

At the time waste is received, WCS shall require generators of SNM waste to provide a written certification with each waste manifest that states that the SNM concentrations reported on the manifest do not exceed the limits in Condition 1, that the measurement uncertainty does not exceed the uncertainty value in Condition 1, and that the waste meets Conditions 2 through 4.

WCS shall require generators to sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 600 kg, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 6,000 kg, and (c) if the concentrations are below one hundredth of the SNM limits, once per 60,000 kg.

If the waste is determined to be not homogeneous (*i.e.*, maximum, which cannot exceed the limits in Condition 1, and minimum testing values performed by the generator are greater than five times the average value), the generator shall sample and determine the SNM concentration once per 600 kg thereafter, regardless of SNM concentration. In this case, samples shall be a composite consisting of four uniformly sampled aliquots.

The certifications required under these conditions shall be made in writing and include the statement that the signer of the certification understands that this information is required to meet the requirements of the NRC and must be complete and accurate in all material respects.

7. WCS shall sample and determine the SNM concentration for each waste stream at the following frequency: (a) If the concentrations are above one tenth the SNM limits (Condition 1), once per 1,500 kg for the first shipment and every 6,000 kg thereafter, (b) if the concentrations are below one tenth and greater than one hundredth of the SNM limits, once per 20,000 kg for the first shipment and every 60,000 kg thereafter, and (c) if the concentrations are below one hundredth of the SNM limits, once per 600,000 kg. This confirmatory testing is not required for waste to be disposed of at DOE's WIPP facility.

If the waste is determined to be not homogeneous (*i.e.*, maximum and minimum testing values performed by the generator are greater than five times the average value), WCS shall sample and determine the SNM concentration once per 1,500 kg for the first shipment and every 6,000 kg thereafter, regardless of SNM concentration. In this case,

samples shall be a composite consisting of four uniformly sampled aliquots.

8. WCS shall notify the NRC, Region IV office within 24 hours if any of the above Conditions are violated. A written notification of the event must be provided within 7 days.

9. WCS shall obtain NRC approval prior to changing any activities associated with the above Conditions.

#### IV

Based on the staff's evaluation, the Commission has determined, pursuant to 10 CFR 70.17(a), that the exemption as described above at the WCS facility is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Accordingly, by this Order, the Commission hereby grants this exemption subject to the above conditions. The exemption will become effective after the State of Texas has incorporated the above conditions into WCS's RML.

Pursuant to the requirements in 10 CFR part 51, the Commission has published an Environmental Assessment (EA) for the proposed action wherein it has determined that the granting of this exemption will have no significant impacts on the quality of the human environment. This finding was noticed in the **Federal Register** on October 20, 2004 (69 FR 61697).

#### V

As of October 25, 2004, the NRC initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's Web site. Interested members of the public should check the NRC's web pages for updates on the availability of documents through the ADAMS system.<sup>1</sup>

Dated at Rockville, Maryland this 5th day of November 2004.

For the Nuclear Regulatory Commission.

**Jack R. Strosnider,**

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 04-25169 Filed 11-10-04; 8:45 am]

**BILLING CODE 7590-01-P**

<sup>1</sup>The requests for modifying the Order will be available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> using the ADAMS Accession Nos. ML032590937 and ML041350224. The NRC staff's request for additional information, its EA, and its SER for this action will be available at the above Web site using the ADAMS Accession Nos. ML032731010, ML042250451, and ML042250362, respectively.

## NUCLEAR REGULATORY COMMISSION

[EA-04-190 and EA-04-191]

### In the Matter of All Licensees Who Possess Radioactive Material in Quantities of Concern and All Other Persons Who Obtain Safeguards Information Described Herein; Order Issued Imposing Requirements for the Protection of Certain Safeguards Information (Effective Immediately)

The licensees identified in Attachment 1<sup>1</sup> to this Order hold licenses issued in accordance with the Atomic Energy Act of 1954, by the U.S. Nuclear Regulatory Commission (NRC or Commission), or an Agreement State authorizing them to possess and transfer items containing radioactive material quantities of concern. The NRC intends to issue security Orders to these licensees in the near future. Orders will be issued to both NRC and Agreement State materials licensees who may transport radioactive material quantities of concern. The Orders will require compliance with specific Additional Security Measures to enhance the security for transport of certain radioactive material quantities of concern. The NRC will issue Orders to both NRC and Agreement State licensees under its authority to protect the common defense and security, which has not been relinquished to the Agreement States. Before issuing Orders for Additional Security Measures, the Commission seeks comments from affected licensees on the draft Additional Security Measures, and Regulatory Issue Summary Table, "Threat Conditions and Specific Actions for Licensees who Transport Radioactive Material Quantities of Concern." However, the Commission has determined that these draft documents contain Safeguards Information, will not be released to the public, and must be protected from unauthorized disclosure. Therefore, the Commission is imposing the requirements, as set forth in Attachment 2 of this Order, so that affected licensees can receive these draft documents for review and comment. This Order also imposes requirements for the protection of Safeguards Information in the hands of any person,<sup>2</sup> whether or not a

<sup>1</sup> Attachment 1 has been redacted to remove the list of material licensees that is considered OFFICIAL USE ONLY sensitive information and will not be released to the public.

<sup>2</sup> Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department, except that the Department shall be considered a

licensee of the Commission, who produces, receives, or acquires Safeguards Information.

## II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information. Section 147 of the Atomic Energy Act of 1954, as amended, grants the Commission explicit authority to "issue such orders, as necessary to prohibit the unauthorized disclosure of Safeguards Information \* \* \*" This authority extends to information concerning transfer of special nuclear material, source material, and byproduct material. Licensees and all persons who produce, receive, or acquire Safeguards Information must ensure proper handling and protection of Safeguards Information to avoid unauthorized disclosure in accordance with the specific requirements for the protection of Safeguards Information contained in Attachment 2. The Commission hereby provides notice that it intends to treat all violations of the requirements contained in Attachment 2 applicable to the handling and unauthorized disclosure of Safeguards Information as serious breaches of adequate protection of the public health and safety and the common defense and security of the United States. Access to Safeguards Information is limited to those persons who have established the need to know the information, and are considered to be trustworthy and reliable. A need to know means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment. Licensees and all other persons who obtain Safeguards Information must ensure that they develop, maintain and implement strict policies and procedures for the proper handling of Safeguards Information to prevent unauthorized disclosure, in accordance with the requirements in Attachment 2. All licensees must ensure that all contractors whose employees may have access to Safeguards Information either adhere to the licensee's policies and procedures on Safeguards Information or develop, maintain and implement

person with respect to those facilities of the Department specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

their own acceptable policies and procedures. The licensees remain responsible for the conduct of their contractors. The policies and procedures necessary to ensure compliance with applicable requirements contained in Attachment 2 must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; and removal of the Safeguards Information category.

In order to provide assurance that the licensees are implementing prudent measures to achieve a consistent level of protection, to prohibit the unauthorized disclosure of Safeguards Information, all licensees who hold licenses issued by the U.S. Nuclear Regulatory Commission or an Agreement State, authorizing them to possess and reasonably expected to transport radioactive material in quantities of concern, shall implement the requirements identified in Attachment 2 to this Order. The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order for handling of Safeguards Information in conjunction with current NRC license requirements or previous NRC Order. Additional measures set forth in Attachment 2 should be handled and controlled in accordance with the licensee's current program for Safeguards Information. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

## III

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30, 10 CFR Part 32, 10 CFR Part 35, 10 CFR Part 50, and 10 CFR Part 70, *it is hereby ordered, effective immediately*, that all licensees identified in attachment 1 to this Order, and all other persons who produce, receive, or acquire the additional

security measures identified above (whether draft or final), or any related safeguards information, shall comply with the requirements of attachment 2.

## IV

The Director, Office of Nuclear Materials Safety and Safeguards, and the Director, Office of Nuclear Reactor Regulation, may in writing, relax or rescind any of the above conditions upon demonstration by the licensee. In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, as applicable, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation or Office of Nuclear Material Safety and Safeguards, as applicable, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific plant, and to the licensee if the answer or hearing request is by a person other than the licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person

other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(I), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above, shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 5th day of November 2004.

For the Nuclear Regulatory Commission.

**J.E. Dyer,**

*Director, Office of Nuclear Reactor Regulation.*

**Jack R. Strosnider,**

*Director, Office of Nuclear Material Safety and Safeguards.*

**Attachment 1: Service List of Licensees**

*Power Plants—Senior Executive Contacts*

Mr. A. Christopher Bakken, III, President and Chief Nuclear Officer, PSEG Nuclear LLC—X04, Salem Nuclear Generating Station, Units 1 and 2, Hope Creek Generating Station, Unit 1, Docket Nos. 50-272, 50-278, & 50-354, License Nos. DPR-70, DPR-75, & NPF-57, End of Buttonwood Road, Hancocks Bridge, NJ 08038.

Mr. Michael Kansler, President, Entergy Nuclear Operations, Inc., Pilgrim Nuclear Power Station, Unit 1, Vermont Yankee Nuclear Power Station, James A FitzPatrick Nuclear Power Plant, Indian Point Nuclear

Generating Station, Units 2 and 3, Docket Nos. 50-293, 50,271, 50-333, 50-247, & 50-286, License Nos. DPR-35, DPR-28, DPR-59, DPR-26, & DPR-64, 440 Hamilton Avenue, White Plains, NY 10601.

Mr. Mark E. Warner, Site Vice President, FPL Energy, Seabrook Station, Unit 1, Docket No. 50-443, License No. NPF-86, Central Receiving, Lafayette Road, Seabrook, NH 03874.

Mr. L. William Pearce, Vice President, FirstEnergy Nuclear Operating Company, Beaver Valley Power Station, Units 1 and 2, Docket Nos. 50-334 & 50-412, License Nos. DPR-66 & NPF-73, Route 168, Shippingport, PA 15077.

Mr. George Vanderheyden, Vice President, Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Docket Nos. 50-317 & 50-318, License Nos. DPR-53 & DPR-69, 1650 Calvert Cliffs Parkway, Lusby, MD 20657-4702.

Mrs. Mary G. Korsnick, Vice President, Nuclear Operations, R. E. Ginna Nuclear Power Plant, Docket No. 50-244, License No. DPR-18, 1503 Lake Road, Ontario, NY 14519.

Mr. James A. Spina, Vice President Nine Mile Point, Nine Mile Point Nuclear Station, LLC, Nine Mile Point Nuclear Station, Units 1 and 2, Docket Nos. 50-22- & 50-410, License Nos. DPR-63 & NPF-69, 348 Lake Road, Oswego, NY 13126.

Mr. Britt T. McKinney, Vice President, Nuclear Site Operations, PPL Susquehanna, LLC, Susquehanna Steam Electric Station, Units 1 and 2, Docket Nos. 50-387 & 50-388, License Nos. NPF-14 & NPF-22, 769 Salem Boulevard, NUCSB3, Berwick, PA 18603-0467.

Mr. David A. Christian, Sr. Vice President and Chief Nuclear Officer, Dominion Nuclear Connecticut, Inc., Virginia Electric and Power Company, Millstone Power Station, Units 2 and 3, North Anna Power Station, Units 1 and 2, Surry Power Station, Units 1 and 2, Docket Nos. 50-336, 50-423, 50-338, 50-339, & 50-280, & 50-281, License Nos. DPR-65, NPF-49, NPF-4, NPF-7, DPR-32, & DPR-37, Innsbrook Technical Center, 5000 Dominion Boulevard, Glen Allen, VA 23060.

D.M. Jamil, Vice President, Duke Energy Corporation, Catawba Nuclear Station, Units 1 and 2, Docket Nos. 50-413 & 50-414, License Nos. NPF-35 & NPF-52, 4800 Concord Road, York, South Carolina 29745.

Mr. L.M. Stinson, Vice President—Farley Project, Southern Nuclear Operating Company, Inc., Joseph M.

Farley Nuclear Plant, Units 1 and 2, Docket Nos. 50-348 & 50-364, License Nos. NPF-2 & NPF-8, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. H.L. Sumner, Jr., Vice President—Nuclear, Hatch Project, Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Units 1 and 2, Docket Nos. 50-321 & 50-366, License Nos. DPR-57 & NPF-5, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. G.R. Peterson, Vice President, Duke Energy Corporation, William B. McGuire Nuclear Station, Units 1 and 2, Docket Nos. 50-369 & 50-370, License Nos. NPF-9 & NPF-17, 12700 Hagers Ferry Road, Huntersville, NC 28078.

Mr. Ronald A. Jones, Vice President, Oconee Site, Duke Energy Corporation, Oconee Nuclear Station, Units 1, 2 and 3, Docket Nos. 50-269, 50-270, & 50-287, License Nos. DPR-38, DPR-47, & DPR-55, 7800 Rochester Highway, Seneca, SC 29672.

Mr. Don E. Grissette, Vice President, Southern Nuclear Operating Company, Inc., Vogtle Electric Generating Plant, Units 1 and 2, Docket Nos. 50-424 & 50-425, License Nos. NPF-68 & NPF-81, 40 Inverness Center Parkway, Birmingham, Alabama 35242.

Mr. C.J. Gannon, Vice President, Carolina Power & Light Company, Progress Energy, Inc., Brunswick Steam Electric Plant, Units 1 and 2, Docket Nos. 50-325 & 50-324, License Nos. DPR-71 & DPR-62, Hwy 87, 2.5 Miles North, Southport, North Carolina 28461.

Mr. James Scarola, Vice President, Carolina Power & Light Company, Shearon Harris Nuclear Power Plant, Unit 1, Docket No. 50-400, License No. NPF-63, 5413 Shearon Harris Road, New Hill, North Carolina 27562-0165.

Mr. Dale E. Young, Vice President, ATTN: Supervisor, Licensing and Regulatory Programs, Florida Power Corporation, Crystal River Nuclear Generating Plant, Unit 3, Docket No. 050-302, License No. DPR-72, 15760 W. Power Line Street, Crystal River, Florida 34428-6708.

Mr. J.W. Moyer, Vice President Carolina Power & Light Company, Progress Energy, H. B. Robinson Steam Electric Plant, Unit 2, Docket No. 50-261, License No. DPR-23, 3581 West Entrance Road, Hartsville, South Carolina 29550.

Karl W. Singer, Chief Nuclear Officer and Executive Vice President, Tennessee Valley Authority, Browns

- Ferry Nuclear Plant, Units 1, 2 and 3, Watts Bar Nuclear Plant, Unit 1, Sequoyah Nuclear Plant, Units 1 and 2 (Ops5n), Docket Nos. 50-259, 50-260, 50-296, 50-390, 50-327, & 50-328, License Nos. DPR-33, DPR-52, DPR-68, NPF-90, DPR-77, & DPR-79, 6A Lookout Place, 1101 Market Street, Chattanooga, Tennessee 37402-2801.
- Mr. J.A. Stall, Senior Vice President, Nuclear and Chief Nuclear Officer, Florida Power and Light Company, St. Lucie, Units 1 and 2, Turkey Point Nuclear Generating Station, Units 3 and 4, Docket Nos. 50-335, 50-389, 50-250, & 50-251, License Nos. DPR-67, NPF-16, DPR-31, & DPR-41, 700 Universe Boulevard, Juno Beach, Florida 33408-0420.
- Mr. Mano K. Nazar, Senior Vice President and Chief Nuclear Officer, Indiana Michigan Power Company, Donald C. Cook Nuclear Plant, Units 1 and 2, Docket Nos. 50-315 & 50-316, License Nos. DPR-58 & DPR-74, Nuclear Generation Group, 500 Circle Drive, Buchanan, MI 49107.
- Mr. Mark A. Peifer, Site Vice President, Nuclear Management Company, LLC, Duane Arnold Energy Center, Docket No. 50-331, License No. DPR-49, 3277 DAEC Road, Palo, IA 52324-9785.
- Mr. William T. O'Connor, Jr., Vice President-Nuclear Generation, Detroit Edison Company, Fermi, Unit 2, Docket No. 50-341, License No. NPF-43, 6400 North Dixie Highway, Newport, MI 48166.
- Mr. Thomas Coutu, Site Vice President, Nuclear Management Company, LLC, Kewaunee Nuclear Power Plant, Docket No. 50-305, License No. DPR-43, N490 Highway 42, Kewaunee, WI 54216-9511.
- Mr. Thomas J. Palmisano, Site Vice President, Nuclear Management Company, LLC, Monticello Nuclear Generating Plant, Docket No. 50-263, License No. DPR-22, 2807 West County Road 75, Monticello, MN 55362-9637.
- Mr. Daniel J. Malone, Site Vice President, Nuclear Management Company, LLC, Palisades Nuclear Plant, Docket No. 50-255, License No. DPR 20, 27780 Blue Star Memorial Highway, Covert, MI 49043-9530.
- Mr. Dennis L. Kochl, Site Vice President, Nuclear Management Company, LLC, Point Beach Nuclear Plant, Units 1 and 2, Docket Nos. 50-266 & 50-301, License Nos. DPR-24 & DPR-27, 6590 Nuclear Road, Two Rivers, WI 54241-9516.
- Mr. Joseph M. Solymossy, Site Vice President, Nuclear Management Company, LLC, Prairie Island Nuclear Generating Plant, Units 1 and 2, Docket Nos. 50-282 & 50-306, License Nos. DPR-42 & DPR-60, 1717 Wakonade Drive East, Welch, MN 55089.
- Mr. Christopher M. Crane, President and Chief Nuclear Officer, Exelon Generation Company, LLC, AmerGen Energy Company, LLC, Braidwood Station, Units 1 and 2, Byron Station, Units 1 and 2, Dresden Nuclear Power Station, Units 2 and 3, LaSalle County Station, Units 1 and 2, Quad Cities Nuclear Power Station, Units 1 and 2, Limerick Generating Station, Units 1 and 2, Peach Bottom Atomic Power Station, Units 2 and 3, Oyster Creek Nuclear Generating Station, Clinton Power Station, Three Mile Island Nuclear Station, Unit 1, Docket Nos. 50-456, 50-457, 50-454, 50-455, 50-237, 50-249, 50-373, 50-374, 50-254, 50-265, 50-352, 50-353, 50-277, 50-278, 50-219, 50-461, & 50-289, License Nos. NPF-72, NPF-77, NPF-37, NPF-66, DPR-19, DPR-25, NPF-11, NPF-18, DPR-29, DPR-30, NPF-39, NPF-85, DPR-44, DPR-56, DPR-16, NPF-62, & PR-50, 4300 Winfield Road, Warrenville, IL 60555.
- Mr. Mark Bezilla, Vice President, Davis-Besse, FirstEnergy Nuclear Operating Company, Davis-Besse Nuclear Power Station, Docket No. 50-346, License No. NPF-3, 5501 North State Route 2, Oak Harbor, OH 43449-9760.
- Mr. Lew W. Myers, Chief Operating Officer, FirstEnergy Nuclear Operating Company, Perry Nuclear Power Plant, Unit 1, Docket No. 50-440, License No. NPF-58, 10 North Center Street, Perry, OH 44081.
- Mr. Jeffrey S. Forbes, Site Vice President, Entergy Operations, Inc., Arkansas Nuclear One, Units 1 and 2, Docket Nos. 50-313 & 50-368, License Nos. DPR-51 & NPF-6 1448 S. R. 333, Russellville, AR 72802.
- M.R. Blevins, Senior Vice President and Principal Nuclear Officer, TXU Generation Company, LP, Comanche Peak Steam Electric Station, Units 1 and 2, Docket Nos. 50-445 & 50-446, License Nos. NPF-87 & NPF-89, 5 Miles North of Glen Rose, Glen Rose, TX 76043.
- Mr. Randall K. Edington, Vice President-Nuclear and CNO, Nebraska Public Power District, Cooper Nuclear Station, Docket No. 50-298, License No. Dpr-46, 1200 Prospect Road, Brownville, NE 68321.
- Mr. George A. Williams, Site Vice President, Entergy Operations, Inc., Grand Gulf Nuclear Station, Unit 1, Docket No. 50-416, License No. NPF-29, Waterloo Road, Port Gibson, MS 39150.
- Mr. Paul D. Hinnenkamp, Vice President—Operations, Entergy Operations, Inc., River Bend Station, Unit 1, Docket No. 50-458, License No. NPF-47, 5485 U.S. Highway 61N, St. Francisville, LA 70775.
- Mr. James J. Sheppard, President and Chief Executive Officer, South Texas Project Nuclear Operating Company, Docket Nos. 50-498 & 50-499, License Nos. NPF-76 & NPF-80, South Texas Project Electric Generating Company, Units 1 and 2, 8 Miles West of Wadsworth, on FM 521, Wadsworth, TX 77483.
- Joseph E. Venable, Vice President Operations, Entergy Operations, Inc., Waterford Steam Electric Generating Station, Unit 3, Docket No. 50-382, License No. NPF-38, 17265 River Road, Killona, LA 70057-2065.
- Mr. Garry L. Randolph, Vice President and Chief Nuclear Officer, Union Electric Company, Callaway Plant, Unit 1, Docket No. 50-483, License No. NPF-30, Junction Hwy CC & Hwy O: 5 Miles North of Hwy 94, Portland, MO 65067.
- Mr. Gregory M. Rueger, Senior Vice President, Generation and Chief Nuclear Officer, Pacific Gas and Electric Company, Diablo Canyon Nuclear Power Plant, Units 1 and 2, Docket Nos. 50-275 & 50-323, License Nos. DPR-80 & DPR-82, 9 Miles Northwest of Avila Beach, Avila Beach, CA 93424.
- Mr. R.T. Ridenoure, Vice President—Chief Nuclear Officer, Omaha Public Power District, Fort Calhoun Station, Unit 1, Docket No. 50-285, License No. DPR-40, Fort Calhoun Station FC-2-4 Adm., 444 South 16th Street Mall, Omaha, NE 68102-2247.
- Mr. Gregg R. Overbeck, Senior Vice President, Nuclear, Arizona Public Service Company, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Docket Nos. 50-528, 50-529, & 50-530, License Nos. NPF-41, NPF-51, & NPF-74, 5801 S. Wintersburg Road, Tonopah, AZ 85354-7529.
- Harold B. Ray, Executive Vice President, Southern California Edison Company, San Onofre Nuclear Station, Units 2 and 3, Docket Nos. 50-361 & 50-362, License Nos. NPF-10 & NPF-15, 5000 Pacific Coast Highway, San Clemente, CA 92674.
- Mr. J.V. Parrish, Chief Executive Officer, Energy Northwest, Columbia Generating Station, Docket No. 50-397, License No. NPF-21, Snake River Warehouse, North Power Plant Loop, Richland, WA 99352.
- Mr. Rick A. Muench, President and Chief Executive Officer, Wolf Creek Nuclear Operating Corporation, Wolf Creek Generating Station, Unit 1, Docket No. 50-482, License No. NPF-

- 42, 1550 Oxen Lane, NE., Burlington, KS 66839.
- Mr. Jeffrey B. Archie, Senior Vice President, Nuclear Operations, South Carolina Electric and Gas Company, Virgil C. Summer Nuclear Station, Docket No. 50-395, License No. NPF-12, Hwy 215N at O.S. Bradham Boulevard, Jenkinsville, South Carolina 29065.
- Research and Test Reactor Licensees*
- Mr. Ray Tsukimura, President, Aerotest Operations Inc., 3455 Fostoria Way, San Ramon, CA 94583.
- Mr. Stephen I. Miller, Reactor Facility Director, Armed Forces Radiobiology Research Institute, Naval Medical Center, 8901 Wisconsin Ave., Bethesda, MD 20889-5603.
- Howard C. Aderhold, Director, Ward Center for Nuclear Sciences, Cornell University, 112 Ward Laboratory, Ithaca, NY 14853.
- Mr. Ward L. Rigot, Facility Director and Reactor Supervisor, Dow Chemical Company, 1602 Building, Midland, MI 48674.
- Dr. Keith E. Asmussen, General Atomics, 3550 General Atomics Court, San Diego, CA 92121-1122.
- David Turner, Vallecitos Nuclear Center, General Electric Company, 6705 Vallecitos Road, Sunol, CA 94586.
- Dr. John S. Bennion, Reactor Manager/Supervisor, Idaho State University, P.O. Box 8060, Pocatello, ID 83209.
- Mr. Michael Whaley, Manager, KSU Nuclear Reactor Facility, 112 Ward Hall, Kansas State University, Manhattan, KS 66506-5204.
- Dr. Robert E. Berlin, Manhattan College, 35 Sterling Pines Road, Tuxedo, NY 10987.
- Dr. John Bernard, Director of Reactor Operations, Nuclear Reactor Laboratory, Massachusetts Institute of Technology, 138 Albany Street, Mail Stop NW. 12-208, Cambridge, MA 02139.
- Andrew Cook, Nuclear Reactor Program, North Carolina State University, 2500 Stinson Drive, Raleigh, NC 27695.
- Seymour H. Weiss, NIST Center for Neutron Research, National Institute of Standards and Technology, U.S. Department of Commerce, 100 Bureau Drive, Stop 8561, Gaithersburg, MD 20899-8561.
- Gerald D. Wicks, Nuclear Reactor Program, North Carolina State University, 2500 Stinson Drive, Raleigh, NC 27695.
- Andrew C. Kauffman, The Ohio State University, Nuclear Reactor Laboratory, 1298 Kinnear Road, Columbus OH, 43212-1154.
- Andy Klein, 100 Radiation Center, Oregon State University, Corvallis, OR 97331.
- Fred Sears, Breazeale Nuclear Reactor, Penn State University, University Park, PA 16802.
- Edward Merritt, Purdue University, Nuclear Engineering Bldg., 400 Central Dr., West Lafayette, IN 47907-2017.
- Mr. Stephen G. Frantz, Director, Reed Reactor Facility, Reed College, 3203 SE Woodstock Blvd., Portland, OR 97202.
- Mr. Glenn C. Winters, Director, Rensselaer Polytechnic Institute, 110 8th Street, Nuclear Engineering and Science Building, Troy, NY 12180-3590.
- Terence Tehan, Rhode Island Atomic Energy Commission, Rhode Island Nuclear Science Center, 16 Reactor Road, Narragansett, RI 02882-1165.
- Mr. G.A. Kuehn, Jr., Vice President SNEC and Program Director, SNEC Facility, GPU Nuclear, Inc., Route 441 South, P.O. Box 480, Middletown, PA 17057.
- David Vasbinder, Occupational and Environmental Safety, University at Buffalo, 220 Winspear Avenue, Buffalo, NY 14214-1034.
- Robert O. Berry, Department of Nuclear Engineering, Texas A&M University, Mail Stop 3133, College Station, Texas 77843-3133.
- Jim Remlinger, Nuclear Science Center, Texas Engineering Experiment Station, 1095 Nuclear Science Road, College Station, Texas 77843.
- Tim DeBey, U.S. Geological Survey, 6th and Kipling, Denver Federal Center, Building 15, MS 974, Denver, Colorado 80225.
- John G. Williams, Nuclear Reactor Laboratory, University of Arizona, Old Engineering Building, Room 114, Tucson, AZ 85721-0020.
- Dr. David M. Slaughter, Director, UC Davis McClellan Nuclear Research Center, 5335 Price Avenue, McClellan, CA 95652.
- George Miller, Department of Chemistry, UC Irvine, 326 Rowland Hall, Irvine, CA 92697-2025.
- Dr. William Vernetson, PhD, Director of Nuclear Facilities, University of Florida, 202 Nuclear Science Building, Gainesville, FL 32611-8300.
- Rich Holm, 214 NEL, University of Illinois, 103 South Goodwin Avenue, Urbana, Illinois 61801.
- Vincent Adams, University of Maryland, Department of Materials & Nuclear Engineering, Bldg. 090 Room 2308, College Park, MD 20742-2115.
- Leo Bobek, Nuclear Radiation Laboratory, University of Massachusetts Lowell, One University Avenue, Pinanski Energy Center, Lowell, MA 01854.
- Chris Becker, Phoenix Memorial Laboratory, Ford Nuclear Reactor, University of Michigan, 2301 Bonisteel Boulevard, Ann Arbor, MI 48109-2100.
- Ralph Butler, MU Research Reactor, 1513 Research Park, Columbia, Missouri 65211.
- Akira T. Tokuhiko, Nuclear Reactor Facility, 1870 Miner Circle, Rolla, MO 65409-0630.
- Dr. Robert D. Busch, Chief Reactor Supervisor, Chemical and Nuclear Engineering Department, University of New Mexico, 209 Farris Engineering Department, Albuquerque, NM 87131-1341.
- David S. O'Kelly, Nuclear Engineering Teaching Lab, University of Texas, 10100 Burnet Road, Austin, TX 78758.
- Paul E. Benneche, Acting Director, UVA Nuclear Reactor Facility, P.O. Box 400322, Charlottesville, VA 22904-4322.
- Melinda Krahenbuhl, 122 S. Central Campus Drive, Room 104, University of Utah, Salt Lake City, UT 84112.
- Robert J. Agasie, Reactor Director, Nuclear Reactor Laboratory, 1513 University Avenue, Room 141ME, University of Wisconsin, Madison, WI 53706-1687.
- Gerald E. Tripart, Nuclear Radiation Center, Roundtop Drive, Washington State University, Pullman, WA 99164-1300.
- Mr. Stephen J. LaFlamme, Director, Nuclear Reactor Facility, Worcester Polytechnic Institute, 100 Institute Road, Worcester, MA 01609-2280.
- Stanley Addison, RSO, Radiation Safety Office, 201 Hall Health Center, University of Washington, Seattle, WA 98195-4400.
- Erhard W. Koehler, Manager Direct Programs, U.S. Maritime Administration, 400 7th Street, Washington, DC 20590.
- Dr. Lynell W. Klassen, Associate Chief of Staff Research and Development 151, Reactor Manager, Veterans Affairs Medical Center, 4101 Woolworth Avenue, Omaha, NE 68105.
- Mr. Richard K. Smith, Viacom, Gateway Center, 11 Stanwix Street, Pittsburgh, PA 15222.

The service list of Materials Licensees receiving this Order has been redacted.

## Attachment 2: Modified Handling Requirements for the Protection of Certain Safeguards Information (SGI-M)

### General Requirement

Information and material that the U.S. Nuclear Regulatory Commission (NRC) determines are Safeguards Information must be protected from unauthorized disclosure. In order to distinguish information needing modified protection requirements from the Safeguards Information for reactors and fuel cycle facilities that require a higher level of protection, the term "Safeguards Information Modified Handling" (SGI-M) is being used as the distinguishing marking for certain materials licensees. Each person who produces, receives, or acquires SGI-M shall ensure that it is protected against unauthorized disclosure. To meet this requirement, licensees and persons shall establish and maintain an information protection system that includes the measures specified below. Information protection procedures employed by state and local police forces are deemed to meet these requirements.

### Persons Subject to These Requirements

Any person, whether or not a licensee of the NRC, who produces, receives, or acquires SGI-M is subject to the requirements (and sanctions) of this document. Firms and their employees that supply services or equipment to materials licensees would fall under this requirement, if they possess facility SGI-M. A licensee must inform contractors and suppliers of the existence of these requirements and the need for proper protection (See more under Conditions for Access).

State or local police units who have access to SGI-M are also subject to these requirements. However, these organizations are deemed to have adequate information protection systems. The conditions for transfer of information to a third party, (*i.e.*, need-to-know) would still apply to the police organization, as would sanctions for unlawful disclosure. Again, it would be prudent for licensees who have arrangements with local police to advise them of the existence of these requirements.

### Criminal and Civil Sanctions

The Atomic Energy Act of 1954, as amended, explicitly provides that any person, "whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act." Furthermore, willful violation of any

regulation or order governing Safeguards Information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. See sections 147b. and 223 of the Act.

### Conditions for Access

Access to SGI-M beyond the initial recipients of the order will be governed by the background check requirements imposed by the order. Access to SGI-M by licensee employees, agents, or contractors must include both an appropriate need-to-know determination by the licensee, as well as a determination concerning the trustworthiness of individuals having access to the information. Employees of an organization affiliated with the licensee's company, *e.g.*, a parent company, may be considered as employees of the licensee for access purposes.

### Need-To-Know

Need-to-know is defined as a determination by a person having responsibility for protecting SGI-M that a proposed recipient's access to SGI-M is necessary in the performance of official, contractual, or licensee duties of employment. The recipient should be made aware that the information is SGI-M and those having access to it are subject to these requirements as well as criminal and civil sanctions for mishandling the information.

### Occupational Groups

Dissemination of SGI-M is limited to individuals who have an established need-to-know and who are members of certain occupational groups. These occupational groups are:

- I. An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government;
- II. A member of a duly authorized committee of the Congress;
- III. The Governor of a State or his designated representative;
- IV. A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;
- V. A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies;

VI. A person to whom disclosure is ordered pursuant to Section 2.744(e) of Part 2 of Part 10 of the Code of Federal Regulations; or

VII. State Radiation Control Program Directors (and State Homeland Security Directors) or their designees.

In a generic sense, the individuals described above in (II) through (VII) are considered to be trustworthy by virtue of their employment status. For non-governmental individuals in group (I) above, a determination of reliability and trustworthiness is required. Discretion must be exercised in granting access to these individuals. If there is any indication that the recipient would be unwilling or unable to provide proper protection for the SGI-M, they are not authorized to receive SGI-M.

### Information Considered for Safeguards Information Designation

Information deemed SGI-M is information the disclosure of which could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction.

SGI-M identifies Safeguards Information which is subject to these requirements. These requirements are necessary in order to protect quantities of nuclear material significant to the health and safety of the public or common defense and security.

The overall measure for consideration of SGI-M is the usefulness of the information (security or otherwise) to an adversary in planning or attempting a malevolent act. The specificity of the information increases the likelihood that it will be useful to an adversary.

### Protection While in Use

While in use, SGI-M shall be under the control of an authorized individual. This requirement is satisfied if the SGI-M is attended by an authorized individual even though the information is in fact not constantly being used. SGI-M, therefore, within alarm stations, continuously manned guard posts or ready rooms need not be locked in file drawers or storage containers.

Under certain conditions the general control exercised over security zones or areas would be considered to meet this requirement. The primary consideration is limiting access to those who have a need-to-know. Some examples would be:

Alarm stations, guard posts and guard ready rooms;

Engineering or drafting areas if visitors are escorted and information is not clearly visible;

Plant maintenance areas if access is restricted and information is not clearly visible;

Administrative offices (e.g., central records or purchasing) if visitors are escorted and information is not clearly visible;

#### *Protection While in Storage*

While unattended, SGI-M shall be stored in a locked file drawer or container. Knowledge of lock combinations or access to keys protecting SGI-M shall be limited to a minimum number of personnel for operating purposes who have a "need-to-know" and are otherwise authorized access to SGI-M in accordance with these requirements. Access to lock combinations or keys shall be strictly controlled so as to prevent disclosure to an unauthorized individual.

#### *Transportation of Documents and Other Matter*

Documents containing SGI-M when transmitted outside an authorized place of use or storage shall be enclosed in two sealed envelopes or wrappers. The inner envelope or wrapper shall contain the name and address of the intended recipient, and be marked both sides, top and bottom with the words "Safeguards Information—Modified Handling." The outer envelope or wrapper must be addressed to the intended recipient, must contain the address of the sender, and must not bear any markings or indication that the document contains SGI-M.

SGI-M may be transported by any commercial delivery company that provides nation-wide overnight service with computer tracking features, U.S. first class, registered, express, or certified mail, or by any individual authorized access pursuant to these requirements. Within a facility, SGI-M may be transmitted using a single opaque envelope. It may also be transmitted within a facility without single or double wrapping, provided adequate measures are taken to protect the material against unauthorized disclosure. Individuals transporting SGI-M should retain the documents in their personal possession at all times or ensure that the information is appropriately wrapped and also secured to preclude compromise by an unauthorized individual.

#### *Preparation and Marking of Documents*

While the NRC is the sole authority for determining what specific information may be designated as "SGI-M," originators of documents are responsible for determining whether those documents contain such information. Each document or other matter that contains SGI-M shall be marked "Safeguards Information—

Modified Handling" in a conspicuous manner on the top and bottom of the first page to indicate the presence of protected information. The first page of the document must also contain (i) the name, title, and organization of the individual authorized to make a SGI-M determination, and who has determined that the document contains SGI-M, (ii) the date the document was originated or the determination made, (iii) an indication that the document contains SGI-M, and (iv) an indication that unauthorized disclosure would be subject to civil and criminal sanctions. Each additional page shall be marked in a conspicuous fashion at the top and bottom with letters denoting "Safeguards Information—Modified Handling."

In addition to the "Safeguards Information—Modified Handling" markings at the top and bottom of page, transmittal letters or memoranda which do not in themselves contain SGI-M shall be marked to indicate that attachments or enclosures contain SGI-M but that the transmittal does not (e.g., "When separated from SGI-M enclosure(s), this document is decontrolled").

In addition to the information required on the face of the document, each item of correspondence that contains SGI-M shall, by marking or other means, clearly indicate which portions (e.g., paragraphs, pages, or appendices) contain SGI-M and which do not. Portion marking is not required for physical security and safeguards contingency plans.

All documents or other matter containing SGI-M in use or storage shall be marked in accordance with these requirements. A specific exception is provided for documents in the possession of contractors and agents of licensees that were produced more than one year prior to the effective date of the order. Such documents need not be marked unless they are removed from file drawers or containers. The same exception applies to old documents stored away from the facility in central files or corporation headquarters.

Since information protection procedures employed by state and local police forces are deemed to meet NRC requirements, documents in the possession of these agencies need not be marked as set forth in this document.

#### *Removal From SGI-M Category*

Documents containing SGI-M shall be removed from the SGI-M category (decontrolled) only after the NRC determines that the information no longer meets the criteria of SGI-M. Licensees have the authority to make

determinations that specific documents *which they created* no longer contain SGI-M information and may be decontrolled. Consideration must be exercised to ensure that any document decontrolled shall not disclose SGI-M in some other form or be combined with other unprotected information to disclose SGI-M.

The authority to determine that a document may be decontrolled may be exercised only by, or with the permission of, the individual (or office) who made the original determination. The document shall indicate the name and organization of the individual removing the document from the SGI-M category and the date of the removal. Other persons who have the document in their possession should be notified of the decontrolling of the document.

#### *Reproduction of Matter Containing SGI-M*

SGI-M may be reproduced to the minimum extent necessary consistent with need without permission of the originator. Newer digital copiers which scan and retain images of documents represent a potential security concern. If the copier is retaining SGI-M information in memory, the copier cannot be connected to a network. It should also be placed in a location that is cleared and controlled for the authorized processing of SGI-M information. Different copiers have different capabilities, including some which come with features that allow the memory to be erased. Each copier would have to be examined from a physical security perspective.

#### *Use of Automatic Data Processing (ADP) Systems*

SGI-M may be processed or produced on an ADP system provided that the system is assigned to the licensee's or contractor's facility and requires the use of an entry code/password for access to stored information. Licensees are encouraged to process this information in a computing environment that has adequate computer security controls in place to prevent unauthorized access to the information. An ADP system is defined here as a data processing system having the capability of long term storage of SGI-M. Word processors such as typewriters are not subject to the requirements as long as they do not transmit information off-site. (**Note:** If SGI-M is produced on a typewriter, the ribbon must be removed and stored in the same manner as other SGI-M information or media.) The basic objective of these restrictions is to prevent access and retrieval of stored SGI-M by unauthorized individuals,

particularly from remote terminals. Specific files containing SGI-M will be password protected to preclude access by an unauthorized individual. The National Institute of Standards and Technology (NIST) maintains a listing of all validated encryption systems at <http://csrc.nist.gov/cryptval/140-1/1401val.htm>. SGI-M files may be transmitted over a network if the file is encrypted. In such cases, the licensee will select a commercially available encryption system that NIST has validated as conforming to Federal Information Processing Standards (FIPS). SGI-M files shall be properly labeled as "Safeguards Information—Modified Handling" and saved to removable media and stored in a locked file drawer or cabinet.

#### Telecommunications

SGI-M may not be transmitted by unprotected telecommunications circuits except under emergency or extraordinary conditions. For the purpose of this requirement, emergency or extraordinary conditions are defined as any circumstances that require immediate communications in order to report, summon assistance for, or respond to a security event (or an event that has potential security significance).

This restriction applies to telephone, telegraph, teletype, facsimile circuits, and to radio. Routine telephone or radio transmission between site security personnel, or between the site and local police, should be limited to message formats or codes that do not disclose facility security features or response procedures. Similarly, call-ins during transport should not disclose information useful to a potential adversary. Infrequent or non-repetitive telephone conversations regarding a physical security plan or program are permitted provided that the discussion is general in nature.

Individuals should use care when discussing SGI-M at meetings or in the presence of others to insure that the conversation is not overheard by persons not authorized access. Transcripts, tapes or minutes of meetings or hearings that contain SGI-M shall be marked and protected in accordance with these requirements.

#### Destruction

Documents containing SGI-M should be destroyed when no longer needed. They may be destroyed by tearing into small pieces, burning, shredding or any other method that precludes reconstruction by means available to the public at large. Piece sizes one half inch or smaller composed of several pages or documents and thoroughly mixed

would be considered completely destroyed.

[FR Doc. 04-25170 Filed 11-10-04; 8:45 am]

BILLING CODE 7590-01-P

## POSTAL RATE COMMISSION

### Sunshine Act Meetings

**NAME OF AGENCY:** Postal Rate Commission.

**TIME AND DATE:** Tuesday, November 16, 2004, at 2:30 p.m.

**PLACE:** Commission conference room, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

Consideration of Docket No. MC2004-3, Rate and Service Changes to Implement Functionally Equivalent Negotiated Service Agreement with Bank One Corporation.

**CONTACT PERSON FOR MORE INFORMATION:**

Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268-0001, 202-789-6820.

Dated: November 8, 2004.

**Steven W. Williams,**  
Secretary.

[FR Doc. 04-25297 Filed 11-9-04; 12:57 pm]

BILLING CODE 7710-FW-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-2321/803-178]

### The Charles Talbot Fund; Notice of Application

November 5, 2004.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Advisers Act of 1940 ("Advisers Act" or "Act").

**APPLICANT:** The Charles Talbot Fund (the "Fund" or "Applicant").

**RELEVANT ADVISERS ACT SECTIONS:** Exemption requested under section 205(e) of the Advisers Act from section 205(a)(1) of that Act.

**SUMMARY OF APPLICATION:** Applicant requests an order under section 205(e) of the Advisers Act to permit registered investment advisers to charge it performance-based advisory fees notwithstanding the prohibition set forth in section 205(a)(1) of the Act.

**FILING DATES:** The application was filed on October 28, 2003, and amended on

March 12, 2004, and amended further on May 7, 2004.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicant with a copy of the request, either personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m., on November 30, 2004, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** *Secretary:* SEC, 450 Fifth Street, NW., Washington, DC 20549. *Applicant:* The Charles Talbot Fund, 46775 Ann Arbor Trail, Plymouth, Michigan, 48170.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Barker, Senior Counsel, or Jennifer L. Sawin, Assistant Director, Division of Investment Management, Office of Investment Adviser Regulation, at (202) 942-0719.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is a Michigan limited partnership formed in 1978 for general investment purposes so as to facilitate and simplify the investment of assets owned by the Talbot family. Applicant represents that the Fund is the Talbot family's principal investment vehicle, and is exempt from registration as an investment company under section 3(c)(1) of the Investment Company Act of 1940 (the "Investment Company Act").<sup>1</sup>

2. Charles F. Talbot, Jr., is the Fund's general partner. Mr. Talbot is compensated for services as general partner by pro rata participation in the gain or loss of the partnership. He is reimbursed for actual hours spent in the partnership business such as accounting. The Fund has no other executives or employees.

<sup>1</sup> Section 3(c)(1) generally exempts from the definition of investment company under the Investment Company Act any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making, and does not presently propose to make, a public offering of its securities.