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April 9, 1987

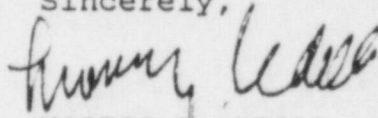
The Honorable Lando Zech, Jr.  
 Chairman  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Dear Mr. Chairman:

On Thursday, April 3, 1987, the Subcommittee on Energy and the Environment reported H.R. 1414, the Price-Anderson Amendments Act of 1987, with one amendment. The amendment would require the Commission to indemnify nuclear pharmacies and nuclear medicine departments of hospitals and clinics from public liability in excess of \$500,000. It would also bar persons injured by the release of radioactive material within levels permitted by the Commission from suing for damages.

I am concerned that this amendment expands the Price-Anderson system into an area previously left to normal principles of state tort law and may have effects that are not fully understood or intended. Thus I would appreciate the Commission's views on this amendment and answers to the attached questions. Your prompt response will greatly aid the Committee's consideration of the amendment when the full Interior Committee marks up the Price-Anderson bill in the next few weeks.

Sincerely,

  
 MORRIS K. UDALL  
 Chairman

Attachment

4/10..To OGC to Prepare Response for Signature of  
 Chairman...Date due: April 24...Cpys to: RF, OCA  
 to Ack, EDO..87-0363

8705190521 870511  
 PDR COMMS NRCC  
 CORRESPONDENCE PDR

## QUESTIONS ON THE NUCLEAR MEDICINE AMENDMENT

- 1.a. How many nuclear pharmacies or nuclear medicine departments of hospitals or clinics licensed by the Commission would the amendment require the Commission to indemnify?
  - b. In how many states are nuclear pharmacies and nuclear medicine departments licensed by the state rather than the NRC? (Please provide a list of these states.)
  - c. How many nuclear pharmacies and nuclear medicine departments that are licensed by Agreement States would the amendment require the Commission to indemnify?
  - d. How many NRC employees (FTEs) would be required to administer the indemnification program mandated by the amendment?
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- 2.a. What types of situations does the Commission classify as a "misadministration"?
  - b. Would the federal indemnity under paragraph u.(1) of the amendment apply to "misadministrations" of nuclear medicine (e.g., overdoses) or only to unintended releases of radioactive materials?
  - c. Would the bar to recovery under paragraph u.(2) apply to "misadministrations" or only to unintended releases?
  - d. Would the bar to recovery under paragraph u.(2) operate to prevent patients from recovering for injuries caused by medical malpractice?
  - e. Would the federal indemnity under paragraph u.(1) apply to malpractice claims?
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- 3.a. Approximately how many misadministrations and unintended releases occur at nuclear pharmacies or nuclear medicine departments licensed by the NRC per year?
  - b. Approximately how many misadministrations and unintended releases occur at nuclear pharmacies or nuclear medicine departments licensed by Agreement States per year?
  - c. Approximately how many such misadministrations and unintended releases, both at NRC licensees and at Agreement State licensees, could be expected to result in public liability in excess of \$500,000 per year?
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- 4.a. Do any Agreement States impose emission standards for nuclear medicine that are more stringent than those of the

NRC? If so, please identify the states.

- b. Would paragraph u.(2) of the amendment bar victims from suing a licensee if the licensee was within an inapplicable but more lenient NRC standard, even though the licensee violated an applicable and more stringent state standard?
5. Does paragraph u.(1) subject the federal government to unlimited liability (in view of the fact that the liability limit of section 6 of H.R. 1414 applies only to persons required to maintain financial protection and the amendment exempts nuclear medicine licensees from financial protection requirement?
6. Are nuclear medicine licensees able to obtain any insurance against public liability either for misadministration or unintended releases?
7. If insurance is not available, are there other alternatives for these licensees to utilize that would provide liability coverage?
8. Has any nuclear medicine licensee ever been held liable for any uninsured liability resulting from the practice of nuclear medicine?
9. Has any nuclear medicine licensee ceased practicing nuclear medicine because of the threat of uninsurable liability?
10. Has any nuclear medicine licensee ever, either formally or informally, requested NRC indemnification under the existing Price-Anderson Act?
11. What would be the impact on the NRC if it were required to indemnify these types of licensees?
12. To your knowledge, do any hospitals with nuclear medicine departments self-insure for malpractice or other types of claims?
13. Would the amendment require Federal indemnity for activities not licensed by the NRC?