

# Union Calendar No. 148

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3016

**[Report No. 107-231, Part I]**

To amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins, to clarify the application of cable television system privacy requirements to new cable services, to strengthen security at certain nuclear facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 3, 2001

Mr. TAUZIN (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 9, 2001

Reported from the Committee on Energy and Commerce with an amendment  
[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 9, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than October 12, 2001

OCTOBER 12, 2001

Referral to the Committee on the Judiciary extended for a period not later than October 16, 2001

OCTOBER 16, 2001

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# A BILL

To amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins, to clarify the application of cable television system privacy requirements to new cable services, to strengthen security at certain nuclear facilities, and for other purposes.

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

3                   **TITLE I—BIOTERRORISM**  
4                   **PREVENTION**

5 **SEC. 101. EXPANSION OF BIOLOGICAL WEAPONS STATUTE.**

6       *(a) SELECT AGENTS.—*

7               *(1) IN GENERAL.—Section 175 of title 18,*  
8 *United States Code, is amended—*

9                   *(A) by redesignating subsection (b) as sub-*  
10 *section (c); and*

11                   *(B) by inserting after subsection (a) the fol-*  
12 *lowing subsection:*

13       “*(b) SELECT AGENTS.—*

14               “*(1) UNSAFE HANDLING.—*

1           “(A) *IN GENERAL.*—Whoever possesses, uses,  
2           or exercises control over a select agent in a man-  
3           ner constituting reckless disregard for the public  
4           health and safety, knowing the select agent to be  
5           a biological agent or toxin, shall be fined under  
6           this title, imprisoned for not more than one year,  
7           or both.

8           “(B) *AGGRAVATED OFFENSE.*—Whoever, in  
9           the course of a violation of subparagraph (A),  
10          causes bodily injury to another shall be fined  
11          under this title, or imprisoned for not more than  
12          10 years, or both; except that if death results  
13          from such violation, the person committing the  
14          violation shall be fined under this title, or im-  
15          prisoned for any term of years or for life, or  
16          both.

17          “(2) *UNREGISTERED FOR POSSESSION.*—Whoever  
18          knowingly possesses a biological agent or toxin where  
19          such agent or toxin is a select agent for which such  
20          person has not obtained a registration under section  
21          511(f) of the Antiterrorism and Effective Death Pen-  
22          alty Act of 1996 shall be fined under this title, or im-  
23          prisoned for not more than 5 years, or both.

24          “(3) *TRANSFER TO UNREGISTERED PERSON.*—  
25          Whoever knowingly transfers a select agent to a per-

1       son who has not obtained a registration under section  
2       511(e) of the Antiterrorism and Effective Death Pen-  
3       alty Act of 1996 shall be fined under this title, or im-  
4       prisoned for not more than 5 years, or both.

5               “(4) *RESTRICTED PERSONS.*—Whoever is a re-  
6       stricted person and knowingly ships or transports a  
7       select agent in interstate or foreign commerce, or  
8       knowingly receives a select agent so shipped or trans-  
9       ported, or knowingly possesses a select agent in or af-  
10      fecting interstate or foreign commerce, shall be fined  
11      under this title, or imprisoned for not more than 5  
12      years, or both. The preceding sentence does not apply  
13      with respect to any duly authorized governmental ac-  
14      tivity under title V of the National Security Act of  
15      1947.”.

16              (2) *DEFINITIONS.*—Section 175 of title 18,  
17      United States Code, as amended by paragraph (1) of  
18      this subsection, is amended by amending subsection  
19      (c) to read as follows:

20              “(c) *DEFINITIONS.*—As used in this section:

21              “(1) The terms ‘biological agent’ and ‘toxin’ have  
22      the meanings given such terms in section 178, except  
23      that, for purposes of subsection (b), such terms do not  
24      encompass any biological agent or toxin that is in its  
25      naturally occurring environment, if the biological

1       *agent or toxin has not been cultivated, cultured, col-*  
2       *lected, or otherwise extracted from its natural source.*

3             “(2) *The term ‘bodily injury’ has the meaning*  
4       *given such term in section 1365.*

5             “(3) *The term ‘for use as a weapon’ includes the*  
6       *development, production, transfer, acquisition, reten-*  
7       *tion, or possession of any biological agent, toxin, or*  
8       *delivery system, other than for prophylactic, protec-*  
9       *tive, or other peaceful purposes.*

10            “(4)(A) *The term ‘restricted person’ means a*  
11       *person—*

12               “(i) *who is described in section 922(g), as*  
13       *such section was in effect on the day before the*  
14       *effective date of this paragraph; or*

15               “(ii) *who is an alien, other than an alien*  
16       *lawfully admitted for permanent residence or an*  
17       *alien who under subparagraph (B) is considered*  
18       *not to be a restricted person.*

19            “(B) *For purposes of subparagraph (A)(ii):*

20               “(i) *An alien is considered not to be a re-*  
21       *stricted person if the alien is within a category*  
22       *designated under clause (ii) of this subpara-*  
23       *graph.*

24               “(ii) *The Secretary of Health and Human*  
25       *Services, in consultation with the Attorney Gen-*

1           *eral, may designate categories of individuals who*  
2           *have—*

3                     *“(I) nonimmigrant visas as defined in*  
4                     *section 101(a)(26) of the Immigration and*  
5                     *Nationality Act; and*

6                     *“(II) expertise valuable to the United*  
7                     *States regarding select agents.*

8           *“(5) The term ‘select agent’ means a biological*  
9           *agent or toxin, as defined in paragraph (1), that—*

10                    *“(A) is on the list that is in effect pursuant*  
11                    *to section 511(d)(1) of the Antiterrorism and Ef-*  
12                    *fective Death Penalty Act of 1996 (Public Law*  
13                    *104–132); and*

14                    *“(B) has not been exempted from the appli-*  
15                    *cability of regulations under section 511(e) of*  
16                    *such Act.”.*

17           (3) *EFFECTIVE DATE REGARDING RESTRICTED*  
18           *PERSONS; REGULATIONS.—*

19                    (A) *EFFECTIVE DATE.—Section 175(b)(4) of*  
20                    *title 18, United States Code, as added by sub-*  
21                    *section (a)(1)(B) of this section, takes effect upon*  
22                    *the expiration of the 90-day period beginning on*  
23                    *the date of the enactment of this Act.*

24                    (B) *REGULATIONS.—Not later than 30 days*  
25                    *after the date of the enactment of this Act, the*

1            *Secretary of Health and Human Services shall*  
2            *determine whether the Secretary will designate*  
3            *any categories or individuals for purposes of sec-*  
4            *tion 175(c)(4)(B) of title 18, United States Code,*  
5            *as added by subsection (a)(1)(B) of this section.*  
6            *If the Secretary determines that one or more*  
7            *such categories will be designated, the Secretary*  
8            *shall promulgate an interim final rule for pur-*  
9            *poses of such section not later than 60 days after*  
10           *such date of enactment.*

11           *(4) CONFORMING AMENDMENT.—Section 175(a)*  
12           *of title 18, United States Code, is amended in the sec-*  
13           *ond sentence by striking “under this section” and in-*  
14           *serting “under this subsection”.*

15           *(b) AMENDMENTS TO ANTITERRORISM AND EFFECTIVE*  
16           *DEATH PENALTY ACT OF 1996.—*

17           *(1) POSSESSION AND USE.—*

18           *(A) IN GENERAL.—Section 511 of the*  
19           *Antiterrorism and Effective Death Penalty Act*  
20           *of 1996 (Public Law 104–132) is amended—*

21           *(i) by striking subsection (f);*

22           *(ii) by redesignating subsection (g) as*  
23           *subsection (i); and*

24           *(iii) by inserting after subsection (e)*  
25           *the following subsection:*

1       “(f) *POSSESSION AND USE OF LISTED BIOLOGICAL*  
2 *AGENTS AND TOXINS.*—

3               “(1) *IN GENERAL.*—*The Secretary shall by regu-*  
4 *lation provide for the establishment and enforcement*  
5 *of standards and procedures governing the possession*  
6 *and use of biological agents and toxins listed pursu-*  
7 *ant to subsection (d)(1) in order to protect the public*  
8 *health and safety, including safeguards to prevent ac-*  
9 *cess to such agents and toxins for use in domestic or*  
10 *international terrorism or for any other criminal*  
11 *purpose.*

12               “(2) *REGISTRATION.*—*Regulations under para-*  
13 *graph (1) shall provide for registration requirements*  
14 *regarding the possession and use of biological agents*  
15 *and toxins listed pursuant to subsection (d)(1).”.*

16               *(B) REGULATIONS.*—

17                       *(i) DATE CERTAIN FOR PROMULGA-*  
18 *TION; EFFECTIVE DATE REGARDING CRIMI-*  
19 *NAL AND CIVIL PENALTIES.*—*Not later than*  
20 *30 days after the date of the enactment of*  
21 *this Act, the Secretary of Health and*  
22 *Human Services shall promulgate an in-*  
23 *terim final rule for carrying out section*  
24 *511(f) of the Antiterrorism and Effective*  
25 *Death Penalty Act of 1996, as added by*



1            *subparagraph (A) of this paragraph. Such*  
2            *interim final rule takes effect 60 days after*  
3            *the date on which such rule is promulgated,*  
4            *including for purposes of—*

5                    *(I) section 175(b)(2) of title 18,*  
6                    *United States Code (relating to crimi-*  
7                    *nal penalties), as added by subsection*  
8                    *(a)(1)(B) of this section; and*

9                    *(II) section 511(h) of the*  
10                   *Antiterrorism and Effective Death*  
11                   *Penalty Act of 1996 (relating to civil*  
12                   *penalties), as added by paragraph (3)*  
13                   *of this subsection.*

14                   *(ii) SUBMISSION OF REGISTRATION AP-*  
15                   *PLICATIONS.—In the case of a person who,*  
16                   *as of the date of the enactment of this Act,*  
17                   *is in possession of a biological agent or*  
18                   *toxin that is listed pursuant to section*  
19                   *511(d)(1) of the Antiterrorism and Effective*  
20                   *Death Penalty Act of 1996, such person*  
21                   *shall, in accordance with the interim final*  
22                   *rule promulgated under clause (i), submit*  
23                   *an application for a registration to possess*  
24                   *such agent or toxin not later than 30 days*

1           *after the date on which such rule is promul-*  
2           *gated.*

3           (2) *DISCLOSURES OF INFORMATION.—*

4           (A) *IN GENERAL.—Section 511 of the*  
5           *Antiterrorism and Effective Death Penalty Act*  
6           *of 1996, as amended by paragraph (1) of this*  
7           *subsection, is amended by inserting after sub-*  
8           *section (f) the following subsection:*

9           “(g) *DISCLOSURE OF INFORMATION.—*

10           “(1) *IN GENERAL.—Any information in the pos-*  
11           *session of any Federal agency that identifies a person,*  
12           *or the geographic location of a person, who is reg-*  
13           *istered pursuant to regulations under this section (in-*  
14           *cluding regulations promulgated before the effective*  
15           *date of this subsection), and any site-specific informa-*  
16           *tion relating to the type, quantity, or identity of a bi-*  
17           *ological agent or toxin listed pursuant to subsection*  
18           *(d)(1) or the site-specific security mechanisms in*  
19           *place to protect such agents and toxins, shall not be*  
20           *disclosed under section 552(a) of title 5, United States*  
21           *Code.*

22           “(2) *DISCLOSURES FOR PUBLIC HEALTH AND*  
23           *SAFETY; CONGRESS.—Nothing in this section may be*  
24           *construed as preventing the head of any Federal*  
25           *agency—*

1           “(A) from making disclosures of informa-  
2           tion described in paragraph (1) for purposes of  
3           protecting the public health and safety; or

4           “(B) from making disclosures of such infor-  
5           mation to any committee or subcommittee of the  
6           Congress with appropriate jurisdiction, upon re-  
7           quest.”.

8           (B) *EFFECTIVE DATE*.—The effective date  
9           for the amendment made by subparagraph (A)  
10          shall be the same as the effective date for the  
11          final rule issued pursuant to section 511(d)(1) of  
12          the Antiterrorism and Effective Death Penalty  
13          Act of 1996 (Public Law 104–132).

14          (3) *CIVIL PENALTIES*.—Section 511 of the  
15          Antiterrorism and Effective Death Penalty Act of  
16          1996, as amended by paragraphs (1) and (2) of this  
17          subsection, is amended by inserting after subsection  
18          (g) the following subsection:

19          “(h) *CIVIL PENALTY*.—Any person who violates a reg-  
20          ulation under subsection (e) or (f) shall be subject to the  
21          United States for a civil penalty in an amount not exceed-  
22          ing \$250,000 in the case of an individual and \$500,000  
23          in the case of any other person.”.

1           (4) *CLARIFICATION OF SCOPE OF SELECT AGENT*  
2           *RULE; TERRORISM; RESPONSIBILITIES OF SECRETARY*  
3           *OF HEALTH AND HUMAN SERVICES.—*

4           (A) *IN GENERAL.—Section 511 of the*  
5           *Antiterrorism and Effective Death Penalty Act*  
6           *of 1996 (Public Law 104–132) is amended—*

7           (i) *in each of subsections (d) and (e)—*

8           (I) *by inserting “and toxins”*  
9           *after “agents” each place such term ap-*  
10           *pears; and*

11           (II) *by inserting “or toxin” after*  
12           *“agent” each place such term appears;*  
13           *and*

14           (ii) *in subsection (i) (as redesignated*  
15           *by paragraph (1) of this subsection), in*  
16           *paragraph (1), by striking “the term ‘bio-*  
17           *logical agent’ has” and inserting “the terms*  
18           *‘biological agent’ and ‘toxin’ have”.*

19           (B) *EFFECTIVE DATE.—The effective date*  
20           *for the amendments made by subparagraph (A)*  
21           *shall be as if the amendments had been included*  
22           *in the enactment of section 511 of the*  
23           *Antiterrorism and Effective Death Penalty Act*  
24           *of 1996 (Public Law 104–132).*

1           (5) *CONFORMING AMENDMENTS.*—Section 511 of  
2           the *Antiterrorism and Effective Death Penalty Act of*  
3           1996 (Public Law 104–132) is amended—

4                   (A) in subsection (d)(1)(A), by striking  
5                   “shall, through regulations promulgated under  
6                   subsection (f),” and inserting “shall by regula-  
7                   tion”;

8                   (B) in subsection (e), in the matter pre-  
9                   ceding paragraph (1), by striking “shall, through  
10                   regulations promulgated under subsection (f),”  
11                   and inserting “shall by regulation”;

12                   (C) in subsection (d)—

13                           (i) in the heading for the subsection, by  
14                           striking “AGENTS” and inserting “AGENTS  
15                           AND TOXINS”; and

16                           (ii) in the heading for paragraph (1),  
17                           by striking “AGENTS” and inserting  
18                           “AGENTS AND TOXINS”; and

19                   (D) in the heading for subsection (e), by  
20                   striking “AGENTS” and inserting “AGENTS AND  
21                   TOXINS”.

22           (c) *REPORT TO CONGRESS.*—Not later than one year  
23 after the date of the enactment of this Act, the Secretary  
24 of Health and Human Services, after consultation with

1 *other appropriate Federal agencies, shall submit to the Con-*  
2 *gress a report that—*

3 *(1) describes the extent to which there has been*  
4 *compliance by governmental and private entities with*  
5 *applicable regulations under section 511 of the*  
6 *Antiterrorism and Effective Death Penalty Act of*  
7 *1996 (Public Law 104–132), including the extent of*  
8 *compliance before the date of the enactment of this*  
9 *Act, and including the extent of compliance with reg-*  
10 *ulations promulgated after such date of enactment;*

11 *(2) describes the future plans of the Secretary for*  
12 *determining compliance with regulations under such*  
13 *section 511 and for taking appropriate enforcement*  
14 *actions; and*

15 *(3) provides any recommendations of the Sec-*  
16 *retary for administrative or legislative initiatives re-*  
17 *garding such section 511.*

## 18 **TITLE II—CABLE TELEVISION**

### 19 **PRIVACY PROVISIONS**

#### 20 **SEC. 201. SCOPE OF COMMUNICATIONS ACT PROVISION.**

21 *Section 631 of the Communications Act of 1934 (47*  
22 *U.S.C. 551) is amended—*

23 *(1) in subsection (a)(1)(E), by striking “and*  
24 *(h)” and inserting “and (h)(2)”;*

1           (2) in subsection (a)(2), by striking “, other than  
2       subsection (h)”;

3           (3) in subsection (c)(1), by inserting “and sub-  
4       section (h)” after “paragraph (2)”; and

5           (4) by striking subsection (h) and inserting the  
6       following:

7           “(h)(1) Except as provided in paragraph (2), nothing  
8       in this section restricts, impairs, conditions, or otherwise  
9       affects the authority of a government entity to obtain per-  
10       sonally identifiable information concerning a subscriber  
11       from a multichannel video programming distributor or  
12       other person pursuant to chapters 119, 121, and 206 of title  
13       18, United States Code.

14          “(2) A government entity may obtain information col-  
15       lected and maintained by a multichannel video program-  
16       ming distributor or other person concerning the selection  
17       of video programming by a subscriber of any multichannel  
18       video programming distributor pursuant to a court order  
19       only if, in the court proceeding relevant to such court  
20       order—

21               “(A) such entity offers clear and convincing evi-  
22       dence that the subject of the information is reasonably  
23       suspected of engaging in criminal activity and that  
24       the information sought would be material evidence in  
25       the case; and

1           “(B) the subject of the information is afforded  
2           the opportunity to appear and contest such entity’s  
3           claim.”.

4           **TITLE III—NUCLEAR FACILITY**  
5           **SECURITY**

6           **SEC. 301. CARRYING OF FIREARMS BY LICENSEE EMPLOY-**  
7           **EES.**

8           Section 161 k. of the Atomic Energy Act of 1954 (42  
9           U.S.C. 2201(k)) is amended to read as follows:

10           “k. authorize such of its members, officers, and  
11           employees as it deems necessary in the interest of the  
12           common defense and security to carry firearms while  
13           in the discharge of their official duties. The Commis-  
14           sion may also authorize—

15                   “(1) such of those employees of its contrac-  
16                   tors and subcontractors (at any tier) engaged in  
17                   the protection of property under the jurisdiction  
18                   of the United States located at facilities owned  
19                   by or contracted to the United States or being  
20                   transported to or from such facilities as it deems  
21                   necessary in the interests of the common defense  
22                   and security; and

23                   “(2) such of those employees of persons li-  
24                   censed or certified by the Commission (including  
25                   employees of contractors of licensees or certificate



1           *holders) engaged in the protection of property of*  
2           *(A) facilities owned or operated by a Commis-*  
3           *sion licensee or certificate holder that are des-*  
4           *ignated by the Commission, or (B) property of*  
5           *significance to the common defense and security*  
6           *located at facilities owned or operated by a Com-*  
7           *mission licensee or certificate holder or being*  
8           *transported to or from such facilities;*  
9           *to carry firearms while in the discharge of their offi-*  
10          *cial duties. A person authorized to carry firearms*  
11          *under this subsection may, while in the performance*  
12          *of, and in connection with, official duties, make ar-*  
13          *rests without warrant for any offense against the*  
14          *United States committed in that person's presence or*  
15          *for any felony cognizable under the laws of the United*  
16          *States if that person has reasonable grounds to believe*  
17          *that the individual to be arrested has committed or*  
18          *is committing such felony. An employee of a con-*  
19          *tractor or subcontractor or of a Commission licensee*  
20          *or certificate holder (or a contractor of a licensee or*  
21          *certificate holder) authorized to carry firearms under*  
22          *this subsection may make such arrests only when the*  
23          *individual to be arrested is within, or in direct flight*  
24          *from, the area of such offense. A person granted au-*  
25          *thority to make arrests by this subsection may exer-*

1       *cise that authority only in the enforcement of laws re-*  
2       *garding the property of the United States in the cus-*  
3       *tody of the Department of Energy, the Nuclear Regu-*  
4       *latory Commission, or a contractor of the Department*  
5       *of Energy or Nuclear Regulatory Commission or of a*  
6       *licensee or certificate holder of the Commission, laws*  
7       *applicable to facilities owned or operated by a Com-*  
8       *mission licensee or certificate holder that are des-*  
9       *ignated by the Commission pursuant to this sub-*  
10      *section and property of significance to the common*  
11      *defense and security that is in the custody of a li-*  
12      *censee or certificate holder or a contractor of a li-*  
13      *censee or certificate holder of the Commission, or any*  
14      *provision of this Act that may subject an offender to*  
15      *a fine, imprisonment, or both. The arrest authority*  
16      *conferred by this subsection is in addition to any ar-*  
17      *rest authority under other laws. The Secretary and*  
18      *the Commission, with the approval of the Attorney*  
19      *General, shall issue guidelines to implement this sub-*  
20      *section;”.*

21   **SEC. 302. UNAUTHORIZED INTRODUCTION OF DANGEROUS**  
22    **WEAPONS.**

23       *Section 229 a. of the Atomic Energy Act of 1954 (42*  
24      *U.S.C. 2278a(a)) is amended by adding after “custody of*  
25      *the Commission” the following: “or subject to its licensing*

1 *authority or to certification by the Commission under this*  
2 *Act or any other Act”.*

3 **SEC. 303. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

4 *Section 236 a. of the Atomic Energy Act of 1954 (42*  
5 *U.S.C. 2284(a)) is amended to read as follows:*

6 *“a. Any person who intentionally and willfully de-*  
7 *stroys or causes physical damage to, or who intentionally*  
8 *and willfully attempts to destroy or cause physical damage*  
9 *to—*

10 *“(1) any production facility or utilization facil-*  
11 *ity licensed under this Act;*

12 *“(2) any nuclear waste storage, treatment, or*  
13 *disposal facility licensed under this Act;*

14 *“(3) any nuclear fuel for a utilization facility li-*  
15 *censed under this Act or any spent nuclear fuel from*  
16 *such a facility;*

17 *“(4) any uranium enrichment or nuclear fuel*  
18 *fabrication facility licensed or certified by the Nuclear*  
19 *Regulatory Commission; or*

20 *“(5) any production, utilization, waste storage,*  
21 *waste treatment, waste disposal, uranium enrichment,*  
22 *or nuclear fuel fabrication facility subject to licensing*  
23 *or certification under this Act during its construction*  
24 *where the destruction or damage caused or attempted*

1        *to be caused could affect public health and safety dur-*  
2        *ing the operation of the facility,*  
3        *shall be fined not more than \$1,000,000 or imprisoned for*  
4        *up to life in prison without parole, or both.”.*

5        **SEC. 304. ASSESSMENT OF VULNERABILITIES.**

6        *The Nuclear Regulatory Commission shall conduct a*  
7        *study to assess the vulnerability of nuclear facilities cer-*  
8        *tified by the Nuclear Regulatory Commission to potential*  
9        *terrorist attacks. The study shall include—*

10                *(1) an assessment of the design basis threat;*

11                *(2) an assessment of potential vulnerability of*  
12        *various classes of such facilities;*

13                *(3) an identification of important protection*  
14        *measures for both the near term and long term;*

15                *(4) an assessment of physical, cyber, biochemical,*  
16        *and other terrorist threats; and*

17                *(5) recommendations for additional studies, re-*  
18        *search and development, testing, and protections re-*  
19        *quired to address the threats identified.*

20        *An initial report identifying immediate concerns and pro-*  
21        *tection measures shall be transmitted to the Congress not*  
22        *later than 90 days after the date of the enactment of this*  
23        *Act. A final report on the study shall be transmitted to the*  
24        *Congress not later than 270 days after the date of the enact-*  
25        *ment of this Act.*

1 **SEC. 305. DESIGN BASIS THREAT.**

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

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

6       “a. *The Nuclear Regulatory Commission, not later*  
7 *than 60 days after the date of the enactment of this section,*  
8 *after consultation with the Secretary of Defense, the Direc-*  
9 *tor of Central Intelligence, the Director of the Federal Bu-*  
10 *reau of Investigation, the National Security Advisor, the*  
11 *Director of Homeland Security (or any successor official),*  
12 *and any other appropriate Federal, State, or nongovern-*  
13 *mental entities, shall commence a rulemaking to consider*  
14 *changes to the design basis threat for facilities licensed by*  
15 *the Commission under this Act. Within 1 year after the date*  
16 *of the enactment of this section, the Commission shall issue*  
17 *a final rule revising the design basis threat and associated*  
18 *regulations.*

19       “b. *Regulations issued under this section shall take*  
20 *into account—*

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

22               “(2) *the potential for attack on facilities by mul-*  
23 *tiple coordinated teams totaling in the aggregate at*  
24 *least 20 individuals;*

25               “(3) *the potential for assistance in an attack*  
26 *from several persons employed at the facility;*

1           “(4) the potential for suicide attacks;

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

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

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

7           “(8) the threat of fires, especially fires of long  
8           duration; and

9           “(9) protection of spent fuel storage pools and  
10          dry cask storage, including after reactor closure.

11          “c. Regulations issued under this section shall establish  
12          requirements for licensees relating to construction, oper-  
13          ation, security procedures, and emergency response, and  
14          shall require conforming amendments to existing licenses.

15          “d. Regulations issued under this section shall require  
16          armed escorts for all spent fuel shipments, capable of repel-  
17          ling attacks by a large number of attackers working as sev-  
18          eral coordinated teams and using sophisticated techniques  
19          and equipment.

20          “e. (1) Regulations issued under this section shall in-  
21          clude the establishment of an Operational Safeguards Re-  
22          sponse Evaluation program, whose Director shall report di-  
23          rectly to the Nuclear Regulatory Commission, which shall  
24          ensure that the operational safeguards response of each fa-  
25          cility described in paragraph (2) is tested at least once

1 every 2 years to determine whether the design basis threat  
2 factors identified in regulations issued under this section  
3 have been adequately addressed.

4 “(2) Facilities subject to testing under paragraph (1)  
5 include commercial nuclear powerplants, research reactors,  
6 spent fuel storage facilities and associated support facilities  
7 and equipment, and any other licensed facility the Nuclear  
8 Regulatory Commission considers appropriate.

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

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

“Sec. 170C. Design basis threat.”.

**Union Calendar No. 148**

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 3016**

**[Report No. 107-231, Part I]**

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**A BILL**

To amend the Antiterrorism and Effective Death Penalty Act of 1996 with respect to the responsibilities of the Secretary of Health and Human Services regarding biological agents and toxins, and to amend title 18, United States Code, with respect to such agents and toxins, to clarify the application of cable television system privacy requirements to new cable services, to strengthen security at certain nuclear facilities, and for other purposes.

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OCTOBER 16, 2001

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed