

AMENDMENT TO H.R. 2983
OFFERED BY MR. MARKEY
(FOR HIMSELF, MR. TAUZIN, AND MR. DINGELL)

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

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

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

5 “SEC. 170C. TRANSPORTATION OF NUCLEAR MATE-
6 RIALS.—

7 “a. The Nuclear Regulatory Commission shall estab-
8 lish a system to ensure that—

9 “(1) with respect to activities by any party pur-
10 suant to a license issued under this Act, each vehicle
11 transporting materials described in subsection b. in
12 the United States—

13 “(A) from a facility licensed by the Nu-
14 clear Regulatory Commission;

15 “(B) from a facility licensed by an agree-
16 ment State; or

17 “(C) from a country with whom the United
18 States has an agreement for cooperation under
19 section 123,

1 carries a manifest describing the type and amount of
2 materials being transported;

3 “(2) each individual driving or traveling with
4 such a vehicle has been subject to a security back-
5 ground check by appropriate Federal entities; and

6 “(3) no such vehicle transports such materials
7 to a destination other than a facility licensed by the
8 Nuclear Regulatory Commission or an agreement
9 State under this Act or other appropriate Federal
10 facility, or to a destination outside the United States
11 in a country with whom the United States has an
12 agreement for cooperation under section 123.

13 “b. Except as otherwise provided by the Commission
14 by regulation, the materials referred to in subsection a.(1)
15 are byproduct materials, source materials, special nuclear
16 materials, high-level radioactive waste, spent nuclear fuel,
17 transuranic waste, and low-level radioactive waste (as de-
18 fined in section 2(16) of the Nuclear Waste Policy Act
19 of 1982 (42 U.S.C. 10101(16))).”.

20 (b) REGULATIONS.—Not later than 1 year after the
21 date of the enactment of this Act, and from time to time
22 thereafter as it considers necessary, the Nuclear Regu-
23 latory Commission shall issue regulations identifying ra-
24 dioactive materials that, consistent with the protection of
25 public health and safety and the common defense and se-

1 curity, are appropriate exceptions to the transportation re-
2 quirements of section 170C of the Atomic Energy Act of
3 1954, as added by subsection (a) of this section.

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

7 (d) TABLE OF SECTIONS AMENDMENT.—The table
8 of sections for chapter 14 of the Atomic Energy Act of
9 1954 is amended by adding at the end the following new
10 item:

“Sec. 170C. Transportation of nuclear materials.”.

11 **SEC. 12. NUCLEAR FACILITY THREATS.**

12 (a) STUDY.—The President, in consultation with the
13 Nuclear Regulatory Commission and other appropriate
14 Federal, State, and local agencies and private entities,
15 shall conduct a study to identify the types of threats that
16 pose an appreciable risk to the security of the various
17 classes of facilities licensed by the Nuclear Regulatory
18 Commission under the Atomic Energy Act of 1954. Such
19 study shall take into account, but not be limited to—

20 (1) the events of September 11, 2001;

21 (2) an assessment of physical, cyber, bio-
22 chemical, and other terrorist threats;

23 (3) the potential for attack on facilities by mul-
24 tiple coordinated teams of a large number of individ-
25 uals;

1 (4) the potential for assistance in an attack
2 from several persons employed at the facility;

3 (5) the potential for suicide attacks;

4 (6) the potential for water-based and air-based
5 threats;

6 (7) the potential use of explosive devices of con-
7 siderable size and other modern weaponry;

8 (8) the potential for attacks by persons with a
9 sophisticated knowledge of facility operations;

10 (9) the potential for fires, especially fires of
11 long duration; and

12 (10) the potential for attacks on spent fuel
13 shipments by multiple coordinated teams of a large
14 number of individuals.

15 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
16 later than 180 days after the date of the enactment of
17 this Act, the President, shall transmit to the Congress and
18 the Nuclear Regulatory Commission a report—

19 (1) summarizing the types of threats identified
20 under subsection (a); and

21 (2) classifying each type of threat identified
22 under subsection (a), in accordance with existing
23 laws and regulations, as either—

24 (A) involving attacks and destructive acts,
25 including sabotage, directed against the facility

1 by an enemy of the United States, whether a
2 foreign government or other person, or other-
3 wise falling under the responsibilities of the
4 Federal Government; or

5 (B) involving the type of risks that Nu-
6 clear Regulatory Commission licensees should
7 be responsible for guarding against.

8 (c) FEDERAL ACTION REPORT.—Not later than 90
9 days after the date on which a report is transmitted under
10 subsection (b), the President, shall transmit to the Con-
11 gress a report on actions taken, or to be taken, to address
12 the types of threats identified under subsection (b)(2)(A).
13 Such report may include a classified annex as appropriate.

14 (d) REGULATIONS.—Not later than 270 days after
15 the date on which a report is transmitted under subsection
16 (b), the Nuclear Regulatory Commission shall issue regu-
17 lations, including changes to the design basis threat, to
18 ensure that licensees address the threats identified under
19 subsection (b)(2)(B).

20 (e) PHYSICAL SECURITY PROGRAM.—The Nuclear
21 Regulatory Commission shall establish an operational
22 safeguards response evaluation program that ensures that
23 the physical protection capability and operational safe-
24 guards response for sensitive nuclear facilities, as deter-
25 mined by the Commission consistent with the protection

1 of public health and the common defense and security,
2 shall be tested periodically through Commission approved
3 or designed, observed, and evaluated force-on-force exer-
4 cises to determine whether the ability to defeat the design
5 basis threat is being maintained. For purposes of this sub-
6 section, the term "sensitive nuclear facilities" includes at
7 a minimum commercial nuclear power plants, including
8 associated spent fuel storage facilities, spent fuel storage
9 pools and dry cask storage at closed reactors, independent
10 spent fuel storage facilities and geologic repository oper-
11 ations areas, category I fuel cycle facilities, and gaseous
12 diffusion plants.

13 (f) CONTROL OF INFORMATION.—In carrying out this
14 section, the President and the Nuclear Regulatory Com-
15 mission shall control the dissemination of restricted data,
16 safeguards information, and other classified national secu-
17 rity information in a manner so as to ensure the common
18 defense and security, consistent with chapter 12 of the
19 Atomic Energy Act of 1954.