



AMERICA'S NUCLEAR SOLUTION



Ownership and Liability Issues Associated with Consolidated Interim Storage of Used Nuclear Fuel

EXECUTIVE SUMMARY

When the federal government failed to meet its obligation to take title to used nuclear fuel by 1998, it created a liability that has caused cost American taxpayers \$6.1 billion through 2016 as a result of lawsuits filed against the government for its failure to meet that deadline.

By its own estimates, the government indicates that its liability will total almost \$13 billion by 2020 and could total as much as \$30.1 billion. They estimate that amount will increase by approximately \$500 million per year if the government does not find a way to begin satisfying its obligations by 2022. One of the primary benefits of HR 474 by Congressman Conaway (R-TX) and Congressman Issa (R-CA) is that this longstanding problem is finally addressed. This legislation offers the federal government the opportunity to begin meeting its contractual obligation to utilities and their ratepayers and it would relieve taxpayers of the burden of paying those stakeholders damages for the government's failure to begin taking title to used nuclear fuel in 1998, as specified in law.

Ultimately, this legislation could save the taxpayers, at a minimum, \$500 million a year. These damages are paid out of the U.S. Treasury's Judgement Fund - not through an appropriations process or from utility ratepayers.

For consolidated interim storage of used nuclear fuel to become a reality, the key ingredient is no different than for

permanent disposal -- the federal government must take title to the waste and assume future liability.

THE PRICE-ANDERSON ACT

In the 1950s, the nuclear energy industry's financial security was threatened because no private company would underwrite Liability insurance for nuclear power plants. In the interest of Developing this emerging industry, Congress established a way for the industry to have a no-fault type insurance mechanism where utilities pay into a fund with a ceiling (which has been amended several times) and receive partial indemnity.

The Price-Anderson Act was enacted in 1957 to create a pool of funds to provide compensation to the public who incur damages in the event of a nuclear incident -- no matter who was liable.

In addition to the power plants, the Act also covers DOE facilities, private Nuclear Regulatory Commission (NRC) licensees, and their subcontractors including uranium enrichment plants, national laboratories and the Yucca Mountain facility.

The Price-Anderson Act has been amended several times and continues to prove an effective mechanism to support the nuclear industry.

Any Consolidated Interim Storage Facility (CISF) would be a licensee of the NRC and a contractor of the DOE, and regulatory requirements would be imposed on all aspects

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THE PRICE-ANDERSON ACT *(Continued)*

of the operation, including security and liability. Oversight would include periodic inspections and audits conducted by regional inspectors within license conditions. All of this occurs at operating interim storage facilities across the country today.

Furthermore, according to the DOE's report to Congress on the Price-Anderson Act, "...The report reviews DOE's experience under the 1988 Price-Anderson Act Amendments that grant DOE authority to impose civil penalties for violations of nuclear safety requirements by indemnified contractors, subcontractors and suppliers. This authority has proven to be a valuable tool for increasing the

emphasis on nuclear safety and enhancing the accountability of DOE contractors."

The fact that there is indemnification of DOE contractors under Price-Anderson would not affect the standard of care required of a CISF regarding its operations handling used nuclear fuel.

In assuming liability for this waste, DOE will require the waste to be handled by their contractors in a safe, secure manner. The contractors will be required to maintain safety, security and environmental monitoring programs as well as be responsible for other ordinary business contractual terms and conditions.