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DOCKET NUMBER
PROPOSED RULE **PR 10 CFR 140**
*Financial Protection Requirements
+ Indemnity Agreements*

140.75

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF HEALTH
275 EAST MAIN STREET
FRANKFORT, KENTUCKY - 40601

May 15, 1964

Secretary
U. S. Atomic Energy Commission
Washington, D. C. 20545

Dear Sir:

We feel that the proposed change in 10 CFR 140, "Financial Protection Requirements and Indemnity Agreements," dated April 29, 1964, is reasonable and have no objections to the proposed change.

Very truly yours,

Floyd W. Wilcox
Director of Radiological Health

F'WW:b'jw



ATOMIC ENERGY COMMISSION

(10 CFR PART 140)

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Proposed Amendatory Endorsement

The Nuclear Energy Liability Insurance Association (NELIA) and the Mutual Atomic Energy Liability Underwriters (MAELU) have proposed an endorsement to the form of the nuclear energy liability policy set forth in Appendix "A", 10 CFR Part 140 (25 FR 2944, 26 FR 6641 and 28 FR 7077). Appendix "A" is the form of nuclear energy liability insurance policy issued by the two Associations and approved by the Commission as financial protection under this part. The form of endorsement is set forth in its entirety in the following amendment.

Frequently licensees of the Commission who are authorized to operate nuclear reactors also carry on other licensed atomic energy activities at the installations where their reactors are located. The licensed operation of a reactor is covered by an indemnity agreement pursuant to the provisions of Section 170 c. of the Atomic Energy Act of 1954, as amended, while the other nuclear activities are generally not covered by such an agreement.

Where a licensee operates a nuclear reactor and engages in other atomic energy activities at the same installation, NELIA and MAELU will each issue only a single nuclear energy liability policy (facility form) covering all nuclear energy activities at that location. If, as is sometimes the case, the licensee desires to obtain more liability insurance than the Commission

requires as financial protection under the provisions of Part 140, the insurance is issued in such higher amount for all nuclear activities at the site, including the nuclear reactor activities.

The indemnity protection afforded by the Commission's indemnity agreements with reactor licensees under subpart B, Part 140, applies to public liability in excess of the amount of financial protection required of the licensee. Consequently, where the licensee also has nuclear energy liability insurance in an amount exceeding the amount of financial protection, public liability claims in excess of the amount of financial protection may be covered both by the liability insurance and the Commission's indemnity agreement to the extent of the additional insurance applicable.

The Commission has been advised that certain licensees in this position, in order to obtain a reduction in insurance premiums, wish to have their liability insurance policies amended to eliminate therefrom coverage of public liability claims which are also covered by the Commission's indemnity agreements. For this purpose NELIA and MAELU have requested Commission approval of the proposed form of endorsement. In determining the attachment point of the Commission's indemnity agreements, policies so endorsed will be interpreted by the Commission as affording only the amount of financial protection required of the licensee.

The proposed amendment to the liability insurance policy requires no modification in the form of indemnity agreement issued by the Atomic Energy Commission and set forth in Appendix "B", 10 CFR Part 140 (26 FR 3455, 26 FR 7770 and 27 FR 2884).

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 of 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.

Amend section 140.75, Appendix "A", by adding the following at the end thereof:

NUCLEAR ENERGY LIABILITY POLICY

(FACILITY FORM)

AMENDATORY ENDORSEMENT

This policy does not apply to bodily injury or property damage with respect to which the insured is entitled to indemnity from the United States Atomic Energy Commission under the provisions of Indemnity Agreement No. _____ between the United States Atomic Energy Commission and _____, dated _____, as now in effect or as hereafter amended.

* * * *

Effective date of this endorsement _____ to form a
part of Policy No. _____

Issued to _____

Date of Issue _____

For the subscribing companies _____

By _____

Countersigned by _____

Endorsement No. _____

Authority: (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 29th day of April, 1964.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION



W. B. McCool
Secretary