

ADAMS Template: SECY-067

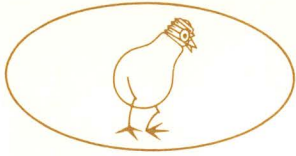
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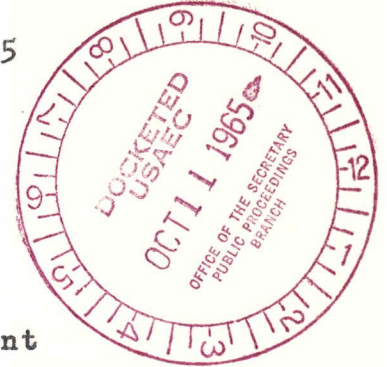


Commonwealth Edison Company

72 WEST ADAMS STREET * CHICAGO, ILLINOIS 60690

October 8, 1965

Mr. Woodford B. McCool
Secretary
U. S. Atomic Energy Commission
Washington, D. C. 20525



Re: Amendment in Reinstatement Endorsement
for Nelia/Maelu Policies

Dear Mr. McCool:

This is responsive to the general invitation to submit comments respecting the captioned amendment to 10 CFR Part 140, as published in the Federal Register under date of September 16, 1965.

We consider the proposed change in the "Restoration of Limit of Liability Endorsement" to reinstate coverage under the Nelia/Maelu policies to be a distinct improvement. In our opinion, it is a significant step in the direction of a per-incident form of nuclear liability insurance, and we are in favor of its adoption.

However, as the use of the proposed alternate endorsement is dependent upon there being "... a clearly identifiable nuclear event ...", it seems important that there be some administrative ground rules for determining how such events are to be so construed.

Incidentally, there appears to be a defect in the following explanatory note on page 11873 of the Federal Register announcement:

"Note: When the reduction of the limit of liability results from a clearly identifiable nuclear event of restoration is offered retroactive to the effective date of the policy for claims other than those resulting from said event, above paragraph 2 will be replaced by the following:"

It appears that the word "and" should be substituted for "of" in the second line of the note.

Yours very truly,


M. A. Tait
Assistant Treasurer

TITLE 10 - ATOMIC ENERGY

CHAPTER 1 - ATOMIC ENERGY COMMISSION

PART 140 - FINANCIAL PROTECTION REQUIREMENTS
AND INDEMNITY AGREEMENTS

Restoration of Limit of Liability Endorsement

On September 16, 1965, the Commission published in the Federal Register (30 FR 11873) for public comment, a proposed amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," consisting of an amendment to an endorsement to the form of the nuclear energy liability insurance policy set forth in Appendix A, 10 CFR Part 140 (25 FR 2948, 26 FR 6641, 28 FR 7077, 29 FR 7710 and 29 FR 9529). The amendment would provide for an alternate paragraph in the "Restoration of Limit of Liability Endorsement." The alternative provision would be used when the reduction in the limit of liability results from a clearly identifiable nuclear event and restoration of the limit would be made retroactive to the effective date of the policy for claims other than those resulting from the identified event.

The Commission has decided to adopt the proposed amendment. The text of the amendment set out below is identical with the text of the proposed amendment published September 16, 1965, as corrected by publication September 22, 1965.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, the following amendment of 10 CFR Part 140 is

published as a document subject to codification to be effective thirty (30) days after publication in the FEDERAL REGISTER.

Section 140.75, Appendix A, is amended by adding an explanatory note and alternative paragraph 2 to follow existing paragraph 2 of the Nuclear Energy Liability Policy (Facility Form), Restoration of Limit of Liability Endorsement, to read as follows:

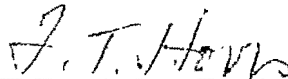
NOTE: When the reduction of the limit of liability results from a clearly identifiable nuclear event and restoration is offered retroactive to the effective date of the policy for claims other than those resulting from said event, above paragraph 2 will be replaced by the following:

2. Such reduced limit is restored to the amount stated in Item 4 of the declarations, except with respect to bodily injury or property damage resulting from (describe nuclear event).

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

Dated at Washington, D. C., this 28th day of October, 1965

FOR THE ATOMIC ENERGY COMMISSION



F. T. Hobbs
Assistant Secretary

ATOMIC ENERGY COMMISSION

(10 CFR Part 140)

FINANCIAL PROTECTION REQUIREMENTS
AND INDEMNITY AGREEMENTS

Proposed Amendment to Restoration of Limit
of Liability Endorsement

The Nuclear Energy Liability Insurance Association and the Mutual Atomic Energy Liability Underwriters have proposed an amendment to an endorsement to the form of the nuclear energy liability insurance policy set forth in Appendix A, 10 CFR Part 140 (25 FR 2948, 26 FR 6641, 28 FR 7077, 29 FR 7710 and 29 FR 9529). Appendix A is the form of the nuclear energy liability insurance policy issued by the two associations and approved by the Commission as financial protection under this part. The endorsement proposed to be amended is the "Restoration of Limit of Liability Endorsement" which is used by the insurers in reinstating the limit of liability coverage following payments by the insurers of an incurred loss.

The endorsement previously approved provides that restoration of limit is prospective only, i.e., it applies to obligations assumed or expenses incurred because of bodily injury or property damage caused after the effective date of the endorsement by the nuclear energy hazard. The reduced limit (original policy limit less payments made by the insurers under the policy) applies to all bodily injury or property damage caused prior to such date, whether or not claims for such injury or damage have been reported. The proposed alternative paragraph set forth in the following amendment would be used when the reduction

in the limit of liability results from a clearly identifiable nuclear event and restoration of the limit would be made retroactive to the effective date of the policy for claims other than those resulting from the identified event.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, notice is hereby given that the Commission is considering adoption of the following amendment to 10 CFR Part 140. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendment should send them to the Secretary, United States Atomic Energy Commission, Washington, D. C., 20545, within thirty days after publication of this notice in the Federal Register. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified.

Section 140.75, Appendix "A", is amended by adding an explanatory note and alternative paragraph 2 to follow existing paragraph 2 of the Nuclear Energy Liability Policy (Facility Form), Restoration of Limit of Liability Endorsement, to read as follows:

NOTE: When the reduction of the limit of liability results from a clearly identifiable nuclear event and restoration is offered retroactive to the effective date of the policy for claims other than those resulting from said event, above paragraph 2 will be replaced by the following:

2. Such reduced limit is restored to the amount stated in Item 4 of the declarations, except with respect to bodily injury or property damage resulting from (describe nuclear event).

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

Dated at Germantown, Md., this 3rd day of September,

1965.

FOR THE ATOMIC ENERGY COMMISSION



W. B. McCool
Secretary