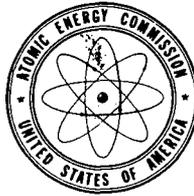


April 27, 1973



SECY-R 678

INFORMATION REPORT

For: The Commissioners

Subject: AMENDMENT TO 10 CFR PART 140 - EXTENSION OF CLAIM PERIOD IN NUCLEAR ENERGY LIABILITY POLICIES

Purpose: To inform the Commission of the issuance of an amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," which would extend the claim period in Nuclear Energy Liability Insurance Policies from two to ten years.

Discussion: On February 5, 1973, the Atomic Energy Commission published in the Federal Register (38 FR 3336) a proposed amendment to its regulations in 10 CFR Part 140 which would be reflected in the facility form set out in section 140.91, and would extend from two to ten years the period after termination or cancellation of the Nuclear Energy Liability Insurance Policy (Facility Form) during which a written claim may be made against the insurer which alleges bodily injury or property damage caused during the policy period. Interested persons were invited to submit written comments and suggestions for consideration within 30 days after publication of the Notice of Proposed Rule Making in the Federal Register.

Since the period for comment on the proposed amendment has expired and since no significant adverse comments or significant questions have been received and no substantial changes in the text of the rule are indicated, the Director of Regulation pursuant to his authority under section 1.12 of 10 CFR Part 1 may arrange for publication of the amendment in final form.

General Electric Company submitted the only comment which was an endorsement of the rule. I am, therefore, proceeding to transmit the enclosed Notice of Rule Making to the Office of the Federal Register. The amendment to Part 140 will become effective 30 days after publication in the Federal Register.

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The Joint Committee will be notified, but in view of the nature of the amendment we do not consider that a public announcement is warranted.



L. Manning Muntzing
Director of Regulation

Enclosure:
Notice of Rulemaking

Contact: Ira Dinitz
X-7781

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TITLE 10 - ATOMIC ENERGY

CHAPTER 1 - ATOMIC ENERGY COMMISSION

Part 140 - Financial Protection Requirements
and Indemnity Agreements

On February 5, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 3336) a proposed amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," which would be reflected in the facility form set out in section 140.91, and would extend from two to ten years the period after termination or cancellation of the Nuclear Energy Liability Insurance Policy (Facility Form) during which a written claim may be made against the insurer which alleges bodily injury or property damage caused during the policy period.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendment within 30 days after publication of the Notice of Proposed Rule Making in the FEDERAL REGISTER. General Electric submitted the only comment prior to the March 7, 1973 expiration period. Their comment was an endorsement of the amendment.

Under the two year discovery provision currently in effect in the nuclear facility policy, there is the possibility that termination of the policy after a nuclear incident may result in exclusion of a significant portion of the insurer's liability from the coverage of the policy. Such a possibility has particular significance in connection with radiation injuries because such injuries may not become evident

until some years after exposure has occurred. In addition, there could be a gap in the financial protection afforded under such policies since the applicable state statute of limitations might provide for a period longer than two years during which suits might be instituted.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, the following amendment of 10 CFR Part 140 is published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

Section 140.91 Appendix A is amended by adding an endorsement at the end thereof to read as follows:

NUCLEAR ENERGY LIABILITY POLICY
(Facility Form)

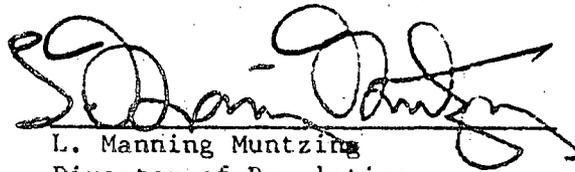
AMENDATORY ENDORSEMENT
(Application of Policy)

It is agreed that Insuring Agreement IV of the policy, captioned "Application of Policy" is amended to read as follows: Application of Policy. This policy applies only to bodily injury or property damage (1) which is caused during the policy period by the nuclear energy hazard and (2) which is discovered and for which written claim is made against the insured, not later than 10 years after the end of the policy period.

(Section 161, 170, 68 Stat. 948, 71 Stat. 576; 42 U.S.C. 2201, 2210)

Dated at Bethesda, Md., this 27th day of
April, 1973.

FOR THE ATOMIC ENERGY COMMISSION



L. Manning Muntzing
Director of Regulation