

Price-Anderson Act Provides Effective Liability Insurance at No Cost to the Public

August 2009

Key Facts

■ The U.S. nuclear power industry has an umbrella of more than \$10 billion in liability insurance protection to be used in the event of a reactor incident. Utilities—not the public or the federal government—pay for this insurance.

■ This coverage began in 1957, when President Dwight Eisenhower signed the Price-Anderson Act. The act has proven so successful that it has served as a model for other legislation that protects the public against potential losses from hazards.

■ Insurance pools have paid more than \$200 million in claims and litigation costs since the act went into effect. They disbursed approximately \$71 million of that total in claims and litigation costs related to the 1979 accident at Three Mile Island 2.

Benefits of the Act

The Price-Anderson Act provides no-fault insurance to benefit the public in the event of a nuclear power plant accident the U.S. Nuclear Regulatory Commission deems to be an “extraordinary nuclear occurrence.”

The costs of this insurance, like many costs of nuclear-generated electricity, are borne by the industry, unlike the corresponding costs of some other power sources. Costs from hydropower mishaps, such as dam failure and resultant flooding, for example, are borne directly by the public. The 1977 failure of the Teton Dam in Idaho caused \$500 million in property damage, but the only compensation provided to those affected was about \$200 million in low-cost government loans.

Under the Price-Anderson framework, the public has paid nothing, while insurance pools have paid roughly \$200 million in claims, and the nuclear power industry has paid \$21 million to the federal government in indemnity fees. The act has proven so successful that Congress has used it as a model for legislation to protect the public against potential losses or harm from other hazards, including faulty vaccinations, medical malpractice and toxic waste.

Current Coverage Exceeds \$10 Billion

Congress passed the Price-Anderson legislation in 1957 as an amendment to the Atomic Energy Act. President

Eisenhower signed the measure into law shortly thereafter. It requires nuclear power plants to show evidence of financial protection. Through this program, the nuclear energy industry provides a total of more than \$10 billion in insurance coverage to compensate the public in the event of a nuclear accident. No portion is borne by taxpayers or the federal government.

This protection consists of two tiers. The primary level provides \$300 million in liability insurance. This first-level coverage consists of the liability insurance provided by insurance pools. The pools are groups of insurance companies pledging assets that enable them to provide substantially higher coverage than an individual company could offer. If this amount is not sufficient to cover claims arising from an accident, secondary financial protection applies.

For this second level, each nuclear plant must pay a retrospective premium equal to its proportionate share of the excess loss, up to a maximum of \$100.6 million per reactor per accident. This includes a \$95.8 million premium and a 5 percent surcharge that may be applied, if needed, to legal



SUITE 400
1776 I STREET, NW
WASHINGTON, DC
20006-3708
202.739.8000
www.nei.org

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costs. All 104 operating nuclear reactors are participating in the secondary financial protection program.

Updated and Expanded

The Price-Anderson Act originally limited liability for any single nuclear accident to \$500 million in government funds, plus the maximum liability insurance available in the private market—at that time, \$60 million—for \$560 million total. Congress has extended the act several times, making significant alterations.

1967 Revision. Congress extended the Price-Anderson Act for 10 years in 1967. A new provision introduced the concept of “extraordinary nuclear occurrence,” which it defined as an accident that probably would cause substantial damage to citizens or property off the plant site because of radioactive contamination. The NRC is responsible for making such a determination.

The declaration waives most normal defenses to tort liability. Anyone who makes a claim need only show 1) bodily injury or property damage, 2) the amount of monetary loss and 3) that the injury to persons or property and resulting loss were caused by the release of radioactivity due to the accident. Essentially, this is a no-fault insurance program. To date, there has been no such declaration.

1975 Revision. Congress extended the act for another 10 years in 1975, the year it established the two-tiered system now in effect. First-level coverage consisted of the liability insurance provided by two private insurance pools—then \$125 million. Second-level coverage now would mandate a \$5 million maximum assessment per reactor for each major accident, with a maximum of two accidents per plant per year. The federal government agreed to make up any difference between the amount of protection provided by the first two levels and the \$560 million limit.

Effective May 1, 1979, first-level coverage reached \$160 million. Secondary coverage reached \$400 million when the United States licensed its 80th commercial power reactor in 1982. Combined, the two levels totaled \$560 million, reaching the threshold stipulated in the Price-Anderson Act at which the federal government would phase out its indemnity role.

1988 Revision. Congress extended the Price-Anderson Act for 15 years in 1988 and raised second-level coverage from \$5 million to \$66.2 million, plus adjustments for inflation at five-year intervals. It also increased first-level coverage to \$200 million.

The 1988 revision set a per-reactor assessment limit, but it also included a provision sti-

pulating that—if this limit is reached—Congress would determine whether additional compensation should be awarded and who should provide the compensation. It also provided coverage for a precautionary evacuation in the event of an accident that posed an imminent danger to people or property around a plant site.

In August 1998, the maximum retrospective assessment was adjusted again for inflation and increased to \$88.1 million per reactor. These assessments would be prorated and would not exceed \$10 million per reactor per year.

2003: Congress Fails to Renew. Congress required the NRC to submit a report four years before the expiration of the act in 2002. The report, duly submitted in September 1998, described the public benefits of Price-Anderson. It also recommended that the act be extended for an additional 10 years. The U.S. Department of Energy submitted a report to Congress in March 1999, also recommending renewal of the act. Congress passed a 10-month extension of the act in February 2003 but failed to renew the measure by year’s end, although it did pass a similar measure extending coverage to DOE facilities through Dec. 31, 2006.

Energy Policy Act of 2005 Extends Act for 20 Years

The Energy Policy Act of 2005 reinstated and extended the

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Price-Anderson Act for another 20 years—the longest extension Congress has granted.

This latest revision requires, just as before, that nuclear plant operators purchase all private insurance available to them—currently \$300 million—to serve as first-level coverage. Companies are obligated to contribute to a second-level fund if this amount is not sufficient to cover claims arising from an accident.

The legislation also raised the maximum required fee at the secondary level from \$63 million to \$95.8 million per reactor, for a total of more than \$10 billion in coverage. In addition, it raised the annual secondary level payout from \$10 million to \$15 million per reactor and adjusts the payout for inflation in the future.

Effective Response to Three Mile Island 2 Accident

The Three Mile Island 2 accident in 1979 demonstrated the ability of the Price-Anderson Act to effectively provide care for the public. Immediately following the accident, Pennsylvania's governor recommended the evacuation of pregnant women and families with young children living in the area nearest the plant site. At the time of the accident, the private insurance pools had \$140 million in first-level coverage in force. The pools immediately assembled insurance adjusters from across the

country at a central claims office in Harrisburg, Pa.

These adjusters advanced money to evacuated families for living expenses incurred while away from their homes, with the request that any unused funds be returned. Recipients responded by sending back several thousand dollars. In addition, the insurance pools reimbursed 636 individuals and families for lost wages as a result of the accident.

In addition to the cash advances and reimbursements, the insurance pools later settled a class-action suit for economic loss filed on behalf of people living in a 25-mile radius around Three Mile Island. The last of the litigation was resolved in early 2003.

Insurance pools have paid approximately \$71 million to date in claims and litigation costs connected with the Three Mile Island 2 accident.

U.S. Supreme Court Upholds Act

In 1973, a group of plaintiffs challenged the act's liability limit. The Carolina Environmental Study Group, the Catawba Central Labor Union and 40 individuals brought a suit against Duke Power Co., which was building nuclear power plants in North and South Carolina. The plaintiffs, who lived near the plants under construction, sought a declaration that the Price-Anderson Act was unconstitutional.

The U.S. District Court for the Western District of North Carolina ruled in favor of the plaintiffs. Duke Power Co. appealed the decision to the U.S. Supreme Court. In June 1978, the Supreme Court upheld the constitutionality of the act. In an opinion written by Chief Justice Warren Burger, the court held that because the liability limit was created to encourage private-sector construction of nuclear power plants, it was neither arbitrary nor irrational.

This fact sheet also is available at www.nei.org.