

§ 140.109

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not, with respect to any nuclear incident, in the aggregate exceed whichever of the following is the lowest; (a) \$500,000,000; (b) \$560,000,000 less the amount of financial protection required under this agreement; or (c) with respect to a common occurrence, \$560,000,000 less the sum of the amounts of financial protection established under this agreement and all other applicable agreements.

7. The obligations of the Commission under this agreement, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified, or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other persons indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

10 CFR Ch. I (1-1-14 Edition)

ARTICLE VI

The licensee agrees to pay the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VII

The term of this agreement shall commence as of the date and time specified in Item 5 of the Attachment and shall terminate at the time of expiration of that license specified in Item 3 of the Attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has ended as defined in paragraph 4(b), Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or the Commission under this agreement with respect to any nuclear incident occurring during the term of this agreement.

UNITED STATES NUCLEAR REGULATORY COMMISSION

ATTACHMENT

Indemnity Agreement No. _____
Item 1—Licensee _____
Item 2—Amount of financial protection— _____
Item 3—License number or numbers _____
Item 4—Location _____
Item 5—The indemnity agreement designated above, of which this Attachment is a part, is effective as of 12:01 a.m., on the _____ day of _____ 19____.
Dated at Bethesda, MD, the _____ day of _____ 19____.
For the U.S. Nuclear Regulatory Commission.
For _____
By _____

[42 FR 53, Jan. 3, 1977, as amended at 42 FR 20142, Apr. 18, 1977; 42 FR 23501, May 9, 1977; 44 FR 20633, Apr. 6, 1979; 44 FR 24045, Apr. 24, 1979; 45 FR 37410, June 3, 1980; 49 FR 11152, Mar. 26, 1984; 54 FR 24161, June 6, 1989]

§ 140.109 Appendix I.

NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

MASTER POLICY NO. _____

Nuclear Energy Liability Insurance

(Secondary Financial Protection)

Named Insured: Each person or organization designated in Item 1 of a certificate.

Nuclear Regulatory Commission

§ 140.109

Policy Period: Beginning on the first day of August, 1977, and continuing to the effective date and time of the cancellation or other termination of this policy, eastern standard time.

Limits of Liability: The amount of retrospective premium actually received by the companies plus the amount of the companies' contingent liability, if any, pursuant to Conditions 2, 3, and 4.

Date of Issue _____

Authorized Representative _____

In consideration of the payment of the annual premium, in reliance upon the statements in the *certificates* and subject to the limits of liability, conditions and other terms of this Master Policy, the undersigned members of Nuclear Energy Liability Insurance Association (hereinafter called the *companies*), each for itself, severally and not jointly, and in the respective proportions herein set forth, and the *insureds* named in the *certificates*, agree as follows:

INSURING AGREEMENTS

I. NUCLEAR ENERGY LIABILITY INSURANCE

(Secondary Financial Protection)

To pay on behalf of or to the *insured* or to the *insured's* workers' compensation carrier all sums payable as *excess losses* to which this Master Policy applies.

II. DEFINITIONS

Bodily injury means bodily injury, sickness or disease, including death resulting therefrom, sustained by any person.

Certificate means a Certificate of Insurance, including Declarations and Bond for Payment of Retrospective Premiums, issued to be a part of this Master Policy.

Common nuclear occurrence means any occurrence or series of occurrences causing *bodily injury* or *property damage* arising out of the radioactive, toxic, explosive, or other hazardous properties of *nuclear material*

(a) Discharged or dispersed from a nuclear reactor described in Item 3 of a *certificate* over a period of days, weeks, months, or longer, or

(b) Discharged or dispersed from a nuclear reactor described in Item 3 of a *certificate* over a period of days, weeks, months or longer and also arising out of such properties of *nuclear material* so discharged or dispersed from one or more other nuclear reactors described in Item 3 of other *certificates*, or

(c) In the course of transportation for which protection is afforded (or would be afforded but for exhaustion of its limit of liability) under the *primary financial protection* described in Item 4 of a *certificate* and also arising out of such properties of nuclear material in the course of transportation for which protection is afforded (or would be afforded but for exhaustion of its limit of li-

ability) under the *primary financial protection* described in Item 4 of one or more other *certificates*.

Damages and claim expenses includes sums estimated by the companies to be payable under this policy and payments made by the companies under this Master Policy:

(a) In settlement of claims and in satisfaction of judgments against the *insureds* for damages because of *bodily injury* or *property damage*;

(b) For (1) costs taxed against an *insured* in any suit against the *insured* seeking damages payable under the terms of this Master Policy and interest on any judgment therein, (2) premiums on appeal bonds and bonds to release attachments in any such suit and (3) reasonable expenses, other than loss of earnings, incurred by the *insured* at the companies' request;

(c) For expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;

(d) For expenses incurred by the companies in investigating a *nuclear incident* or in minimizing its effects;

(e) For all other expenses of the companies in fulfilling their obligations under this Master Policy, provided that such expenses are reasonable and necessary.

Excess losses means all *damages and claim expenses*

(a) Because of *bodily injury* or *property damage* to which a *certificate* applies, and

(b) Which are excess of all sums paid or payable as estimated by the companies under all applicable *primary financial protection*.

Extraordinary nuclear occurrence has the meaning given it in the Atomic Energy Act of 1954, or in any law amendatory thereof.

Insured means any person or organization identified in Item 1 or 2 of a *certificate*.

Nuclear incident means

(a) An *extraordinary nuclear occurrence*, or
(b) A *common nuclear occurrence*, or if neither of these,

(c) An occurrence or series of occurrences, including continuous or repeated exposure to substantially the same general conditions, causing *bodily injury* or *property damage* arising out of the radioactive, toxic, explosive, or other hazardous properties of *nuclear material*.

Nuclear material means *source material*, *special nuclear material* or *byproduct material*.

Primary financial protection means the insurance policies or other contracts identified in Item 4 of a *certificate* and includes any amendment thereto which is consented to by

the companies pursuant to Condition 6 of this Master Policy.

Property damage means physical injury to or destruction or radioactive contamination of property, and loss of use of property so injured, destroyed or contaminated, and loss of use of property while evacuated or withdrawn from use because possibly so contaminated or because of imminent danger of such contamination.

Source material, special nuclear material, and byproduct material have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof.

III. APPLICATION OF POLICY

Insurance is provided by this Master Policy only through a *certificate*. No insurance is afforded with respect to *bodily injury* or *property damage* caused prior to August 1, 1977 by a *nuclear incident*.

CONDITIONS

1. ANNUAL PREMIUM

The named insureds designated in a *certificate* shall pay to the companies the annual premium for each calendar year or part thereof.

Such annual premium shall be determined by the companies and stated in a written notice mailed to the first named insured shown in Item 1 of a *certificate*, and shall be due and payable as stated in such notice.

2. RETROSPECTIVE PREMIUM

The named insureds designated in a *certificate* shall pay to the companies retrospective premium in the event of *excess losses* due to *bodily injury* or *property damage* caused during their *certificate* period by a *nuclear incident* arising out of or in connection with a nuclear reactor described in Item 3 of the *certificate* or in Item 3 of any other *certificate*. The amount of retrospective premium due under each *certificate* shall be determined by multiplying such *excess losses* by the ratio of the maximum retrospective premium payable with respect to the *nuclear incident* under the *certificate* to the total of the maximum retrospective premiums payable with respect to the *nuclear incident* under all such *certificates*.

If any portion of the *bodily injury* or *property damage* to which this Master Policy applies is caused during any portion of a *certificate* period by a *nuclear incident*, the retrospective premium the named insureds designated in such *certificate* are obligated to pay shall be determined as if all *bodily injury* or *property damage* to which this Master Policy applies caused by the *nuclear incident* had been caused during the *certificate* period of such *certificate*.

The maximum retrospective premium that the named insureds designated in a *certificate*

shall pay to the companies for all *excess losses* arising out of any one *nuclear incident* is the amount stated in Item 7 of their *certificate*.

In the event of two more *nuclear incidents*, the maximum amount of retrospective premium that shall be due from and payable by the named insureds in one calendar year shall not exceed twice the amount stated in Item 7 of their *certificate*. Any amount in excess thereof shall be paid in subsequent calendar years as billed by the companies.

In addition, an allowance for applicable premium taxes shall be determined by the companies and paid to them by the named insureds at the time retrospective premiums are due and payable.

After a *nuclear incident* resulting in *excess losses*, the companies shall mail to the first named insured designated in Item 1 of a *certificate* written notice of the retrospective premium and allowance for premium taxes then due under such *certificate*. Such notice shall also constitute notice to all other named insureds designated in such *certificate*. The named insureds shall pay directly to the Nuclear Energy Liability Insurance Association the retrospective premium and allowance for premium taxes stated in the notice. The notice shall specify a date no earlier than 60 days after mailing by which time payment is to be received by the Nuclear Energy Liability Insurance Association.

The companies shall at least annually review their estimate of *excess losses* arising out of the *nuclear incident* and shall adjust the retrospective premium and allowance for premium taxes accordingly. If the amount due from the named insureds is increased, written notice shall be mailed to the first named insured in accordance with the foregoing paragraph; if deceased the companies shall return the excess to the first named insured.

The obligation of the named insureds to pay retrospective premium and the allowance for premium taxes for *excess losses* arising out of a *nuclear incident* shall continue until the named insureds have paid the maximum retrospective premium stated in Item 7 of their *certificate* plus allowance for premium taxes.

The companies shall send to the Nuclear Regulatory Commission summaries of their estimates of *excess losses* arising out of the *nuclear incident* and their computations of retrospective premium and the allowance for premium taxes due.

All retrospective premium (but not the allowance for premium taxes) received by the companies is to be held by the companies separate from the companies' other assets and is to be used by the companies only for the purpose of paying *excess losses*. Any investment income received by the companies from such retrospective premium shall accrue to the benefit of the named insureds.

Nuclear Regulatory Commission

§ 140.109

This paragraph shall not apply to any retrospective premium received by the companies as reimbursement for any funds expended pursuant to Condition 4.

No commission will be paid with respect to retrospective premium and allowance for premium taxes.

3. LIMIT OF LIABILITY

Regardless of the number of

(a) Persons or organizations who are *insureds* under this Master Policy, or

(b) Claims made and suits brought against any and all *insureds*, or

(c) Policies or contracts of *primary financial protection* or *certificates* which apply to the *nuclear incident*, or

(d) Years this Master Policy and any *certificate* shall continue in force,

The total liability of the companies under this Master Policy for all *excess losses* arising out of any *nuclear incident* shall not exceed the amount of retrospective premium actually received by the companies pursuant to Condition 2 with respect to such *nuclear incident* plus the companies' contingent liability, if any, as determined by Condition 4. Reimbursement of the companies for funds expended pursuant to Condition 4 shall not operate to increase the total liability of the companies.

4. CONTINGENT LIABILITY OF THE COMPANIES

The companies have a contingent liability under this Master Policy for payment of *excess losses* but only if, and to the extent that, the retrospective premium due under one or more *certificates* is not paid. In the event of any such failure to pay retrospective premiums, the companies' obligations under this Condition 4 are limited as follows:

Regardless of the number of *nuclear incidents* which cause *bodily injury* or *property damage* to which this Master Policy applies, the number of years this Master Policy is in force, the number of *certificates* issued or in effect, or the number of annual premiums paid or payable.

(a) The total contingent liability of the companies for all *excess losses* arising out of two or more *nuclear incidents* shall not exceed \$46,500,000;

(b) Subject to the above provision (a), the total contingent liability of the companies for all *excess losses* arising out of any one *nuclear incident* shall not exceed \$23,250,000;

(c) Subject to the above provisions (a) and (b), the maximum amount to be paid by the companies in any one calendar year because of contingent liability for *excess losses* shall not exceed \$23,250,000.

If a named insured designated in a *certificate* shall become insolvent or be adjudged bankrupt, the companies' obligation under this Condition 4 shall not apply to the failure of any named insured designated in such

certificate to pay retrospective premium with respect to *excess losses* because of *bodily injury* or *property damage* caused after the date of such insolvency or bankruptcy.

5. INVESTIGATION, DEFENSE OR SETTLEMENT OF CLAIMS OR SUITS

Subject to the provisions of any written agreement between the companies and the Nuclear Regulatory Commission, the companies shall defend any claim or suit alleging *bodily injury* or *property damage* caused by a *nuclear incident* and seeking damages which are payable under this Master Policy, and may make such investigation and settlement of any claim or suit as they deem expedient. In no event shall the companies be obligated to pay any claim or judgment or to defend any claim or suit after the companies have paid the amount of retrospective premium actually received for *excess losses* arising out of the *nuclear incident* plus the amount of their contingent liability, if any.

6. PRIMARY FINANCIAL PROTECTION

Regardless of the number of policies or contracts of *primary financial protection* applicable to a *nuclear incident*, the limit of liability of all such policies or contracts shall be deemed to be exhausted when the sums paid under all such policies or contracts are equal to the lesser of (1) the sum of the limits of liability available under all such primary financial protection or (2) one hundred forty million dollars.

The named insured designated in a *certificate* shall maintain in full effect during the currency of such *certificate* the *primary financial protection* described therein, except for any reduction of the limit of liability of such *primary financial protection* solely as the result of sums paid thereunder. Failure of the named insureds to comply with the foregoing shall not invalidate this Master Policy, but in the event of such failure the companies shall be liable only to the extent that they would have been liable and the named insureds complied therewith.

In the event that the limit of liability of the *primary financial protection* is reduced, such named insureds shall immediately inform the companies thereof and make all reasonable efforts to reinstate such limit.

Upon the companies' request the named insureds shall provide the companies with a certified copy of any policy or other contract of *primary financial protection*. No amendment of the *primary financial protection* shall increase, extend or broaden the insurance provided by this Master Policy unless the companies agree to the amendment by an endorsement issued to form a part of this Master Policy.

§ 140.109

7. INTEREST TO BE PAID BY NAMED INSURED ON RETROSPECTIVE PREMIUM AND ALLOWANCE FOR PREMIUM TAXES IN DEFAULT

If retrospective premium or allowance for premium taxes is not paid when due by the named insureds designated in Item 1 of a *certificate*, such named insureds shall be obligated to pay, in addition to the amount in default, interest thereon during the period of default. Such interest shall be computed at an annual rate equal to the sum of (a) three percent plus (b) a rate of interest equal to Moody's Average Public Utility Bond Yield described in the issue of Moody's Bond Survey current on the date that the retrospective premium and allowance for premium taxes were due. The annual rate of interest shall be adjusted monthly during the period of default to reflect any revisions of Moody's Average Public Utility Bond Yield described in the issue of Moody's Bond Survey current on the first business day of each such month.

The interest so received shall be used to pay to the companies interest at the annual rate described above for any funds the companies have paid pursuant to Condition 4. Any balance remaining shall accrue to the benefit of named insureds not in default as if it were investment income on retrospective premium.

8. NOTICE OF NUCLEAR INCIDENT, CLAIM OR SUIT

In the event of *bodily injury* or *property damage* to which this Master Policy applies or of a *nuclear incident* which may give rise to claims therefor, written notice containing particulars sufficient to identify the *insured* and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the *insured* to Nuclear Energy Liability Insurance Association or the companies as soon as practicable. If claim is made or suit is brought against the *insured*, the *insured* shall immediately forward to Nuclear Energy Liability Insurance Association or the companies every demand, notice, summons or other process received by or on behalf of the *insured*.

9. ASSISTANCE AND COOPERATION OF THE INSURED

The *insured* shall cooperate with the companies and, upon the companies' request, attend hearings and trials and assist in making settlements, in securing and giving evidence, in obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The *insured* shall not, except at the *insured's* own cost, make any payment, assume any obligation or incur any expense.

10 CFR Ch. I (1-1-14 Edition)

10. ACTION AGAINST COMPANIES

No action shall lie against the companies or any of them unless, as a condition precedent thereto, the *insured* shall have fully complied with all the terms of this Master Policy, nor until the amount of the *insured's* obligation to pay shall have been finally determined either by judgment against the *insured* after actual trial or by written agreement of the *insured*, the claimant and the companies.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Master Policy to the extent of the insurance afforded by this Master Policy. No person or organization shall have any right under this Master Policy to join the companies or any of them as parties to any action against the *insured* to determine the *insured's* liability, nor shall the companies or any of them be impleaded by the *insured* or the *insured's* legal representative. Except as provided in Condition 4, bankruptcy or insolvency of the *insured* or of the *insured's* estate shall not relieve the companies of any of their obligations hereunder.

11. SUBROGATION

In the event of any payment under this Master Policy, the companies may participate with the *insured* and any underlying insurer in the exercise of all the *insured's* rights of recovery against any person or organization liable therefor. Prior to knowledge of *bodily injury* or *property damage* to which this Master Policy applies or of a *nuclear incident* which may give rise to claims therefor, the *insured* may waive in writing any right of recovery against any person or organization. After such knowledge, the *insured* shall not waive or otherwise prejudice any such right of recovery but shall do everything necessary to secure such rights. Recoveries shall be applied first to reimburse any person or organization (including the *insured*) that may have paid any amount with respect to liability in excess of the limit of the companies' liability hereunder; then to reimburse the companies up to the amount paid hereunder; and lastly to reimburse anyone entitled to claim the residue, if any. A different apportionment maybe made by agreement signed by all parties affected.

Reasonable expenses incurred in the exercise of rights of recovery shall be apportioned in the ratio of the respective losses for which recovery is sought. The companies shall, after deducting all of their expenses in securing recovery, apply the net amount of recoveries made by the companies as a credit in determining the amount of *excess* losses.

Nuclear Regulatory Commission

§ 140.109

12. OTHER INSURANCE

This insurance shall be excess insurance over *primary financial protection*.

This insurance is concurrent with insurance afforded by a Master Policy—Nuclear Energy Liability Insurance (Secondary Financial Protection) issued to the named insured by Mutual Atomic Energy Liability Underwriters, hereinafter called *concurrent insurance*. The companies shall not be liable under this Master Policy for a greater proportion of *excess losses* than the applicable limit of liability described in Condition 3 bears to the sum of (a) such limit plus (b) the applicable limit of liability of such concurrent insurance.

If the *insured* has other valid and collectible insurance (other than *primary financial protection* or concurrent insurance) applicable to *excess losses* covered by this Master Policy, the insurance afforded by this Master Policy shall be primary insurance under such other insurance.

13. CHANGES

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Master Policy or estop the companies from asserting any right under the terms of this Master Policy; nor shall the terms of this Master Policy be waived or changed, except by endorsement executed by Nuclear Energy Liability Insurance Association on behalf of the companies and issued to form a part of this Master Policy.

14. ASSIGNMENT

Assignment of interest by the named insured shall not bind the companies until their consent is endorsed hereon; if, however, the named insured shall die or be declared bankrupt or insolvent, this Master Policy shall cover such named insured's legal representative, receiver or trustee as an *insured* under this Master Policy, but only with respect to such legal representative's, receiver's or trustee's liability as such, and then only provided written notice of the legal representative's, receiver's or trustee's appointment as such is given to the companies within ten days after such appointment.

15. CUSTODIAN OF THE POLICY—NUCLEAR REGULATORY COMMISSION

The named insureds have designated the Nuclear Regulatory Commission as the custodian of this Master Policy and any endorsements thereto.

16. CANCELLATION

The first named insured designated in Item 1 of a *certificate* may cancel such *certificate* by mailing to the companies and the Nuclear Regulatory Commission written notice stat-

ing when, not less than thirty days thereafter, such cancellation shall be effective.

The companies may cancel any *certificate* by mailing to the first named insured designated in Item 1 of such *certificate* written notice stating when, not less than ninety days thereafter, such cancellation shall be effective; provided that in the event of nonpayment of any annual premium, retrospective premium or allowance for premium taxes due under a *certificate*, such *certificate* may be canceled by the companies by mailing to the first named insured designated therein written notice stating when, not less than thirty days thereafter, such cancellation shall be effective.

The mailing of notice as aforesaid shall be sufficient proof of notice. The effective date and time of cancellation stated in the notice shall become the end of the *certificate* period. Delivery of such written notice, either by the first named insured designated in Item 1 of a *certificate* or by the companies, shall be equivalent to mailing.

A copy of the companies' cancellation notice shall be mailed to the Nuclear Regulatory Commission, but mailing such copy is not a condition of cancellation.

If a *certificate* is canceled, the earned portion of the annual premium shall be computed pro-rata. Adjustment of the annual premium, if any, may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

Cancellation or termination of any *certificate* shall not terminate the obligation of a named insured to pay retrospective premium and the allowance for premium taxes as provided in such named insured's *certificate* and Condition 2 of this Master Policy.

This Master Policy shall terminate automatically on the effective date and time of cancellation or termination of the last *certificate* in effect.

17. COMPANY REPRESENTATION

(a) Any notice, sworn statement or proof of loss which may be required by the provisions of this Master Policy may be given to any one of the companies, and such notice, statement or proof of loss so given shall be valid and binding as to all companies.

(b) In any action or suit against the companies, service of process may be made on any one of them and such service shall be deemed valid and binding service on all companies.

(c) Nuclear Energy Liability Insurance Association is the agent of the companies with respect to all matters pertaining to this insurance. All notices or other communications required by this Master Policy to be given to the companies may be given to such agent, at its office at The Exchange, Suite 245, 270 Farmington Avenue, Farmington,

§ 140.109

Connecticut—06032 with the same force and effect as if given directly to the companies. Any requests, demands or agreements made by such agent shall be deemed to have been made directly by the companies.

18. AUTHORIZATION OF FIRST NAMED INSURED

Except with respect to compliance with the obligations imposed on the insured by Conditions 8, 9, 10 and 11 of this Master Policy, the first named insured designated in Item 1 of a certificate is authorized to act for every other person and organization insured under such certificate in all matters pertaining to this insurance.

19. CHANGES IN SUBSCRIBING COMPANIES AND IN THEIR PROPORTIONATE LIABILITY

The members of Nuclear Energy Liability Insurance Association subscribing this Master Policy, and the proportionate liability of each, may change from time to time.

Each company subscribing this Master Policy upon its issuance shall be liable only for its stated proportion of any obligation assumed or expense incurred under this Master Policy because of bodily injury or property damage caused during the period from the effective date of this Master Policy to the close of December 31 next following. For each subsequent calendar year, beginning January 1 next following the effective date of this Master Policy, the subscribing companies and the proportionate liability of each such company shall be stated in an endorsement issued to form a part of this Master Policy, duly executed by the President of Nuclear Energy Liability Insurance Association on behalf of each such company, and mailed or delivered to the Nuclear Regulatory Commission.

20. DECLARATIONS

By acceptance of this Master Policy, the named insureds designated in a certificate agree that the statements in such certificate are their agreements and representations, that this Master Policy and such certificate are issued in reliance upon the truth of such representations and that this Master Policy and such certificate embody all agreements between such named insureds and the companies or any of their agents relating to this insurance.

In witness whereof each of the subscribing companies has caused this Master Policy to be executed on its behalf by the Nuclear Energy Liability Insurance Association and duly countersigned on the first page by an authorized representative.

For the Subscribing Companies of NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

By: Burt C. Proom, President.

10 CFR Ch. I (1-1-14 Edition)

NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

Certificate No. _____ Forming Part of Master Policy No. _____

CERTIFICATE OF INSURANCE DECLARATIONS AND BOND FOR PAYMENT OF RETROSPECTIVE PREMIUMS

Certificate of Insurance

This is to certify that the persons and organizations designated in Item 1 of the Declarations are named insureds under the Master Policy—Nuclear Energy Liability Insurance (Secondary Financial Protection), herein called the Master Policy, issued by Nuclear Energy Liability Insurance Association.

Such insurance as is provided by the Master Policy applies, through this certificate, only:

(a) to the insureds identified in Items 1 and 2 of the Declarations,

(b) for the certificate period stated in Item 6 of the Declarations,

(c) to bodily injury or property damage (1) with respect to which the primary financial protection described in Item 4 of the Declarations would apply but for exhaustion of its limit of liability as described in Condition 6 of the Master Policy, and

(2) which is caused during the certificate period stated in Item 6 of the Declarations by a nuclear incident arising out of or in connection with the nuclear reactor described in Item 3 of the Declarations, and

(3) which is discovered and for which written claim is made against the injured not later than ten years after the end of the certificate period stated in Item 6 of the Declarations. However, with respect to bodily injury or property damage caused by an extraordinary nuclear occurrence this subparagraph (3) shall not operate to bar coverage for bodily injury or property damage which is discovered and for which written claim is made against the insured not later than twenty years after the date of the extraordinary nuclear occurrence.

DECLARATIONS

Item 1. Named insureds and addresses:

- (a) (b)

Item 2. Additional insureds:

Any other person or organization who would be insured under the primary financial protection identified in Item 4 of the Declarations but for exhaustion of the limit of liability of such primary financial protection.

Item 3. Description and location of nuclear reactor:

Item 4. (a) Identification of primary financial protection applicable to the nuclear reactor and limit(s) of liability thereof: Nuclear Energy Liability Insurance Association's Policy NF- \$108,500,000

Nuclear Regulatory Commission

§ 140.109

Mutual Atomic Energy Liability Underwriters' Policy MF- \$31,500,000

(b) The following endorsements, attached to the *primary financial protection* policies listed in Item 4(a) also apply to the insurance afforded by the Master Policy through this *certificate* as though they were attached hereto:

(1) Waiver of Defense Endorsement (Extraordinary Nuclear Occurrence) and

(2) Supplementary Endorsement—Waiver of Defenses—Reactor Construction at the Facility,

(c) The limits of liability provided under the *primary financial protection* specified in Item 4(a) above are not shared with any other reactor except as follows:

Item 5. Limits of Liability: The amount of retrospective premium actually received by the companies plus the amount of the companies' contingent liability, if any, pursuant to Conditions 2, 3, and 4 of the Master Policy.

Item 6. *Certificate* Period: Beginning at 12:01 a.m. on _____ and continuing to the effective date and time of cancellation or termination of the Master Policy or this *certificate*, whichever first occurs, eastern standard time.

Item 7. Maximum retrospective premium (exclusive of allowance for premium taxes) payable pursuant to Condition 2 of the Master Policy with respect to each *nuclear incident*: \$3,875,000.

Item 8. Premium payable pursuant to Condition 1 of the Master Policy for the period from _____ through December 31 following: \$ _____.

BOND FOR PAYMENT OF RETROSPECTIVE PREMIUMS

Know All Men By These Presents, that the undersigned do hereby acknowledge that they are named insureds under the Master Policy described in the above Certificate of Insurance and Declarations. The named insureds do hereby covenant with and are held and are firmly bound to the members of Nuclear Energy Liability Insurance Association subscribing the Master Policy (hereinafter called the *companies*) to pay the companies all retrospective premiums and allowances for premium taxes which shall become due and payable in accordance with the Master Policy, as it may be changed from time to time, with interest on such premiums and allowances for taxes to be computed at the rate provided in the Master Policy from the date payment thereof is specified to be due the companies in written notice to the first named insured as provided in Condition 2 of the Master Policy until paid;

And it is hereby expressly agreed that copies of written notices of retrospective premiums and allowances for premium taxes due and payable or other evidence of such amounts due and payable sworn to by a duly authorized representative of the companies

shall be prima facie evidence of the fact and extent of the liability of the named insureds for such amounts;

And it is further expressly agreed that the named insureds will indemnify the companies against any and all liability, losses and expenses of whatsoever kind or nature (including but not limited to interest, court cost, and counsel fees) which the companies may sustain or incur (1) by reason of the failure of the named insureds to comply with the covenants and provisions of this Bond and (2) in enforcing any of the covenants or provisions of this Bond, or any provisions of the Master Policy relating to such covenants or provisions;

For the purpose of recording this agreement, a photocopy acknowledged before a Notary Public to be a true copy hereof shall be regarded as an original.

The preceding Certificate of Insurance, Declarations and Bond form a part of the Master Policy. Cancellation or termination of the Master Policy or the Certificate of Insurance shall not affect the named insured's obligations under the policy or the Bond to pay the retrospective premiums and allowances for premium taxes, as provided in this *Certificate* and Condition 2 of the Master Policy.

In witness whereof, the named insureds have caused the Declaration and the Bond for Payment of Retrospective Premiums to be signed and sealed by a duly authorized officer, to be effective _____ eastern standard time.

Attest or Witness

Named Insureds:

By _____

(Seal)

(Signature of Officer)

(type or print Name & Title of Officer)

Date: _____

In witness whereof, the companies subscribing the Master Policy have caused the Certificate of Insurance and the Declarations to be signed on their behalf by the President of Nuclear Energy Liability Insurance Association to be effective _____ eastern standard time, and countersigned below by a duly authorized representative.

For the Subscribing Companies of Nuclear Energy Liability Insurance Association.

By: President _____

Countersigned by _____

(Authorized Representative)

[49 FR 11153, Mar. 26, 1984]