

Nuclear Regulatory Commission

§ 7.22 Fiscal and administrative responsibilities.

(a) The Office of the Chief Financial Officer shall keep such records as will fully disclose the disposition of any funds that may be at the disposal of NRC advisory committees.

(b) The Office of Information Services shall keep such records as will fully disclose the nature and extent of activities of NRC advisory committees.

(c) NRC shall provide support services (including staff support and meeting space) for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to another agency in addition to NRC, only one agency shall be responsible for support services at any one time, and the establishing authority shall designate the agency responsible for providing such services.

[54 FR 26948, June 27, 1989, as amended at 63 FR 15742, Apr. 1, 1998]

PART 8—INTERPRETATIONS

Sec.
8.1 Interpretation of section 152 of the Atomic Energy Act of 1954; opinion of the General Counsel.
8.3 [Reserved]
8.4 Interpretation by the General Counsel: AEC jurisdiction over nuclear facilities and materials under the Atomic Energy Act.
8.5 Interpretation by the General Counsel of §73.55 of this chapter; illumination and physical search requirements.


§ 8.1 Interpretation of section 152 of the Atomic Energy Act of 1954; opinion of the General Counsel.

(a) Inquiries have been received as to the applicability of the provisions of section 152 of the Atomic Energy Act of 1954 (68 Stat. 944) to inventions or discoveries made or conceived in the course of activities under licenses issued by the Atomic Energy Commission.

(b) In my [General Counsel, U.S. Atomic Energy Commission] opinion a license issued by the Atomic Energy Commission is not a “contract, subcontract, arrangement or other relationship with the Commission” as those terms are used in section 152 of the act. Hence, the mere fact that an invention or discovery is made by a licensee in the course of activities authorized by a license would not give the Commission rights under section 152 with respect to such invention or discovery. On the other hand, if a licensee has entered into a “contract, subcontract, arrangement or other relationship with the Commission,” inventions or discoveries made or conceived by the licensee under the contract or other relationship would come within the purview of section 152.

(c) As used in this section, “license” means a license issued pursuant to Chapter 6 (Special Nuclear Material), 7 (Source Material), 8 (Byproduct Material) or 10 (Atomic Energy Licenses) of the Atomic Energy Act of 1954, or a construction permit issued pursuant to section 185 of the act.

[21 FR 1414, Mar. 3, 1956]


(a) It is my opinion that an indemnity agreement entered into by the Atomic Energy Commission under the authority of the Atomic Energy Act of 1954 (42 U.S.C. 2210, et seq.), hereafter cited as “the Act,” as amended by Pub. L. 85–256 (the “Price-Anderson Act”); 42 U.S.C. 2210 indemnifies persons indemnified against public liability for bodily injury, sickness, disease or death, or loss of or damage to property, or for loss of use of property caused outside the United States by a nuclear incident occurring within the United States.

(b) Section 170 authorizes the Commission to indemnify against “public liability” as defined in section 11(u) of the Act. 1 Coverage under the Act

1Sec. 11u. “The term ‘public liability’ means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen’s Compensation Acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for Continued
therefore is predicated upon “public liability,” and requires (1) “legal liability” for (2) a “nuclear incident.” Determination of the Act’s coverage, therefore, necessitates a finding that these two elements are present.

(c) In the case of damage outside of the United States caused by a nuclear facility based in the United States there would be a “nuclear incident” as defined in section 11(o) since there would be an “occurrence within the United States causing *** damage.” The “occurrence” would be “within the United States” since “occurrence” is intended by the Act to be “that event at the site of the licensed activity *** which may cause damage rather than the site where the damage may perhaps be caused.” (S. Rep. 296, 85th Cong., 1st Sess., p. 16 1957) (hereafter cited as Report). In section 11(o) an “occurrence” is defined as that which causes damage. It would be, therefore, an event taking place at the site. This definition of “occurrence” is referred to in the Report at page 22 and is crucial to the Act’s placing of venue under section 170(e). In its definition of “nuclear incident.” The Act makes no limitation upon the place where the damage is received but claims arising out of an act of war. ‘Public Liability’ also includes damage to property of persons indemnified: Provided, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.”

2SEC. 11. The term ‘nuclear incident’ means any occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: ***”

3“In order to provide a framework for establishing the limitation of liability, the Commission or any person indemnified is permitted to apply to the appropriate district court of the United States which has venue in bankruptcy matters over the site of the nuclear incident. Again it should be pointed out that the site is where the occurrence takes place which gives rise to the liability, not the place where the damage may be caused ***” Report. p. 22.

§ 8.2

10 CFR Ch. I (1–1–12 Edition)
Joint Committee.6 and the study received the careful consideration of the
nary weight since the Forum study re-
would seem entitled to more than ordi-
problem of the reactor operator who is con-
181 (1957) (hereinafter referred to as “Hear-
bergone at the hearings between
1954, a new subsection which stated, inter alia:
In order ** to encourage the develop-
several purposes is frustrated should the Act be said
to be unclear on this point. The principal
reason for the conclusion that there is cov-
age reached in the Forum study is the fact
that Price-Anderson provides indemnity for
“any legal liability.”* Arthur Murphy, Direc-
tor of the study, in a recent article, has stat-
ed that the confusing sentence in the Report is * * * inconsistent with the flat coverage
of any legal liability by the indemnity.”* Murphy, Liability for Atomic Accidents and
Insurance, in Law and Administration in Nu-
clear Energy 75 (1959). In the testimony be-
before the Joint Committee last year, Pro-
fessor Samuel D. Estep, one of three authors
of the comprehensive study of Atoms and the
Law apparently relying upon the legislative
history, stated that the problem of a reactor
accident in the United States causing dam-
age in a foreign country was unclear, pre-
sumably since he considered the phrase “any
legal liability” directed at a different prob-
lem. Hearings before the Joint Committee on
Atomic Energy, Indemnity and Reactor Safe-
ty, 86th Cong., 1st Sess., p. 77 (1959); Stason
Estep, and Pierce, Atoms and the Law, 577
(1959). Professor Estep stated that there
“surely ought to be” coverage and suggested
a clarifying amendment. His statement that
the phrase “any legal liability” covers only
the question of time restrictions for claims
seems to me erroneous since the language
used, “any legal liability,” seems intention-
ally broad. Additionally, should this
very narrow reading be given to admittedly
broad statutory language, the Congressional
purpose would be frustrated.

4 Atomic Industrial Forum, Financial Pro-
tection Against Atomic Hazards, The Inter-
5 Hearings before the Joint Committee on
181 (1957) (hereinafter referred to as “Hear-
ings.”)
6 Hearings, p. 168.
7 Hearings, p. 182.
8 Hearings, p. 97. It is significant to note
that Mr. Haugh stated at that point the
problem of the reactor operator who is con-
cerned with any type of liability. He noted
that the insurance contracts would cover
*** the instance where *** something happen(ed) out of the country and a suit is
brought in the United States on that."
coverage for damage in Canada and Mexico and, at another point, noted the Committee's hope that the insurance contract in its final form would cover the same scope as the bill.10

(i) It is my opinion that since the language of the Act draws no distinction between damage received in the United States and that received abroad, none can properly be drawn. To read the Act as imposing such a limitation in the absence of statutory direction and in the light of an avowed Congressional intention to encourage the development of the atomic energy industry would be unwarranted. The confusing sentence cited in the Report must, therefore, be read consistently with the language of the Act in the manner suggested above, i.e., as recognizing Congressional inability to limit foreign liability, or must be ignored as inconsistent with the broad coverage of the statutory language.

[25 FR 4075, May 7, 1960]

§ 8.3 [Reserved]

§ 8.4 Interpretation by the General Counsel: AEC jurisdiction over nuclear facilities and materials under the Atomic Energy Act.

(a) By virtue of the Atomic Energy Act of 1954, as amended,11 the individual States may not, in the absence of an agreement with the Atomic Energy Commission, regulate the materials described in the Act from the standpoint of radiological health and safety. Even States which have entered into agreements with the AEC lack authority to regulate the facilities described in the Act, including nuclear power plants and the discharge of effluents from such facilities, from the standpoint of radiological health and safety.

(b) The Atomic Energy Act of 1954 sets out a pattern for licensing and regulation of certain nuclear materials and facilities on the basis of the common defense and security and radiological health and safety. The regulatory pattern requires, in general, that the construction and operation of production facilities (nuclear reactors used for production and separation of plutonium or uranium-233 or fuel reprocessing plants) and utilization facilities (nuclear reactors used for production of power, medical therapy, research, and testing) and the possession and use of byproduct material (radioisotopes), source material (thorium and uranium ores), and special nuclear material (enriched uranium and plutonium, used as fuel in nuclear reactors), be licensed and regulated by the Commission.12 In carrying out its statutory responsibilities for the protection of the public health and safety from radiation hazards and for the promotion of the common defense and security, the AEC has promulgated regulations which establish requirements for the issuance of licenses (Parts 30–36, 40, 50, 70, 71, and 100 of this chapter) and specify standards for radiation protection (part 20 of this chapter).

(c) The Atomic Energy Act of 1954 had the effect of preempting to the Federal Government the field of regulation of nuclear facilities and byproduct, source, and special nuclear material. Whatever doubts may have existed as to that preemption were settled by the passage of the Federal-State amendment to the Atomic Energy Act of 1954 in 1959.13

(d) Prior to 1954, all nuclear facilities and the special nuclear material produced by or used in them were owned by the AEC.14 This Federal monopoly of atomic energy activities was due in large part to the use of atomic energy materials and facilities in our national weapons program, and the large capital investment required for their development. The Atomic Energy Act of 1954 permitted private ownership of nuclear facilities for the first time, but only

10Report, p. 11.
12The terms “byproduct material,” “source material,” and “special nuclear material” are defined in the Atomic Energy Act, sections 11e, 11z, and 11aa, respectively. The terms “production facility” and “utilization facility” are defined in sections 11v and 11cc of the Act, respectively.