

Calendar No. 422108TH CONGRESS
1ST SESSION**S. 156****[Report No. 108-218]**

To amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2003

Mr. VOINOVICH (for himself, Mr. INHOFE, Mr. THOMAS, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

DECEMBER 9, 2003

Reported by Mr. INHOFE, with amendments and an amendment to the title
[Omit the part struck through and insert the part printed in *italie*]

A BILL

To amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

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

1 **TITLE I—PRICE-ANDERSON**
 2 **AMENDMENTS**

3 **SECTION 1. SEC. 101. SHORT TITLE.**

4 This ~~Act~~ *title* may be cited as the “Price-Anderson
 5 Amendments Act of 2003”.

6 **SEC. 102. MAXIMUM ASSESSMENT.**

7 *Section 170b.(1) of the Atomic Energy Act of 1954 (42*
 8 *U.S.C. 2210(b)(1)) is amended—*

9 *(1) in the second proviso of the third sentence—*

10 *(A) by striking “\$63,000,000” and inserting*
 11 *“\$94,000,000”; and*

12 *(B) by striking “\$10,000,000 in any 1*
 13 *year” and inserting “\$15,000,000 in any 1 year*
 14 *(subject to adjustment for inflation under sub-*
 15 *section t.)”; and*

16 *(2) in subsection t.—*

17 *(A) by inserting “total and annual” after*
 18 *“amount of the maximum”;*

19 *(B) by striking “the date of the enactment*
 20 *of the Price-Anderson Amendments Act of 1988”*
 21 *and inserting “July 1, 2001”.*

22 **SEC. 2. 103. EXTENSION OF INDEMNIFICATION AUTHORITY.**

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

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

3 (2) by striking “August 1, 2002” each place it
4 appears and inserting “August 1, 2012”.

5 **SEC. 3. 104. REPORTS.**

6 Section 170p. of the Atomic Energy Act of 1954 (42
7 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
8 and inserting “August 1, 2008”.

9 **SEC. 4. 105. EFFECTIVE DATE.**

10 The amendments made by this ~~Act~~ *title* take effect
11 on August 1, 2002.

12 ***TITLE II—NUCLEAR***
13 ***INFRASTRUCTURE SECURITY***

14 **SEC. 201. SHORT TITLE.**

15 *This title may be cited as the “Nuclear Infrastructure*
16 *Security Act of 2003”.*

17 **SEC. 202. DEFINITIONS.**

18 *Section 11 of the Atomic Energy Act of 1954 (42*
19 *U.S.C. 2014) is amended—*

20 (1) *by redesignating subsection jj. as subsection*
21 *ii.; and*

22 (2) *by adding at the end the following:*

23 *“jj. DESIGNATED NUCLEAR FACILITY.—The term ‘des-*
24 *ignated nuclear facility’ means—*

1 “(1) *an operating commercial nuclear power*
2 *plant; and*

3 “(2) *any other facility owned or operated by a*
4 *licensee or certificate holder that the Commission de-*
5 *termines should be included within the meaning of the*
6 *term.*

7 “*kk. PRIVATE SECURITY FORCE.—The term ‘private*
8 *security force’, with respect to a designated nuclear facility,*
9 *means personnel hired or contracted by the licensee or cer-*
10 *tificate holder of the designated nuclear facility to provide*
11 *security at the designated nuclear facility.’.*”

12 **SEC. 203. DESIGNATED NUCLEAR FACILITY SECURITY.**

13 “(a) *IN GENERAL.—Chapter 14 of the Atomic Energy*
14 *Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding*
15 *at the end the following:*

16 **“SEC. 170C. PROTECTION OF DESIGNATED NUCLEAR FA-**
17 **CILITIES.**

18 “(a) *DEFINITIONS.—In this section:*

19 “(1) *CERTIFICATE HOLDER.—The term ‘certifi-*
20 *cate holder’ means the holder of a certificate of com-*
21 *pliance issued under section 1701.*

22 “(2) *FEDERAL SECURITY COORDINATOR.—The*
23 *term ‘Federal security coordinator’ means the Federal*
24 *security coordinator assigned to a regional office of*
25 *the Commission.*

1 “(3) *DESIGN BASIS THREAT.*—The term ‘design
2 *basis threat*’ means a design basis threat for a des-
3 *ignated nuclear facility, as revised under subsection*
4 *(c).*

5 “(4) *LICENSEE.*—The term ‘licensee’ means the
6 *holder of a license issued by the Commission.*

7 “(b) *SECURITY EXAMINATION.*—

8 “(1) *IN GENERAL.*—The Commission, in coordi-
9 *nation with the Secretary of Homeland Security and*
10 *in consultation with other agencies as appropriate,*
11 *shall examine—*

12 “(A) *classification of threats against des-*
13 *ignated nuclear facilities as—*

14 “(i) *an act falling under the respon-*
15 *sibilities of the Federal Government, includ-*
16 *ing an act by an enemy of the United*
17 *States, whether a foreign government or any*
18 *other person; or*

19 “(ii) *an act involving a type of risk*
20 *that a licensee or certificate holder should be*
21 *responsible for guarding against;*

22 “(B) *coordination of Federal, State, and*
23 *local security efforts for protection of land,*
24 *water, and ground access to designated nuclear*

1 *facilities in the event of a terrorist attack or at-*
2 *tempted terrorist attack;*

3 “(C) *the adequacy of emergency planning*
4 *zones to protect the public health and safety in*
5 *the event of a terrorist attack against a des-*
6 *ignated nuclear facility;*

7 “(D) *the adequacy and coordination of Fed-*
8 *eral, State, and local emergency planning, evac-*
9 *uation, and other measures to protect the public*
10 *health and safety in the event of a terrorist at-*
11 *tack against a designated nuclear facility;*

12 “(E) *the system of threat levels, consistent*
13 *with the Homeland Security Advisory System*
14 *used to categorize the threats against a des-*
15 *ignated nuclear facility, including—*

16 “(i) *procedures to ensure coordinated*
17 *Federal, State, and local responses to chang-*
18 *ing threat levels for designated nuclear fa-*
19 *cilities;*

20 “(ii) *monitoring of threats against des-*
21 *ignated nuclear facilities; and*

22 “(iii) *procedures to notify licensees and*
23 *certificate holders of a designated nuclear*
24 *facility of changes in threat levels;*

1 “(F) the development, implementation, and
2 revision of security plans for designated nuclear
3 facilities;

4 “(G) the hiring and training standards for
5 members of private security forces at designated
6 nuclear facilities;

7 “(H) the coordination of Federal resources
8 to expedite and improve the process of per-
9 forming background checks on employees with
10 access to designated nuclear facilities; and

11 “(I) the creation by the Secretary of Home-
12 land Security of a program to provide technical
13 assistance and training for the National Guard,
14 State law enforcement agencies, and local law
15 enforcement agencies to respond, as appropriate,
16 to threats against a designated nuclear facility,
17 including recommendations for the establishment
18 of a grant program to assist State and local gov-
19 ernments in carrying out any recommended ac-
20 tions under this section.

21 “(2) *REPORT.*—Not later than 1 year after com-
22 pletion of the security examination under paragraph
23 (1), the Commission and the Secretary of Homeland
24 Security shall submit to the President and Congress,

1 *in classified and unclassified form, a report with rec-*
2 *ommendations and findings.*

3 “(c) *REVISION OF DESIGN BASIS THREATS.*—

4 “(1) *IN GENERAL.*—Not later than 180 days
5 *after completion of the security examination under*
6 *subsection (b), the Commission shall by regulation re-*
7 *vis the design basis threats promulgated before the*
8 *date of enactment of this section as the Commission*
9 *determines to be appropriate based on the security ex-*
10 *amination.*

11 “(2) *PROTECTION OF SAFEGUARDS INFORMA-*
12 *TION.*—In promulgating any regulations under this
13 *subsection, the Commission shall ensure protection of*
14 *safeguards information in accordance with section*
15 *147.*

16 “(d) *THREAT LEVELS.*—Not later than 150 days after
17 *the date of submission of the report under subsection (b)(2),*
18 *the Commission shall establish a system for the determina-*
19 *tion of multiple threat levels to describe the threat condi-*
20 *tions at designated nuclear facilities.*

21 “(e) *SECURITY PLANS.*—

22 “(1) *IN GENERAL.*—Not later than 1 year after
23 *the date on which the Commission revises the design*
24 *basis threats under subsection (c)(1), the Commission*

1 shall require each licensee or certificate holder of a
2 designated nuclear facility to—

3 “(A) revise the security plan to ensure that
4 the designated nuclear facility protects against
5 the appropriate design basis threats; and

6 “(B) submit the security plan to the Com-
7 mission for review.

8 “(2) *REVIEW SCHEDULE.*—The Commission shall
9 establish a priority schedule for conducting reviews of
10 security plans based on the proximity of the des-
11 ignated nuclear facility to large population areas.

12 “(3) *UPGRADES TO SECURITY.*—The Commission
13 shall ensure that the licensee or certificate holder of
14 each designated nuclear facility makes any changes to
15 security and the security plan required from the Com-
16 mission review on a schedule established by the Com-
17 mission, but not to exceed 18 months after completion
18 of review.

19 “(f) *EMERGENCY RESPONSE PLANS.*—

20 “(1) *IN GENERAL.*—Not later than 21 months
21 after the date of enactment of this section, the Com-
22 mission shall review, in consultation with the Sec-
23 retary of Homeland Security, the emergency response
24 plans for each designated nuclear facility to ensure

1 *that each emergency response plan provides protection*
2 *for persons in the emergency response planning zone.*

3 “(2) *ASPECTS OF REVIEW.—The Commission*
4 *shall ensure that each emergency response plan pro-*
5 *vides, as appropriate to the type of designated nuclear*
6 *facility, for—*

7 “(A) *the protection of public health and*
8 *safety, including the ability to implement protec-*
9 *tive measures;*

10 “(B) *clear definition and assignment of re-*
11 *sponsibilities of emergency response personnel;*

12 “(C) *notification procedures;*

13 “(D) *communication and coordination*
14 *among emergency response personnel;*

15 “(E) *dissemination of information to the*
16 *public, both prior to, and in the event of, a radi-*
17 *ological emergency;*

18 “(F) *adequate emergency facilities and*
19 *equipment at and around the designated nuclear*
20 *facility;*

21 “(G) *the use of methods, systems, and equip-*
22 *ment for assessing and monitoring actual or po-*
23 *tential impacts of a radiological emergency;*

24 “(H) *a range of protective actions for the*
25 *public;*

1 “(I) means for controlling radiological expo-
2 sures for emergency response personnel;

3 “(J) appropriate medical services for con-
4 taminated individuals;

5 “(K) general plans for recovery and reentry;
6 and

7 “(L) radiological emergency response train-
8 ing.

9 “(3) SCHEDULE.—The Commission shall estab-
10 lish a priority schedule for conducting reviews of
11 emergency response plans for designated nuclear fa-
12 cilities based on the proximity of such facilities to
13 large population areas.

14 “(4) UPGRADES TO EMERGENCY RESPONSE
15 PLAN.—The Commission shall ensure that the licensee
16 or certificate holder of each designated nuclear facility
17 revises, as necessary, the emergency response plan for
18 review by the Commission on a schedule established
19 by the Commission.

20 “(g) TRAINING PROGRAM.—

21 “(1) IN GENERAL.—Not later than 1 year after
22 submission of the report under subsection (b)(2), the
23 President shall establish, based on and consistent with
24 the findings and recommendations contained in the
25 report submitted under subsection (b)(2), a program

1 *to provide technical assistance and training for the*
2 *National Guard and State and local law enforcement*
3 *agencies in responding to threats against a designated*
4 *nuclear facility.*

5 *“(2) GRANTS.—The President may provide*
6 *grants to State and local governments to assist in*
7 *carrying out this section.*

8 *“(3) AUTHORIZATION OF APPROPRIATIONS.—*
9 *There are authorized to be appropriated such sums as*
10 *are necessary to carry out this subsection.*

11 *“(h) EMPLOYEE SECURITY.—*

12 *“(1) REVIEW.—Not later than 180 days after the*
13 *date of enactment of this section, the Commission*
14 *shall review and update as appropriate the access and*
15 *training standards for employees of a designated nu-*
16 *clear facility.*

17 *“(2) DISQUALIFICATION OF INDIVIDUALS WHO*
18 *PRESENT NATIONAL SECURITY RISKS.—The Commis-*
19 *sion shall establish qualifications and procedures, in*
20 *addition to fingerprinting for criminal history record*
21 *checks conducted under section 149, to ensure that no*
22 *individual who presents a threat to national security*
23 *is employed at a designated nuclear facility.*

24 *“(i) FEDERAL SECURITY COORDINATORS.—*

1 “(1) *REGIONAL OFFICES.*—Not later than 180
2 *days after the date of enactment of this section, the*
3 *Commission shall assign a Federal security coordi-*
4 *nator, under the employment of the Commission, to*
5 *each region of the Commission.*

6 “(2) *RESPONSIBILITIES.*—The Federal security
7 *coordinator shall be responsible for—*

8 “(A) *communicating with the Commission*
9 *and other Federal, State, and local authorities*
10 *concerning threats, including threats against a*
11 *designated nuclear facility;*

12 “(B) *ensuring that a designated nuclear fa-*
13 *cility maintains security consistent with the se-*
14 *curity plan in accordance with the appropriate*
15 *threat level; and*

16 “(C) *assisting in the coordination of secu-*
17 *rity measures among—*

18 “(i) *the private security force at a des-*
19 *ignated nuclear facility; and*

20 “(ii) *Federal, State, and local authori-*
21 *ties, as appropriate.*

22 “(j) *CLASSIFIED INFORMATION.*—Nothing in this sec-
23 *tion supersedes any law (including a regulation) governing*
24 *the disclosure of classified information or safeguards infor-*
25 *mation.”.*

1 (b) *FINGERPRINTING FOR CRIMINAL HISTORY RECORD*

2 *CHECKS.—Section 149 of the Atomic Energy Act of 1954*

3 *(42 U.S.C. 2169) is amended—*

4 (1) *in subsection a.—*

5 (A) *by striking “a. The Nuclear” and all*

6 *that follows through “section 147.” and inserting*

7 *the following:*

8 “*a. IN GENERAL.—*

9 “(1) *REQUIREMENTS.—The Commission shall re-*
10 *quire—*

11 “(A) *each licensee, certificate holder, or ap-*
12 *plicant for a license or certificate to operate a*
13 *utilization facility under section 103 or 104(b);*
14 *and*

15 “(B) *each licensee or applicant for a license*
16 *to possess or use radioactive material or other*
17 *property subject to regulation by the Commission*
18 *that the Commission determines to be of such*
19 *significance to the public health and safety or the*
20 *common defense and security as to warrant*
21 *fingerprinting and background checks;*

22 *to fingerprint each individual who is permitted*
23 *unescorted access to the facility, radioactive material,*
24 *or other property or is permitted access to safeguards*
25 *information under section 147.”;*

1 (B) by striking “All fingerprints” and in-
2 serting the following:

3 “(2) SUBMISSION TO THE ATTORNEY GEN-
4 ERAL.—All fingerprints”;

5 (C) by striking “The costs” and inserting
6 the following;

7 “(3) COSTS.—The costs”;

8 (D) by striking “Notwithstanding” and in-
9 serting the following:

10 “(4) PROVISION TO LICENSEE, CERTIFICATE
11 HOLDER, OR APPLICANT.—Notwithstanding”; and

12 (E) by striking “licensee or applicant” each
13 place it appears and inserting “licensee, certifi-
14 cate holder, or applicant for a licensee or certifi-
15 cate”;

16 (2) in subsection c., by striking “, subject to pub-
17 lic notice and comment, regulations” and inserting
18 “requirements”;

19 (3) by redesignating subsection d. as subsection
20 e.; and

21 (4) by inserting after subsection c. the following:

22 “d. USE OF OTHER BIOMETRIC METHODS.—Any re-
23 quirement for a person to conduct fingerprinting under this
24 section may be satisfied by using any other biometric meth-
25 od used for identification by the Attorney General.”.

1 **SEC. 204. OFFICE OF NUCLEAR SECURITY AND INCIDENT**
 2 **RESPONSE.**

3 (a) *IN GENERAL.*—*Title II of the Energy Reorganiza-*
 4 *tion Act of 1974 (42 U.S.C. 5841 et seq.) is amended by*
 5 *adding at the end the following:*

6 **“SEC. 212. OFFICE OF NUCLEAR SECURITY AND INCIDENT**
 7 **RESPONSE.**

8 “(a) *DEFINITIONS.*—*In this section:*

9 “(1) *CERTIFICATE HOLDER.*—*The term ‘certifi-*
 10 *cate holder’ has the meaning given the term in section*
 11 *170C(a) of the Atomic Energy Act of 1954.*

12 “(2) *DESIGNATED NUCLEAR FACILITY.*—*The*
 13 *term ‘designated nuclear facility’ has the meaning*
 14 *given the term in section 11 of the Atomic Energy Act*
 15 *of 1954 (42 U.S.C. 2014).*

16 “(3) *DIRECTOR.*—*The term ‘Director’ means the*
 17 *Director of Nuclear Security and Incident Response*
 18 *appointed under subsection (c).*

19 “(4) *LICENSEE.*—*The term ‘licensee’ has the*
 20 *meaning given the term in section 170C(a) of the*
 21 *Atomic Energy Act of 1954.*

22 “(5) *OFFICE.*—*The term ‘Office’ means the Office*
 23 *of Nuclear Security and Incident Response established*
 24 *by subsection (b).*

1 “(b) *ESTABLISHMENT OF OFFICE.*—*There is estab-*
2 *lished in the Commission the Office of Nuclear Security and*
3 *Incident Response.*

4 “(c) *DIRECTOR.*—

5 “(1) *APPOINTMENT.*—*The Commission may ap-*
6 *point and terminate a Director of Nuclear Security*
7 *and Incident Response to head the Office.*

8 “(2) *DUTIES.*—

9 “(A) *IN GENERAL.*—*The Director shall per-*
10 *form such functions as the Commission delegates*
11 *to the Director.*

12 “(B) *FUNCTIONS.*—*The functions delegated*
13 *to the Director may include—*

14 “(i) *carrying out security, safeguards,*
15 *and incident responses relating to—*

16 “(I) *any facility owned or oper-*
17 *ated by a Commission licensee or cer-*
18 *tificate holder;*

19 “(II) *any property owned or in*
20 *the possession of a licensee or certifi-*
21 *cate holder that—*

22 “(aa) *is significant to the*
23 *common defense and security; or*

1 “(bb) is being transported to
2 or from a facility described in
3 clause (i); and

4 (III) any other activity of a li-
5 censee or certificate holder, subject to
6 the requirements of the Atomic Energy
7 Act of 1954 (42 U.S.C. 2011 et seq.),
8 that is significant to the common de-
9 fense and security;

10 “(ii) for a facility or material licensed
11 under the Atomic Energy Act of 1954 (42
12 U.S.C. 2011 et seq.)—

13 “(I) developing contingency plans
14 for dealing with threats, thefts, and
15 sabotage; and

16 “(II) monitoring, reviewing, and
17 evaluating security and safeguards;

18 “(iii) recommending upgrades to inter-
19 nal accounting systems for special nuclear
20 and other materials licensed or certified
21 under the Atomic Energy Act of 1954 (42
22 U.S.C. 2011 et seq.); and

23 “(iv) developing and recommending
24 standards and amendments to the standards

1 of the Commission relating to the duties de-
2 scribed in clauses (i) through (iii); and

3 “(E) carrying out any other safeguards and
4 physical security functions and incident response
5 that the Commission determines to be appro-
6 priate.

7 “(3) CONSULTATION.—In carrying out the duties
8 under paragraph (2), the Director shall, to the extent
9 practicable, consult and coordinate with—

10 “(A) other officers of the Commission; and

11 “(B) other Federal agencies.

12 “(d) SECURITY RESPONSE EVALUATIONS.—

13 “(1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this section, the Commission
15 shall establish a security response evaluation program
16 to assess the ability of each designated nuclear facility
17 to defend against the threats in accordance with the
18 security plan for the designated nuclear facility.

19 “(2) FREQUENCY OF EVALUATIONS.—Not less
20 than once every 3 years, the Commission shall con-
21 duct and document security response evaluations at
22 each designated nuclear facility to assess the ability
23 of the private security force of the designated nuclear
24 facility to defend against the appropriate design basis
25 threat.

1 “(3) *SECURITY EXEMPTION.*—*The Commission*
2 *may suspend activities under this section if the Com-*
3 *mission determines that the security response evalua-*
4 *tions would compromise security at any designated*
5 *nuclear facility in accordance with a heightened*
6 *threat level.*

7 “(4) *ACTIVITIES.*—*The security response evalua-*
8 *tion shall include force-on-force exercises that simu-*
9 *late the security threats consistent with the design*
10 *basis threat appropriate to the facility.*

11 “(5) *PERFORMANCE CRITERIA.*—*The Commission*
12 *shall establish performance criteria for judging the se-*
13 *curity response evaluations.*

14 “(6) *CORRECTIVE ACTION.*—

15 “(A) *IN GENERAL.*—*When any of the per-*
16 *formance criteria established under paragraph*
17 *(5) are not satisfied—*

18 “(i) *the licensee or certificate holder*
19 *shall promptly correct any defects in per-*
20 *formance identified by the Commission in*
21 *the security response evaluation; and*

22 “(ii) *the Commission shall conduct an*
23 *additional security response evaluation*
24 *within 9 months to confirm that the licensee*
25 *or certificate holder satisfies the perform-*

1 *ance criteria established under paragraph*
2 *(5).*

3 *“(B) 2 CONSECUTIVE FAILURES TO SATISFY*
4 *PERFORMANCE CRITERIA.—*

5 *“(i) IN GENERAL.—If a designated nu-*
6 *clear facility fails to satisfy the performance*
7 *criteria established under paragraph (5) in*
8 *2 consecutive security response evaluations,*
9 *the Commission shall issue an order speci-*
10 *fying the corrective actions that must be*
11 *taken by the licensee or certificate holder of*
12 *the designated nuclear facility.*

13 *“(ii) FAILURE TO TAKE CORRECTIVE*
14 *ACTION.—If the licensee or certificate holder*
15 *of a designated nuclear facility does not*
16 *take the corrective action specified by the*
17 *Commission within 30 days after the date*
18 *of issuance of an order under clause (i), and*
19 *the Commission determines that the failure*
20 *could compromise public health and safety,*
21 *the Commission shall assess a civil penalty*
22 *under section 234.*

23 *“(7) REPORTS.—Not less often than once every*
24 *year, the Commission shall submit to Congress and*
25 *the President a report, in classified form and unclas-*

1 *sified form, that describes the results of each security*
2 *response evaluation under this paragraph for the pre-*
3 *vious year.*

4 *“(e) EMERGENCY RESPONSE EXERCISES.—*

5 *“(1) IN GENERAL.—Not less than once every 2*
6 *years, the Commission, in coordination with the Sec-*
7 *retary of Homeland Security shall observe and evalu-*
8 *ate emergency response exercises to assess the ability*
9 *of Federal, State, and local emergency response per-*
10 *sonnel and emergency response personnel of a licensee*
11 *or certificate holder to respond to a radiological emer-*
12 *gency at the designated nuclear facility in accordance*
13 *with the emergency response plans.*

14 *“(2) ACTIVITIES.—The emergency response exer-*
15 *cises shall evaluate—*

16 *“(A) the response capabilities, response*
17 *times, and coordination and communication ca-*
18 *pabilities of the response personnel; and*

19 *“(B) the effectiveness and adequacy of emer-*
20 *gency response and the ability to take protective*
21 *actions.*

22 *“(3) PLANS.—The Commission shall ensure that*
23 *the emergency response plan for a designated nuclear*
24 *facility is revised to correct for any deficiencies iden-*
25 *tified by an evaluation under this subsection.*

1 “(4) *REPORTS.*—Not less than once every year,
2 the Commission shall submit to the President and
3 Congress a report, in classified form and unclassified
4 form, that describes—

5 “(A) the results of each emergency response
6 exercise under this subsection conducted in the
7 previous year; and

8 “(B) each revision of an emergency response
9 plan made under paragraph (3) for the previous
10 year.

11 “(f) *EFFECT.*—Nothing in this section limits any au-
12 thority of the Department of Energy relating to the safe
13 operation of facilities under the jurisdiction of the Depart-
14 ment.”.

15 (b) *CONFORMING AMENDMENTS.*—Title II of the En-
16 ergy Reorganization Act of 1974 is amended—

17 (1) in section 203(b) (42 U.S.C. 5843(b))—

18 (A) in paragraph (1), by striking “licensing
19 and regulation involving” and inserting “licens-
20 ing, regulation, and, except as otherwise pro-
21 vided under section 212, carrying out safety re-
22 views, safeguards, and physical security of”; and

23 (B) in paragraph (2), by striking “and
24 safeguards”; and

25 (2) in section 204(b) (42 U.S.C. 5844(b))—

1 (A) in paragraph (1)—

2 (i) by striking “including” and insert-
3 ing “not including”; and

4 (ii) by striking “and materials.” and
5 inserting “and materials, to the extent that
6 the safeguards and security functions are
7 delegated to the Office of Nuclear Security
8 and Incident Response under section 212.”.

9 (B) in paragraph (2)—

10 (i) by striking “and safeguards”; and

11 (ii) by striking “, as amended,” and
12 all that follows through the period and in-
13 serting “(42 U.S.C. 2011 et seq.)”.

14 **SEC. 205. CARRYING OF WEAPONS BY LICENSEE EMPLOY-**
15 **EES.**

16 Chapter 14 of title I of the Atomic Energy Act of 1954
17 (42 U.S.C. 2201 et seq.) (as amended by section 203(a))
18 is amended—

19 (1) in section 161, by striking subsection k. and
20 inserting the following:

21 “k. authorize—

22 “(1) to carry and use a firearm in the perform-
23 ance of official duties such of its members, officers,
24 and employees, such of the employees of its contrac-
25 tors and subcontractors (at any tier) engaged in the

1 *protection of property under the jurisdiction of the*
2 *United States located at facilities owned by or con-*
3 *tracted to the United States or being transported to*
4 *or from such facilities, and such of the employees of*
5 *persons licensed or certified by the Commission (in-*
6 *cluding employees of contractors of licensees or certifi-*
7 *cate holders) engaged in the protection of facilities*
8 *owned or operated by a Commission licensee or cer-*
9 *tificate holder that are designated by the Commission*
10 *or in the protection of property of significance to the*
11 *common defense and security located at facilities*
12 *owned or operated by a Commission licensee or cer-*
13 *tificate holder or being transported to or from such*
14 *facilities, as the Commission considers necessary, in*
15 *view of site-specific conditions, in the interest of the*
16 *common defense and security; and*

17 “(2) to carry and use any other weapons, de-

18 *vices, or ammunition in the performance of official*

19 *duties, any employees of persons licensed or certified*

20 *by the Commission (including employees of contrac-*

21 *tors of licensees or certificate holders) who are trained*

22 *and qualified as guards and whose duty is the protec-*

23 *tion of facilities or property described in paragraph*

24 *(1), regardless of whether the employees are Federal,*

25 *State, or local law enforcement officers;”*; and

1 (2) *by adding at the end the following:*

2 **“SEC. 170D. CARRYING OF WEAPONS.**

3 “(a) *AUTHORITY TO MAKE ARREST.—*

4 “(1) *IN GENERAL.—A person authorized under*
5 *section 161k. to carry and use a firearm, other weap-*
6 *on, device, or ammunition may, while in the perform-*
7 *ance of, and in connection with, official duties, detain*
8 *or arrest an individual without a warrant for any of-*
9 *fense against the United States committed in the*
10 *presence of the person or for any felony under the*
11 *laws of the United States if the person has a reason-*
12 *able ground to believe that the individual has com-*
13 *mitted or is committing such a felony.*

14 “(2) *LIMITATION.—An employee of a contractor*
15 *or subcontractor or of a Commission licensee or cer-*
16 *tificate holder (or a contractor of a licensee or certifi-*
17 *cate holder) authorized to make an arrest under para-*
18 *graph (1) may make an arrest only after the Commis-*
19 *sion, licensee, or certificate holder has applied for and*
20 *been granted authorization from the Commission—*

21 “(A) *when the individual is within, or is in*
22 *flight directly from, the area in which the offense*
23 *was or is being committed; and*

24 “(B) *in the enforcement of—*

1 “(i) a law regarding the property of
2 the United States in the custody of the De-
3 partment of Energy, the Commission, or a
4 contractor of the Department of Energy or
5 Commission or a licensee or certificate hold-
6 er of the Commission;

7 “(ii) a law applicable to facilities
8 owned or operated by a Commission licensee
9 or certificate holder that are designated by
10 the Commission under section 161k.;

11 “(iii) a law applicable to property of
12 significance to the common defense and se-
13 curity that is in the custody of a licensee or
14 certificate holder or a contractor of a li-
15 censee or certificate holder of the Commis-
16 sion; or

17 “(iv) any provision of this Act that
18 subjects an offender to a fine, imprison-
19 ment, or both.

20 “(3) OTHER AUTHORITY.—The arrest authority
21 conferred by this section is in addition to any arrest
22 authority under other law.

23 “(4) GUIDELINES.—

24 “(A) IN GENERAL.—The Secretary and the
25 Commission, with the approval of the Attorney

1 *General, shall issue guidelines to implement sec-*
 2 *tion 161k. and this subsection.*

3 “(B) *EFFECTIVE DATE.*—*The authority to*
 4 *carry and use weapons, devices, or ammunition*
 5 *provided to employees described in section*
 6 *161k.(2) and the authority provided to those em-*
 7 *ployees under this subsection shall not be effec-*
 8 *tive until the date on which guidelines issued*
 9 *under subparagraph (A) become effective.”.*

10 **SEC. 206. SENSITIVE RADIOACTIVE MATERIAL SECURITY.**

11 *Chapter 14 of the Atomic Energy Act of 1954 (42*
 12 *U.S.C. 2201 et seq.) (as amended by section 205) is amend-*
 13 *ed by adding at the end the following:*

14 **“SEC. 170E. SENSITIVE RADIOACTIVE MATERIAL SECURITY.**

15 “(a) *DEFINITIONS.*—*In this section:*

16 “(1) *SENSITIVE RADIOACTIVE MATERIAL.*—

17 “(A) *IN GENERAL.*—*The term ‘sensitive ra-*
 18 *dioactive material’ means—*

19 “(i) *a material—*

20 “(I) *that is a source material, by-*
 21 *product material, or special nuclear*
 22 *material; or*

23 “(II) *that is any other radioactive*
 24 *material (regardless of whether the ma-*
 25 *terial is or has been licensed or other-*

1 *wise regulated under this Act) pro-*
2 *duced or made radioactive before or*
3 *after the date of enactment of this sec-*
4 *tion; and*

5 “(ii) *that is in such a form or quantity*
6 *or concentration that the Commission deter-*
7 *mines should be classified as ‘sensitive ra-*
8 *dioactive material’ that warrants improved*
9 *security and protection against loss, theft,*
10 *or sabotage.*

11 “(B) *EXCLUSION.—The term ‘sensitive ra-*
12 *dioactive material’ does not include nuclear fuel*
13 *or spent nuclear fuel.*

14 “(2) *SECURITY THREAT.—The term ‘security*
15 *threat’ means—*

16 “(A) *a threat of sabotage or theft of sen-*
17 *sitive radioactive material;*

18 “(B) *a threat of use of sensitive radioactive*
19 *material in a radiological dispersal device; and*

20 “(C) *any other threat of terrorist or other*
21 *criminal activity involving sensitive radioactive*
22 *material that could harm the health or safety of*
23 *the public due primarily to radiological prop-*
24 *erties of the sensitive radioactive material, as de-*
25 *termined by the Commission.*

1 “(b) *DUTIES.*—

2 “(1) *IN GENERAL.*—*The Commission, in con-*
3 *sultation with Secretary of Homeland Security, Sec-*
4 *retary of Energy, Director of Central Intelligence, Di-*
5 *rector of the Federal Bureau of Investigation, Director*
6 *of the Customs Service, and Administrator of the En-*
7 *vironmental Protection Agency, shall—*

8 “(A) *evaluate the security of sensitive radio-*
9 *active material against security threats; and*

10 “(B) *recommend administrative and legisla-*
11 *tive actions to be taken to provide an acceptable*
12 *level of security against security threats.*

13 “(2) *CONSIDERATIONS.*—*In carrying out para-*
14 *graph (1), the Commission shall consider actions, as*
15 *appropriate to—*

16 “(A) *determine the radioactive materials*
17 *that should be classified as sensitive radioactive*
18 *materials;*

19 “(B) *develop a classification system for sen-*
20 *sitive radioactive materials that—*

21 “(i) *is based on the potential for use by*
22 *terrorists of sensitive radioactive material*
23 *and the extent of the threat to public health*
24 *and safety posed by that potential; and*

25 “(ii) *takes into account—*

1 “(I) radioactivity levels of sen-
2 sitive radioactive material;

3 “(II) the dispersibility of sensitive
4 radioactive material;

5 “(III) the chemical and material
6 form of sensitive radioactive material;

7 and

8 “(IV) other appropriate factors;

9 “(C) develop a national system for recovery
10 of sensitive radioactive material that is lost or
11 stolen, taking into account the classification sys-
12 tem established under subparagraph (B);

13 “(D) provide for the storage of sensitive ra-
14 dioactive material that is not currently in use in
15 a safe and secure manner;

16 “(E) develop a national tracking system for
17 sensitive radioactive material, taking into ac-
18 count the classification system established under
19 subparagraph (B);

20 “(F) develop methods to ensure the return
21 or proper disposal of sensitive radioactive mate-
22 rial;

23 “(G) consider export controls on sensitive
24 radioactive materials so that, to the extent fea-
25 sible, exports from the United States of sensitive

1 *radioactive materials are made to foreign recipi-*
2 *ents that are willing and able to control the sen-*
3 *sitive radioactive materials in a manner similar*
4 *to the manner in which recipients in the United*
5 *States control such sensitive radioactive mate-*
6 *rial; and*

7 *“(H) establish procedures to improve the se-*
8 *curity of sensitive radioactive material in use,*
9 *transportation, and storage.*

10 *“(3) PROCEDURES TO IMPROVE SECURITY.—The*
11 *procedures to improve the security of sensitive radio-*
12 *active material under paragraph (2)(H) may in-*
13 *clude—*

14 *“(A) periodic audits or inspections by the*
15 *Commission to ensure that sensitive radioactive*
16 *material is properly secured and can be fully ac-*
17 *counted for;*

18 *“(B) evaluation by the Commission of secu-*
19 *rity measures taken by persons that possess sen-*
20 *sitive radioactive material;*

21 *“(C) imposition of increased fines for viola-*
22 *tions of regulations relating to security and safe-*
23 *ty measures applicable to persons that possess*
24 *sensitive radioactive material;*

1 “(D) conduct of background checks on indi-
2 viduals with access to sensitive radioactive mate-
3 rial;

4 “(E) measures to ensure the physical secu-
5 rity of facilities in which sensitive radioactive
6 material is stored; and

7 “(F) screening of shipments of sensitive ra-
8 dioactive material to facilities that are particu-
9 larly at risk for sabotage to ensure that the ship-
10 ments do not contain explosives.

11 “(c) REPORT.—Not later than 1 year after the date
12 of enactment of this section, and not less frequently than
13 once every 3 years thereafter, the Commission shall submit
14 to the President and Congress a report in unclassified form
15 (with a classified annex, if necessary) describing the admin-
16 istrative and legislative actions recommended under sub-
17 section (b)(1).

18 “(d) ADMINISTRATIVE ACTION.—Not later than 60
19 days after the date of submission of the report under sub-
20 section (c), the Commission shall take such actions as are
21 appropriate to—

22 “(1) revise the system for licensing sensitive ra-
23 dioactive materials; and

24 “(2) delegate the authority of the Commission to
25 implement regulator programs and requirements to

1 **SEC. 210. PROTECTION OF WHISTLEBLOWERS.**

2 *Section 211(a)(2) of the Energy Reorganization Act*
 3 *(42 U.S.C. 5851) is amended—*

4 *(1) in subparagraph (C), by striking “and” at*
 5 *the end;*

6 *(2) in subparagraph (D), by striking the period*
 7 *at the end and inserting “; and”; and*

8 *(3) by adding at the end the following:*

9 *“(E) a contractor or subcontractor of the*
 10 *Commission.”.*

11 **SEC. 211. TECHNICAL AND CONFORMING AMENDMENT.**

12 *The table of contents of the Atomic Energy Act of 1954*
 13 *(42 U.S.C. prec. 2011) is amended by adding at the end*
 14 *of the items relating to chapter 14 the following:*

“SEC. 170B. Uranium supply.

“SEC. 170C. Protection of designated nuclear facilities.

“SEC. 170D. Carrying of weapons.

“SEC. 170E. Sensitive radioactive material security.”.

15 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

16 *(a) IN GENERAL.—There are authorized to be appro-*
 17 *priated such sums as are necessary to carry out the amend-*
 18 *ments made by this title.*

19 *(b) NO RECOVERY THROUGH FEES.—Notwithstanding*
 20 *any other provision of law, amounts appropriated to the*
 21 *Nuclear Regulatory Commission to carry out the amend-*
 22 *ments made by this title for any fiscal year may not be*

1 *recovered through fees charged by the Nuclear Regulatory*
 2 *Commission.*

3 ***TITLE III—MISCELLANEOUS***

4 ***SEC. 301. TREATMENT OF NUCLEAR REACTOR FINANCIAL***
 5 ***OBLIGATIONS.***

6 *Section 523 of title 11, United States Code, is amended*
 7 *by adding at the end the following:*

8 *“(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL*
 9 *OBLIGATIONS.—Notwithstanding any other provision of*
 10 *this title—*

11 *“(1) any funds or other assets held by a licensee*
 12 *or former licensee of the Nuclear Regulatory Commis-*
 13 *sion, or by any other person, to satisfy the responsi-*
 14 *bility of the licensee, former licensee, or any other per-*
 15 *son to comply with a regulation or order of the Nu-*
 16 *clear Regulatory Commission governing the decon-*
 17 *tamination and decommissioning of a nuclear power*
 18 *reactor licensed under section 103 or 104b. of the*
 19 *Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b))*
 20 *shall not be used to satisfy the claim of any creditor*
 21 *in any proceeding under this title, other than a claim*
 22 *resulting from an activity undertaken to satisfy that*
 23 *responsibility, until the decontamination and decom-*
 24 *missioning of the nuclear power reactor is completed*

1 *to the satisfaction of the Nuclear Regulatory Commis-*
2 *sion;*

3 *“(2) obligations of licensees, former licensees, or*
4 *any other person to use funds or other assets to satisfy*
5 *a responsibility described in paragraph (1) may not*
6 *be rejected, avoided, or discharged in any proceeding*
7 *under this title or in any liquidation, reorganization,*
8 *receivership, or other insolvency proceeding under*
9 *Federal or State law; and*

10 *“(3) private insurance premiums and standard*
11 *deferred premiums held and maintained in accord-*
12 *ance with section 170b. of the Atomic Energy Act of*
13 *1954 (42 U.S.C. 2210(b)) shall not be used to satisfy*
14 *the claim of any creditor in any proceeding under*
15 *this title, until the indemnification agreement exe-*
16 *cuted in accordance with section 170c. of that Act (42*
17 *U.S.C. 2210(c)) is terminated.”.*

18 **SEC. 302. MEDICAL ISOTOPE PRODUCTION.**

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

21 *(1) in subsection a., by striking “a. The Commis-*
22 *sion” and inserting “a. IN GENERAL.—Except as*
23 *provided in subsection b., the Commission”;*

24 *(2) by redesignating subsection b. as subsection*
25 *c.;*

1 (3) *by inserting after subsection a. the following:*

2 “*b. MEDICAL ISOTOPE PRODUCTION.—*

3 “*(1) IN GENERAL.—The Commission may issue*
4 *a license authorizing the export (including shipment*
5 *to and use at intermediate and ultimate consignees*
6 *specified in the license) to a recipient country of high-*
7 *ly enriched uranium for medical isotope production*
8 *if, in addition to any other requirements of this Act*
9 *(except subsection a.), the Commission determines*
10 *that—*

11 “*(A) a recipient country that supplies an*
12 *assurance letter to the United States Government*
13 *in connection with the consideration by the Com-*
14 *mission of the export license application has in-*
15 *formed the United States Government that any*
16 *intermediate consignees and the ultimate con-*
17 *signee specified in the application are required*
18 *to use the highly enriched uranium solely to*
19 *produce medical isotopes; and*

20 “*(B) the highly enriched uranium for med-*
21 *ical isotope production will be irradiated only in*
22 *a reactor in a recipient country that—*

23 “*(i) uses an alternative nuclear reactor*
24 *fuel; or*

1 “(ii) is the subject of an agreement
2 with the United States Government to con-
3 vert to an alternative nuclear reactor fuel
4 when alternative nuclear reactor fuel can be
5 used in the reactor.

6 “(2) *EXPORTS TO OTHER COUNTRIES.*—The
7 Commission may specify, by rulemaking or decision
8 in connection with an export license application, that
9 a country other than a recipient country may receive
10 exports of highly enriched uranium for medical iso-
11 tope production in accordance with the same criteria
12 established under paragraph (1) for exports to a re-
13 cipient country if the Commission determines that the
14 other country—

15 “(A) is a party to the Treaty on the Non-
16 proliferation of Nuclear Weapons done at Wash-
17 ington, London, and Moscow July 1, 1968 (21
18 UST 483) and the Convention on the Physical
19 Protection of Nuclear Materials done at Vienna
20 October 26, 1979 (TIAS 11080); and

21 “(B) will receive the highly enriched ura-
22 nium under an agreement with the United
23 States concerning peaceful uses of nuclear en-
24 ergy.

1 “(3) *REVIEW OF PHYSICAL PROTECTION RE-*
2 *QUIREMENTS.*—

3 “(A) *IN GENERAL.*—*The Commission shall*
4 *review the adequacy of physical protection re-*
5 *quirements that, as of the date of an application*
6 *under paragraph (1), are applicable to the trans-*
7 *portation of highly enriched uranium for med-*
8 *ical isotope production.*

9 “(B) *IMPOSITION OF ADDITIONAL REQUIRE-*
10 *MENTS.*—*If the Commission determines that ad-*
11 *ditional physical protection requirements are*
12 *necessary (including a limit on the quantity of*
13 *highly enriched uranium that may be contained*
14 *in a single shipment), the Commission shall im-*
15 *pose such requirements as license conditions or*
16 *through other appropriate means.”; and*

17 (4) *in subsection c. (as redesignated by para-*
18 *graph (1))—*

19 (A) *in paragraph (2), by striking “and” at*
20 *the end;*

21 (B) *in paragraph (3), by striking the period*
22 *at the end and inserting a semicolon; and*

23 (C) *by adding at the end the following:*

24 “(4) *the term ‘highly enriched uranium for med-*
25 *ical isotope production’ means highly enriched ura-*

1 *nium contained in, or for use in, a target to be irra-*
2 *diated for the sole purpose of producing medical iso-*
3 *topes;*

4 “(5) the term ‘medical isotope’ means a radio-
5 *active isotope (including Molybdenum 99, Iodine 131,*
6 *and Xenon 133) that is used—*

7 “(A) to produce a radiopharmaceutical for
8 *diagnostic or therapeutic procedures on patients;*
9 *or*

10 “(B) in connection with research and devel-
11 *opment of radiopharmaceuticals;*

12 “(6) the term ‘radiopharmaceutical’ means a ra-
13 *dioactive isotope that—*

14 “(A) contains byproduct material combined
15 *with chemical or biological material; and*

16 “(B) is designed to accumulate temporarily
17 *in a part of the body, for therapeutic purposes*
18 *or for enabling the production of a useful image*
19 *of the appropriate body organ or function for use*
20 *in diagnosis of medical conditions; and*

21 “(7) the term ‘recipient country’ means *Canada,*
22 *Belgium, France, Germany, and the Netherlands.”.*

Amend the title so as to read: “A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions, to provide for the security of commercial nuclear power plants and facilities designated by the

Nuclear Regulatory Commission, and for other purposes.”.

Calendar No. 422

108TH CONGRESS
1ST SESSION

S. 156

[Report No. 108-218]

A BILL

To amend the Atomic Energy Act of 1954 to
reauthorize the Price-Anderson provisions.

DECEMBER 9, 2003

Reported with amendments and an amendment to the
title