



Price-Anderson Act Coverage and DOE Transport of Commercial Spent Nuclear Fuel and High-Level Radioactive Waste

BACKGROUND

In 1957, Congress enacted the Price-Anderson Act (PAA) as an amendment to the Atomic Energy Act of 1954 (AEA), 42 U.S.C. 2011 et seq., to encourage the development of the nuclear industry and to ensure prompt and equitable compensation in the event of a nuclear incident. Specifically, the PAA establishes a system of financial protection for persons who may be liable for and persons who may be injured by a nuclear incident. With respect to activities conducted for the U.S. Department of Energy (DOE), the PAA achieves these objectives by requiring DOE to include an agreement of indemnification in each contract that involves the risk of “public liability” meaning any legal liability resulting from a “nuclear incident” or “precautionary evacuation” as those terms are defined in the AEA.

FAQs FOR COMMON CARRIERS

Does the PAA apply only to damages caused by release and recovery that occur at federal storage or disposal facilities?

No. The DOE indemnification covers all contractual activities conducted for DOE with the potential to involve the risk of public liability as defined in the Atomic Energy Act. This includes a variety of activities for DOE, including transportation of nuclear material within the United States in connection with a DOE activity. In addition, if there is an accident during such transportation which does not constitute a “nuclear incident,” the DOE indemnification would cover any precautionary evacuation that is ordered by an authorized state or local official. The PAA indemnification presently provides compensation of up to approximately \$16.6 billion, subject to adjustment for inflation, 88 FR 78011 (2023).

If the carrier is doing business for a contractor for DOE, are they covered under the PAA without having the PAA indemnification naming the specific carrier?

Yes. In addition to the contractor that is party to an indemnification agreement with DOE, indemnity coverage is available to all “persons indemnified” under the PAA. The term “person” is broadly defined to include every possible individual or entity, except the NRC or DOE. The term “person indemnified” is defined as the person with whom an indemnity agreement is executed, e.g., a DOE contractor, “and any other person who may be liable for public liability.” This provision extends the protection of the DOE PAA indemnification to any person, including those persons who have no legal relationship to DOE or the indemnified contractor, who may be liable for a nuclear incident within the U.S. arising under a DOE contract.

This summary prepared by the US Department of Energy, Office of Nuclear Energy, Office of Spent Fuel & High-Level Waste Disposition is for informational purposes only and does not constitute legal advice or an official legal position. For further information, see DOE’s 1998 “Report to Congress on the Price-Anderson Act” (<https://www.energy.gov/sites/prod/files/gcprod/documents/paa-rep.pdf>), and its 2023 “Report to Congress on the Price-Anderson Act” (https://www.energy.gov/sites/default/files/2023-02/PAA%20Report%20January%202023_0.pdf).