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H.L.C.

**AMENDMENT TO H.R. 2983****OFFERED BY MR. WAXMAN**

At the end of the bill, insert the following new section:

1 **SEC. 11. REPORT ON POTENTIAL LIABILITY.**

2 Not later than 90 days after the date of the enact-  
3 ment of this Act, the Nuclear Regulatory Commission  
4 shall enter into an arrangement with the National Acad-  
5 emy of Sciences for a study on the economic, public health,  
6 and environmental impacts of incidents which result in the  
7 breaching of the containment of typical commercial nu-  
8 clear reactors in the United States resulting in unshielded  
9 meltdowns. The arrangement shall call for a report to be  
10 transmitted, as expeditiously as possible but not later than  
11 2 years after the date of the enactment of this Act, to  
12 the Committee on Energy and Commerce of the House  
13 of Representatives, and to the Committee on Environment  
14 and Public Works and the Committee on Energy and Nat-  
15 ural Resources of the Senate. The report may include a  
16 classified annex as necessary.



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H.L.C.

**AMENDMENT TO H.R. 2983**  
**OFFERED BY MR. WAXMAN**

At the end of the bill, insert the following new section:

1 **SEC. 11. UNREASONABLE RISK DETERMINATION.**

2 Section 170 of the Atomic Energy Act of 1954 (42  
3 U.S.C. 2210) is amended by adding at the end the fol-  
4 lowing new subsection:

5 "v. UNREASONABLE RISK DETERMINATION.—This  
6 section shall not apply to a utilization facility for which  
7 an application for a license under this Act is first sub-  
8 mitted after the date of the enactment of this subsection  
9 unless the Director of Homeland Security (or any suc-  
10 cessor official) determines that, in his judgment, the loca-  
11 tion of the proposed facility and the design of that type  
12 of facility ensure that the facility does not pose an unrea-  
13 sonable risk to the economy, public health, or the environ-  
14 ment if subject to a terrorist attack. In making such deter-  
15 mination, the Director shall consult with the Nuclear Reg-  
16 ulatory Commission and other appropriate Federal, State,  
17 local, and nongovernmental entities, and may conduct rea-  
18 sonable and necessary tests and studies."

**AMENDMENT TO H.R. 2983**  
**OFFERED BY MR. MARKEY**

At the end of the bill, insert the following new section:

**1 SEC. 10. INSURANCE DENIAL REQUIREMENT.**

2       Section 170 of the Atomic Energy Act of 1954 (42  
3 U.S.C. 2210) is amended by adding at the end the following new subsection:

5       “u. INSURANCE DENIAL REQUIREMENT.—This section shall not apply to a utilization facility for which an  
6 application for a license under this Act is first submitted  
7 after the date of the enactment of this subsection unless  
8 the application provides evidence satisfactory to the Nuclear Regulatory Commission that the applicant has  
9 sought insurance coverage from the private insurance  
10 market to cover the risk of nuclear accidents, and has been  
11 denied such coverage.”.

**AMENDMENT TO H.R. 2983**  
**OFFERED BY MR. MARKEY**

At the end of the bill, insert the following new sections:

1 **SEC. 11. TRANSPORTATION OF NUCLEAR MATERIALS.**

2 (a) AMENDMENT.—Section 170 of the Atomic En-  
3 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding  
4 at the end the following new subsection:

5 “v. TRANSPORTATION OF NUCLEAR MATERIALS.—

6 (1) No licensee shall be eligible for indemnification under  
7 this section with respect to a facility unless—

8 “(A) each vehicle transporting materials de-  
9 scribed in paragraph (2) from the facility carries a  
10 manifest describing the type and amount of mate-  
11 rials being transported;

12 “(B) each individual driving or traveling with  
13 such a vehicle has been subject to a security back-  
14 ground check by appropriate Federal entities; and

15 “(C) no such vehicle transports such materials  
16 to a destination other than a facility licensed by the  
17 Nuclear Regulatory Commission or an agreement  
18 State under this Act or other appropriate Federal  
19 facility, or to a destination outside the United States  
20 in a country with whom the United States does not

1 have an agreement for cooperation under section  
2 123.

3 “(2) Except as otherwise provided by the Commission  
4 by regulation, the materials referred to in paragraph  
5 (1)(A) are byproduct materials, source materials, special  
6 nuclear materials, high-level radioactive waste, spent nu-  
7 clear fuel, transuranic waste, and low-level radioactive  
8 waste (as defined in section 2(16) of the Nuclear Waste  
9 Policy Act of 1982 (42 U.S.C. 10101(16))).”.

10 (b) REGULATIONS.—Not later than 6 months after  
11 the date of the enactment of this Act, the Nuclear Regu-  
12 latory Commission shall issue regulations identifying ra-  
13 dioactive materials that, consistent with the protection of  
14 public health and safety and the common defense and se-  
15 curity, are appropriate exceptions to the transportation re-  
16 quirements of section 170 v. of the Atomic Energy Act  
17 of 1954, as added by subsection (a) of this section.

18 (c) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect upon the issuance of regu-  
20 lations under subsection (b).

21 **SEC. 12. DESIGN BASIS THREAT.**

22 (a) REQUIREMENT FOR INDEMNIFICATION.—Section  
23 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210)  
24 is amended by adding at the end the following new sub-  
25 section:

1       “w. DESIGN BASIS THREAT.—No licensee shall be el-  
2       igible for indemnification under this section with respect  
3       to a facility unless the license issued under this Act for  
4       the operation of the facility requires the facility to conform  
5       to the requirements of regulations issued pursuant to sec-  
6       tion 170C, and the facility conforms to those require-  
7       ments.”.

8       (b) RULEMAKING.—Chapter 14 of the Atomic Energy  
9       Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-  
10      ing at the end the following new section:

11      “SEC. 170C. DESIGN BASIS THREAT.—

12      “a. The Nuclear Regulatory Commission, not later  
13      than 120 days after the date of the enactment of this sec-  
14      tion, after consultation with the Secretary of Defense, the  
15      Director of Central Intelligence, the Director of the Fed-  
16      eral Bureau of Investigation, the National Security Advi-  
17      sor, the Director of Homeland Security (or any successor  
18      official), and any other appropriate Federal, State, or non-  
19      governmental entities, shall commence a rulemaking to  
20      consider changes to the design basis threat for facilities  
21      licensed by the Commission under this Act. Within 18  
22      months after the date of the enactment of this section,  
23      the Commission shall issue a final rule revising the design  
24      basis threat and associated regulations, guidance, and or-  
25      ders.

1       “b. Regulations issued under this section shall take  
2 into account, but not be limited to—

3               “(1) the events of September 11, 2001;

4               “(2) the potential for attack on facilities by  
5 multiple coordinated teams totaling in the aggregate  
6 at least 20 individuals;

7               “(3) the potential for assistance in an attack  
8 from several persons employed at the facility;

9               “(4) the potential for suicide attacks;

10              “(5) water-based and air-based threats;

11              “(6) the potential use of explosive devices of  
12 considerable size and other modern weaponry;

13              “(7) the potential for attacks by persons with  
14 a sophisticated knowledge of facility operations;

15              “(8) the threat of fires, especially fires of long  
16 duration;

17              “(9) protection of spent fuel storage pools and  
18 dry cask storage, including after reactor closure; and

19              “(10) any new security role assumed by other  
20 Federal entities at facilities licensed by the Commis-  
21 sion under this Act.

22       “c. Regulations issued under this section shall estab-  
23 lish requirements for licensees relating to construction, op-  
24 eration, security procedures, and emergency response, and  
25 shall require conforming amendments to existing licenses.

1       “d. Regulations issued under this section shall re-  
2       quire licensees to provide for armed escorts for all spent  
3       fuel shipments, capable of repelling attacks by a large  
4       number of attackers working as several coordinated teams  
5       and using sophisticated techniques and equipment.

6       “e. (1) Regulations issued under this section shall in-  
7       clude the establishment of an Operational Safeguards Re-  
8       sponse Evaluation program, whose Director shall report  
9       directly to the Nuclear Regulatory Commission, which  
10      shall ensure that the operational safeguards response of  
11      each facility described in paragraph (2) is tested at least  
12      once every 2 years to determine whether the design basis  
13      threat factors identified in regulations, guidance, and or-  
14      ders issued under this section have been adequately ad-  
15      dressed.

16      “(2) Facilities subject to testing under paragraph (1)  
17      include commercial nuclear powerplants, research reac-  
18      tors, spent fuel storage facilities and associated support  
19      facilities and equipment, and any other licensed facility  
20      the Nuclear Regulatory Commission considers appro-  
21      priate.

22      “f. Regulations issued under this section shall be re-  
23      viewed and revised as appropriate at least once every 5  
24      years.”.



1 (c) TABLE OF SECTIONS AMENDMENT.—The table of  
2 sections for chapter 14 of the Atomic Energy Act of 1954  
3 is amended by adding at the end the following new item:

“Sec. 170C. Design basis threat.”.

4 **SEC. 13. DEFENSE OF FACILITIES.**

5 (a) AMENDMENT.—Chapter 14 of the Atomic Energy  
6 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-  
7 ing at the end the following new section:

8 “SEC. 170D. DEFENSE OF FACILITIES.—

9 “Whenever a state of war or national emergency ex-  
10 ists, the President is authorized to deploy the Armed  
11 Forces of the United States, or the National Guard, to  
12 defend facilities licensed by the Nuclear Regulatory Com-  
13 mission under this Act from terrorist attack or threat  
14 from any foreign power. The President is also authorized  
15 to restrict air space in the vicinity of such facilities.”.

16 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
17 sections for chapter 14 of the Atomic Energy Act of 1954  
18 is amended by adding at the end the following new item:

“Sec. 170D. Defense of facilities.”.

19 (c) SAVINGS.—Nothing in the amendment made by  
20 subsection (a) shall be construed to limit the President’s  
21 authority under any other Act or under the Constitution.