

MEMORANDUM FOR THE SECRETARY

FROM: ERIC J. FYGI
ACTING GENERAL COUNSEL

THROUGH: ELIZABETH A. MOLER
THE DEPUTY SECRETARY

SUBJECT: **ACTION:** Preparation of congressionally-mandated report to Congress to review need for continuation or modification of the Price-Anderson Act, section 170 of the Atomic Energy Act of 1954, as amended (AEA).

ISSUE: Whether a task force should be established to prepare the report to Congress with DOE's recommendations.

BACKGROUND: Congress enacted the Price-Anderson Act in 1957 to establish a comprehensive system to ensure that adequate funds are available to the public to satisfy liability claims in the event of a nuclear incident and to remove the deterrent to private sector participation in nuclear activities that arises from the threat of potentially enormous liability claims. Congress renewed and revised the Price-Anderson Act in 1965, 1975, and 1988. The 1988 renewal extended the Act until August 1, 2002.

As applied to DOE, the Price-Anderson Act requires that up to August 1, 2002, the Secretary shall enter into agreements of indemnification with DOE's contractors for activities involving the risk of public liability for a nuclear incident. The Act also provides a system of financial protection for licensees of the Nuclear Regulatory Commission (NRC).

DISCUSSION: Section 170p. of the AEA requires that the Secretary of Energy and the NRC "shall submit to the Congress by August 1, 1998, detailed reports concerning the need for continuation or modification of the provisions of [the Price-Anderson Act] taking into account the condition of the nuclear industry, availability of private insurance, and the state of knowledge concerning nuclear safety at that time, among other relevant factors, and shall include recommendations as to the repeal or modification of any of the provisions of [the Price Anderson Act]."

I am proposing a task force to prepare the required report to Congress. The task force would examine whether the Price-Anderson Act should continue and whether any modifications are necessary or appropriate. The task force would examine the Price-Anderson Act in the context of DOE's current operations and anticipated changes in operations such as increased privatization and external regulation. The task force's examination would address DOE's Price-Anderson system of indemnification as well as the system administered by the NRC. The task force would seek public participation and comment.

Due to the complex legal issues involving the liability requirements, I recommend that the proposed task force be chaired by the Office of General Counsel. The task force would include representatives from the following programs: Civilian Radioactive Waste Management (RW); Congressional, Public and Intergovernmental Affairs (CP); Defense Programs (DP); Energy Research (ER); Environmental Management (EM); Environment, Safety and Health (EH); Fissile Materials Disposition (MD); Field Management (FM); General Counsel (GC); Human Resources and Administration (Procurement) (HR); Nonproliferation and National Security (NN); Nuclear Energy (NE); Policy (PO); and appropriate representation from operations offices and field offices.

SENSITIVITIES: DOE's last report, submitted in 1983, focused on the DOE system of indemnification. Because of the important policy questions relating to the NRC system and because of the increasing likelihood that certain DOE contractors will be NRC-licensees, it is appropriate to expand the 1998 report to cover the NRC system.

RECOMMENDATION: That the Secretary approve formation of the task force according to the attached Charter.

APPROVE: ___ [signed by Frederico Peña]_____

DISAPPROVE: _____

DATE: ___ September 24, 1997___

Attachment (Charter)