UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAY 1 1979

REGULATORY DOCKET FILE COPY

Docket Nos. 50-315
50-316

Indiana & Michigan Power Company
ATTN: Mr. John Tillinghast
Vice President
P. O. Box 18
Bowling Green Station
New York, New York 10004

Gentlemen:

We are enclosing herewith an amendment to your indemnity agreement reflecting the changes to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," effective May 1, 1979. The amendments to Part 140, a copy of which is also enclosed, give effect to the increase from $140 million to $160 million in the primary layer of nuclear energy liability insurance provided by the American Nuclear Insurers and Mutual Atomic Energy Liability Underwriters.

We would appreciate your indicating acceptance of the amendment to your indemnity agreement in the space provided and returning one signed copy. If you have any questions about the foregoing, please contact us.

Sincerely,

Jerome Saltzman, Chief
Antitrust & Indemnity Group
Office of Nuclear Reactor Regulation

Enclosures:
1. Amendment to Indemnity Agreement
2. Amendment to 10 CFR Part 140

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Docket Nos. 50-315
50-316

AMENDMENT TO INDEMNITY AGREEMENT NO. B-61

AMENDMENT NO. 9

Effective May 1, 1979, Indemnity Agreement No. B-61, between Indiana and Michigan Power Company and Indiana and Michigan Electric Company and the Atomic Energy Commission, dated May 26, 1972, as amended, is hereby further amended as follows:

The amount "$140,000,000" is deleted wherever it appears and the amount "$160,000,000" is substituted therefor.

The amount "$108,500,000" is deleted wherever it appears and the amount "$124,000,000" is substituted therefor.

The amount "$31,500,000" is deleted wherever it appears and the amount "$36,000,000" is substituted therefor.

Item 2a of the Attachment to the indemnity agreement is deleted in its entirety and the following substituted therefor:

Item 2 - Amount of financial protection

a.	$1,000,000	(From 12:01 a.m., May 26, 1972, to 12 midnight, October 24, 1974, inclusive)
	$110,000,000	(From 12:01 a.m., October 25, 1974, to 12 midnight, March 20, 1975, inclusive)
	$125,000,000	(From 12:01 a.m., March 21, 1975, to 12 midnight, April 30, 1977, inclusive)

$140,000,000*	(From 12:01 a.m., May 1, 1977, to 12 midnight, April 30, 1979, inclusive)
$160,000,000*	(From 12:01 a.m., May 1, 1979)

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

Jerome Saltzman, Chief
Antitrust & Indemnity Group
Office of Nuclear Reactor Regulation

Accepted_____, 1979

By_____
INDIANA AND MICHIGAN POWER COMPANY

Accepted_____, 1979

By_____
INDIANA AND MICHIGAN ELECTRIC COMPANY

* and, as of August 1, 1977, the amount available as secondary financial protection.

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Authorities: (42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: March 30, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FmHA Instruction 444.5]

[FR Doc. 79-10561 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The provisions of Section 170 of the Atomic Energy Act of 1954, as amended, require production and utilization facility licensees to have and maintain financial protection to cover public liability claims resulting from a nuclear incident.

The Nuclear Regulatory Commission is amending its regulations to increase the level of the primary layer of financial protection required of certain indemnified licensees. The Commission is amending its regulations at the present time to coincide, as statutorily required, with the increase in the level of the primary layer of insurance provided by private nuclear liability insurance pools.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ira Dinitz, Antitrust and Indemnity Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Phone: 301–492–8336).

SUPPLEMENTARY INFORMATION: The provisions of Section 170 of the Atomic Energy Act of 1954, as amended, (the Act) require production and utilization facility licensees to have and maintain financial protection to cover public liability claims resulting from a nuclear incident. Section 170 of the Act, requires the Nuclear Regulatory Commission to indemnify the licensee and other persons indemnified, up to the statutory limitation on liability, against public liability claims in excess of the amount of financial protection required. Subsection 170b. of the Act requires that for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100 electrical megawatts or more, the amount of financial protection [1] required shall be the maximum amount available from private sources. For other licensees, the Commission may require lesser amounts of financial protection: Primary financial protection may be in the form of private insurance, private contractual indemnities, self-insurance or other proof of financial responsibility, or combination of such measures.

The insurers who provide the nuclear liability insurance, American Nuclear Insurers (ANI) and Mutual Atomic Energy Liability Underwriters (MAELU), have advised the Commission that effective January 9, 1979, the maximum amount of primary nuclear energy liability insurance available was increased from $140 million to $160 million. Pursuant to the provisions of subsection 170b. of the Act, the amount of primary financial protection required for facilities having a rated capacity of 100 electrical megawatts or more will be increased to $160 million, effective May 1, 1979. In addition, in compliance with 10 CFR Part 140, those persons licensed to possess plutonium in the amount of 5 kilograms or more and persons licensed to process plutonium in the amount of 1 kilogram or more for use in plutonium processing and fuel fabrication plants will also be required to provide financial protection in the amount of $160 million.

Since the amendments set out below conform the Commission's regulations to a statutory requirement, the Commission has found that good cause exists for omitting a value/impact analysis, public notice of proposed rule making and public procedure thereon as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations, are published as a document subject to codification.

[1] The Act does not by its precise language require maintenance of a "primary" (i.e., nuclear liability insurance) layer and a "secondary" (i.e., retrospective premium) layer of financial protection but merely considers the combination of these two layers as "financial protection." However, 10 CFR Part 140, of the Commission's regulations that implement the Act, distinguishes between the primary and secondary layers of financial protection. The amendments in this rule relate solely to increases in the primary layer of financial protection.

§ 140.11 [Amended]

1. Section 140.11(a)(4) is amended by deleting "$140,000,000" and substituting therefor "$160,000,000."

§ 140.13a [Amended]

2. Section 140.13a(a) is amended by deleting the term "$140,000,000" and substituting therefor "$160,000,000."

§ 140.91 [Amended]

3. In § 140.91, Appendix A, Condition 4 is amended by revising the footnote to read as follows: "For policies issued by Nuclear Energy Liability-Property Insurance Association the amount will be "$124,000,000"; for policies issued by Mutual Atomic Energy Liability Underwriters, the amount will be "$36,000,000."

4. In § 140.91, Appendix A, paragraph III of the "Optional Amendatory Endorsement" is amended by revising the footnote to read as follows: "For policies issued by Nuclear Energy Liability-Property Insurance Association the amount will be "$124,000,000"; for policies issued by Mutual Atomic Energy Liability Underwriters the amount will be "$36,000,000."

§ 140.92 [Amended]

5. Section 140.92, Appendix B, Article II, paragraph 8(a), is amended by deleting the amount "$108,500,000" wherever it appears and substituting therefor "$124,000,000."

6. Section 140.92, Appendix B, Article II, paragraph 8(b), is amended by deleting the amount "$31,500,000" wherever it appears and substituting therefor "$36,000,000."

7. Section 140.92, Appendix B, Article II, paragraph 8(c), is amended by changing the amount "$140,000,000" to "$160,000,000."

8. Section 140.92, Appendix B, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.93 [Amended]

9. Section 140.93, Appendix C, Article II, paragraph 8, is amended by changing "$140,000,000" to "$160,000,000."

10. Section 140.93, Appendix C, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.94 [Amended]

11. Section 140.94, Appendix D, Article II, paragraph 6, is amended by changing "$140,000,000" to "$160,000,000."

§ 140.95 [Amended]

12. Section 140.95, Appendix E, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.107 [Amended]

13. Section 140.107, Appendix G, Article II, paragraph 6(a), is amended by deleting the amount "$108,500,000" wherever it appears and substituting therefor "$124,000,000."

14. Section 140.107, Appendix G, Article II, paragraph 6(b), is amended by deleting the amount "$31,500,000" wherever it appears and substituting therefor "$36,000,000."

15. Section 140.107, Appendix G, Article III, paragraph 6(c), is amended by changing the amount "$140,000,000" to "$160,000,000."

16. Section 140.107, Appendix G, Article III, paragraph 4(b), is amended by changing the amount "$140,000,000" to "$160,000,000."

§ 140.108 [Amended]

17. Section 140.108, Appendix G, Article II, paragraph 6, is amended by changing the amount "$140,000,000" to "$160,000,000."

18. Section 140.108, Appendix H, Article III, paragraph 4(b), is amended by changing the amount "$140,000,000" to "$160,000,000."

EFFECTIVE DATE: The foregoing amendments become effective on May 1, 1979.

(Secs. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); 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. 415 (42 U.S.C. 5841))

Dated at Washington, D.C., this 2nd day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-10853 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 307 and 327

Assumption and Assessment of Deposit Liabilities of Insured Banks; Voluntary Termination of Insurance Status

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation has decided to revise and amend §§ 307.3 and 327.2(b)(3) of its regulations to: (1) implement Sections 304 and 310 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA) which pertain to the assumption and assessment of deposit liabilities of insured banks, and (2) correct an inaccurate reference.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, telephone (202) 389-4237.

SUPPLEMENTARY INFORMATION: Section 304 of FIRIRCA amends Section 8(q) of the Federal Deposit Insurance Act (FDI Act) to provide that whenever the deposit liabilities of an insured bank are assumed by another insured bank, whether by merger, consolidation, or other statutory assumption, or by contract: (1) the insured status of the bank whose deposits are assumed shall terminate on the date the Corporation receives satisfactory evidence of the assumption; (2) the separate insurance of all insured deposits so assumed shall terminate six months after the date the assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the continuing bank shall give notice of the assumption to the depositors of the bank whose deposits are assumed within 30 days after the assumption takes effect. Section 307.3 has been revised to implement these provisions and to correct an incorrect citation by changing the reference "§ 304.3 (s) and (t)" in Section 307.3(b) to "§ 304.3 (u) and (v)".

Section 310 of FIRIRCA amends Section 7 of the FDI Act to exclude deposits accumulated for the repayment of personal loans from the definition of deposits for insurance assessment purposes. Section 327.2(b)(3) of FDIC's regulations has been amended to aline its definition of the term "deposit" for assessment purposes with that of Section 310 of FIRIRCA.

Since the changes are procedural in nature or necessitated by statutory amendment, the Board of Directors of the Federal Deposit Insurance Corporation has determined, under Section 302.6 of its rules and regulations (12 CFR § 302.6), that notice of, and public participation in, this rulemaking is unnecessary and that good cause exists for the waiver of the 30-day deferral of the effective date for the changes.

Accordingly, 12 CFR 307.3 and 327.2 subparagraph (b) are changed as follows:

PART 307—VOLUNTARY TERMINATION OF INSURANCE STATUS

1. 12 CFR 307.3 is revised to read:

§ 307.3 Steps to be taken and records to be furnished the Corporation where deposits are assumed by another insured bank.

(a) Whenever the deposit liabilities of an insured bank are assumed by another insured bank, whether by merger, consolidation, or other statutory assumption, or by contract, the continuing bank shall give notice of the assumption to the depositors of the bank whose deposits are assumed within 30 days after the assumption takes effect.[9] Such notice shall be (1) mailed to each depositor at the depositor's last address of record as shown upon the books of the bank, (2) published in not less than two issues of a local newspaper of general circulation, and (3) in form substantially as follows:

(Date) ————————

Notice to Depositors:

Please be advised that the deposit liabilities shown on the books of (Name of Assumed Bank) ———— (City or town) ———— (State) ——— as of close of business on ————, 19— have been assumed by the undersigned bank. The insured status of (Name of assumed bank) will terminate at the time provided in section 8(q) of the Federal Deposit Insurance Act. The separate insurance of its deposits will therefore terminate at the end of six months from the above date or, in the case of a time deposit, the earliest maturity date after the six-month period.

You are advised that the undersigned bank is an insured bank and that your deposits will continue to be insured by the Federal Deposit Insurance Corporation in the manner and to the extent provided in said Act.

(Name of Bank) ————————

(Address) ————————

There may be included in such notice any additional information or advice the bank may deem desirable.

[9] The notice requirement does not apply to "phantom" bank mergers as defined in footnote 2a of Section 303.11(a)(9).

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments

Correction

In FR Doc. 79-10853, appearing at page 20632, in the issue of Friday, April 6, 1979, on page 20633, make the following corrections:

(1) In the first column in paragraph 15, in the second line, correct "Article III" to read "Article II".

(2) In paragraph 17, in the first line, correct "Appendix G" to read "Appendix H".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached is the Interpretation issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period March 1, 1979, through March 31, 1979.

Appendix B identifies those Requests for Interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461 (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal.

Issued in Washington, D.C., April 10, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

Appendix A—Interpretations

No.	To	Date	Category	File No.
1979-03	Sinclair Oil Corporation	March 5	Price	A-349

Interpretation 1979-5

To: Sinclair Oil Corporation

Regulation Interpreted: 10 CFR 210.62(a)

Code: GCW—PI—Normal business practices

Facts

The Sinclair Oil Corporation, a small and independent refiner subject to 10 CFR Part 212, Subpart E, markets petroleum products through its subsidiary, Sinclair Marketing, Inc. (Sinclair). Since May 1973, Sinclair's standard contracts with jobbers and dealers for the sale of motor gasoline have required payment in full within 30 days. Payment in full within 10 days has entitled a purchaser to a 1 percent discount on the purchase price. Sinclair has considered an account outstanding for more than 30 days to be in default and subject to suit. In that instance, collection costs would be assignable to the account. At the present time, Sinclair desires to modify its standard contracts for the sale of motor gasoline to require a finance charge of one and one-half (1½) percent monthly on the balance of all accounts not paid within 30 days. No other credit terms are to be changed.

Issue

Does Sinclair's proposal to assess a finance charge on all delinquent accounts constitute the imposition of a more stringent credit term than the credit terms in effect on May 15, 1973, within the meaning of 10 CFR 210.62(a)?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that Sinclair's inclusion of a 1½ percent monthly finance charge on all accounts not paid within 30 days in its standard contracts for the sale of motor gasoline would constitute the imposition of a more stringent credit term than the credit terms in effect on May 15, 1973, in violation of § 210.62(a).

The General Allocation and Price Rules, set forth at 10 CFR Part 210 and adopted on January 14, 1974, 39 FR 1924 (January 15, 1974), were intended to set forth the provisions applicable to both the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) and the Mandatory Petroleum Price Regulations (10 CFR Part 212). The allocation and price regulations were adopted to implement the statutory mandate of Section 4(a) of the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, Pub. L. No. 93-159 (November 27, 1973).[1]

Section 210.62(a) regulates credit terms as a function of price in recognition of the varying roles that credit and other conditions of sale play in the flow of product.[2] Section 210.62(a) provides in relevant part:

"Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter . . . . Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973 price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payment for allocated products, as customarily associated with that class of purchaser . . . on May 15, 1973 . . . . However, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser . . . on May 15, 1973. . . ."

According to the facts presented by Sinclair, neither at the present time nor on

[1] 15 U.S.C. 751 *et seq.* (1976).

[2] Since the decision by the Temporary Emergency Court of Appeals in *Marathon Oil Co.* v. *FEA*, 547 F.2d 1140 (TECA 1976), there can be no doubt concerning the authority of the Federal Energy Administration (FEA) and its successor, the DOE, to regulate credit terms incident to the mandatory petroleum price regulations. In addition, the DOE has resolved issues similar to the one presented by Sinclair, concerning whether changes in credit terms are permissible in view of the provisions of § 210.62(a). *See Exxon Company, U.S.A.*, 2 DOE ¶80,150 (October 28, 1978); *Crystal Oil Co.*, 1 FEA ¶20,161 (October 8, 1974). In *Oil Transit Corp.*, Interpretation 1977-35, 42 FR 54269 (October 5, 1977), the DOE found that requiring purchasers of motor gasoline to incur for the first time the additional cost of obtaining letters of credit guaranteeing payment to Oil Transit would have the effect of imposing a more stringent credit term than the credit terms in effect on May 15, 1973, in violation of § 210.62(a). However, the DOE has not previously considered a case such as the present one where the proposed change in credit terms would apply only after the purchase price is due in full.