

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

[NRC-2017-0030]

RIN 3150-AK01

Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to adjust for inflation the maximum total and annual standard deferred premiums specified in the Price-Anderson Act. The NRC must perform this adjustment at least once during each 5-year period following August 20, 2003, as mandated by the Atomic Energy Act of 1954, as amended (AEA).

DATE: This rule is effective on November 1, 2018.

ADDRESSES: Please refer to Docket ID **NRC-2017-0030** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2017-0030**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdresource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Yanely Malave-Velez, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1519, e-mail: Yanely.Malave-Velez@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC's regulations in part 140 of title 10 of the *Code of Federal Regulations* (10 CFR), "Financial Protection Requirements and Indemnity Agreements," implement the financial protection requirements of certain licensees and other persons under section 170 of the AEA, also known as the Price-Anderson Act (Pub. L. 85-256, 71 Stat. 576), as amended and codified at 42 U.S.C. 2210. In 2005, Congress amended section

170 of the AEA (Pub. L. 109-58, 119 Stat. 780) to require the NRC to adjust for inflation the maximum total and annual standard deferred premiums that may be charged to a licensee following a nuclear incident. These adjustments must be performed not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index (CPI)

(<https://www.bls.gov/cpi>) for all urban consumers published by the Secretary of Labor.

The NRC made the first periodic inflation adjustment required by this section on September 29, 2008 (73 FR 56451). The NRC last adjusted this amount in 2013, establishing the current maximum total deferred premium at \$121,255,000, and the maximum annual deferred premium at \$18,963,000 (78 FR 41835; July 12, 2013). This final rule makes the third required periodic inflation adjustment and results in a maximum total premium of \$131,056,000 and an annual standard deferred premium of \$20,496,000.

II. Discussion

Section 170(t) of the AEA (42 U.S.C. 2210(t)) requires the NRC to “adjust the amount of the maximum total and annual standard deferred premium not less than once during each 5-year period following August 20, 2003, in accordance with the aggregate percentage change in the Consumer Price Index,” since the previous adjustment. These amounts are codified in § 140.11, “Amounts of financial protection for certain reactors.” Accordingly, the NRC is amending § 140.11(a)(4) to adjust for the increase in inflation, since the last adjustment to these amounts was made in 2013.

The inflation adjustment that the NRC made on July 12, 2013 (78 FR 41835) and which took effect on September 10, 2013, raised the maximum total deferred premium in § 140.11(a)(4) to \$121,255,000 and the maximum annual deferred premium to

\$18,963,000. The CPI figure used in calculating this adjustment was 232.773 (March 2013). The inflation adjustment in this final rule are based on a CPI figure of 251.588 (May 2018). This represents an increase of approximately 8.08 percent. The adjustment methodology used to calculate these values is described on the Bureau of Labor Statistics' website (<https://www.bls.gov>). When this increase is applied to the maximum total and annual standard deferred premiums and rounded to the nearest thousand, the new maximum total deferred premium is \$131,056,000, and the maximum annual deferred premium is \$20,496,000. Section 140.11(a)(4) is amended accordingly.

III. Rulemaking Procedure

This final rule is being issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (5 U.S.C. 553(b)(B)) does not require an agency to use the public notice and comment process “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” In this instance, the NRC finds, for good cause, that solicitation of public comment on this final rule is unnecessary because the Price-Anderson Act requires these non-discretionary adjustments in the maximum total and annual standard deferred premiums. Requesting public comment on these adjustments, which are made pursuant to a formula required by statute, would not result in a change to the adjusted amount. Consistent with this finding of good cause, and as permitted by 5 U.S.C. 808(2), the NRC has determined that the effective date of this rule will be November 1, 2018.

IV. Regulatory Analysis

A regulatory analysis has not been prepared for this final rule. As discussed in this document under Section III, "Rulemaking Procedure," the Price-Anderson Act requires that the NRC perform this rulemaking according to a formula required by statute. This final rule does not involve an exercise of Commission discretion.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to regulations for which a Federal agency is not required by law, including the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C 553(b), to publish a general notice of proposed rulemaking (5 U.S.C. 604). As discussed in this document under Section III, "Rulemaking Procedure," the NRC is not publishing this final rule for notice and comment. Accordingly, the NRC has determined that the requirements of the Regulatory Flexibility Act do not apply to this final rule.

VI. Backfitting and Issue Finality

The NRC has not prepared a backfit analysis for this final rule. This final rule does not involve any provision that would impose a backfit, nor is it inconsistent with any issue finality provision, as those terms are defined in 10 CFR chapter I. These mandatory adjustments are non-discretionary, required by statute, and do not represent any change in position by the NRC with respect to the design, construction, or operation of a licensed facility.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883).

VIII. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in § 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this final rule.

IX. Paperwork Reduction Act

This final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget (OMB), approval number 3150-0039.

X. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act. As explained in Section III, the NRC has found good cause that solicitation of public comment on this final rule is unnecessary. Therefore, consistent with 5 U.S.C. 808(2), the NRC has determined that the effective date of this rule will be November 1, 2018, in lieu of the customary 60-day delay in effectiveness for “major rules” under the Congressional Review Act.

List of Subjects in 10 CFR Part 140

Criminal penalties, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 140:

PART 140 - FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for part 140 continues to read as follows:

AUTHORITY: Atomic Energy Act of 1954, secs. 161, 170, 223, 234 (42 U.S.C. 2201, 2210, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); 44 U.S.C. 3504 note.

§ 140.11 [Amended]

2. In § 140.11(a)(4), remove the number “\$121,255,000” and add in its place the number “\$131,056,000”, and remove the number “\$18,963,000” and add in its place the number “\$20,496,000”.

Dated at Rockville, Maryland, this 6th day of September, 2018.

For the Nuclear Regulatory Commission.

/RA/

Margaret M. Doane,
Executive Director for Operations.