

Part 6 Compensation for Harm Caused by Nuclear Incidents

78B-3-601 Purpose.

- (1) The purpose of this part is to facilitate the compensation of injured parties from financial protection funds established pursuant to the Price Anderson Act, 42 U.S.C. Sec. 2210.
- (2) Nothing in this part may be construed to impose liability for harm from nuclear incidents for which financial protection is not afforded under the Price Anderson Act.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-602 Definitions.

As used in this part:

- (1) "Harm" means:
 - (a) personal injury, death, or illness, except an injury, death, or illness that is a basis for a claim under either a state or federal workmen's compensation act by an employee of a person liable pursuant to Section 78B-3-603;
 - (b) damage to, destruction of, or loss of the use of property other than property at the situs of and used in connection with the activity giving rise to a nuclear incident;
 - (c) economic loss due to:
 - (i) damage to or loss of the use of property; or
 - (ii) environmental degradation; or
 - (d) expenses reasonably incurred by the state, its political subdivisions, or the agencies of either in protecting the public health and safety and the environment from a nuclear incident or the imminent danger of a nuclear incident, including, but not limited to, precautionary evacuations, emergency response measures, and, after reasonable opportunity for performance of cleanup measures by persons liable pursuant to Section 78B-3-603, decontamination or other clean-up measures. These expenses must be documented by the state, its political subdivisions, or agencies of either.
- (2) "Nuclear incident" means an incident which does not arise from an act of war and involves the release of nuclear material which results in personal injury, loss of use of property, or damage due to the radioactive, toxic, explosive, or other hazardous properties of the nuclear material.
- (3) "Nuclear material" means radioactive material used or handled in connection with:
 - (a) a utilization facility or production facility licensed by the United States Nuclear Regulatory Commission in accordance with 42 U.S.C. Secs. 2133 or 2134;
 - (b) a utilization or production facility constructed or operated under a contract for the benefit of the United States where there is a risk of a substantial nuclear incident as determined by the United States Department of Energy or the Nuclear Regulatory Commission; or
 - (c) disposal, storage, and other activities undertaken pursuant to the Nuclear Waste Policy Act, 42 U.S.C. Secs. 10101 through 10225.
- (4) "Radioactive material" means:
 - (a) source material as defined in 42 U.S.C. Sec. 2014 (z);
 - (b) special nuclear material as defined in 42 U.S.C. Sec. 2014 (aa); or
 - (c) by-product material as defined in 42 U.S.C. Sec. 2014 (e).

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-603 Liability imposed and limitations -- Defenses -- Limitations on damages.

- (1) Except as provided in this section, any person who owns, holds under license, transports, ships, stores, or disposes of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, transportation, shipping, storage, or disposal.
- (2) Except as provided in this section, any person who owns, designs, constructs, operates, or maintains facilities, structures, vehicles, or equipment used for handling, transportation, shipment, storage, or disposal of nuclear material is liable, without regard to the conduct of any other person, for harm from nuclear incidents arising in connection with or resulting from such ownership, design, construction, operation, and maintenance.
- (3) Liability established by this part shall only be imposed if a court of competent jurisdiction finds that:
 - (a) the nuclear incident which is the basis for the suit is covered by existing financial protection undertaken pursuant to 42 U.S.C. Sec. 2210; and
 - (b) a person who is liable under this part is a person indemnified as defined in 42 U.S.C. Sec. 2014.
- (4) Immunity of the state, its political subdivisions, or the agencies of either from suit are only waived with respect to a suit arising from a nuclear incident:
 - (a) in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah; or
 - (b) when brought by a person suffering harm.
- (5) The conduct of the person suffering harm is not a defense to liability, except that this section does not preclude any defense based on:
 - (a) the claimant's knowing failure to mitigate damages related to any injury or damage to the claimant or the claimant's property; or
 - (b) an incident involving nuclear material that is knowingly and wrongfully caused by the claimant.
- (6) A person may not collect punitive or exemplary damages under this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-3-604 Determination of causation -- Compensation allowed.

- (1) Causation of radiological injury from a nuclear incident shall be determined by the trier of fact, taking into account epidemiological studies, statistical probabilities, and other pertinent medical and scientific evidence.
- (2) A claimant under this part shall be entitled to full compensation of the claimant's radiological injuries if the trier of fact determines that it is more likely than not that the claimant's injuries resulted from the nuclear incident.

Renumbered and Amended by Chapter 3, 2008 General Session