

Public Law 89-645

AN ACT

To amend the Atomic Energy Act of 1954, as amended.

October 13, 1966
[S. 3830]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 11 of the Atomic Energy Act of 1954, as amended, is amended—

(1) by redesignating subsections j. and k. as subsections k. and l., respectively, and by redesignating subsections l. through aa. as subsections n. through cc., respectively;

(2) by inserting after subsection i. the following new subsection:

“j. The term ‘extraordinary nuclear occurrence’ means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Commission that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Commission shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, ‘offsite’ means away from ‘the location’ or ‘the contract location’ as defined in the applicable Commission indemnity agreement, entered into pursuant to section 170.”;

(3) by inserting after the subsection redesignated as subsection l. by paragraph (1) of this subsection the following new subsection:

“m. The term ‘indemnitor’ means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Commission with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 170.”; and

(4) by inserting the phrase “, including an extraordinary nuclear occurrence,” between the word “occurrence” and the word “within” in the subsection redesignated as subsection q. by paragraph (1) of this section.

(b) Section 109 of such Act is amended by striking out “subsection 11 t. (2) or 11 aa. (2)” and inserting in lieu thereof “subsection 11 v. (2) or 11 cc. (2)”.

SEC. 2. Subsection 170 e. of the Atomic Energy Act of 1954, as amended, is amended by deleting the last sentence.

SEC. 3. Section 170 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following new subsections:

“m. The Commission is authorized to enter into agreements with other indemnitors to establish coordinated procedures for the prompt handling, investigation, and settlement of claims for public liability. The Commission and other indemnitors may make payments to, or for the aid of, claimants for the purpose of providing immediate assistance following a nuclear incident. Any funds appropriated to the Commission shall be available for such payments. Such payments may be made without securing releases, shall not constitute an admission of the liability of any person indemnified or of any indemnitor, and shall operate as a satisfaction to the extent thereof of any final settlement or judgment.

Atomic Energy
Act of 1954,
amendment.
68 Stat. 922;
71 Stat. 576.
42 USC 2014.

Definitions.

76 Stat. 411.
42 USC 2139.

76 Stat. 410.
42 USC 2210.
71 Stat. 576.

Emergency as-
sistance pay-
ments.

Waiver of defenses.

"n. (1) With respect to any extraordinary nuclear occurrence to which an insurance policy or contract furnished as proof of financial protection or an indemnity agreement applies and which—

"(a) arises out of or results from or occurs in the course of the construction, possession, or operation of a production or utilization facility, or

"(b) arises out of or results from or occurs in the course of transportation of source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

"(c) during the course of the contract activity arises out of or results from the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission may incorporate provisions in indemnity agreements with licensees and contractors under this section, and may require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons indemnified, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof, but in no event more than ten years after the date of the nuclear incident. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforceable in accordance with their terms by the claimant against the person indemnified. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant. The waivers authorized in this subsection shall, as to indemnitors, be effective only with respect to those obligations set forth in the insurance policies or the contracts furnished as proof of financial protection and in the indemnity agreements. Such waivers shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (i) the terms of insurance policies or contracts furnished as proof of financial protection, or indemnity agreements, and (ii) the limit of liability provisions of subsection 170 e.

"(2) With respect to any public liability action arising out of or resulting from an extraordinary nuclear occurrence, the United States district court in the district where the extraordinary nuclear occurrence takes place, or in the case of an extraordinary nuclear occurrence taking place outside the United States, the United States District Court for the District of Columbia, shall have original jurisdiction without regard to the citizenship of any party or the amount in controversy. Upon motion of the defendant or of the Commission, any such action pending in any State court or United States district court shall be removed or transferred to the United States district court having venue under this subsection. Process of such district court shall be effective throughout the United States.

"o. Whenever the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or

76 Stat. 410.
42 USC 2210.

Allocation of funds.

other interested person that public liability from a single nuclear incident may exceed the limit of liability under subsection 170 e.:

76 Stat. 410.
42 USC 2210.

"(1) Total payments made by or for all indemnitors as a result of such nuclear incident shall not exceed 15 per centum of such limit of liability without the prior approval of such court;

"(2) The court shall not authorize payments in excess of 15 per centum of such limit of liability unless the court determines that such payments are or will be in accordance with a plan of distribution which has been approved by the court or such payments are not likely to prejudice the subsequent adoption and implementation by the court of a plan of distribution pursuant to subparagraph (3) of this subsection (c); and

"(3) The Commission shall, and any other indemnitor or other interested person may, submit to such district court a plan for the disposition of pending claims and for the distribution of remaining funds available. Such a plan shall include an allocation of appropriate amounts for personal injury claims, property damage claims, and possible latent injury claims which may not be discovered until a later time. Such court shall have all power necessary to approve, disapprove, or modify plans proposed, or to adopt another plan; and to determine the proportionate share of funds available for each claimant. The Commission, any other indemnitor, and any person indemnified shall be entitled to such orders as may be appropriate to implement and enforce the provisions of this section, including orders limiting the liability of the persons indemnified, orders approving or modifying the plan, orders staying the payment of claims and the execution of court judgments, orders apportioning the payments to be made to claimants, and orders permitting partial payments to be made before final determination of the total claims. The orders of such court shall be effective throughout the United States."

Approved October 13, 1966.

Public Law 89-646

JOINT RESOLUTION

To amend the joint resolution providing for membership of the United States in the Pan American Institute of Geography and History and to authorize appropriations therefor.

October 13, 1966
[S. J. Res. 108]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Resolution 42, Seventy-fourth Congress, approved August 2, 1935 (22 U.S.C. 273), is amended to read as follows: "That in order to meet the obligations of the United States as a member of the Pan American Institute of Geography and History, there are authorized to be appropriated to the Department of State—

Pan American
Institute of
Geography and
History.
Appropriation
authorization.
68 Stat. 1008.

"(1) such sums, not to exceed \$90,300 annually, as may be required for the payment by the United States of its share of the expenses of the Institute, as apportioned in accordance with the statutes of the Institute; and

"(2) such additional sums as may be needed annually for the payment of all necessary expenses incident to participation by the United States in the activities of the Institute."

Approved October 13, 1966.