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HOUSE OF REPRESENTATIVES

{ REPORT 106-694
Part 2

ENSURING THAT THE SECRETARY OF EN-
ERGY MAY CONTINUE TO EXERCISE CER-
TAIN AUTHORITIES UNDER THE PRICE-AN-
DERSON ACT THROUGH THE ASSISTANT
SECRETARY OF ENERGY FOR ENVIRON-
MENT, SAFETY, AND HEALTH OR THE AD-
MINISTRATOR FOR NUCLEAR SECURITY

R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ON

H.R. 4446

[Including cost estimate of the Congressional Budget Office]



JULY 21, 2000.—Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

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CONTENTS

	Page
Purpose and Background	2
Legislative History	3
Section-by-Section Analysis	3
Section 1—Exercise of Certain Price-Anderson Act Authorities Through the Assistant Secretary of Energy for Environment, Safety, and Health or the Administrator for Nuclear Security	3
Committee Position	3
Fiscal Data	3
Congressional Budget Office Estimate	4
Committee Cost Estimate	5
Oversight Findings	5
Constitutional Authority Statement	5
Statement of Federal Mandates	5
Record Vote	5
Changes in Existing Law Made by the Bill, as Reported	5

TO CLARIFY THE MANNER IN WHICH THE SECRETARY OF ENERGY MAY EXERCISE CERTAIN AUTHORITIES UNDER THE PRICE-ANDERSON ACT WITH RESPECT TO THE NATIONAL NUCLEAR SECURITY ADMINISTRATION AND OTHER ELEMENTS OF THE DEPARTMENT OF ENERGY

—————
JULY 21, 2000.—Ordered to be printed
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Mr. SPENCE, from the Committee on Armed Services,
submitted the following

REPORT

[To accompany H.R. 4446]

[Including cost estimate of the Congressional Budget Office]

The Committee on Armed Services, to whom was referred the bill (H.R. 4446) to ensure that the Secretary of Energy may continue to exercise certain authorities under the Price-Anderson Act through the Assistant Secretary of Energy for Environment, Safety, and Health, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. EXERCISE OF CERTAIN PRICE-ANDERSON ACT AUTHORITIES THROUGH THE ASSISTANT SECRETARY OF ENERGY FOR ENVIRONMENT, SAFETY, AND HEALTH OR THE ADMINISTRATOR FOR NUCLEAR SECURITY.

Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended by adding at the end the following new subsection:

“e. With respect to any element of the Department of Energy other than the National Nuclear Security Administration, the Secretary may exercise any authority under this section through the Assistant Secretary of Energy for Environment, Safety, and Health. With respect to the National Nuclear Security Administration, the Secretary may exercise any authority under this section only through the Administrator for Nuclear Security, consistent with the delegation authority of the Secretary under section 202(c)(3) of the Department of Energy Organization Act (as added by section 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 954; 42 U.S.C. 7132(c))).”.

Amend the title so as to read:

A bill to clarify the manner in which the Secretary of Energy may exercise certain authorities under the Price-Anderson Act with respect to the National Nuclear Security Administration and other elements of the Department of Energy.

PURPOSE AND BACKGROUND

The purpose of H.R. 4446 is to ensure that the Secretary of Energy may continue to exercise certain authorities under the Price-Anderson Amendments Act of 1988 (Public Law 100-408) through the Assistant Secretary of Energy for Environment, Safety and Health or the Administrator for Nuclear Security. H.R. 4446 would require the Secretary of Energy to exercise the authorities to assess penalties on Department of Energy (DOE) contractors who violate DOE nuclear safety rules and regulations at the National Security Laboratories of the Department of Energy in a manner consistent with the establishment of the National Nuclear Security Administration (NNSA) authorized by title 32 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65). H.R. 4446 would authorize the Secretary to delegate the exercise of these authorities, as they pertain to the NNSA, to the Administrator for Nuclear Security only and prohibit delegation of these authorities, as they pertain to the NNSA, to the Assistant Secretary of Energy for Environment, Safety and Health.

The Price-Anderson Amendments Act of 1988 amended the Atomic Energy Act of 1954 (Public Law 83-703) to establish a system of civil penalties for Department of Energy contractors that violate DOE nuclear safety rules and to authorize the Secretary of Energy to assess penalties on such violators. The Secretary of Energy has opted administratively to delegate the responsibility for assessing these penalties to the Assistant Secretary of Energy for Environment, Safety, and Health.

The committee is concerned that codification of this administrative delegation would be inconsistent with Public Law 106-65, which specifically limits the authority of the Secretary of Energy to delegate such authority with respect to the NNSA. Specifically, Public Law 106-65 provides that NNSA contractors shall not be subject to the authority, direction, or control of any DOE officer, employee, or agent other than the Secretary, the NNSA Administrator, or the Administrator's designee. H.R. 4446 would ensure that the Secretary's authorities regarding the assessment of penalties for violations of nuclear safety rules and regulations within the NNSA may only be delegated to the NNSA Administrator. H.R. 4446 would, therefore, be consistent with the establishment of the NNSA as a semi-autonomous administration within the Department of Energy while ensuring that the Secretary and NNSA Administrator may use Price-Anderson penalties to enforce contractor compliance with all applicable safety regulations and rules.

The committee does not intend H.R. 4446 to create or exacerbate conflict between the stockpile stewardship and nuclear safety missions of the Administrator. The committee notes that the Secretary retains the option to exercise the authority to impose civil penalties on NNSA contractors, without delegation, or that he may direct the Administrator to impose such penalties as the Secretary deems appropriate.

The committee does not believe H.R. 4446 would promote inconsistent enforcement of safety rules, regulations and orders across DOE. The committee notes that Public Law 106-65 establishes a clear framework for managing such concerns. The Secretary is authorized to direct DOE officials, who are not part of the NNSA, to

review NNSA activities. These officials may recommend that the Secretary take actions regarding the administration of NNSA activities, including their consistency with similar DOE activities. The committee notes that reviews of NNSA contractor compliance with DOE nuclear safety rules, regulations and orders could, if the Secretary so ordered, be conducted by the Assistant Secretary for Environment, Safety, and Health. H.R. 4446 would not disturb the authority of the Secretary to direct the Administrator to provide full and open access to NNSA sites and to take steps needed to ensure that NNSA officials and contractors cooperate fully with DOE investigators.

LEGISLATIVE HISTORY

H.R. 4446 was introduced on May 15, 2000. The bill was reported June 23, 2000 by the Committee on Commerce (H. Rept. 106-694, Part I). On June 23, 2000 the bill was referred to the Committee on Armed Services.

On June 28, 2000 the Committee on Armed Services held a markup session to consider H.R. 4446. The committee adopted an amendment in the nature of a substitute by a voice vote. The amended version of the bill was reported favorably by a voice vote.

SECTION-BY-SECTION ANALYSIS

The following is a section-by-section analysis of the amendment in the nature of a substitute adopted by the committee.

Section 1—Exercise of Certain Price-Anderson Act Authorities Through the Assistant Secretary of Energy for Environment, Safety, and Health or the Administrator for Nuclear Security

This section would amend section 2282a of title 42, United States Code, to authorize the Secretary of Energy to exercise any authority under that provision of law with regard to any element of the Department of Energy, other than the National Nuclear Security Administration, through the Assistant Secretary of Energy for Environment, Safety, and Health. This section would also authorize the Secretary to exercise any authority under that provision of law with regard to the National Nuclear Security Administration only through the Administrator for Nuclear Security.

COMMITTEE POSITION

On June 28, 2000, the Committee on Armed Services, a quorum being present, approved H.R. 4446 as amended, by a voice vote.

FISCAL DATA

Pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the committee attempted to ascertain annual outlays resulting from the bill during fiscal year 2001 and the four following fiscal years. The results of such efforts are reflected in the cost estimate prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974, which is included in this report pursuant to clause 3(c)(3) of rule XIII of the Rules of the House.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402(a) of the Congressional Budget Act of 1974 is as follows:

JULY 6, 2000.

Hon. FLOYD SPENCE,
*Chairman, Committee on Armed Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4446, a bill to ensure that the Secretary of Energy may continue to exercise certain authorities under the Price-Anderson Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Raymond J. Hall and Lisa Cash Driskill.

Sincerely,

DAN L. CRIPPEN, *Director.*

H.R. 4446—A bill to ensure that the Secretary of Energy may continue to exercise certain authorities under the Price-Anderson Act

H.R. 4446 would define and clarify the lines of authority that the Secretary of Energy has to enforce penalties for nuclear safety violations under the Price-Anderson Act. (The Price-Anderson Act provides a framework for resolving liability issues in the event of an accident involving nuclear materials.) With respect to the National Nuclear Security Administration, the bill would require the Secretary to exercise authority only through the Administrator for Nuclear Security consistent with delegation authority under current law. For the rest of the Department of Energy, the bill would clarify the Secretary's authority to enforce the Price-Anderson Act through the Assistant Secretary for Environment, Safety, and Health.

CBO estimates that H.R. 4446 would have little or no effect on the federal budget because implementing it would not require significant changes in current practice. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On May 23, 2000, CBO transmitted a cost estimate for H.R. 4446 as ordered reported by the House Committee on Commerce. These two versions of the legislation are very similar but call for different lines of authority. CBO estimates that the earlier version would have no budgetary effect because it would not change current practice. The version ordered reported by the House Committee on Armed Services would change current practice somewhat and thus could have a small impact on the budget.

The CBO staff contacts for this estimate are Raymond J. Hall and Lisa Cash Driskill. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the committee generally concurs with the estimate contained in the report of the Congressional Budget Office.

OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, this legislation results from hearings and other oversight activities conducted by the committee pursuant to clause 2(b)(1) of rule X.

With respect to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures. The fiscal features of this legislation are addressed in the estimate prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Reform and Oversight pertaining to the subject matter of H.R. 4446.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8 of the United States Constitution.

STATEMENT OF FEDERAL MANDATES

Pursuant to section 423 of Public Law 104-4, this legislation contains no federal mandates with respect to state, local, and tribal governments, nor with respect to the private sector. Similarly, the bill provides no unfunded federal intergovernmental mandates.

RECORD VOTE

In accordance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the committee notes that no rollcall votes were taken with respect to H.R. 4446.

The committee ordered H.R. 4446, as amended, reported to the House with a favorable recommendation by a voice vote, a quorum being present.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 234A OF THE ATOMIC ENERGY ACT OF 1954

SEC. 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY SAFETY REGULATIONS.—a. * * *

* * * * *

e. With respect to any element of the Department of Energy other than the National Nuclear Security Administration, the Secretary may exercise any authority under this section through the Assistant Secretary of Energy for Environment, Safety, and Health. With respect to the National Nuclear Security Administration, the Secretary may exercise any authority under this section only through the Administrator for Nuclear Security, consistent with the delegation authority of the Secretary under section 202(c)(3) of the Department of Energy Organization Act (as added by section 3202 of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 954; 42 U.S.C. 7132(e))).