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COPY NO. 7

ATOMIC ENERGY COMMISSION

AMENDMENT TO NUCLEAR ENERGY LIABILITY INSURANCE FORM

Note by the Secretary

The Director of Regulation has requested that the attached report be circulated for consideration by the Commission at an early date.

W. B. McCool

Secretary

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ATOMIC ENERGY COMMISSION

AMENDMENT TO NUCLEAR ENERGY LIABILITY INSURANCE FORM

Report to the Director of Regulation by the  
Division of Licensing and Regulation

THE PROBLEM

1. To consider proposed changes in the nuclear energy liability insurance policy (facility form) issued by the Nuclear Energy Liability Insurance Syndicates.

SUMMARY

2. On April 7, 1960, (25 FR 2944) proposed amendments to Part 140, "Financial Protection Requirements and Indemnity Agreements" were published in the Federal Register. Appendix "A" of that regulation set forth the form of nuclear energy liability insurance policy to be issued by Nuclear Energy Liability Insurance Association (NELIA) and Mutual Atomic Energy Liability Underwriters (MAELU). On July 26, 1961 (26 FR 6641) Appendix "A" was amended by publication in the Federal Register of an amendatory endorsement which clarified the use of the word "companies" in the policy form to eliminate certain possible ambiguities. This change was solely clarifying in nature and did not make material changes in the provisions of the policies.

3. The regulations, 10 CFR Part 140, provide among other things, that the Commission approve the form of financial protection including the form of the nuclear energy liability insurance policy.

4. The syndicates (NELIA and MAELU) have recently adopted changes in the form of the policy. These changes deal solely with the matter of premium and do not in any way effect the scope of

[REDACTED]

[REDACTED]

coverage provided with respect to financial protection. The only difference between the premium condition presently in Part 140 (and in the policy form) and as proposed in this amendment is the inclusion of the Industry Credit Rating Plan as a formal expression in the policy. That Plan has been in effect in principle since the issuance of the original policies by the syndicates.

5. The Industry Credit Rating Plan will first become operative in 1967 with respect to calendar year 1957 premiums and provides for a pro-rata return of such of these accumulated standard premiums as have not actually been allocated to pay losses and expenses.

6. NELIA and MAELU have advised that these endorsements have been approved by all of the state regulatory authorities concerned with the exception of New York which has approved in principle but not yet officially. This approval is expected shortly.

7. It is recommended that the amendment be published in the Federal Register as a proposed rule allowing 30 days for public comment.

#### STAFF JUDGMENTS

8. The Division of Public Information and the Offices of the General Counsel and the Controller concur in the proposed action.

#### RECOMMENDATION

9. The Director of Regulation recommends that the Atomic Energy Commission:

a. Approve the amendment to Part 140 contained in Appendix "A" hereof for publication as a proposed rule in the Federal Register allowing 30 days for public comment;

b. Note that a news release such as Appendix "B" will be issued;

[REDACTED]

[REDACTED]

[REDACTED]

c. Note that the JCAE will be advised by letter such as Appendix "C";

d. Note that the Director of the Division of Licensing and Regulation will send a copy of the proposed amendment to each of the insurance syndicates, and

e. Note that this paper is unclassified.

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[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX "A"

ATOMIC ENERGY COMMISSION

10 CFR PART 140

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

NOTICE OF PROPOSED RULE MAKING

The Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters have proposed a change in the form of the nuclear energy liability insurance policy set forth in Appendix A of 10 CFR Part 140 (25 FR 2944 and 26 FR 6641). Appendix A is the form of nuclear energy liability insurance policies issued by the two Associations and approved by the Commission as financial protection under this part. The proposed change will include as part of the policy the Industry Credit Rating Plan previously announced by the nuclear energy liability insurance groups. The proposed change is set forth in its entirety in the following amendment.

Notice is hereby given that the Commission is considering adoption of the following amendment. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendment should send them to the Secretary, U. S. Atomic Energy Commission, Washington 25, D. C., within 30 days after publication of this notice in the Federal Register. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified.

[REDACTED]

Amend Section 140.75, Appendix A, by deleting Condition 1, Premium,  
and substituting the following:

CONDITIONS

1. Premium

(1) Definitions: With reference to the premium for this policy:  
"advance premium", for any calendar year, is the estimated  
standard premium for that calendar year;

"standard premium", for any calendar year, is the premium  
for that calendar year computed in accordance with the com-  
panies' rules, rates, rating plans (other than the Industry  
Credit Rating Plan), premiums and minimum premiums applicable  
to this insurance;

"reserve premium" means that portion of the standard premium  
paid to the companies and specifically allocated under the  
Industry Credit Rating Plan for incurred losses. The amount  
of the "reserve premium" for this policy for any calendar  
year during which this policy is in force is the amount des-  
ignated as such in the Standard Premium Endorsement for that  
calendar year;

"industry reserve premium", for any calendar year, is the sum  
of the reserve premiums for that calendar year for all Nuclear  
Energy Liability Policies issued by the Nuclear Energy Liability  
Insurance Association and Mutual Atomic Energy Liability Under-  
writers and subject to the Industry Credit Rating Plan;

[REDACTED]

[REDACTED]

[REDACTED]

"policy refund ratio", for any calendar year, is the ratio of the named insured's reserve premium for that calendar year to the industry reserve premium for that calendar year;

"incurred losses" means the sum of:

- (1) all losses and expenses paid by the Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters, and
- (2) all reserves for unpaid losses and expenses as estimated by Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters

because of obligations assumed and the expenses incurred in connection with such obligations by members of Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters under all Nuclear Energy Liability Policies issued by Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters and subject to the Industry Credit Rating Plan;

"reserve for refunds", at the end of any calendar year, is the amount by which (1) the sum of all industry reserve premiums for the period from January 1, 1957 through the end of such calendar year exceeds (2) the total for the same period of (a) all incurred losses, valued as of the next

[REDACTED]

[REDACTED]

[REDACTED]

following July 1, and (b) all reserve premium refunds made under the Industry Credit Rating Plan by members of Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters;

"industry reserve premium refund", for any calendar year, is determined by multiplying the reserve for refunds at the end of the ninth calendar year thereafter by the ratio of the industry reserve premium for the calendar year for which the premium refund is being determined to the sum of such amount and the total industry reserve premiums for the next nine calendar years thereafter, provided that the industry reserve premium refund for any calendar year shall in no event be greater than the industry reserve premium for such calendar year.

- (2) Payment of Advance and Standard Premiums. The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year

[REDACTED]

[REDACTED]

[REDACTED]

shall be stated in the Advance Premium Endorsement for such calendar year issued to the named insured as soon as practicable prior to or after the beginning of such year.

As soon as practicable after each December 31 and after the termination of this policy, the standard premium for the preceding calendar year shall be finally determined and stated in the Standard Premium Endorsement for that calendar year. If the standard premium so determined exceeds the advance premium previously paid for such calendar year, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the excess portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

- (3) Use of Reserve Premiums. All reserve premiums paid or payable for this policy may be used by the members of Mutual Atomic Energy Liability Underwriters to discharge their obligations with respect to incurred losses whether such losses are incurred under this policy or under any other policy issued by the Nuclear Energy Liability Insurance Association or Mutual Atomic Energy Liability Underwriters.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- I
- (4) Reserve Premium Refunds. A portion of the reserve premium for this policy for the first calendar year of any group of ten consecutive calendar years shall be returnable to the named insured provided there is a reserve for refunds at the end of the tenth calendar year.
  - (5) Computation of Reserve Premium Refunds. The reserve premium refund due the named insured for any calendar year shall be determined by multiplying any industry reserve premium refund for such calendar year by the policy refund ratio for such calendar year. The reserve premium refund for any calendar year shall be finally determined as soon as practicable after July 1 of the tenth calendar year thereafter.
  - (6) Final Premium. The final premium for this policy shall be the sum of the standard premiums for each calendar year, or portion thereof, during which this policy remains in force less the sum of all refunds of reserve premiums due the named insured under the provisions of this Condition 1.
  - (7) Reserve Premium Refund Agreement. Each member of Mutual Atomic Energy Liability Underwriters subscribing this policy for any calendar year, or portion thereof, thereby agrees for itself, severally and not jointly, and in the respective proportion of its liability assumed under this policy for that

[REDACTED]

[REDACTED]

[REDACTED]

calendar year, to return to the named insured that portion of any reserve premium refund due the named insured for that calendar year, determined in accordance with the provisions of this Condition 1.

Dated at Germantown, Maryland, this \_\_\_\_\_ day of \_\_\_\_\_, 1963.

FOR THE ATOMIC ENERGY COMMISSION

\_\_\_\_\_  
Woodford B. McCool  
Secretary

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX "B"

AEC CONSIDERS AMENDMENTS TO REGULATIONS ON  
NUCLEAR ENERGY LIABILITY INSURANCE POLICY

The Atomic Energy Commission is issuing for public comment a proposed amendment to its regulations concerning a change in the public liability policies which are issued by the two nuclear energy liability insurance syndicates.

The Commission must, by law, require financial protection of each organization it licenses to operate a nuclear reactor and AEC must indemnify these licensees against public liability up to \$500 million per nuclear incident. Indemnity applies to liability in excess of the required amount of financial protection. Financial protection is not required of nonprofit educational institutions and Federal agencies even though they are indemnified under the law.

AEC regulations permit licensees to furnish financial protection in the form of a nuclear energy liability policy which is set forth in Appendix A of the regulation, 10 CFR Part 140. The insurance policies issued by the two syndicates, Nuclear Energy Liability Insurance Association of New York City and Mutual Atomic Energy Liability Underwriters of Chicago are identical with this form.

The two syndicates have recently adopted changes in the form of the policy. The changes deal solely with the matter of premium and do not in any way effect the scope of coverage provided with respect to financial protection. The difference between the premium condition presently in Part 140

[REDACTED]

[REDACTED]

[REDACTED]

and as proposed in this amendment is the inclusion of the Industry Credit Rating Plan as a formal provision in the policy. The plan has been in effect in principle since the issuance of the original policies. The Industry Credit Rating Plan will first become operative in 1967 with respect to Calendar Year 1957 premiums and provides for a pro-rata return of such of these accumulated standard premiums which have not actually been allocated to pay losses and expenses.

The Commission is giving notice that it intends to adopt amendments to its regulations, 10 CFR Part 140, which would incorporate the language concerning the Industry Credit Rating Plan into the insurance policies. All persons who desire to submit written comments or suggestions in connection with the proposed amendment should send them to the Secretary, U. S. Atomic Energy Commission, Washington 25, D. C., within thirty days after publication of the notice in the Federal Register on \_\_\_\_\_.

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX "C"

DRAFT LETTER TO THE JCAE

1. Enclosed for the information of the Joint Committee on Atomic Energy is a notice of proposed rule making concerning a proposed amendment to Part 140, Title 10, Code of Federal Regulations, "Financial Protection Requirements and Indemnity Agreements".

2. The proposed rule involves an amendment to Appendix A of Part 140 through the addition of language describing the Industry Credit Rating Plan which provides for a return of accumulated standard premiums not actually allocated for payment of losses and expenses. Appendix A sets forth the form of nuclear energy liability insurance policy to be issued by the Nuclear Energy Liability Insurance Association (NELIA) and Mutual Atomic Energy Liability Underwriters (MAELU).

3. The notice is being transmitted to the Office of the Federal Register for publication and allows a period of thirty days after publication for public comment.