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U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE AND TECHNOLOGY

SUITE 2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

(202) 225-6371

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Gov. Toney Anaya  
 Governor  
 State of New Mexico  
 Santa Fe, NM 87503

Dear Governor Anaya:


I am pleased to invite you to submit written testimony on the Price-Anderson Act to the Subcommittee on Energy Research and Production. The Subcommittee is conducting a legislative inquiry into the need to extend and/or amend the Price-Anderson Act as it relates to the Department of Energy's contractors, to operators of licensed research reactors, and to others engaged in nuclear research and development in general.

We would appreciate receiving your comments on the need to extend and/or amend the Price-Anderson Act as it relates to DOE's contractors. In particular, we would like to understand the ramifications of allowing the Act to expire and your position on what, if any, limitation on liability is appropriate. A list of questions is attached and we ask that you respond to them as a supplement to your written testimony.

The Subcommittee will need twenty copies of your statement for distribution to Members and staff. Please forward them to the attention of Ms. Debbie Johnson, Subcommittee on Energy Research and Production, Room B-374 Rayburn House Office Building, Washington, D.C. 20515 (202/225-8056).

Dr. John V. Dugan, Jr., the Subcommittee Staff Director, can be reached at 202/225-2884. However, should you have any specific questions about the Subcommittee's inquiry into the Price-Anderson Act, please contact Mr. Louis Ventre, Jr., the Subcommittee Counsel, at 202/225-2981.

Sincerely,



MARILYN LLOYD, Chairman  
 Subcommittee on Energy  
 Research and Production

ML:V dj  
 Attachments

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## QUESTIONS RELATING TO THE PRICE-ANDERSON ACT

- 1) What are the public policy reasons that support continuation of the Price-Anderson system relative to accidents at contractor facilities?
- 2) Under generic provisions of the Atomic Energy Act, DOE possesses the authority to indemnify contractors, subject to appropriations, against damages due to accidents. Would this authority be sufficient to promote the public policies identified in your response to Question #1?
- 3) Should the discretionary "may" in Section 170(d) of the Atomic Energy Act be changed to an obligatory "shall" to require that all DOE nuclear contractors be covered under the Price-Anderson scheme? Why?
- 4) Should there be a limitation on liability for government indemnified activities? If so, what should that limit be? Should it be automatically indexed to compensate for inflation?
- 5) If the Act is not extended for commercially-licensed activities, what should be the limitation on liability for DOE contractors? Why?
- 6) Does the Price-Anderson Act currently cover federal indemnification for all incidents related to the transportation, handling and ultimate disposal of high-level nuclear waste and spent nuclear fuel? Please explain.
- 7) Should Price-Anderson Act coverage be extended to states and political subdivisions for defects in roads or bridges that result in spent fuel or waste transportation accidents?
- 8) What are your reactions to legislation (attached), introduced by Sid Morrison, H.R. 2524, which amends the contractor provisions of Price-Anderson to ensure that there are no limits on liability for nuclear waste activities carried out pursuant to the Nuclear Waste Policy Act of 1982? Do you support or oppose this legislation? What changes would you recommend to H.R. 2524?
- 9) Should the Nuclear Waste Fund be the source of liability payments relative to nuclear waste activities? Why?
- 10) Should the "extraordinary nuclear occurrence" concept be retained or should strict liability be imposed upon any accident causing damage? Why?
- 11) Does the fact that a DOE contractor is not personally liable for nuclear accidents make that contractor less concerned about safety? Why?
- 12) Should nuclear waste or spent fuel carriers under DOE contract be required to obtain private insurance at some minimum level to provide an incentive for safety first, considering that there is likely to be a great deal of competition among such carriers? Why?

- 13) Should the contractor be liable for accidents that are a result of the contractor's gross negligence, willful misconduct or bad faith? Why?
- 14) Should Price-Anderson be amended to specifically exclude coverage of punitive damages and be limited only to compensatory damages? Why? What about recovery for pain and suffering and loss of consortium? Should direct personal injuries and property damage take priority over these other damages?
- 15) Should the Act be amended to include coverage for precautionary evacuations when an accident does not subsequently occur? Why? Who should pay for such evacuations?
- 16) Should the Act be amended to allow the public to collect damages as a result of actions by sabotage or terrorism involving contractor activities? Why? Shouldn't the innocent public be protected regardless of the reason for the radioactive release?
- 17) Should the twenty-year limitation on claims be eliminated leaving only the limitation that suit be instituted within three years from the date first known or reasonably could have been known of the damage? Why?
- 18) Should the Secretary of Energy be authorized to make immediate damage payments in the event of an accident at contractor facilities, or are existing provisions for interim emergency assistance adequate? Why?

99TH CONGRESS  
1ST SESSION

# H. R. 2524

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to establish liability and indemnification for nuclear incidents arising out of Federal storage, disposal, or related transportation of high-level radioactive waste and spent nuclear fuel.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 1985

Mr. MORRISON of Washington (for himself, Mr. DICKS, Mr. CHANDLER, Mrs. VUCANOVICH, Mr. REID, Mr. BOULTER, and Mr. COMBEST) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Interior and Insular Affairs

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## A BILL

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to establish liability and indemnification for nuclear incidents arising out of Federal storage, disposal, or related transportation of high-level radioactive waste and spent nuclear fuel.

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

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as "The Federal Nuclear Waste  
5 Disposal Liability Act of 1985".

1 SEC. 2. FINDINGS AND PURPOSE.

2 (a) FINDINGS.—The Congress finds that—

3 (1) the Federal Government currently does not,  
4 but should, assume the responsibility to provide total  
5 indemnification for public liability claims arising out of  
6 nuclear incidents relating to Federal storage, disposal,  
7 and related transportation of high-level radioactive  
8 waste and spent nuclear fuel; and

9 (2) such indemnification should be made in part  
10 from amounts available through the Nuclear Waste  
11 Fund established in section 302 of the Nuclear Waste  
12 Policy Act of 1982 (42 U.S.C. 10222).

13 (b) PURPOSE.—The purpose of this Act is to amend the  
14 Price-Anderson provisions of the Atomic Energy Act of 1954  
15 (42 U.S.C. 2011 et seq.) to ensure that the Federal Govern-  
16 ment assumes the responsibility to provide, in part through  
17 the use of the Nuclear Waste Fund, total indemnification for  
18 public liability claims arising out of nuclear incidents relating  
19 to Federal storage, disposal, and related transportation of  
20 high-level radioactive waste and spent nuclear fuel.

21 SEC. 3. FEDERAL NUCLEAR WASTE LIABILITY AND INDEMNIFI-  
22 CATION.

23 (a) LIABILITY AND INDEMNIFICATION FOR ACTIVITIES  
24 UNDER NUCLEAR WASTE POLICY ACT OF 1982.—Section  
25 170 d. of the Atomic Energy Act of 1954 (42 U.S.C.  
26 2210(d)) is amended—

1           (1) by inserting “(1)” after the subsection designa-  
2           tion; and

3           (2) by adding at the end thereof the following new  
4           paragraph:

5           “(2)(A) The Secretary of Energy shall enter into agree-  
6           ments of indemnification with each contractor of the Secre-  
7           tary carrying out contractual activities pursuant to the Nu-  
8           clear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

9           “(B) In such agreements of indemnification, the Secre-  
10          tary of Energy shall, notwithstanding the provisions of sub-  
11          section e., indemnify the persons indemnified against claims  
12          for public liability for nuclear incidents arising out of or in  
13          connection with contractual activities pursuant to the Nucle-  
14          ar Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), in-  
15          cluding the storage, disposal, and related transportation of  
16          high-level radioactive waste and spent nuclear fuel.

17          “(C) The Secretary of Energy shall make any payments  
18          required under an agreement of indemnification entered into  
19          under this paragraph from amounts available through the Nu-  
20          clear Waste Fund established in section 302 of the Nuclear  
21          Waste Policy Act of 1982 (42 U.S.C. 10222), except that  
22          the aggregate amount of payments made from amounts avail-  
23          able through the Nuclear Waste Fund shall not exceed  
24          \$5,000,000,000 in connection with each nuclear incident.”.

1       (b) APPLICABILITY OF WAIVER OF DEFENSES RE-  
2       QUIREMENT TO LIABILITY FOR FEDERAL NUCLEAR  
3       WASTE ACTIVITIES.—Section 170 n. (1)(c) of the Atomic  
4       Energy Act of 1954 (42 U.S.C. 2210(n)(1)(c)) is amended by  
5       striking out “a device utilizing”.

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