

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Mandatory Property Insurance For Decontamination of Nuclear Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On March 31, 1982 the Nuclear Regulatory Commission (NRC) published in the Federal Register (47 FR 13750) an interim final rule requiring utility licensees to purchase on-site property insurance to be used for decontamination expenses arising from an accident. The NRC subsequently published a report on property insurance prepared by Dr. John D. Long, Professor of Insurance at Indiana University (NUREG-0891). This advance notice of proposed rulemaking requests comments on that report and other questions relating to property insurance for nuclear utilities.

DATES: Comment period expires . Comments received after the expiration date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments filed on or before that date.

ADDRESS: Written comments should be submitted to the Office of the Secretary of the Commission, U. S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the comments may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Copies of the report entitled "Nuclear Property Insurance: Status and Outlook," NUREG-0891, may be obtained under the NRC/GPO Sales Program at a cost of \$6.00 by writing to the Director, Division of Technical Information and Document Control, U. S. Nuclear Regulatory Commission, Washington, DC 20555. This report is also available for inspection and copying at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Wood, Office of State Programs, U. S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-9885.

SUPPLEMENTARY INFORMATION: Recently, the NRC published a report, "Nuclear Property Insurance: Status and Outlook" (NUREG-0891), by Dr. John D. Long, Chairperson and Professor of Insurance at Indiana University. This report was written as an outgrowth of the Three Mile Island-2 accident after it became apparent that nuclear utilities may need more property insurance than has been available. The NRC staff asked Dr. Long to write the report, in part, to answer six questions as follows:

1. What has been the development of each principal source of nuclear property insurance used as of early 1982 by nuclear utilities in the United States?
2. What are some of the distinguishing features of nuclear property insurance as offered by the principal sources?

3. How much nuclear property insurance was offered by each of these sources as of January 1, 1982?
4. Assuming that present plans come to fruition, how much nuclear property insurance is likely to be offered by each of these sources as of January 1, 1983?
5. What, if any, principal sources of nuclear property insurance are likely to emerge in the private sector by January 1, 1983?
6. What problems serious enough to warrant action of the U. S. Nuclear Regulatory Commission exist with respect to nuclear property insurance and what action should NRC take in response to each problem?

While this report was being prepared, the NRC issued an interim final regulation which, for the first time, requires utility licensees to purchase on-site property damage insurance to be used for decontamination expenses and other expenses arising from an accident. The new regulation, 10 CFR 50.54(w), was published in the Federal Register on March 31, 1982 (47 FR 13750) and requires electric utility licensees to carry both the maximum amount of property insurance offered as primary coverage by either American Nuclear Insurers/ Mutual Atomic Energy Reinsurance Pool (ANI/MAERP) or Nuclear Mutual Limited (NML) plus any excess coverage in an amount no less than that offered by either ANI/MAERP or Nuclear Electric

Insurance Limited (NEIL). Insurance will be required to be carried as of June 30, 1982. Electric utility licensees will be required on April 1, 1983 and annually thereafter to report on their coverage.

Because of matters raised in the report that were not addressed in the final rule and because the NRC desires the widest possible public input on the issues raised in NUREG-0891, we encourage interested parties to respond to the following questions. We also welcome comments on any other issues relating to property insurance for nuclear utilities, whether or not they have been raised in NUREG-0891. The comments will be considered by the Commission as it develops a proposed rule.

The NRC is particularly interested in receiving comments on the following questions:

1. What dollar limits of property insurance coverage should the NRC require? Professor Long recommended that the NRC require its commercial reactor licensees to carry whatever primary on-site coverage is offered both by ANI/MAERP and by NML plus whatever excess coverage is offered in the markets. Currently, if the capacities offered by these sources were simply added together, they would exceed \$1.2 billion. Another possibility would be to require primary coverage either from ANI/MAERP or NML plus the total of whatever excess coverage is offered in the markets. At the present time, such a proposal would result in coverage of about \$860 million, an amount between Dr. Long's recommendation and the current NRC property insurance requirement.

Alternatively, the NRC could retain its current property insurance requirements, and in addition, could publish annually the amount of coverage carried by each commercial reactor licensee. (The present regulation requires each licensee to report its insurance coverage to NRC annually (10 CFR 50.54(w)(4)). This information could then serve as a focus for decision-making by State regulatory bodies and other interests on the management judgment exercised by each utility regarding the purchase of nuclear property insurance coverage. Thus, after meeting a given minimum property insurance requirement of the NRC (i.e. the current requirement of the regulations), the decision to purchase any further property insurance could be resolved through the market mechanism by the licensee, its insurers, its customers, public utility commissions, equity and debt holders, and other interested parties. This approach raises the question of whether the NRC should increase the frequency of its reporting requirements relating to property insurance coverage. Comments are invited on how well these proposed mechanisms, or alternatives to them, will result in arriving at the proper level of coverage.

Finally, should the amount of insurance required be based on TMI-type accident recovery cost estimates or on some other technical basis?

2. If the NRC changes its requirements for property insurance, should there be special provisions for certain types of licensees? For example, should all power reactors regardless of authorized power

level be required to purchase the same amount of insurance? Should the NRC exempt from applicable portions of property insurance requirements those utilities prohibited by state law from obtaining coverage from certain types of insurers? Should utilities with multiple-reactor sites be required to obtain coverage for each unit separately or is site coverage sufficient?

3. To what extent, if any, should the NRC become involved with the structure and terms and conditions of the property insurance offered? The regulations currently in effect are limited to NRC licensees and license applicants. So far, the NRC has imposed no requirements impinging on the business operations of the insurers. However, Professor Long has made certain recommendations that would put the NRC in the position of requiring utility licensees to maintain property insurance coverage acceptable to the NRC. As an example, Professor Long cites the practice of one insurer that does not discount its premiums when an insured buys co-extensive coverage both from it and another insurer. He recommends that the NRC accept no insurance that does not include such discounted premium provisions. Would that and similar NRC policies represent an unreasonable burden on insurers?

Professor Long suggests that the use of retroactive assessments may be reaching the limits of sound insurance practice and recommends that retroactive insurance be eliminated from any future coverage.

Should the NRC refuse to accept such coverage to satisfy its requirements?
Is concern with overuse of retroactive assessments warranted?

As a corollary issue, should the NRC address the issue of whether, as a matter of public policy, it should require that all proceeds from property insurance be used to pay for decontamination after an accident before claims of creditors and owners are satisfied?
What would be the legal basis for such a requirement?

4. Should the NRC become involved in regulating the replacement power insurance program as currently offered by NEIL and described in NUREG-0891? Would more capacity for property insurance become available if replacement power insurance were no longer issued? Is replacement power insurance necessary, or is it sufficient and relatively equitable to collect such charges through rates?

LIST OF SUBJECTS IN 10 CFR PART 50

Part 50: Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

The authority citation for this document is: Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended, 42 U.S.C. 2201.

Dated at Bethesda, Maryland this 15th day of June 1982.

For the Nuclear Regulatory Commission

(Signed) William J. Dircks

William J. Dircks, Executive Director
for Operations