

TITLE VI—NUCLEAR MATTERS

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1 **TITLE VI—NUCLEAR MATTERS**2 **Subtitle A—Price-Anderson Act**
3 **Amendments**4 **SEC. 601. SHORT TITLE.**

5 This subtitle may be cited as the “Price-Anderson
6 Amendments Act of 2005”.

1 **SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.**

2 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
3 COMMISSION LICENSEES.—Section 170 c. of the Atomic
4 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

5 (1) in the subsection heading, by striking “LI-
6 CENSES” and inserting “LICENSEES”; and

7 (2) by striking “December 31, 2003” each
8 place it appears and inserting “December 31,
9 2025”.

10 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
11 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
12 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
13 by striking “December 31, 2006” and inserting “Decem-
14 ber 31, 2025”.

15 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
16 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
17 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-
18 gust 1, 2002” each place it appears and inserting “Decem-
19 ber 31, 2025”.

20 **SEC. 603. MAXIMUM ASSESSMENT.**

21 Section 170 of the Atomic Energy Act of 1954 (42
22 U.S.C. 2210) is amended—

23 (1) in the second proviso of the third sentence
24 of subsection b.(1)—

25 (A) by striking “\$63,000,000” and insert-
26 ing “\$95,800,000”; and

1 (B) by striking “\$10,000,000 in any 1
2 year” and inserting “\$15,000,000 in any 1 year
3 (subject to adjustment for inflation under sub-
4 section t.)”; and
5 (2) in subsection t.(1)—

6 (A) by inserting “total and annual” after
7 “amount of the maximum”;

8 (B) by striking “the date of the enactment
9 of the Price-Anderson Amendments Act of
10 1988” and inserting “August 20, 2003”; and

11 (C) in subparagraph (A), by striking “such
12 date of enactment” and inserting “August 20,
13 2003”.

14 **SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

15 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
16 CONTRACTORS.—Section 170 d. of the Atomic Energy Act
17 of 1954 (42 U.S.C. 2210(d)) (as amended by section
18 602(b)) is amended by striking paragraph (2) and insert-
19 ing the following:

20 “(2) In an agreement of indemnification entered into
21 under paragraph (1), the Secretary—

22 “(A) may require the contractor to provide and
23 maintain financial protection of such a type and in
24 such amounts as the Secretary determines to be ap-

1 appropriate to cover public liability arising out of or in
2 connection with the contractual activity; and

3 “(B) shall indemnify the persons indemnified
4 against the liability above the amount of the finan-
5 cial protection required, in the amount of
6 \$10,000,000,000 (subject to adjustment for inflation
7 under subsection t.) in the aggregate, for all persons
8 indemnified in connection with the contract and for
9 each nuclear incident, including such legal expenses
10 incurred by the contractor as are approved by the
11 Secretary.”.

12 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
13 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as
14 amended by section 602(b)) is amended by striking para-
15 graph (3) and inserting the following:

16 “(3) All agreements of indemnification under which
17 the Department of Energy (or predecessor agencies) may
18 be required to indemnify any person under this section
19 shall be considered to be amended, on the date of enact-
20 ment of the Price-Anderson Amendments Act of 2005, to
21 reflect the amount of indemnity for public liability and any
22 applicable financial protection required of the contractor
23 under this subsection.”.

1 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
3 amended—

4 (1) by striking “the maximum amount of finan-
5 cial protection required under subsection b. or”; and

6 (2) by striking “paragraph (3) of subsection d.,
7 whichever amount is more” and inserting “para-
8 graph (2) of subsection d.”.

9 **SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.**

10 (a) AMOUNT OF INDEMNIFICATION.—Section 170
11 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
12 2210(d)(5)) is amended by striking “\$100,000,000” and
13 inserting “\$500,000,000”.

14 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
16 amended by striking “\$100,000,000” and inserting
17 “\$500,000,000”.

18 **SEC. 606. REPORTS.**

19 Section 170 p. of the Atomic Energy Act of 1954 (42
20 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
21 and inserting “December 31, 2021”.

22 **SEC. 607. INFLATION ADJUSTMENT.**

23 Section 170 t. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2210(t)) (as amended by section 603(2)) is
25 amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3); and

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) The Secretary shall adjust the amount of indem-
6 nification provided under an agreement of indemnification
7 under subsection d. not less than once during each 5-year
8 period following July 1, 2003, in accordance with the ag-
9 gregate percentage change in the Consumer Price Index
10 since—

11 “(A) that date, in the case of the first adjust-
12 ment under this paragraph; or

13 “(B) the previous adjustment under this para-
14 graph.”.

15 **SEC. 608. TREATMENT OF MODULAR REACTORS.**

16 Section 170 b. of the Atomic Energy Act of 1954 (42
17 U.S.C. 2210(b)) (as amended by section 603) is amended
18 by adding at the end the following:

19 “(5)(A) For purposes of this section only, the Com-
20 mission shall consider a combination of facilities described
21 in subparagraph (B) to be a single facility having a rated
22 capacity of 100,000 electrical kilowatts or more.

23 “(B) A combination of facilities referred to in sub-
24 paragraph (A) is 2 or more facilities located at a single
25 site, each of which has a rated capacity of not less than

1 100,000 electrical kilowatts and not more than 300,000
2 electrical kilowatts, with a combined rated capacity of not
3 more than 1,300,000 electrical kilowatts.”.

4 **SEC. 609. APPLICABILITY.**

5 The amendments made by sections 603, 604, and 605
6 do not apply to a nuclear incident that occurs before the
7 date of enactment of this Act.

8 **SEC. 610. CIVIL PENALTIES.**

9 (a) REPEAL OF AUTOMATIC REMISSION.—Section
10 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.
11 2282a(b)(2)) is amended by striking the last sentence.

12 (b) LIMITATION FOR NOT-FOR-PROFIT INSTITU-
13 TIONS.—Section 234A of the Atomic Energy Act of 1954
14 (42 U.S.C. 2282a) is amended by striking subsection d.
15 and inserting the following:

16 “d.(1) Notwithstanding subsection a., in the case of
17 any not-for-profit contractor, subcontractor, or supplier,
18 the total amount of civil penalties paid under subsection
19 a. may not exceed the total amount of fees paid within
20 any 1-year period (as determined by the Secretary) under
21 the contract under which the violation occurs.

22 “(2) In this section, the term ‘not-for-profit’ means
23 that no part of the net earnings of the contractor, subcon-
24 tractor, or supplier inures to the benefit of any natural
25 person or for-profit artificial person.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall not apply to any violation of the Atomic
3 Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring
4 under a contract entered into before the date of enactment
5 of this Act.

6 **Subtitle B—General Nuclear**
7 **Matters**

8 **SEC. 621. LICENSES.**

9 Section 103 c. of the Atomic Energy Act of 1954 (42
10 U.S.C. 2133(c)) is amended by inserting “beginning on
11 the date of authorization to commence operations” after
12 “forty years”.

13 **SEC. 622. NRC TRAINING PROGRAM.**

14 (a) IN GENERAL.—In order to maintain the human
15 resource investment and infrastructure of the United
16 States in the nuclear sciences, health physics, and engi-
17 neering fields, in accordance with the statutory authorities
18 of the Nuclear Regulatory Commission relating to the ci-
19 vilian nuclear energy program, the Nuclear Regulatory
20 Commission shall carry out a training and fellowship pro-
21 gram to address shortages of individuals with critical nu-
22 clear safety regulatory skills.

23 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to be appropriated to the Nuclear Regulatory
25 Commission to carry out this section \$1,000,000 for each

1 of fiscal years 2006 through 2010, to remain available
2 until expended.

3 **SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.**

4 Section 161 w. of the Atomic Energy Act of 1954
5 (42 U.S.C. 2201(w)) is amended—

6 (1) by striking “for or is issued” and all that
7 follows through “1702” and inserting “to the Com-
8 mission for, or is issued by the Commission, a li-
9 cense or certificate”;

10 (2) by striking “483a” and inserting “9701”;
11 and

12 (3) by striking “, of applicants for, or holders
13 of, such licenses or certificates”.

14 **SEC. 624. ELIMINATION OF PENSION OFFSET.**

15 Section 161 of the Atomic Energy Act of 1954 (42
16 U.S.C. 2201) is amended by adding at the end the fol-
17 lowing:

18 “y. exempt from the application of sections 8344 and
19 8468 of title 5, United States Code, an annuitant who was
20 formerly an employee of the Commission who is hired by
21 the Commission as a consultant, if the Commission finds
22 that the annuitant has a skill that is critical to the per-
23 formance of the duties of the Commission.”.

1 **SEC. 625. ANTITRUST REVIEW.**

2 (a) IN GENERAL.—Section 105 of the Atomic Energy
3 Act of 1954 (42 U.S.C. 2135) is amended by adding at
4 the end the following:

5 “d. ANTITRUST LAWS.—

6 “(1) NOTIFICATION.—Except as provided in
7 paragraph (4), when the Commission proposes to
8 issue a license under section 103 or 104 b., the
9 Commission shall notify the Attorney General of the
10 proposed license and the proposed terms and condi-
11 tions of the license.

12 “(2) ACTION BY THE ATTORNEY GENERAL.—
13 Within a reasonable time (but not more than 90
14 days) after receiving notification under paragraph
15 (1), the Attorney General shall submit to the Com-
16 mission and publish in the Federal Register a deter-
17 mination whether, in the judgment of the Attorney
18 General, the proposed license would tend to create or
19 maintain a situation inconsistent with any antitrust
20 law of the United States.

21 “(3) INFORMATION.—On the request of the At-
22 torney General, the Commission shall furnish such
23 information as the Attorney General determines to
24 be appropriate to enable the Attorney General to
25 make the determination under paragraph (2).

1 “(4) APPLICABILITY.—This subsection shall not
2 apply to such classes or type of licenses as the Com-
3 mission, with the approval of the Attorney General,
4 determines would not significantly affect the activi-
5 ties of a licensee under any antitrust law of the
6 United States.”.

7 (b) CONFORMING AMENDMENT.—Section 105 c. of
8 the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is
9 amended by adding at the end the following:

10 “(9) APPLICABILITY.—This subsection does not
11 apply to an application for a license to construct or
12 operate a utilization facility under section 103 or
13 104 b. that is filed on or after the date of enactment
14 of subsection d..”.

15 **SEC. 626. DECOMMISSIONING.**

16 Section 161 i. of the Atomic Energy Act of 1954 (42
17 U.S.C. 2201(i)) is amended—

18 (1) by striking “it may deem necessary (1) to
19 protect” and inserting the following: “the Commis-
20 sion considers necessary—

21 “(1) to protect”;

22 (2) by striking “this Act, (2) to guard” and in-
23 serting the following: “this Act;

24 “(2) to guard”;

1 (3) by striking “security, and (3) to govern”
2 and inserting the following: “security;
3 “(3) to govern”; and
4 (4) by inserting “and” before the semicolon at
5 the end; and
6 (5) by adding at the end the following:
7 “(4) to ensure that sufficient funds will be
8 available for the decommissioning of any production
9 or utilization facility licensed under section 103 or
10 104 b., including standards and restrictions gov-
11 erning the control, maintenance, use, and disburse-
12 ment by any former licensee under this Act that has
13 control over any fund for the decommissioning of the
14 facility;”.

15 **SEC. 627. MEDICAL ISOTOPE PRODUCTION.**

16 Section 134 of the Atomic Energy Act of 1954 (42
17 U.S.C. 2160d) is amended—

18 (1) by redesignating subsections a. and b. as
19 subsection b. and a., respectively, and moving the
20 subsections so as to appear in alphabetical order;
21 (2) in subsection a. (as redesignated by para-
22 graph (1)), by striking “a. As used in this section—
23 ” and inserting the following:
24 “a. DEFINITIONS.—In this section—”;

1 (3) in subsection b. (as redesignated by para-
2 graph (1), by striking “b. The Commission” and in-
3 serting the following:

4 “b. RESTRICTIONS ON EXPORTS.—Except as pro-
5 vided in subsection c., the Commission”; and

6 (4) by adding at the end the following:

7 “c. MEDICAL ISOTOPE PRODUCTION.—

8 “(1) DEFINITIONS.—In this subsection:

9 “(A) MEDICAL ISOTOPE.—The term ‘med-
10 ical isotope’ includes Molybdenum 99, Iodine
11 131, Xenon 133, and other radioactive mate-
12 rials used to produce a radiopharmaceutical for
13 diagnostic, therapeutic procedures or for re-
14 search and development.

15 “(B) RADIOPHARMACEUTICAL.—The term
16 ‘radiopharmaceutical’ means a radioactive iso-
17 tope that—

18 “(i) contains byproduct material com-
19 bined with chemical or biological material;
20 and

21 “(ii) is designed to accumulate tempo-
22 rarily in a part of the body for—

23 “(I) therapeutic purposes; or

1 “(II) enabling the production of
2 a useful image for use in a diagnosis
3 of a medical condition.

4 “(C) RECIPIENT COUNTRY.—The term ‘re-
5 cipient country’ means Canada, Belgium,
6 France, Germany, and the Netherlands.

7 “(2) LICENSES.—The Commission may issue a
8 license authorizing the export (including shipment to
9 and use at intermediate and ultimate consignees
10 specified in the license) to a recipient country of
11 highly enriched uranium for medical isotope produc-
12 tion if, in addition to any other requirements of this
13 Act (except subsection b.), the Commission deter-
14 mines that—

15 “(A) a recipient country that supplies an
16 assurance letter to the United States in connec-
17 tion with the consideration by the Commission
18 of the export license application has informed
19 the United States that any intermediate con-
20 signees and the ultimate consignee specified in
21 the application are required to use the highly
22 enriched uranium solely to produce medical iso-
23 topes; and

1 “(B) the highly enriched uranium for med-
2 ical isotope production will be irradiated only in
3 a reactor in a recipient country that—

4 “(i) uses an alternative nuclear reac-
5 tor fuel; or

6 “(ii) is the subject of an agreement
7 with the United States to convert to an al-
8 ternative nuclear reactor fuel when alter-
9 native nuclear reactor fuel can be used in
10 the reactor.

11 “(3) REVIEW OF PHYSICAL PROTECTION RE-
12 QUIREMENTS.—

13 “(A) IN GENERAL.—The Commission shall
14 review the adequacy of physical protection re-
15 quirements that, as of the date of an applica-
16 tion under paragraph (2), are applicable to the
17 transportation and storage of highly enriched
18 uranium for medical isotope production or con-
19 trol of residual material after irradiation and
20 extraction of medical isotopes.

21 “(B) IMPOSITION OF ADDITIONAL RE-
22 QUIREMENTS.—If the Commission determines
23 that additional physical protection requirements
24 are necessary (including a limit on the quantity
25 of highly enriched uranium that may be con-

1 tained in a single shipment), the Commission
2 shall impose the requirements as license condi-
3 tions or through other appropriate means.

4 “(4) FIRST REPORT TO CONGRESS.—

5 “(A) NAS STUDY.—The Secretary shall
6 enter into an arrangement with the National
7 Academy of Sciences under which the National
8 Academy of Sciences shall conduct a study to
9 determine—

10 “(i) the feasibility of procuring sup-
11 plies of medical isotopes from commercial
12 sources that do not use highly enriched
13 uranium;

14 “(ii) the current and projected de-
15 mand and availability of medical isotopes
16 in regular current domestic use;

17 “(iii) the progress being made by the
18 Department of Energy and other agencies
19 and entities to eliminate all use of highly
20 enriched uranium in reactor fuel, reactor
21 targets, and medical isotope production fa-
22 cilities; and

23 “(iv) the potential cost differential in
24 medical isotope production in the reactors
25 and target processing facilities if the prod-

1 ucts were derived from production systems
2 that do not involve fuels and targets with
3 highly enriched uranium.

4 “(B) FEASIBILITY.—For the purpose of
5 this subsection, the use of low enriched uranium
6 to produce medical isotopes shall be determined
7 to be feasible if—

8 “(i) low enriched uranium targets
9 have been developed and demonstrated for
10 use in the reactors and target processing
11 facilities that produce significant quantities
12 of medical isotopes to serve United States
13 needs for such isotopes;

14 “(ii) sufficient quantities of medical
15 isotopes are available from low enriched
16 uranium targets and fuel to meet United
17 States domestic needs; and

18 “(iii) the average anticipated total
19 cost increase from production of medical
20 isotopes in the facilities without use of
21 highly enriched uranium is less than 10
22 percent.

23 “(C) REPORT BY THE SECRETARY.—Not
24 later than 5 years after the date of enactment

1 of the Energy Policy Act of 2005, the Secretary
2 shall submit to Congress a report that—

3 “(i) contains the findings of the Na-
4 tional Academy of Sciences made in the
5 study under subparagraph (A); and

6 “(ii) discloses the existence of any
7 commitments from commercial producers
8 to provide, not later than the date that is
9 4 years after the date of submission of the
10 report, domestic requirements for medical
11 isotopes without use of highly enriched
12 uranium consistent with the feasibility cri-
13 teria described in subparagraph (B).

14 “(5) SECOND REPORT TO CONGRESS.—If the
15 National Academy of Sciences determines in the
16 study under paragraph (4)(A) that the procurement
17 of supplies of medical isotopes from commercial
18 sources that do not use highly enriched uranium is
19 feasible, but the Secretary is unable to report the ex-
20 istence of commitments under paragraph (4)(C)(ii),
21 not later than the date that is 6 years after the date
22 of enactment of the Energy Policy Act of 2005, the
23 Secretary shall submit to Congress a report that de-
24 scribes options for developing domestic supplies of
25 medical isotopes in quantities that are adequate to

1 meet domestic demand without the use of highly en-
2 riched uranium consistent with the cost increase de-
3 scribed in paragraph (4)(B)(iii).

4 “(6) CERTIFICATION.—At such time as com-
5 mercial facilities that do not use highly enriched
6 uranium are capable of meeting domestic require-
7 ments for medical isotopes, within the cost increase
8 described in paragraph (4)(B)(iii) and without im-
9 pairing the reliable supply of medical isotopes for
10 domestic use, the Secretary shall submit to Congress
11 a certification to that effect.

12 “(7) TERMINATION OF REVIEW.—After the Sec-
13 retary submits a certification under paragraph (6),
14 the Commission shall, by rule, terminate the review
15 by the Commission of export license applications
16 under this subsection.”.

17 **SEC. 628. SAFE DISPOSAL OF GREATER-THAN-CLASS C RA-**
18 **DIOACTIVE WASTE.**

19 (a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE
20 STORAGE FACILITY.—The Secretary shall provide to Con-
21 gress official notification of the final designation of an en-
22 tity within the Department to have the responsibility of
23 completing activities needed to provide a facility for safely
24 disposing of all greater-than-Class C low-level radioactive
25 waste.

1 (b) REPORTS AND PLANS.—

2 (1) REPORT ON PERMANENT DISPOSAL FACIL-
3 ITY.—

4 (A) PLAN REGARDING COST AND SCHED-
5 ULE FOR COMPLETION OF EIS AND ROD.—Not
6 later than 1 year after the date of enactment of
7 this Act, the Secretary, in consultation with
8 Congress, shall submit to Congress a report
9 containing an estimate of the cost and a pro-
10 posed schedule to complete an environmental
11 impact statement and record of decision for a
12 permanent disposal facility for greater-than-
13 Class C radioactive waste.

14 (B) ANALYSIS OF ALTERNATIVES.—Before
15 the Secretary makes a final decision on the dis-
16 posal alternative or alternatives to be imple-
17 mented, the Secretary shall—

18 (i) submit to Congress a report that
19 describes all alternatives under consider-
20 ation, including all information required in
21 the comprehensive report making rec-
22 ommendations for ensuring the safe dis-
23 posal of all greater-than-Class C low-level
24 radioactive waste that was submitted by

1 the Secretary to Congress in February
2 1987; and

3 (ii) await action by Congress.

4 (2) SHORT-TERM PLAN FOR RECOVERY AND
5 STORAGE.—

6 (A) IN GENERAL.—Not later than 180
7 days after the date of enactment of this Act,
8 the Secretary shall submit to Congress a plan
9 to ensure the continued recovery and storage of
10 greater-than-Class C low-level radioactive sealed
11 sources that pose a security threat until a per-
12 manent disposal facility is available.

13 (B) CONTENTS.—The plan shall address
14 estimated cost, resource, and facility needs.

15 **SEC. 629. PROHIBITION ON NUCLEAR EXPORTS TO COUN-**
16 **TRIES THAT SPONSOR TERRORISM.**

17 (a) IN GENERAL.—Section 129 of the Atomic Energy
18 Act of 1954 (42 U.S.C. 2158) is amended—

19 (1) by inserting “a.” before “No nuclear mate-
20 rials and equipment”; and

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

22 “b.(1)(A) Notwithstanding any other provision of
23 law, including section 121, and except as provided in para-
24 graphs (2) and (3), no nuclear materials and equipment
25 or sensitive nuclear technology, including items and assist-

1 ance authorized by section 57 b. and regulated under part
2 810 of title 10, Code of Federal Regulations (or a suc-
3 cessor regulation), and nuclear-related items on the Com-
4 merce Control List maintained under part 774 of title 15
5 of the Code of Federal Regulations (or a successor regula-
6 tion), shall be exported or reexported, or transferred or
7 retransferred, whether directly or indirectly, and no Fed-
8 eral agency shall issue any license, approval, or authoriza-
9 tion for the export or reexport, or transfer, or retransfer,
10 whether directly or indirectly, of the items or assistance
11 described in this paragraph to any country the government
12 of which has been identified by the Secretary of State as
13 engaged in state sponsorship of terrorist activities.

14 “(B) Countries described in subparagraph (A) spe-
15 cifically include any country the government of which has
16 been determined by the Secretary of State to have repeat-
17 edly provided support for acts of international terrorism
18 under—

19 “(i) section 620A(a) of the Foreign Assistance
20 Act of 1961 (22 U.S.C. 2371(a));

21 “(ii) section 6(j)(1) of the Export Administra-
22 tion Act of 1979 (50 U.S.C. App. 2405(j)(1)); or

23 “(iii) section 40(d) of the Arms Export Control
24 Act (22 U.S.C. 2780(d)).

1 “(2) This subsection does not apply to exports, reex-
2 ports, transfers, or retransfers of radiation monitoring
3 technologies, surveillance equipment, seals, cameras, tam-
4 per-indication devices, nuclear detectors, monitoring sys-
5 tems, or equipment necessary to safely store, transport,
6 or remove hazardous materials, whether such items, serv-
7 ices, or information are regulated by the Department of
8 Energy, the Department of Commerce, or the Commis-
9 sion, except to the extent that the technologies, equipment,
10 seals, cameras, devices, detectors, or systems are available
11 for use in the design or construction of nuclear reactors
12 or nuclear weapons.

13 “(3) The President may waive the application of
14 paragraph (1) to a country if the President determines
15 and certifies to Congress that—

16 “(A) the waiver will not result in any increased
17 risk that the country receiving the waiver will ac-
18 quire nuclear weapons, nuclear reactors, or any ma-
19 terials or components of nuclear weapons; and

20 “(B)(i) the government of the country has not
21 within the preceding 12-month period willfully aided
22 or abetted the international proliferation of nuclear
23 explosive devices to individuals or groups or willfully
24 aided and abetted an individual or groups in acquir-
25 ing unsafeguarded nuclear materials;

1 “(ii) in the judgment of the President, the gov-
2 ernment of the country has provided adequate,
3 verifiable assurances that the country will cease its
4 support for acts of international terrorism;

5 “(iii) the waiver of paragraph (1) is in the vital
6 national security interest of the United States; or

7 “(iv) the waiver of paragraph (1) is essential to
8 prevent or respond to a serious radiological hazard
9 in the country receiving the waiver that may or does
10 threaten public health and safety.”.

11 (b) APPLICABILITY TO EXPORTS APPROVED FOR
12 TRANSFER BUT NOT TRANSFERRED.—Subsection b. of
13 section 129 of Atomic Energy Act of 1954 (as added by
14 subsection (a)), shall apply with respect to exports that
15 have been approved for transfer as of the date of enact-
16 ment of this Act but have not yet been transferred as of
17 that date.

18 **Subtitle C—Nuclear Security**

19 **SEC. 641. NUCLEAR FACILITY THREATS.**

20 (a) STUDY.—

21 (1) IN GENERAL.—The President, in consulta-
22 tion with the Nuclear Regulatory Commission (re-
23 ferred to in this subtitle as the “Commission”) and
24 other appropriate Federal, State, and local agencies
25 and private entities, shall conduct a study to identify

1 the types of threats that pose an appreciable risk to
2 the security of each class of facilities licensed by the
3 Commission under the Atomic Energy Act of 1954
4 (42 U.S.C. 2011 et seq.).

5 (2) CONSIDERATION.—In conducting the study
6 under paragraph (1), the President shall take into
7 consideration—

8 (A) the events of September 11, 2001;

9 (B) an assessment of physical, biochemical,
10 cyber, and other terrorist threats;

11 (C) the potential for attacks on facilities
12 by multiple, coordinated teams of a large num-
13 ber of individuals;

14 (D) the potential for assistance in an at-
15 tack on a facility by a person employed at the
16 facility;

17 (E) the potential for suicide attacks;

18 (F) the potential for water-based and air-
19 based attacks;

20 (G) the potential use of explosive devices of
21 considerable size and other modern weaponry;

22 (H) the potential for an attack by a person
23 with knowledge of facility operations;

24 (I) the potential for fires, especially fires of
25 long duration;

1 (J) the potential for attacks on spent fuel
2 shipments by multiple, coordinated teams of a
3 large number of individuals;

4 (K) the adequacy of planning to protect
5 the public health and safety at and around nu-
6 clear facilities, as appropriate, in the event of a
7 terrorist attack against a nuclear facility; and

8 (L) the potential for theft and diversion of
9 nuclear materials from the facilities.

10 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
11 later than 180 days after the date of enactment of this
12 Act, the President shall submit to Congress and the Com-
13 mission a report that—

14 (1) summarizes the types of threats identified
15 under subsection (a); and

16 (2) classifies each type of threat identified
17 under subsection (a), in accordance with existing
18 laws (including regulations), as involving—

19 (A) an attack or destructive act (including
20 sabotage) that is—

21 (i) directed against a facility by an
22 enemy of the United States (including a
23 foreign government or person); or

24 (ii) otherwise under the responsibility
25 of the Federal Government; or

1 (B) a type of risk against which a Com-
2 mission licensee should be responsible for
3 guarding.

4 (c) FEDERAL ACTION REPORT.—

5 (1) IN GENERAL.—Not later than 90 days after
6 the date on which a report is submitted under sub-
7 section (b), the President shall submit to Congress
8 a report on actions taken, or to be taken, to address
9 the types of threats classified under subsection
10 (b)(2)(A), including an identification of any Federal,
11 State, or local agency responsible for carrying out an
12 obligation of the United States.

13 (2) CLASSIFIED ANNEX.—The report may in-
14 clude a classified annex, as the President determines
15 to be appropriate.

16 (d) REGULATIONS.—Not later than 180 days after
17 the date on which a report is submitted under subsection
18 (b), the Commission may, by rule, revise any design basis
19 threat issued before the date of enactment of this section,
20 as the Commission determines to be appropriate, taking
21 into consideration the summary and classification report
22 under subsection (b).

23 (e) PHYSICAL SECURITY PROGRAM.—

1 (1) DEFINITION OF SENSITIVE NUCLEAR FACIL-
2 ITY.—In this subsection, the term “sensitive nuclear
3 facility” includes—

- 4 (A) a commercial nuclear power plant; and
5 (B) a category I fuel cycle facility.

6 (2) ESTABLISHMENT.—The Commission shall
7 establish an operational safeguards response evalua-
8 tion program to ensure that the physical protection
9 capability and operational safeguards response for
10 sensitive nuclear facilities, as determined by the
11 Commission in accordance with the protection of the
12 health and safety of the public and the common de-
13 fense and security, is tested periodically through
14 Commission-approved or designed, observed, and
15 evaluated force-on-force exercises to determine
16 whether the ability to defeat the design basis threat
17 is being maintained.

18 (f) CONTROL OF INFORMATION.—Notwithstanding
19 any other provision of law, the Commission may promul-
20 gate any regulation under this subtitle in such manner as
21 the Commission determines to be appropriate to fully pro-
22 tect safeguards and classified national security informa-
23 tion.

24 (g) FEDERAL SECURITY COORDINATORS.—

1 (1) REGIONAL OFFICES.—Not later than 18
2 months after the date of enactment of this Act, the
3 Commission shall assign a Federal security coordi-
4 nator, employed by the Commission, to each regional
5 office of the Commission.

6 (2) RESPONSIBILITIES.—A Federal security co-
7 ordinator shall be responsible for—

8 (A) communicating with the Commission
9 and other Federal, State, and local authorities
10 regarding threats, including threats against
11 such classes of facilities as the Commission de-
12 termines to be appropriate;

13 (B) ensuring that such classes of facilities
14 as the Commission determines to be appropriate
15 maintain security consistent with the security
16 plan, in accordance with the appropriate threat
17 level; and

18 (C) assisting in the coordination of secu-
19 rity measures among the private security forces
20 at—

21 (i) such classes of facilities as the
22 Commission determines to be appropriate;
23 and

1 (ii) Federal, State, and local authori-
2 ties, as the Commission determines to be
3 appropriate.

4 (h) TRAINING PROGRAM.—The President shall estab-
5 lish a program to provide technical assistance and training
6 to Federal agencies, the National Guard, and State and
7 local law enforcement and emergency response agencies in
8 responding to threats against a designated nuclear facility.

9 **SEC. 642. FINGERPRINTING FOR CRIMINAL HISTORY**
10 **RECORD CHECKS.**

11 Section 149 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2169) is amended—

13 (1) in subsection a.—

14 (A) by striking “a. The Nuclear” and all
15 that follows through “section 147.” and insert-
16 ing the following:

17 “a. FINGERPRINTING.—

18 “(1) REQUIREMENTS.—

19 “(A) INDIVIDUALS AND ENTITIES RE-
20 QUIRED TO FINGERPRINT OTHERS.—

21 “(i) IN GENERAL.—The Commission
22 shall require each individual or entity de-
23 scribed in clause (ii) to fingerprint each in-
24 dividual described in subparagraph (B) be-
25 fore the individual described in subpara-

1 graph (B) is permitted access under sub-
2 paragraph (B).

3 “(ii) INDIVIDUALS AND ENTITIES.—
4 The individuals and entities referred to in
5 clause (i) are individuals and entities that,
6 on or before the date on which an indi-
7 vidual is permitted access under subpara-
8 graph (B)—

9 “(I) are licensed or certified to
10 engage in an activity subject to regu-
11 lation by the Commission;

12 “(II) have filed an application for
13 a license or certificate to engage in an
14 activity subject to regulation by the
15 Commission; or

16 “(III) have notified the Commis-
17 sion in writing of an intent to file an
18 application for licensing, certification,
19 permitting, or approval of a product
20 or activity subject to regulation by the
21 Commission.

22 “(B) INDIVIDUALS REQUIRED TO BE
23 FINGERPRINTED.—The Commission shall re-
24 quire to be fingerprinted any individual who—

1 “(i) is permitted unescorted access
2 to—

3 “(I) a utilization facility; or

4 “(II) radioactive material or
5 other property subject to regulation
6 by the Commission that the Commis-
7 sion determines to be of such signifi-
8 cance to the public health and safety
9 or the common defense and security
10 as to warrant fingerprinting and back-
11 ground checks; or

12 “(ii) is permitted access to safeguards
13 information under section 147.”;

14 (B) by striking “All fingerprints obtained
15 by a licensee or applicant as required in the
16 preceding sentence” and inserting the following:

17 “(2) SUBMISSION TO ATTORNEY GENERAL.—All
18 fingerprints obtained by an individual or entity as
19 required in paragraph (1)”;

20 (C) by striking “The costs of any identi-
21 fication and records check conducted pursuant
22 to the preceding sentence shall be paid by the
23 licensee or applicant.” and inserting the fol-
24 lowing:

1 “(3) COSTS.—The costs of an identification or
2 records check under paragraph (2) shall be paid by
3 the individual or entity required to conduct the
4 fingerprinting under paragraph (1)(A).”; and

5 (D) by striking “Notwithstanding any
6 other provision of law, the Attorney General
7 may provide all the results of the search to the
8 Commission, and, in accordance with regula-
9 tions prescribed under this section, the Com-
10 mission may provide such results to licensee or
11 applicant submitting such fingerprints.” and in-
12 serting the following:

13 “(4) PROVISION OF RESULTS.—Notwith-
14 standing any other provision of law—

15 “(A) the Attorney General may provide
16 any result of an identification or records check
17 under paragraph (2) to the Commission; and

18 “(B) the Commission, in accordance with
19 regulations prescribed under this section, may
20 provide the results to the individual or entity
21 required to conduct the fingerprinting under
22 paragraph (1)(A).”;
23 (2) in subsection c.—

1 (A) by striking “, subject to public notice
2 and comment, regulations—” and inserting “re-
3 quirements—”; and

4 (B) in paragraph (2)(B), by striking
5 “unescorted access to the facility of a licensee
6 or applicant” and inserting “unescorted access
7 to a utilization facility, radioactive material, or
8 other property described in subsection
9 a.(1)(B)”;

10 (3) by redesignating subsection d. as subsection
11 e.; and

12 (4) by inserting after subsection c. the fol-
13 lowing:

14 “d. BIOMETRIC METHODS.—The Commission may re-
15 quire a person or individual to conduct fingerprinting
16 under subsection a.(1) by authorizing or requiring the use
17 of any alternative biometric method for identification that
18 has been approved by—

19 “(1) the Attorney General; and

20 “(2) the Commission, by regulation.”.

1 **SEC. 643. USE OF FIREARMS BY SECURITY PERSONNEL OF**
2 **LICENSEES AND CERTIFICATE HOLDERS OF**
3 **THE COMMISSION.**

4 Section 161 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2201) is amended by adding at the end the fol-
6 lowing:

7 “y. (1) authorize security personnel of licensees and
8 certificate holders of the Commission (including employees
9 of contractors of licensees and certificate holders) to trans-
10 fer, receive, possess, transport, import, and use 1 or more
11 of the weapons, ammunition, or devices described in para-
12 graph (2)(C), if the Commission determines that—

13 “(A) the authorization is necessary to the dis-
14 charge of the official duties of the security per-
15 sonnel; and

16 “(B) the security personnel—

17 “(i) are not otherwise prohibited from pos-
18 sessing or receiving a firearm under Federal or
19 State laws pertaining to possession of firearms
20 by certain categories of persons;

21 “(ii) have successfully completed require-
22 ments established through guidelines imple-
23 menting this subsection for training in use of
24 firearms and tactical maneuvers;

25 “(iii) are engaged in the protection of—

1 “(I) facilities owned or operated by a
2 Commission licensee or certificate holder
3 that are designated by the Commission; or

4 “(II) radioactive material or other
5 property owned or possessed by a person
6 that is a licensee or certificate holder of
7 the Commission, or that is being trans-
8 ported to or from a facility owned or oper-
9 ated by such a licensee or certificate hold-
10 er, and that has been determined by the
11 Commission to be of significance to the
12 common defense and security or public
13 health and safety; and

14 “(iv) are discharging their official duties in
15 transferring, receiving, possessing, transporting,
16 or importing such weapons, ammunition, or de-
17 vices.

18 “(2) This subsection applies notwithstanding—

19 “(A) sections 922(a)(4), 922(a)(5), 922(b)(2),
20 922(b)(4), 922(o), and 925(d)(3) of title 18, United
21 States Code;

22 “(B) section 5844 of the Internal Revenue Code
23 of 1986; and

24 “(C) any provision of any State law or any rule
25 or regulation of a State or any political subdivision

1 of a State prohibiting the transfer, receipt, posses-
2 sion, transportation, importation, or use of a hand-
3 gun, a rifle or shotgun, a short-barreled shotgun, a
4 short-barreled rifle, a machinegun, a semiautomatic
5 assault weapon, ammunition for any of the weapons,
6 ammunition, or devices described in this subpara-
7 graph, or a large capacity ammunition feeding de-
8 vice.

9 “(3) The receipt, possession, transportation, importa-
10 tion, or use of weapons, ammunition, or devices under this
11 subsection shall be subject to a background check by the
12 Attorney General, based on fingerprints and including a
13 check of the system established under section 103(b) of
14 the Brady Handgun Violence Prevention Act (18 U.S.C.
15 922 note; Public Law 103–159), to determine whether the
16 person applying for the authority is prohibited from pos-
17 sessing or receiving a firearm under Federal or State law.

18 “(4) This subsection takes effect on the issuance of
19 guidelines by the Commission, with the approval of the
20 Attorney General, to govern the implementation of this
21 subsection.

22 “(5) In this subsection, the terms ‘handgun’, ‘rifle’,
23 ‘shotgun’, ‘firearm’, ‘ammunition’, ‘machinegun’, ‘short-
24 barreled shotgun’, and ‘short-barreled rifle’ have the

1 meanings given those terms in section 921(a) of title 18,
2 United States Code.”.

3 **SEC. 644. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
4 **WEAPONS.**

5 Section 229 of the Atomic Energy Act of 1954 (42
6 U.S.C. 2278a) is amended—

7 (1) by striking “SEC. 229, TRESPASS UPON
8 COMMISSION INSTALLATIONS.—” and inserting the
9 following:

10 **“SEC. 229. TRESPASS ON COMMISSION INSTALLATIONS.”;**

11 (2) by adjusting the indentations of subsections
12 a., b., and c. so as to reflect proper subsection in-
13 dentations; and

14 (3) in subsection a.—

15 (A) in the first sentence, by striking “a.
16 The” and inserting the following:

17 “a.(1) The”;

18 (B) in the second sentence, by striking
19 “Every” and inserting the following:

20 “(2) Every”; and

21 (C) in paragraph (1) (as designated by
22 subparagraph (A))—

23 (i) by striking “or in the custody” and
24 inserting “in the custody”; and

1 (ii) by inserting “, or subject to the li-
2 censing authority of the Commission or
3 certification by the Commission under this
4 Act or any other Act” before the period.

5 **SEC. 645. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

6 Section 236 of the Atomic Energy Act of 1954 (42
7 U.S.C. 2284) is amended—

8 (1) by striking “\$10,000 or imprisoned for not
9 more than 20 years, or both, and, if death results
10 to any person, shall be imprisoned for any term of
11 years or for life” each place it appears and inserting
12 “\$1,000,000 or imprisoned for up to life without pa-
13 role”; and

14 (2) in subsection a.—

15 (A) in paragraph (2), by striking “storage
16 facility” and inserting “treatment, storage, or
17 disposal facility”;

18 (B) in paragraph (3)—

19 (i) by striking “such a utilization fa-
20 cility” and inserting “a utilization facility
21 licensed under this Act”; and

22 (ii) by striking “or” at the end;

23 (C) in paragraph (4)—

24 (i) by striking “facility licensed” and
25 inserting “, uranium conversion, or nuclear

1 fuel fabrication facility licensed or cer-
2 tified”; and

3 (ii) by striking the comma at the end
4 and inserting a semicolon; and

5 (D) by inserting after paragraph (4) the
6 following:

7 “(5) any production, utilization, waste storage,
8 waste treatment, waste disposal, uranium enrich-
9 ment, uranium conversion, or nuclear fuel fabrica-
10 tion facility subject to licensing or certification
11 under this Act during construction of the facility, if
12 the destruction or damage caused or attempted to be
13 caused could adversely affect public health and safe-
14 ty during the operation of the facility;

15 “(6) any primary facility or backup facility
16 from which a radiological emergency preparedness
17 alert and warning system is activated; or

18 “(7) any radioactive material or other property
19 subject to regulation by the Commission that, before
20 the date of the offense, the Commission determines,
21 by order or regulation published in the Federal Reg-
22 ister, is of significance to the public health and safe-
23 ty or to common defense and security;”.

1 **SEC. 646. SECURE TRANSFER OF NUCLEAR MATERIALS.**

2 (a) SECURE TRANSFER.—Chapter 14 of the Atomic
3 Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended
4 by adding at the end the following:

5 **“SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.**

6 “a. SYSTEM OF DOCUMENTATION.—

7 “(1) IN GENERAL.—The Commission shall es-
8 tablish a system under which the Commission shall
9 ensure that any material described in subsection b.
10 that is transferred or received in the United States
11 under an import or export license under this Act is
12 accompanied by documentation that describes the
13 type and amount of material transferred or received.

14 “(2) BACKGROUND CHECKS.—Any individual
15 who receives or accompanies the transfer of material
16 described in subsection b. shall be subject to a secu-
17 rity background check by an appropriate Federal en-
18 tity.

19 “b. MATERIALS.—Except as otherwise provided by
20 the Commission by regulation, the material referred to in
21 subsection a. includes—

22 “(1) byproduct material;

23 “(2) source material;

24 “(3) special nuclear material;

25 “(4) high-level radioactive waste;

26 “(5) spent nuclear fuel;

1 “(6) transuranic waste; and

2 “(7) low-level radioactive waste (as defined in
3 section 2 of the Nuclear Waste Policy Act of 1982
4 (42 U.S.C. 10101)).”.

5 (b) REGULATIONS.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the Commission
8 shall promulgate regulations identifying radioactive
9 materials and classes of individuals that the Com-
10 mission determines, in accordance with the protec-
11 tion of the health and safety of the public and the
12 common defense and security, to be appropriate ex-
13 ceptions to section 170C of the Atomic Energy Act
14 of 1954 (as added by subsection (a)).

15 (2) UPDATES.—The Commission shall update
16 any regulation promulgated pursuant to paragraph
17 (1), as the Commission determines to be necessary.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendment made by
20 subsection (a) shall be effective beginning on the
21 date on which the Commission promulgates regula-
22 tions pursuant to subsection (b)(1).

23 (2) BACKGROUND CHECKS.—Section 170C
24 a.(2) of the Atomic Energy Act of 1954 (as added

1 by subsection (a)) shall be effective beginning on a
2 date established by the Commission.

3 (d) EFFECT ON OTHER LAW.—Nothing in this sec-
4 tion or the amendment made by this section waives, modi-
5 fies, or affects—

6 (1) chapter 51 of title 49, United States Code;

7 (2) part A of subtitle V of title 49, United
8 States Code;

9 (3) part B of subtitle VI of title 49, United
10 States Code; or

11 (4) title 23, United States Code.

12 (e) CONFORMING AMENDMENT.—The table of sec-
13 tions for chapter 14 of the Atomic Energy Act of 1954
14 is amended by adding at the end the following:

“Sec. 170B. Uranium supply.

“Sec. 170C. Secure transfer of nuclear materials.”.

15 **SEC. 647. DEPARTMENT OF HOMELAND SECURITY CON-**
16 **SULTATION.**

17 Before issuing a license for a utilization facility, the
18 Commission shall consult with the Department of Home-
19 land Security regarding the potential vulnerabilities of the
20 proposed location of the facility to terrorist attack.

21 **SEC. 648. DECOMMISSIONING PILOT PROGRAM.**

22 (a) PILOT PROGRAM.—The Secretary shall establish
23 a decommissioning pilot program under which the Sec-
24 retary shall decommission and decontaminate the sodium-
25 cooled fast breeder experimental test-site reactor located

1 in northwest Arkansas, in accordance with the decommis-
2 sioning activities contained in the report of the Depart-
3 ment relating to the reactor, dated August 31, 1998.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to the Secretary to carry
6 out this section \$16,000,000.

7 **SEC. 649. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—There are authorized to be appro-
9 priated such sums as are necessary to carry out this sub-
10 title and the amendments made by this subtitle.

11 (b) AGGREGATE AMOUNT OF CHARGES.—Section
12 6101(c)(2)(A) of the Omnibus Budget Reconciliation Act
13 of 1990 (42 U.S.C. 2214(c)(2)(A)) is amended—

14 (1) in clause (i), by striking “and” at the end;

15 (2) in clause (ii), by striking the period at the
16 end and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(iii) amounts appropriated to the
19 Commission for homeland security activi-
20 ties of the Commission for the fiscal year,
21 except for the costs of fingerprinting and
22 background checks under section 149 of
23 the Atomic Energy Act of 1954 (42 U.S.C.
24 2169) and the costs of conducting security
25 inspections.”.