ATOMIC ENERGY COMMISSION

PROPOSED RULE MAKING

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[10 CFR Part 140]

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Notice of Proposed Rule Making

On September 11, 1957, the Atomic Energy Commission issued this part, pursuant to the Atomic Energy Act of 1954, as amended by Public Law 85-256. When Part 140 was issued the Commission stated, among other things, that the regulations therein would be replaced by more definitive regulations. On August 28, 1958, proposed amendments to Part 140 were published in the FEDERAL REGISTER designed principally to specify the form of indemnity agreements which the Commission would enter into with licensees under Part 50, "Licensing of Production and Utilization Facilities"; and to grant approval to the form of nuclear energy liability insurance policies issued by the Nuclear Energy Liability Insurance Association and the Mutual Atomic Energy Liability Underwriters organizations (hereinafter respectively referred to as "NELIA" and "MAELU").

The following proposed amendment constitutes a comprehensive revision of Part 140 in the light of experience since September 1957. The principal changes which would be effected by the following amendments include:

1. Modification of the method for determining the amounts of financial protection required of licensees;

2. A requirement of financial protection in the amount of $1 million for holders of construction permits authorized to possess and store special nuclear material at the site of a nuclear reactor for subsequent use as fuel in the operation of the nuclear reactor;

3. Procedures for the exemption of Federal agencies and non-profit educational institutions from the requirement of financial protection;

4. More specific information requirements applicable to licensees furnishing financial protection in the form of the licensee's resources.

These amendments would also divide this part into subparts. Subpart A would include general provisions applicable to licensees subject to the part. Subpart B would not apply to licensees subject to Subpart C or D. Subpart C would apply only to Federal agencies; and Subpart D only to non-profit educational institutions with respect to licenses for the conduct of educational activities.

The proposed form of indemnity agreement published on August 28, 1958 (23 F.R. 6681) and proposed form of insurance policy published in the FEDERAL REGISTER on the same date (23 F.R. 6684) are incorporated by reference as appendices to this proposed revision of Part 140. Substantial comments have been received in response to the proposed amendments published by the Commission on that date and are still under consideration. With respect to the form of nuclear energy liability insurance, the Commission has been advised that NELIA and MAELU are considering a number of changes. In the meantime, nuclear energy liability insurance binders issued by NELIA and MAELU incorporate the form of policy published at 23 F.R. 6684. The Commission has advised persons filing such binders in appropriate amounts that their proof of financial protection has been accepted by the Atomic Energy Commission under regulations currently in effect.

The form of indemnity agreement published at 23 F.R. 6681 would be entered into only with licensees subject to Subpart B of these amendments. In light of the provisions of that form as it may finally be adopted by the Commission, appropriate forms of indemnity agreement between the Commission and persons subject to Subpart C or D will be incorporated in those subparts. All indemnity agreements entered into by the Commission with licensees who have previously been subject to a requirement of financial protection will be effective as of the appropriate dates specified in the applicable subpart.

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Subpart A of the following amendments includes provisions substantially similar to provisions in paragraphs 2 and 3 of Article IV of the form of indemnity agreement published in 23 F.R. 6681. These provisions include procedures for notifying the Commission in the event of a nuclear incident which may be subject to an indemnity agreement. It seems more appropriate to include such provisions in the regulations rather than the indemnity agreement, in order that changes may be made from time to time without a need for amending each executed indemnity agreement. Such provisions in the regulations will be modified as the Commission and interested nuclear energy liability insurance organizations develop improved procedures for handling losses. Such modifications would, of course, be made in accordance with the Commission's customary procedures for the amendment of regulations.

Amounts of financial protection to be required. Under section 170b. of the Act, licensees authorized to operate nuclear reactors having a rated capacity of 100,000 electrical kilowatts or more, are required to have and maintain financial protection equal to the amount of liability insurance available from private sources. With respect to other licensed reactors, the Commission may establish a lesser amount on the basis of criteria set forth in writing, taking into consideration such factors as those specified in section 170b.

The amount of financial protection which would be required under these amendments for any given reactor should not be construed as indicating what the potential or probable damages might be if a serious accident involving that reactor were to occur. An attempt to calculate a dollar amount of damages which might be caused by an accident involving any licensed reactor would require complex and lengthy theoretical studies, the results of which would depend upon the type and validity of the assumptions (as to the various circumstances of the theoretical accident) made in undertaking the study. The results would in almost every case be without significance for purposes of this regulation because the reactor accidents postulated for study purposes and the theoretical consequences calculated for such accidents, are not likely to be similar to those, if any, which will occur. It is consequently more significant for purposes of this regulation to devise equitable means for calculating amounts of financial protection to be required for reactors authorized to operate at the more substantial power levels, based upon relative differences with respect to power level and locations; and to specify fixed amounts for reactors authorized to operate only at the relatively lower power levels.

Under the amendment, the amounts of financial protection required do not vary on the basis of differences in the types of reactors. Under the Commission's regulations, all licensed reactors must meet the Commission's safety requirements. Although there may be differences in the relative safety of various reactor types, or as between different reactors of the same type, there has been insufficient experience to furnish a basis for differentiating, for purposes of this part, as to the relative safety of various types of reactors.

In preparing this amendment the Commission has taken into consideration the factors specified in subsection 170b. of the Act. The Commission has also consulted with representatives of affected industries and has taken their suggestions into consideration.

These amendments would require financial protection in the amount of $1,000,000 for all nuclear reactors having an authorized thermal power level of 10 kilowatts or less. Financial protection in the amount of $1,500,000 would be required for all nuclear reactors having an authorized thermal power level in excess of 10 kilowatts but not in excess of one megawatt. For all nuclear reactors, having a maximum authorized thermal power level exceeding one megawatt but not exceeding 10 megawatts, except testing reactors and reactors licensed under section 104b. of the Act, $2,500,000 of financial protection would be required. Nuclear reactors designed for the production of electrical energy and having a rated capacity of 100,000 electrical kilowatts or more, would be required to furnish financial protection in the amount of $60,000,000. All other nuclear reactors would be required to calculate amounts of required financial protection according to a formula contained in § 140.12 of these amendments, subject to a minimum of $3,500,000 and a maximum of $60,000,000. Nuclear energy liability insurance is available in amounts up to $60,000,000.

Research reactors authorized to operate at a maximum power level of ten thermal kilowatts or less will possess only a modest amount of excess reactivity, and their experimental facilities will present no substantial hazard probability. Reactors in this category frequently do not require building containment.

In the power range from 10 to and including 1000 kilowatts, research reactors require additional reactivity to overcome effects of xenon, samarium and other fission products and to provide for the experimental facilities characteristic of reactors in this power range. Such reactors usually require some degree of building containment and/or isolation.

For research reactors authorized to operate in the range of thermal power levels above one megawatt, but not exceeding ten megawatts, the available excess reactivity is considerably greater than those which may be operated at lower power level, and the experimental facilities are considerably more elaborate. For example, with solid fuel reactors in this range of power, provision must be made for emergency cooling of the core, because if the main coolant is lost during operation, it is possible that the core might melt and consequently release appreciable quantities of fission products. Reactors in this power range require containment and isolation to a degree consistent with the analysis of the hazards.

The proposed formula for determining amounts of financial protection in certain cases. As noted above, the formula contained in the amendments (§ 140.12) is used for determining the amounts of financial protection for reactors having an authorized thermal power level in excess of ten megawatts and for power and testing reactors; and its application is limited by a prescribed minimum of $3,500,000 for such reactors and a maximum of $60,000,000. In applying the formula a "base amount" of financial protection must first be calculated; the base amount is then adjusted by a population factor.

The "base amount" of financial protection. The base amount of financial protection is calculated by multiplying $150 thousand times the maximum power level, expressed in thermal megawatts, authorized by the applicable license. Public Law 85–256 requires financial protection equal to the total amount of private liability insurance available for all power reactors with a capacity of 100,000 electrical kilowatts or more. Such a relationship applied to all reactors needs to be expressed in thermal capacity since many reactors will not be used in connection with the generation of electricity. Although the ratio of thermal to electrical capacity varies somewhat among different reactors, the ratio is defined as four-to-one for purposes of this amendment.

Population factor. Under the proposed formula, the base amount must be multiplied by a population factor. The population factor is designed to take into account the population in a reasonably sized area surrounding the reactor and the proximity of that population to the reactor.

There are two steps involved in determining the population factor to be used in any particlar case. First, the area to be considered must be determined. Under this amendment, the area to be considered for any given facility is a circle with the facility at its center and the radius equal to the square root of the maximum authorized power level in thermal megawatts. This formula for determining the area appears to be reasonable in light of the fact that under normal conditions, fission products released to the atmosphere are diluted at various distances from the point of release approximately in proportion to the square of the distance from that point. It should be emphasized, however, that the method for determining the area to be considered does not represent a judgment as to the size of the area which might actually be affected by any particular reactor accident.

The second step is to identify all minor civil divisions (as shown in the 1950 Census of Population, Bureau of the Census, or later data available from the Bureau) which are, in whole or in part, within the circle determined in step one. The population of each such minor civil division (according to the same census) is divided by the square of the estimated distance from the reactor to the geographic center of the minor civil division in order to give greater weight to population close to the reactor than to more distant population. The sum of the quotients thus obtained for each minor civil division

wholly or partly within the circle represents the population within the area weighted roughly according to the square of the distance from the reactor. Step 2 is completed by assigning a population factor ranging from 1 to 1.5 based on the weighted population within the circle.

Consideration was given to incorporating into the formula a factor to reflect precise property values within the area under consideration, but no suitable means for doing so could be found.

Amount of financial protection in cases where a licensee is licensed to operate two or more nuclear reactors at a single location. Representatives of the insurance syndicates have advised that the nuclear energy liability policies which they are planning to issue will cover nuclear hazards arising out of the possession, disposal or use of special nuclear material at a described location; that they do not plan to issue separate policies for particular activities or reactors at a single location; and that the limit of liability provided in the policy will be the total aggregate liability of the companies under the policy for all nuclear energy hazards with respect to the location.

Under the proposed amendments, such policies may be furnished as financial protection provided that the limit of liability provided in the policy is at least equal to the highest amount of financial protection required under the amendments for any reactor at the location. Thus, if a licensee is authorized to operate three reactors at the location designated in such a policy, and the amount of financial protection required for the reactors is $4,000,000, $2,500,000 and $1,000,000, respectively, the amendments require that the limit of liability stated in the policy be not less than $4,000,000. The amendments would also permit licensees who furnish financial protection in a form other than a policy of liability insurance to calculate the amount of financial protection required for a number of reactors at the same location on the same basis.

Exemptions from financial protection requirements. Prior to the approval of Public Law 85-744, section 170 of the Atomic Energy Act of 1954, as amended, and the Atomic Energy Commission's regulations, required each licensee authorized to operate a nuclear reactor to have and maintain financial protection in an amount specified by the Commission to cover public liability claims. A number of licensees and applicants which were State agencies were unable to comply with the financial protection requirements. Public Law 85-744 was enacted primarily to meet this problem.

The new law exempts licenses issued for the conduct of educational activities to nonprofit educational institutions from the financial protection requirements of subsection 170a. of the Atomic Energy Act.

The Commission has concluded that it may enter into indemnity agreements with agencies of the Federal Government (as defined in the proposed amendments) under subsection 170c. of the Atomic Energy Act without requiring such agencies to furnish financial protection.

Notice is hereby given that adoption of the following amendment to Part 140, 10 CFR, "Financial Protection Requirements and Indemnity Agreements", is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendment should send them to the United States Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation, within 30 days after publication of this notice in the FEDERAL REGISTER.

If sufficient interest is shown, the Commission will consider holding a public rule making hearing with respect to the proposed new §§ 140.11, 140.12 and 140.13 pursuant to the provisions of its rules of practice (10 CFR Part 2).

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AUTHORITY: § 140.1 to 140.72 issued under sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sec. 4, Public Law 85-256; Public Law 85-744.

Subpart A—General Provisions

§ 140.1 Purpose.

The regulations in this part are issued to provide appropriate procedures and requirements for determining the financial protection required of licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to section 170 of the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

§ 140.2 Scope.

(a) The regulations in this part apply to each person who is an applicant for or holder of a license issued pursuant to Part 50 of this chapter to operate a nuclear reactor.

(b) (1) Subpart B does not apply to any person subject to Subpart C or D. Subpart C applies only to persons found by the Commission to be Federal agencies. Subpart D applies only to persons found by the Commission to be nonprofit educational institutions with respect to licenses and applications for licenses for the conduct or educational activities.

(2) Any applicant or licensee subject to this part may apply for a finding that such applicant or licensee is subject to the provisions of Subpart C or D. The application should state the grounds for the requested finding. Any application for a finding pursuant to this paragraph may be included in an application for license.

§ 140.3 Definitions.

As used in this part,

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(c) "Federal agency" means a Government agency such that any liability in tort based on the activities of such agency would be satisfied by funds appropriated by the Congress and paid out of the United States Treasury.

(d) "Financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(e) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(f) "Nuclear reactor" means any apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(g) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public, or private institution, group, Government agency other than the Commission, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(h) "Source material" means source material as defined in the regulations contained in Part 40 of this chapter.

(i) "Special nuclear material" means (1) plutonium, uranim 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provi-

sions of section 51 of the Act, determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(j) "Testing reactor" means a nuclear reactor which is of a type described in § 50.21(c) of this chapter and for which a license has been applied for authorizing operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

§ 140.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretations of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 140.5 Communications.

All communications concerning the regulations in this part should be addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Division of Licensing and Regulation.

§ 140.6 Reports.

(a) In the event of bodily injury or property damage arising out of or in connection with the possession or use of the radioactive material at the location or in the course of transportation or in the event of an occurrence which may give rise to claims therefor, written notice containing particulars sufficient to identify the licensee and reasonably obtainable information with respect to the time, place, and circumstances thereof, an identification of damaged property and of the owners of such property, of injured individuals, and the names and addresses of available witnesses, shall be furnished by or for the licensee to the Commission as promptly as practicable. After claim is made or suit is brought against the licensee or other person indemnified, a copy of every demand notice, summons or other process received by the licensee or his representative shall be furnished by or for the licensee to the Commission as promptly as practicable. The terms "the radioactive material", "the location", "in the course of transportation", "nuclear incident" and "person indemnified" as used in this section shall have the meanings defined in the applicable indemnity agreement between the licensee and the Commission.

(b) In the event of damage caused by a nuclear incident to property of the licensee, for which it appears that the Commission may be requested to make payments under the provisions of an indemnity agreement entered into between the licensee and the Commission under this part, the licensee shall, as promptly as practicable, furnish a complete inventory of the damage claimed to such property, showing in detail the amount thereof.

(c) The licensee shall notify the Commission promptly of each payment made under any policy of liability insurance maintained by the licensee pursuant to the requirements of this part, including payments of claims and of costs of investigating and settling claims and defending suits for damage.

(d) The Commission may require any person subject to this part to keep such records and furnish such reports to the Commission as the Commission deems necessary for the administration of the regulations in this part.

§ 140.7 Fees.

(a) Each licensee shall pay a fee to the Commission at the rate of $30 per year per thousand kilowatts of thermal capacity authorized in its license: *Provided*, That no fee shall be less than $100 per annum for any nuclear reactor. Such fee shall be due for the period beginning with the date on which the applicable indemnity agreement is effective and shall be paid in accordance with billing instructions received from the Commission.

(b) Where a licensee manufactures a number of nuclear reactors each having a power level not exceeding 3⅓ megawatts, for sale to others and operates them at the licensee's location temporarily prior to delivery, the licensee shall report to the Commission the maximum number of such reactors to be operated at that location at any one time. In such cases, the fee shall equal $100 multiplied by the number of reactors reported by the licensee. In the event the number of reactors operated at any one time exceed the estimate so reported, the licensee shall report the additional number of reactors to the Commission and additional charges will be made. If experience shows that less than the estimated number of reactors have been operated, appropriate adjustment in subsequent bills will be made by the Commission.

§ 140.8 Specific exemptions.

The Commission may, upon application by any interested person, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest.

Subpart B—Provisions Applicable Only to Applicants and Licensees Other Than Federal Agencies and Nonprofit Educational Institutions

§ 140.10 Scope.

This subpart applies to applicants for and holders of licenses issued pursuant to Part 50 of this chapter authorizing operation of nuclear reactors, except licenses for the conduct of educational activities issued to, or applied for by, persons found by the Commission to be nonprofit educational institutions and except persons found by the Commission to be Federal agencies.

§ 140.11 Amounts of financial protection for certain reactors.

(a) Each licensee is required to have and maintain financial protection

(1) In the amount of $1,000,000 for each nuclear reactor he is authorized to operate at a thermal power level not exceeding ten kilowatts;

(2) In the amount of $1,500,000 for each nuclear reactor he is authorized to operate at a thermal power level in excess of ten kilowatts but not in excess of one megawatt;

(3) In the amount of $2,500,000 for each nuclear reactor other than a testing reactor or a reactor licensed under section 104b. of the Act which he is authorized to operate at a thermal power level exceeding one megawatt but not in excess of ten megawatts; and

(4) In the amount of $60,000,000 for each nuclear reactor he is authorized to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more.

(b) In any case where a person is authorized pursuant to Part 50 of this chapter to operate two or more nuclear reactors at the same location, the total financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those reactors: *Provided*, That such financial protection covers all reactors at the location.

§ 140.12 Amount of financial protection required for other reactors.

(a) Each licensee is required to have and maintain financial protection for each nuclear reactor for which the amount of financial protection is not determined in § 140.11, in an amount determined pursuant to the formula and other provisions of this section: *Provided*, That in no event shall the amount of financial protection required for any nuclear reactor under this section be less than $3,500,000 or more than $60,000,000.

(b) (1) The formula is:

$x = B$ times P.

(2) In the formula:

x = Amount of financial protection in dollars.
B = Base amount of financial protection.
P = Population factor.

(3) The base amount of financial protection is equal to $150 times the maximum power level, expressed in thermal kilowatts, as authorized by the applicable license.

(4) The population factor (P) shall be determined as follows:

(i) *Step 1.* The area to be considered includes all minor civil divisions (as shown in the 1950 Census of Population, Bureau of the Census, or later data available from the Bureau) which are wholly or partly within a circle with the facility at its center and having a radius in miles equal to the square root of the maximum authorized power level in thermal megawatts.

(ii) *Step 2.* Identify all minor civil divisions according to the same census which are in whole or in part within the circle determined in Step 1. Determine the population of each such minor civil

division (according to the same census or later data available from the Bureau of the Census). For each minor civil division, divide its population by the square of the estimated distance in miles from the reactor to the geographic center of the minor civil division. If the sum of the quotients thus obtained for all minor civil divisions wholly or partly within the circle is 1,000 or less, the population factor is 1. If the sum of these quotients is more than 1,000 but not more than 3,000, the population factor is 1.1. If the sum of these quotients is more than 3,000 but not more than 5,000, the population factor is 1.2. If the sum of these quotients is more than 5,000 but not more than 7,000, the population factor is 1.3. If the sum of these quotients is more than 7,000 but not more than 9,000, the population factor is 1.4. If the sum of these quotients is more than 9,000, the population factor is 1.5.

(c) In any case where a person is authorized pursuant to Part 50 of this chapter to operate two or more nuclear reactors at the same location, the total financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those reactors, provided that such financial protection covers all reactors at the location.

(d) Except in cases where the amount of financial protection calculated under this section is a multiple of $100,000, amounts determined pursuant to this section shall be adjusted to the next highest multiple of $100,000.

§ 140.13 Amount of financial protection required of certain holders of construction permits.

Each holder of a construction permit under Part 50 of this chapter authorizing construction of a nuclear reactor, who is also the holder of a license under Part 70 of this chapter authorizing possession and storage only of special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license under Part 50 of this chapter, shall (during the period prior to issuance of the license authorizing operation of the reactor) have and maintain financial protection in the amount of $1,000,000. Proof of financial protection shall be filed with the Commission in the manner specified in § 140.15 prior to issuance of the license under Part 70 of this chapter.

§ 140.14 Types of financial protection.

(a) The amounts of financial protection required under this part may be furnished and maintained in the form of:

(1) An effective policy of liability insurance from private sources; or

(2) Adequate resources to provide the financial protection required by § 140.11 or § 140.12; or

(3) Such other type of financial protection as the Commission may approve; or

(4) Any combination of the foregoing.

(b) In any case where the Commission has approved proof of financial protection filed by a licensee the licensee shall not substitute one type of financial protection for another type without first obtaining the written approval of the Commission.

§ 140.15 Proof of financial protection.

(a) Proof of financial protection in the case of licensees who maintain financial protection in whole or in part in the form of liability insurance shall (with respect to such insurance) consist of a copy of the liability policy (or policies) together with a certificate by the issuing organization or organizations stating that said copy is a true copy of a currently effective policy issued to the licensee. The licensee may furnish such financial protection in the form of the nuclear energy liability insurance policy set forth in Appendix "A" of this part. The Commission will accept any other form of nuclear energy liability insurance as proof of financial protection, if it determines that the provisions of such insurance provide financial protection under the requirements of the Commission's regulations and the Act.

(b) Proof of financial protection in the case of licensees who maintain financial protection in whole or in part in the form specified in § 140.14(a)(2) shall consist of a showing that the licensee clearly has adequate resources to provide the financial protection required under this part. For this purpose, the applicant or licensee shall file with the Commission:

(1) Annual financial statements for the three complete calendar or fiscal years preceding the date of filing, together with an opinion thereon by a certified public accountant. The financial statements shall include balance sheets, operating statements and such supporting schedules as may be needed for interpretation of the balance sheets and operating statements.

(2) If the most recent statements required under subparagraph (1) have been prepared as of a date more than 90 days prior to the date of filing, similar financial statements, prepared as of a date not more than 90 days prior to the date of filing, should be included. These statements need not be reviewed by a certified public accountant.

(c) The Commission may require any licensee to file with the Commission such additional proof of financial protection or other financial information as the Commissioner determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required under this part.

(d) Proof of financial protection shall be subject to the approval of the Commission.

(e) The licensee shall promptly notify the Commission of any material change in proof of financial protection or in other financial information filed with the Commission under this part.

§ 140.16 Commission review of proof of financial protection.

The Commission will review proof of financial protection filed by any licensee or applicant for license. If the Commission finds that the licensee or applicant for license is maintaining financial protection in accordance with the requirements of this part, approval of the financial protection will be evidenced by incorporation of appropriate provision in the license.

§ 140.17 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of liability insurance.

In any case where a licensee undertakes to maintain financial protection in the form of liability insurance for all or part of the financial protection required by this part,

(a) The Commission may require proof that the organization or organizations which have issued such policies are legally authorized to issue them and do business in the United States and have clear ability to meet their obligations; and

(b) At least 30 days prior to the expiration of any such policy, the licensee shall notify the Commission of the renewal of such policy or shall file proof of financial protection in some other form.

§ 140.18 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of adequate resources.

In any case where a licensee undertakes to maintain financial protection in the form specified in § 140.14(a)(2) for all or part of the financial protection required by this part,

(a) The licensee shall file with the Commission at least annually, before such dates as are specified in the applicable written approval issued by the Commission pursuant to § 140.16, a balance sheet and operating statement prepared and certified by a certified public accountant in accordance with conventional accounting practices.

(b) The Commission may require such licensee to file with the Commission such additional financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required by this part.

§ 140.19 Failure by licensees to maintain financial protection.

In any case where the Commission finds that the financial protection maintained by a licensee is not adequate to meet the requirements of this part, the Commission may suspend or revoke the license or may issue such order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part and of section 170 of the Act.

§ 140.20 Indemnity agreements.

(a) The Commission will execute and issue agreements of indemnity pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor,

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

(b) (1) The general form of indemnity agreement to be entered into by the Commission with licensees subject to this subpart is set forth in Appendix "B". The form of indemnity agreement to be entered into by the Commission with any particular licensee under this part shall contain such modifications of the form in Appendix "B" as are provided for in applicable licenses, regulations or orders of the Commission.

(2) Each licensee who has executed an indemnity agreement under this part shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

Subpart C—Provisions Applicable Only to Federal Agencies

§ 140.51 Scope.

This subpart applies only to persons found by the Commission to be Federal agencies, which have applied for or are holders of licenses issued pursuant to Part 50 of this chapter authorizing operation of nuclear reactors.

§ 140.52 Indemnity agreements.

(a) The Commission will execute agreements of indemnity with each Federal agency subject to this subpart pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Each such agreement shall contain such provisions as are required by law and such additional provisions as may be incorporated therein by the Commission pursuant to regulation. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor,

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

Subpart D—Provisions Applicable Only to Nonprofit Educational Institutions

§ 140.71 Scope.

This subpart applies only to applicants for and holders of licenses issued for the conduct of educational activities to persons found by the Commission to be nonprofit educational institutions, except that this subpart does not apply to Federal agencies.

§ 140.72 Indemnity agreements.

(a) The Commission will execute agreements of indemnity with each person subject to this subpart in accordance with this part or such other regulations as may be issued by the Commission. Each such agreement shall contain such provisions as are required by law and such additional provisions as may be incorporated therein by the Commission pursuant to regulation. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license,

whichever is earlier. No such agreement shall be effective as of a date earlier than August 23, 1958, except that the Commission may upon good cause found, make such agreement effective as of a date prior to August 23, 1958. In no event may the agreement be effective as of a date prior to September 26, 1957.

Appendix "A"—Proposed Form of Insurance Policy (See 23 F.R. 6684)

Appendix "B"—Proposed Form of Indemnity Agreement (See 23 F.R. 6681)

Dated at Germantown, Maryland, this 27th day of April 1959.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

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