

(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 indicating internally generated funds from operations and accumulated retained earnings. Subsequent submission of financial statements by such licensees may be requested by the Commission, as required.

(d) If premiums are paid by the Commission as provided in paragraph (b) of this section, payment by the Commission shall create a lien in the amount paid in favor of the United States upon all property and rights to property, whether real or personal, belonging to such licensee. The lien shall arise at the time payment is made by the Commission and shall continue until the liability for the amount (or a judgment against the licensee arising out of such liability) is satisfied or becomes unenforceable. The Commission will issue a certificate of release of any such lien if it finds that the liability for the amount has been fully satisfied or has become legally unenforceable.

(e) If the Commission determines that the licensee is financially able to reimburse the Commission for a deferred premium payment made in its behalf, and the licensee, after notice of such determination by the Commission fails to make such reimbursement within 120 days, the Commission will take appropriate steps to suspend the license for 30 days. The Commission may take such further action as is necessary if reimbursement is not made within the 30-day suspension period including but not limited to termination of the operating license.

(f)(1)(i) The general form of indemnity agreement to be entered into by the Commission with reactor licensees who furnish financial protection in the form of the nuclear energy liability insurance policy set forth in appendix A

is contained in § 140.92, appendix B. The general form of indemnity agreement to be entered into by the Commission with reactor licensees who furnish financial protection in the form specified in § 140.14(a)(2) is set forth in § 140.93, appendix C.

(ii) The general form of indemnity agreement to be entered into by the Commission with persons licensed to possess and use plutonium in a plutonium processing and fuel fabrication plant and who furnish financial protection in the form of the nuclear energy liability insurance policy set forth in appendix A² is contained in § 140.107, appendix G. The general form of indemnity agreement to be entered into by the Commission with such licensees who furnish financial protection in the form specified in § 140.14(a)(2) is set forth in § 140.108, appendix H.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this subpart shall contain such modifications of the applicable form in §§ 140.92, 140.93, 140.107 and 140.108, appendices A, B, C, G and H, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this subpart shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations, or orders of the Commission.

[42 FR 49, Jan. 3, 1977]

§ 140.21 Licensee guarantees of payment of deferred premiums.

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11(a)(4) shall at the issuance of the license and annually, on the anniversary of the date on which the indemnity agreement is effective, provide evidence to the Commission that it maintains one of the following types of guarantee of payment of deferred premiums in an amount of \$10 million for each reactor he is licensed to operate:

²The form of the nuclear energy liability insurance policy for these licensees will be the subject of pertinent endorsements after discussion with the insurance pools.

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- (a) Surety bond,
- (b) Letter of credit,
- (c) Revolving credit/term loan arrangement,
- (d) Maintenance of escrow deposits of government securities,
- (e) Annual certified financial statement showing either that a cash flow (*i.e.*, cash available to a company after all operating expenses, taxes, interest charges, and dividends have been paid) can be generated and would be available for payment of retrospective premiums within three (3) months after submission of the statement, or a cash reserve or a combination of cash flow and cash reserve, or
- (f) Such other type of guarantee as may be approved by the Commission.

[42 FR 50, Jan. 3, 1977]

§ 140.22 Commission guarantee and reimbursement agreements.

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11(a)(4) shall execute an indemnity agreement with the Commission that provides for the payment by the Commission of deferred premiums not paid by the licensee and reimbursement of the Commission by the licensee. The general forms of agreement to be entered into by the Committee and licensees are set forth in § 140.92, appendix B and § 140.93, appendix C.

[42 FR 50, Jan. 3, 1977]

Subpart C—Provisions Applicable Only to Federal Agencies

§ 140.51 Scope.

This subpart applies only to persons found by the Commission to be Federal agencies, which have applied for or are holders of licenses issued pursuant to part 50 of this chapter authorizing operation of nuclear reactors.

NOTE: Federal agencies are not required to furnish financial protection.

§ 140.52 Indemnity agreements.

(a) The Commission will execute and issue agreements of indemnity with each Federal agency subject to this subpart 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) The effective date of the license (issued pursuant to part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) 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.

(b)(1) The general form of indemnity agreement to be entered into with licensees subject to this subpart is contained in § 140.94 appendix D.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this subpart shall contain such modifications of the form in § 140.94, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this subpart shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

[27 FR 2885, Mar. 29, 1962, as amended at 33 FR 15999, Oct. 31, 1968]

Subpart D—Provisions Applicable Only to Nonprofit Educational Institutions

§ 140.71 Scope.

This subpart applies only to applicants for and holders of licenses issued for the conduct of educational activities to persons found by the Commission to be nonprofit educational institutions, except that this subpart does not apply to Federal agencies.

NOTE: Financial protection is not required with respect to licenses issued for the conduct of educational activities to persons found by the Commission to be non-profit educational institutions.