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U. S. Department of Energy
Office of General Counsel, GC-52
1000 Independence Ave. S.W.
Washington, DC 20585

RESPONSE TO REQUEST FOR PUBLIC COMMENTS - FAC-026-98

The following comments are in response to the Department of EnergyÕs request for public comments conc
continuation or modification of the provisions of the Price-Anderson Act. Given responses correspond to the
questions provided in the request document.

1. Yes, the DOE Price-Anderson indemnification should be continued without modification.

2. No comment.

3. No comment.

4. DOE Price-Anderson indemnification should apply to DOE activities, regardless of whether they are condu
to an NRC license. Furthermore, the reauthorization legislation should clarify the scope of NRC regulation o
DOE sites and also make it clear that the NRC is authorized to regulate activities on DOE sites.

5. DOE Price-Anderson indemnification should provide omnibus coverage, with no distinction in coverage be
and non-profit entities.

6. There are no acceptable alternatives. Comment 5 applies.

7. Comment 8 applies.

8. The elimination of DOE Price-Anderson indemnification would negatively impact the willingness of existing
contractors to perform hazardous site operations for the DOE. DOE owns the hazards and the environment
consists of many unknown risks at some facilities. It would be prohibitively expensive and in some cases im
contractors to obtain private insurance to underwrite this kind of risk. DOE cannot realistically expect well qu
ethical contractors to assume this magnitude of risk.

9. Comment 8 applies.

10. Elimination of the DOE Price-Anderson indemnification would significantly reduce the ability of claimants
compensation from damage resulting from a DOE activity. Absent indemnification, claimants only recourse

file suit against the DOE and/or contractors. The cost of such litigation may deter such litigation. Moreover, required to defend against such law suits would be a significant cost to the government.

11. The cost of obtaining insurance, if such insurance were available, would be prohibitive. The cost of suc would have to be an allowable cost passed along to the Government.

12. The amount of DOE Price-Anderson indemnification should be increased from its current level of $8.96 b consistent with the results of a risk analysis and a current liability protection analysis.

13. No comment.

14. No comment.

15. Yes, DOE Price-Anderson indemnification should continue to cover DOE contractors and other persons incident results from their gross negligence or willful misconduct. Coverage for the population at risk should as to the causal nature of the incident. The DOE may elect to recover through assessment of civil or crimina by bringing suit against the contractor after the fact, but liability coverage for the population at risk should nev question.

16. Yes.

17. Full Price-Anderson indemnification should continue to cover transportation activities under a DOE contr of type of material being transported, method of transportation, or jurisdictions through which the material is t transported.

18. Full Price-Anderson indemnification must apply to DOE clean-up sites, regardless of the applicability of C other environmental statutes to those sites. The hazards and risks at clean-up sites are no less than those a sites.

19. Full Price-Anderson indemnification must apply to any liabilities at a DOE clean-up site, including but not liability resulting from mixed waste.

20. No comment.

21. The Act should be as clear as possible on what tort law applies.

22. No comment.

23. No comment.

24. No, the Act should not be modified to make the operator of a facility liable for Ònuclear damageÓ from a incident on a strict liability basis.

25. No comment.

26. No comment.

27. No comment.

28. Yes, the DOE should be authorized to issue civil penalties pursuant to section 234A of the AEA. This au be limited to activities covered by the DOE Price-Anderson indemnification.

29. The authority to issue civil penalties positively affects the ability of DOE to attain safe and efficient manag DOE activities. Consistent and fair application of 10 CFR 820 Appendix A Enforcement Policy serves as an improving the behaviors necessary to safely operate high hazard facilities.

30. There should be no exemption from civil penalties for nonprofit contractors. The intent of civil penalties is the institutionalization of safe operating behaviors in high hazard operations, thereby reducing the cost risk to for the Price-Anderson indemnification. Nonprofit contractors have as much potential for incurring this liabilit as do for-profit contractors. Therefore there should be no distinction between them in the levying of civil pen

31. There should be no discretionary authority for DOE to provide nonprofit institutions with automatic remiss penalties. Comment 30 applies.

32. There is no need to modify the maximum amount of civil penalties; $110,000 per day per event is sufficie attention of the indemnified contractors.

33. With one exception, there is no need to modify the administrative and judicial proceedings of section 234 revision to 10 CFR 820 was sufficient. The single exception would be to mandate a plan of action for additior making, stipulating which rules are to be made and laying out a timetable for their completion. Short of this, will be unable to anticipate and adequately budget for new rule implementation and compliance.

34. There is no need to modify the authority in section 233.c. to impose criminal penalties for knowing and wi violations of nuclear safety requirements by individual officers and employees of contractors covered by the Anderson indemnification. The statute and implementing regulations are well understood and provide the ne incentives for compliance.

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