the decision issued pursuant
25 to subsection (d) not later than 7 days after the issuance

1 of such decision. Such court of review shall have jurisdic-
2 tion to consider such petitions and shall provide for the
3 record a written statement of the reasons for its decision.
4 On petition for a writ of certiorari by the Government or
5 any person receiving such directive, the record shall be
6 transmitted under seal to the Supreme Court, which shall
7 have jurisdiction to review such decision.

8 “(f) PROCEEDINGS.—Judicial proceedings under this
9 section shall be concluded as expeditiously as possible. The
10 record of proceedings, including petitions filed, orders
11 granted, and statements of reasons for decision, shall be
12 maintained under security measures established by the
13 Chief Justice of the United States, in consultation with
14 the Attorney General and the Director of National Intel-
15 ligence.

16 “(g) SEALED PETITIONS.—All petitions under this
17 section shall be filed under seal. In any proceedings under
18 this section, the court shall, upon request of the Govern-
19 ment, review ex parte and in camera any Government sub-
20 mission, or portions of a submission, which may include
21 classified information.

22 “(h) LIABILITY.—No cause of action shall lie in any
23 court against any person for providing any information,
24 facilities, or assistance in accordance with a directive
25 under this section.

1 “(i) RETENTION OF DIRECTIVES AND ORDERS.—A
2 directive made or an order granted under this section shall
3 be retained for a period of not less than 10 years from
4 the date on which such directive or such order is made.

5 “USE OF INFORMATION ACQUIRED UNDER SECTION 102A

6 “SEC. 102C. (a) USE OF INFORMATION.—Informa-
7 tion acquired from an acquisition conducted pursuant to
8 section 102A concerning any United States person may
9 be used and disclosed by Federal officers and employees
10 without the consent of the United States person only in
11 accordance with the minimization procedures required by
12 section 102A. No otherwise privileged communication ob-
13 tained in accordance with, or in violation of, the provisions
14 of section 102A shall lose its privileged character. No in-
15 formation from an acquisition pursuant to section 102A
16 may be used or disclosed by Federal officers or employees
17 except for lawful purposes.

18 “(b) NOTIFICATION BY UNITED STATES.—Whenever
19 the Government intends to enter into evidence or other-
20 wise use or disclose in any trial, hearing, or other pro-
21 ceeding in or before any court, department, officer, agen-
22 cy, regulatory body, or other authority of the United
23 States, against a person who was the target of, or whose
24 communications or activities were subject to, an acquisi-
25 tion authorized pursuant to section 102A, any information

1 obtained or derived from such acquisition, the Government
2 shall, prior to the trial, hearing, or other proceeding or
3 at a reasonable time prior to an effort to disclose or so
4 use that information or submit it in evidence, notify such
5 person and the court or other authority in which the infor-
6 mation is to be disclosed or used that the Government in-
7 tends to so disclose or so use such information.

8 “(c) NOTIFICATION BY STATES OR POLITICAL SUB-
9 DIVISION.—Whenever any State or political subdivision
10 thereof intends to enter into evidence or otherwise use or
11 disclose in any trial, hearing, or other proceeding in or
12 before any court, department, officer, agency, regulatory
13 body, or other authority of a State or a political subdivi-
14 sion thereof, against a person who was the target of, or
15 whose communications or activities were subject to, an ac-
16 quisition authorized pursuant to section 102A, any infor-
17 mation obtained or derived from such acquisition, the
18 State or political subdivision thereof shall notify such per-
19 son, the court, or other authority in which the information
20 is to be disclosed or used, and the Attorney General that
21 the State or political subdivision thereof intends to so dis-
22 close or so use such information.

23 “(d) MOTION TO SUPPRESS.—(1) Any person against
24 whom evidence obtained or derived from an acquisition au-
25 thorized pursuant to section 102A is to be, or has been,

1 introduced or otherwise used or disclosed in any trial,
2 hearing, or other proceeding in or before any court, de-
3 partment, officer, agency, regulatory body, or other au-
4 thority of the United States, a State, or a political subdivi-
5 sion thereof, may move to suppress the evidence obtained
6 or derived from such acquisition on the grounds that

7 “(A) the information was unlawfully ac-
8 quired; or

9 “(B) the acquisition was not properly
10 made in conformity with an authorization under
11 section 102A.

12 “(2) A person moving to suppress evidence under
13 paragraph (1) shall make the motion to suppress the evi-
14 dence before the trial, hearing, or other proceeding unless
15 there was no opportunity to make such a motion or the
16 person was not aware of the grounds of the motion.

17 “(e) IN CAMERA AND EX PARTE REVIEW BY DIS-
18 TRICT COURT.—Whenever a court or other authority is
19 notified pursuant to subsection (b) or (c) of this section,
20 or whenever a motion is made pursuant to subsection (d)
21 of this section, or whenever any motion or request is made
22 pursuant to any other statute or rule of the United States
23 or any State by a person who was the target of, or whose
24 communications or activities were subject to, an acquisi-

1 tion authorized pursuant to section 102A before any court
2 or other authority of the United States or any State

3 “(1) to discover or obtain applications or orders
4 or other materials relating to an acquisition author-
5 ized pursuant to section 102A, or

6 “(2) to discover, obtain, or suppress evidence or
7 information obtained or derived from an acquisition
8 authorized pursuant to section 102A, the United
9 States district court or, where the motion is made
10 before another authority, the United States district
11 court in the same district as the authority, shall,
12 notwithstanding any other law, if the Attorney Gen-
13 eral files an affidavit under oath that disclosure or
14 an adversary hearing would harm the national secu-
15 rity of the United States, review in camera and ex
16 parte the application, order, and such other mate-
17 rials relating to the acquisition as may be necessary
18 to determine whether such acquisition was lawfully
19 authorized and conducted. In making this deter-
20 mination, the court may disclose to the person who
21 was the target of, or whose communications or ac-
22 tivities were subject to, an acquisition authorized
23 pursuant to section 102A, under appropriate secu-
24 rity procedures and protective orders, portions of the
25 application, order, or other materials relating to the

1 acquisition only where such disclosure is necessary
2 to make an accurate determination of the legality of
3 the acquisition.

4 “(f) SUPPRESSION OF EVIDENCE; DENIAL OF MO-
5 TION.—If the United States district court, pursuant to
6 subsection (e) of this section, determines that an acquisi-
7 tion authorized pursuant to section 102A was not lawfully
8 authorized or conducted, it shall, in accordance with the
9 requirements of law, suppress the evidence which was un-
10 lawfully obtained or derived from the acquisition or other-
11 wise grant the motion of the person who was the target
12 of, or whose communications or activities were subject to,
13 an acquisition authorized pursuant to section 102A. If the
14 court determines that such acquisition was lawfully au-
15 thorized and conducted, it shall deny the motion of the
16 person who was the target of, or whose communications
17 or activities were subject to, an acquisition authorized pur-
18 suant to section 102A except to the extent that due proc-
19 ess requires discovery or disclosure.

20 “(g) FINALITY OF ORDERS.—Orders granting mo-
21 tions or requests under subsection (f) of this section, deci-
22 sions under this section that an acquisition was not law-
23 fully authorized or conducted, and orders of the United
24 States district court requiring review or granting disclo-
25 sure of applications, orders, or other materials relating to

1 an acquisition shall be final orders and binding upon all
2 courts of the United States and the several States except
3 a United States court of appeals and the Supreme Court.

4 “(h) CONSULTATION WITH LAW ENFORCEMENT OF-
5 FICERS.—(1) Federal officers who acquire foreign intel-
6 ligence information pursuant to section 102A may consult
7 with Federal law enforcement officers or law enforcement
8 personnel of a State or political subdivision of a State (in-
9 cluding the chief executive officer of that State or political
10 subdivision who has the authority to appoint or direct the
11 chief law enforcement officer of that State or political sub-
12 division) to coordinate efforts to investigate or protect
13 against

14 “(A) actual or potential attack or other
15 grave hostile acts of a foreign power or an
16 agent of a foreign power;

17 “(B) sabotage, international terrorism, or
18 the international proliferation of weapons of
19 mass destruction by a foreign power or an
20 agent of a foreign power; or

21 “(C) clandestine intelligence activities by
22 an intelligence service or network of a foreign
23 power or by an agent of a foreign power.

1 “(2) Coordination authorized under paragraph (1)
2 shall not preclude the certification required by section
3 102A.

4 “(i) PROTECTIVE ORDERS AND PRIVILEGES.—Noth-
5 ing in this section shall prevent the United States from
6 seeking protective orders or asserting privileges ordinarily
7 available to the United States to protect against the disclo-
8 sure of classified information.”.

9 (b) TABLE OF CONTENTS.—The table of contents in
10 the first section of the Foreign Intelligence Surveillance
11 Act of 1978 (50 U.S.C. 1801 et seq.) is amended by in-
12 serting after the item relating to section 102 the following:

“Sec. 102A. Authorization for acquisition of foreign intelligence information
“Sec. 102B. Directives relating to electronic surveillance and other acquisitions
of foreign intelligence information
“Sec. 102C. Use of information acquired under section 102A.”.

13 **SEC. 4. JURISDICTION OF FISA COURT.**

14 Section 103 of the Foreign Intelligence Surveillance
15 Act of 1978 (50 U.S.C. 1803) is amended—

16 (1) in subsection (a), by inserting “at least” be-
17 fore “seven of the United States judicial circuits”;
18 and

19 (2) by adding at the end the following new sub-
20 section:

21 “(g) Applications for a court order under section 104
22 of this title are authorized if the Attorney General ap-
23 proves such applications to the court having jurisdiction

1 under this section, and a judge to whom an application
2 is made may, notwithstanding any other law, grant an
3 order, in conformity with section 105, approving electronic
4 surveillance of a foreign power or an agent of a foreign
5 power for the purpose of obtaining foreign intelligence in-
6 formation.”.

7 **SEC. 5. APPLICATIONS FOR COURT ORDERS.**

8 Section 104 of the Foreign Intelligence Surveillance
9 Act of 1978 (50 U.S.C. 1804) is amended—

10 (1) in subsection (a)—

11 (A) by striking paragraphs (2) and (11);

12 (B) by redesignating paragraphs (3)
13 through (10) as paragraphs (2) through (9), re-
14 spectively;

15 (C) in paragraph (5), as redesignated by
16 subparagraph (B), by striking “detailed de-
17 scription” and inserting “summary descrip-
18 tion”;

19 (D) in paragraph (6), as redesignated by
20 subparagraph (B)—

21 (i) in the matter preceding subpara-
22 graph (A), by striking “or officials des-
23 igned” and all that follows through “con-
24 sent of the Senate” and inserting “des-
25 igned by the President to authorize elec-

1 tronic surveillance for foreign intelligence
2 purposes”;

3 (ii) in subparagraph (C), by striking
4 “techniques;” and inserting “techniques;
5 and”;

6 (iii) by striking subparagraph (D);
7 and

8 (iv) by redesignating subparagraph
9 (E) as subparagraph (D);

10 (E) in paragraph (7), as redesignated by
11 subparagraph (B), by striking “a statement of
12 the means” and inserting “a summary state-
13 ment of the means”;

14 (F) in paragraph (8), as redesignated by
15 subparagraph (b)—

16 (i) by striking “a statement” and in-
17 serting “a summary statement”; and

18 (ii) by striking “application;” and in-
19 serting “application; and”; and

20 (G) in paragraph (9), as redesignated by
21 subparagraph (B), by striking “; and” and in-
22 serting “.”

23 (2) by striking subsection (b);

24 (3) by redesignating subsections (c) through (e)
25 as subsections (b) through (d), respectively; and

1 (4) in paragraph (1)(A) of subsection (d), as re-
2 designated by paragraph (3), by striking “or the Di-
3 rector of National Intelligence” and inserting “the
4 Director of National Intelligence, or the Director of
5 the Central Intelligence Agency”.

6 **SEC. 6. ISSUANCE OF AN ORDER.**

7 Section 105 of the Foreign Intelligence Surveillance
8 Act of 1978 (50 U.S.C. 1805) is amended—

9 (1) in subsection (a)—

10 (A) by striking paragraph (1); and

11 (B) by redesignating paragraphs (2)
12 through (5) as paragraphs (1) through (4), re-
13 spectively;

14 (2) in paragraph (1) of subsection (c)—

15 (A) in subparagraph (D), by striking “sur-
16 veillance;” and inserting “surveillance; and”;

17 (B) in subparagraph (E), by striking “ap-
18 proved; and” and inserting “approved.”; and

19 (C) by striking subparagraph (F).

20 (3) by striking subsection (d);

21 (4) by redesignating subsections (e) through (i)
22 as subsections (d) through (h), respectively;

23 (5) in subsection (d), as redesignated by para-
24 graph (4)—

1 (A) by striking "120 days" and insert
2 "one year", and
3 (B) by amending paragraph (2) to read as
4 follows:

5 "(2) Extensions of an order issued under this
6 title may be granted on the same basis as an origi-
7 nal order upon an application for an extension and
8 new findings made in the same manner as required
9 for an original order and may be for a period not
10 to exceed one year.";

11 (6) in subsection (e), as redesignated by para-
12 graph (4), to read as follows:

13 "(e) Notwithstanding any other provision of this title,
14 the Attorney General may authorize the emergency em-
15 ployment of electronic surveillance if the Attorney Gen-
16 eral—

17 "(1) determines that an emergency situation ex-
18 ists with respect to the employment of electronic
19 surveillance to obtain foreign intelligence informa-
20 tion before an order authorizing such surveillance
21 can with due diligence be obtained;

22 "(2) determines that the factual basis for
23 issuance of an order under this title to approve such
24 electronic surveillance exists;

1 “(3) informs a judge having jurisdiction under
2 section 103 at the time of such authorization that
3 the decision has been made to employ emergency
4 electronic surveillance; and

5 “(4) makes an application in accordance with
6 this title to a judge having jurisdiction under section
7 103 as soon as practicable, but not more than 168
8 hours after the Attorney General authorizes such
9 surveillance. If the Attorney General authorizes such
10 emergency employment of electronic surveillance, the
11 Attorney General shall require that the minimization
12 procedures required by this title for the issuance of
13 a judicial order be followed. In the absence of a judi-
14 cial order approving such electronic surveillance, the
15 surveillance shall terminate when the information
16 sought is obtained, when the application for the
17 order is denied, or after the expiration of 168 hours
18 from the time of authorization by the Attorney Gen-
19 eral, which ever is earliest. In the event that such
20 application for approval is denied, or in any other
21 case where the electronic surveillance is terminated
22 and no order is issued approving the surveillance, no
23 information obtained or evidence derived from such
24 surveillance shall be received in evidence or other-
25 wise disclosed in any trial, hearing, or other pro-

1 ceeding in or before any court, grand jury, depart-
2 ment, office, agency, regulatory body, legislative
3 committee, or other authority of the United States,
4 a State, or political subdivision thereof, and no in-
5 formation concerning any United States person ac-
6 quired from such surveillance shall subsequently be
7 used or disclosed in any other manner by Federal of-
8 ficers or employees without the consent of such per-
9 son, except with the approval of the Attorney Gen-
10 eral if the information is significant foreign intel-
11 ligence information or indicates a threat of death or
12 serious bodily harm to any person. The Attorney
13 General shall assess compliance with the require-
14 ments of the prior sentence and shall include such
15 assessments in the Attorney General's reports under
16 section 102(b). A denial of the application made
17 under this subsection may be reviewed as provided
18 in section 103.”;

19 (7) in subsection (h), as redesignated by para-
20 graph (4)—

21 (A) by striking “a wire or” and inserting
22 “an”; and

23 (B) by striking “physical search” and in-
24 serting “physical search or in response to a cer-
25 tification by the Attorney General or a designee