



Managing Nuclear Risks in the United States

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American Nuclear Insurers

- ANI is a joint underwriting association of major U.S. insurance and reinsurance companies
- ANI's primary purpose is to provide third party nuclear liability insurance to U.S. commercial nuclear risks
- ANI insures every nuclear power plant in the United States and other facilities that comprise the nuclear fuel cycle



Price Anderson Act

- The Price Anderson Act (PAA) is the legal cornerstone for managing nuclear risk in the United States
- The PAA was enacted in 1957 to encourage the private development of nuclear power
- The PAA mandated financial protection for commercial nuclear facilities; encouraged the development of a private insurance pool; and established a liability regime for victims of nuclear incidents



- Key Provisions of the PAA
 - Two Layers of Financial Protection
 - Primary layer of \$375 million in 2010
 - SFP layer of \$12.2 billion
 - Limitation on Liability
 - Combined total of \$12.6 billion
 - Economic Channeling of Liability to Licensees
 - Defense Costs Within Limits
 - Federal Court Jurisdiction
 - Public Liability Action
 - Waiver of Defenses for an ENO



Public Liability Actions

- A public liability action is any claim asserting legal liability arising out of a nuclear incident
- A nuclear incident is *any occurrence ... causing ... bodily injury, sickness, disease or death, or ... damage to property arising out of or resulting from the radioactive, toxic, explosive or other hazardous properties of source, special nuclear, or by-product material*
- A public liability action is the exclusive federal remedy for a claim arising out of a nuclear incident



Public Liability Actions

- The majority of federal courts require plaintiffs who assert claims for public liability to establish that:
 - They were exposed to a dose of radiation greater than NRC permissible dose limits (**duty owed**),
 - Such exposure can and more likely than not caused the claimed injury (**general and specific causation**), and
 - They have a present physical injury or actual property damage



Public Liability Actions

- To meet this burden of proof, plaintiffs must offer competent expert evidence of dose and injury
- Complete and accurate plant records are the best evidence to rebut plaintiffs' claims regarding dose
- Epidemiological studies on the radionuclide in issue are the best evidence to rebut plaintiffs' claims regarding causation



ANI Claims Experience

- Between 1957 -2008
 - Claims Defended 229
 - Paid Indemnity \$64.4 million
 - Paid Expense \$243 million
 - Total Paid \$304 million



ANI Claims Experience

- Three Mile Island (TMI) is the only claim in ANI's history involving a significant nuclear incident
- Claims asserted by members of the public typically involve normal plant operations spanning many years
- Claims asserted by workers typically arise out of an alleged exposure incident at a plant
- ANI has successfully defended the majority of cases based on challenges to plaintiffs' expert evidence on dose and causation



Recent Cases of Interest

- Groundwater Contamination Cases
 - In 2006, multiple lawsuits were filed by area residents arising out of inadvertent, unmonitored releases of tritium at the Braidwood Nuclear Power Station in Illinois
 - The plaintiffs in one suit sought to represent a class of 14,000 people living within a 10 mile radius of the plant
 - The plaintiffs sought damages for loss of use of property and lost property value due to the stigma associated with nearby tritium contamination



Recent Cases of Interest

- Those cases raised important and novel legal issues including:
 - What is the applicable standard of care owed by a licensee in a property damage case?
 - What level of tritium contamination constitutes property damage?
 - Do plaintiffs in a public liability action whose properties have not been directly contaminated with tritium, have a right of recovery for solely economic damages?



Recent Cases of Interest

- Rocky Flats **Cook** Case

- Rocky Flats is a former nuclear weapons facility located near Denver, CO
- In 1990, area property owners brought a class action suit alleging government contractors released plutonium and other hazardous substances which damaged their property and jeopardized their health
- In a pivotal 2003 ruling, the court held that NRC safety regulations did not preempt state standards of care in a public liability action



Recent Cases of Interest

- The court also ruled that Colorado law did not require plaintiffs to prove that contamination on their property posed a health risk or otherwise cause actual damage to establish a trespass claim
- In 2006, a jury awarded plaintiffs \$377 million in damages
- The defendants appealed the verdict and both ANI and NEI have filed amicus briefs