

December 30, 1980



SECY-80-503A

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RULEMAKING ISSUE

(Affirmation)

For: The Commissioners

FROM: William J. Dircks
Executive Director for Operations

Subject: PAGE CHANGES TO AMENDMENTS TO 10 CFR PART 140 -
CHANGES IN NUCLEAR ENERGY LIABILITY INSURANCE POLICY
SECY-80-503

Purpose: To amend subject paper dated November 12, 1980.

Background: Congress recently enacted the Regulatory Flexibility Act of 1980, effective January 1, 1981. This Act requires the Commission to make a finding concerning the economic impact upon small entities of each proposed rule issued after January 1, 1981.

Discussion: The following pages in SECY-80-503 have been changed:

Page 3 of the Discussion of the Commission Paper and enclosed page 4 to explain the certification statement required of the Commission pursuant to the Regulatory Flexibility Act.

Page 12 of the Federal Register Notice has been revised to include the certification statement.

A handwritten signature in dark ink, appearing to read "W. J. Dircks", written over a horizontal line.

William J. Dircks
Executive Director for Operations

Contact:
I. Dinitz, NRR
492-8562

SECY NOTE: This paper, along with SECY-80-503, is currently scheduled for discussion at a Commission meeting on Tuesday, January 6, 1981.

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A minor change to Condition 4 of the Facility Form to insert "\$124,000,000 is also proposed. The \$124,000,000 figure reflects the amount of nuclear liability insurance provided by ANI to licensees. The remaining \$36,000,000 of the required \$160,000,000 in primary liability insurance coverage is provided by MAELU. This proposed addition is made in paragraph IV of the Amendatory Endorsement.

The remaining paragraphs of the Amendatory Enforcement are unchanged. Such paragraphs merely reflect previously approved changes to the Facility Form.

Congress passed the Regulatory Flexibility Act of 1980, Pub. L. 96-354, U.S.C. 601 et. seq on September 19, 1980. To preserve the competitive position of small entities, this Act requires each Federal agency to analyze the economic impact upon small entities of every proposed rule published after January 1, 1981 and to publish an Initial Regulatory Flexibility Analysis with the Notice of Proposed Rulemaking in the Federal Register. However, this requirement does not apply if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification, together with a succinct statement explaining the reasons for the certification must be published along with the proposed rule.

Since this proposed rule affects two named nuclear liability insurance underwriting pools, and since these two pools are the only ones that issue this type of policy, neither of them fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632.

Recommendations: That the Commission:

- (a) Approve for publication in the FEDERAL REGISTER the notice of proposed rule making to amend Part 140 (Attachment "A");
- (b) Certify that this proposed rule will not have a significant economic impact on a substantial number of small entities
- (c) Inform the Chief Counsel for Advocacy of the Small Business Administration of this certification together with the reason for it.

- (d) Note that pursuant to §51.5(d)(2) of the Commission's regulations neither an environmental impact statement negative declaration, or environmental impact appraisal need be prepared in connection with the subject amendments;
- (e) Note that if no significant adverse comments are received on the notice, the proposed rule will be promulgated in effective form by the Executive Director for Operations.

Coordination:

The Office of the Executive Legal Director has no legal objection.

Harold R. Denton, Director
Office of Nuclear Reactor
Regulation

Enclosure:
(Attachment "A") - Federal Register Notice

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REGULATORY FLEXIBILITY STATEMENT

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule affects two named nuclear liability insurance underwriting pools. These two pools are the only ones in the country writing nuclear liability policies and do not fall within the definition of a small business found in section 3 of the Small Business Act, 15 U.S.C. 632.

Secs. 161(b) and (i), Pub. L. 83-703, 68 Stat. 948 949 (42 U.S.C. 2201(b), (i)); Sec. 170, Pub. L. 85-256, 71 Stat. 576, Pub. L. 94-197, 89 Stat. 1111 (42 U.S.C. 2210); Sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 413 (42 U.S.C. 5541).

FOR THE NUCLEAR REGULATORY COMMISSION

Samuel Chilk
Secretary of the Commission

Dated at Washington, DC.
this day of 1980.