

Nuclear Regulatory Commission

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material or special nuclear material. Proof of liability insurance must be filed with the Commission as required by §140.15 before issuance of a license for a uranium enrichment facility under parts 40 and 70 of this chapter.

[57 FR 18394, Apr. 30, 1992]

§ 140.14 Types of financial protection.

(a) The amounts of financial protection required under this part may be furnished and maintained in the form of:

(1) An effective policy of liability insurance from private sources; or

(2) Adequate resources to provide the financial protection required by §§ 140.11, 140.12; 140.13 or § 140.13a; or

(3) Such other type of financial protection as the Commission may approve; or

(4) Any combination of the foregoing.

(b) In any case where the Commission has approved proof of financial protection filed by a licensee the licensee shall not substitute one type of financial protection for another type without first obtaining the written approval of the Commission.

[25 FR 2944, Apr. 7, 1960, as amended at 42 FR 49, Jan. 3, 1977]

§ 140.15 Proof of financial protection.

(a)(1) Licensees who maintain financial protection in whole or in part in the form of liability insurance shall provide proof of financial protection that consists of a copy of the liability policy (or policies) together with a certificate by the insurers issuing the policy stating that the copy is a true copy of the currently effective policy issued to the licensee. The licensee may furnish proof of financial protection in the form of the nuclear energy liability insurance policy set forth in §140.91 or in any other form acceptable to the Commission.

(2) Such proof may alternatively, consist of a copy of the declarations page of a nuclear energy liability policy in the form set forth in §140.91 and issued to the licensee: *Provided*, That such policy form has been filed by the insurers with the Commission. The declarations page shall be accompanied by a certificate by the insurers stating that said copy is a true copy of the dec-

larations page of a currently effective policy and identifying the policy (including endorsements) by reference to the policy form which has been filed by them with the Commission.

(3) The Commission will accept any other form of nuclear energy liability insurance as proof of financial protection if it determines that the provisions of such insurance provide financial protection under the requirements of the Commission's regulations and the Act.

(b) Proof of financial protection in the case of licensees who maintain financial protection in whole or in part in the form specified in §140.14(a)(2) shall consist of a showing that the licensee clearly has adequate resources to provide the financial protection required under this part. For this purpose the applicant or licensee shall file with the Commission:

(1) Annual financial statements for the three complete calendar or fiscal years preceding the date of filing, together with an opinion thereon by a certified public accountant. The financial statements shall include balance sheets, operating statements and such supporting schedules as may be needed for interpretation of the balance sheets and operating statements.

(2) If the most recent statements required under paragraph (b)(1) of this section have been prepared as of a date more than 90 days prior to the date of filing, similar financial statements, prepared as of a date not more than 90 days prior to the date of filing, should be included. These statements need not be reviewed by a certified public accountant.

(c) The Commission may require any licensee to file with the Commission such additional proof of financial protection or other financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required under this part.

(d) Proof of financial protection shall be subject to the approval of the Commission.

(e) The licensee shall promptly notify the Commission of any material change in proof of financial protection

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or in other financial information filed with the Commission under this part.

[25 FR 2944, Apr. 7, 1960, as amended at 33 FR 15999, Oct. 31, 1968; 49 FR 11148, Mar. 26, 1984]

§ 140.16 Commission review of proof of financial protection.

The Commission will review proof of financial protection filed by any licensee or applicant for license. If the Commission finds that the licensee or applicant for license is maintaining financial protection in accordance with the requirements of this part, approval of the financial protection will be evidenced by incorporation of appropriate provision in the license.

§ 140.17 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of liability insurance.

In any case where a licensee undertakes to maintain financial protection in the form of liability insurance for all or part of the financial protection required by this part,

(a) The Commission may require proof that the organization or organizations which have issued such policies are legally authorized to issue them and do business in the United States and have clear ability to meet their obligations; and

(b) At least 30 days prior to the termination of any such policy, the licensee shall notify the Commission of the renewal of such policy or shall file other proof of financial protection.

§ 140.18 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of adequate resources.

In any case where a licensee undertakes to maintain financial protection in the form specified in §140.14(a)(2) for all or part of the financial protection required by this part, the Commission may require such licensee to file with the Commission such financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required by this part.

[42 FR 43385, Aug. 29, 1977]

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§ 140.19 Failure by licensees to maintain financial protection.

In any case where the Commission finds that the financial protection maintained by a licensee is not adequate to meet the requirements of this part, the Commission may suspend or revoke the license or may issue such order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part and of section 170 of the Act.

§ 140.20 Indemnity agreements and liens.

(a) The Commission will execute and issue agreements of indemnity pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1)(i) The effective date of the license (issued pursuant to part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or (ii) the effective date of the license (issued pursuant to part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor, whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957; or

(2) August 1, 1977 or the effective date of the license (issued pursuant to part 70 of this chapter) authorizing the licensee to possess and use plutonium at the site of the plutonium processing and fuel fabrication plant for processing in that plant, whichever date is later.

(b) If the licensee fails to pay assessed deferred premiums, the Commission reserves the right to pay those premiums on behalf of the licensee and to recover the amount of such premiums from the licensee.

(c) The Commission shall require the immediate submission of financial statements by those licensees who indicate, after an assessment of the retrospective premium by the insurance pools, that they will not pay the assessment. Such financial statements shall include, as a minimum, exhibits