Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 13, 1995, as amended on November 27, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland, this 5th day of December 1995.

For the Nuclear Regulatory Commission.

David C. Trimble,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–30175 Filed 12–11–95; 8:45 am]

BILLING CODE 7590–01–P

[IA 95–058]

Five Star Products, Inc. and Construction Products Research, Fairfield, CT and H. Nash Babcock, Order

I

Five Star Products, Inc. (FSP), is a company located in Fairfield, Connecticut, and was formerly known as U.S. Grout Corporation. FSP manufactures and sells grout and concrete products to the nuclear industry and has done so for about 20 years. Through a holding company, Mr. Babcock owns FSP and several related businesses, including Construction Products Research, Inc. (CPR), which performs laboratory tests of FSP products. Mr. Babcock is Vice-President of FSP and President of CPR.

II

FSP submitted its grout and concrete products to CPR for testing. Following the tests, CPR issued certifications that it tested FSP products in conformance with certain specifications of the American Society for Testing and Materials. FSP subsequently utilized those certifications as the basis for certifying that its products satisfied Appendix B and customer Purchase Order (PO) requirements. At various times since 1980, FSP has advertised and represented to NRC licensees that its products are manufactured in accordance with the requirements of Appendix B. It has supplied products pursuant to purchase orders requiring FSP to meet the requirements of Appendix B, and 10 CFR Part 21. Licensees who have purchased material from FSP under FSP's certification of quality have used the grout and concrete in safety-related applications and as basic components.

The Nuclear Regulatory Commission (NRC or Commission) issued 10 CFR Part 21 (Part 21) to implement Section 206 of the Energy Reorganization Act of 1974. Part 21 imposes, *inter alia*, evaluation and reporting requirements on directors and responsible officers of firms which supply basic components of any facility or activity which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974. Basic components are structures, systems, or parts in which a defect or failure to comply with applicable requirements could create a substantial safety hazard. 10 CFR 21.3(a). Part 21 is implemented in conjunction with Appendix B, which contains the quality assurance (QA) criteria applicable to design, fabrication, construction, and testing of safety-related structures, systems, and components in commercial nuclear power plants. Together, these requirements are intended to assure the safety of safety-related components, materials, and services for nuclear power plants.

Section 206 of the Energy Reorganization Act of 1974 requires directors and responsible officers of firms constructing, owning, operating or supplying the basic components of a facility or activity licensed or regulated by the Atomic Energy Act of 1954, as amended, who obtain information regarding defects in those basic components, or failures of basic components, or of the facility to comply with NRC requirements, to notify the NRC of those defects and failures to comply. Section 206(d) authorizes the Commission to conduct inspections and other enforcement activities necessary to insure compliance with that section. 10 CFR 21.41 and 21.51 implement Section 206(d).

III

The NRC conducts inspections of vendors who supply safety-related components pursuant to Appendix B and who supply basic components pursuant to Part 21. On August 18, 1992, the NRC began an unannounced inspection of FSP, and of its laboratory contractor, CPR, to determine the extent to which FSP supplied basic components to NRC licensees, the adequacy of FSP's QA Program, the adequacy of CPR's testing of FSP products, and the adequacy of FSP products.

Shortly after the inspection began, Mr. Babcock met with the inspection team and questioned the NRC's authority to conduct the inspection. Mr. Babcock was presented with two identical letters from the NRC staff, dated August 13, 1992, each addressed separately to FSP and CPR. The letters outlined the NRC's inspection authority under 10 CFR Part 21, Section 161o of the Atomic Energy Act of 1954, as amended (AEA), and Section 206(d) of the Energy Reorganization Act of 1974, as amended (ERA). Despite this, Mr. Babcock continued to question the NRC's authority and, throughout the inspection, denied the inspectors access to inspect CPR's testing laboratory, which was located in the basement of FSP's Fairfield, Connecticut, headquarters, and access to inspect CPR's laboratory records.

During the inspection of August 18 and 19, 1992, the inspection team reviewed NRC power reactor licensee POs submitted to Five Star in order to determine the scope of FSP's nuclear involvement. The team was provided with POs for the period 1988 to 1992. Those POs demonstrate that at least seven NRC reactor licensees and one licensee contractor had issued POs to FSP for safety-related grout and concrete mix products, and had specified compliance with Appendix B and Part 21.

The inspection team reviewed copies of several NRC licensee audit reports of FSP and CPR. These reports documented that NRC licensee requests to audit CPR's test laboratory and records were consistently denied by FSP. Further, several NRC licensee audit reports found that FSP's QA program was not acceptable and did not meet certain requirements of Appendix B.

The NRC inspection team requested copies of all audits performed by FSP of CPR to determine CPR's compliance with the quality assurance criteria of Appendix B and Part 21. Only one FSP audit of CPR was performed, by the FSP QA Manager, and it was provided to the NRC inspection team by the FSP QA Manager. The July 31, 1992 audit report concluded that CPR's June 10, 1992 QA program was satisfactory. The format and most of the language of this report were identical to a report of an audit conducted by Toledo Edison, an NRC

Part 50 reactor licensee, of FSP's QA program in February 1991. The FSP QA Manager later admitted that he had not in fact conducted an audit of CPR, and that he had used the Toledo Edison audit report to fabricate the July 31, 1992 audit report of CPR.

On August 19, 1992, the second day of the inspection, Mr. Babcock told the inspectors to leave at the end of that day and not return until after Labor Day. At 4:45 p.m. that day, Mr. Babcock was presented with another letter from the NRC staff which was witnessed by members of the inspection team and Mr. Henry Allen of FSP. This letter reiterated the legal authority of the NRC to conduct the inspection, and notified Mr. Babcock that continued refusals to permit inspection of FSP or CPR would be treated as a violation of 10 CFR 21.41, could result in enforcement action, and could be subject to treatment as a criminal violation in accordance with Sections 161o and 223 of the AEA. Notwithstanding this second letter, Mr. Babcock continued to deny the NRC inspectors access to the CPR laboratory and to records of the CPR laboratory. The inspectors left the site at 5:00 pm as Mr. Babcock had requested.

The inspection team also requested copies of QA manuals for both FSP and CPR which would provide the basis to support FSP's certifications to licensees that its products were manufactured under an appendix B Quality Assurance (QA) program. Copies of these documents were not furnished by FSP due to Mr. Babcock's suspension of further inspection activities.

As a result of FSP's and Mr. Babcock's curtailing the inspection, the inspection team was unable to review the implementation of FSP's QA Program against licensee PO's or to inspect CPR's testing of FSP's grout and concrete mix products, and thus was unable to determine whether those products were produced, tested and provided in compliance with appendix B and part 21. Therefore, the NRC staff could not determine whether there was reasonable assurance that those FSP grout and concrete mix products were acceptable for use in safety-related applications in nuclear power plants.

Shortly thereafter, the NRC obtained a federal criminal search warrant, which was executed on September 1, 1992. Certain documents and testimonial evidence were taken.

Additionally, the NRC Office of Investigations conducted an investigation of the allegations leading to and the events surrounding the inspection. (OI Case No. 1–92–037). During the course of the OI investigation, Mr. Babcock instructed his attorney to forward to the NRC a letter dated February 18, 1994, which Mr. Babcock had composed and signed. The attorney forwarded the letter, in which Mr. Babcock stated: ''We did not deny the NRC inspectors access to the laboratory in August 1992. Mr. John S. Ma, a civil engineer on the NRC inspection team, was escorted to the lab where he conducted an inspection of the test laboratory.'' As indicated above, and as known to Mr. Babcock, no NRC inspectors were allowed in the laboratory at any time during the August 1992 inspection and, therefore, the statement concerning Mr. Ma's access to and inspection of the CPR laboratory is deliberately false. The letter was material because it provided incorrect information to the NRC on a matter that was under investigation.

IV

Based on the facts discussed above, the NRC concludes that the following violations of NRC requirements occurred:

A. 10 CFR 50.5, ''Deliberate misconduct'' prohibits any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part, from deliberately submitting to the NRC, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, the Quality Assurance Manager of Five Star Products, and Five Star Products through its Quality Assurance Manager, prepared an audit report for Five Star Products of the Construction Products Research QA Program, dated July 31, 1992, without conducting an audit of Construction Products Research, and provided that audit report to NRC inspectors during an inspection of Five Star Products on August 18–19, 1992, knowing that no such audit had been conducted. This audit report was material to the NRC because it was capable of influencing its determination of whether the Construction Products Research QA Program complied with appendix B, and 10 CFR part 21 requirements.

B. Contrary to 10 CFR 50.5, Mr. H. Nash Babcock, the Vice President of Five Star Products, Inc. and the President of Construction Products Research, prepared and caused to be sent to the NRC a letter, in which Mr. Babcock stated that one NRC inspector had been allowed to and did in fact inspect the laboratory test facility of Construction Products Research on August 19, 1992. In fact, as Mr. Babcock knew, no NRC inspector was permitted to inspect the laboratory facilities of Construction Products Research during the August 18–19, 1992 inspection. The letter was material to the NRC because it provided information directly related to a matter under investigation by the NRC, specifically, whether Mr. Babcock had deliberately denied NRC inspectors access to the Construction Products Research test facility in violation of NRC requirements.

C. 10 CFR 21.41 requires that each individual, corporation, partnership or other entity subject to the regulations in part 21 shall permit duly authorized representatives of the Commission to inspect its records, premises, activities, and basic components as necessary to effectuate the purposes of part 21.

10 CFR 21.51(b) requires, in part, that each individual, corporation, partnership or other entity subject to the regulations in part 21 must afford the Commission, at all reasonable times, the opportunity to inspect records pertaining to basic components.

Contrary to the above, on August 18 and 19, 1992, Five Star Products, Inc., through H. Nash Babcock, Vice President of Five Star Products, and Construction Products Research, Inc., through H. Nash Babcock, President of Construction Products Research, denied NRC inspectors access necessary to conduct an inspection of Five Star Products' contracted laboratory test facility, Construction Products Research, for, and of Construction Products Research records of test data associated with, safety-related grout and concrete mix products sold by Five Star Products to nuclear power plants licensed under 10 CFR part 50, pursuant to purchase orders specifying compliance with appendix B and 10 CFR part 21. Mr. Babcock also refused to allow NRC inspectors reasonable access to CPR laboratory personnel. By terminating the inspection, Mr. Babcock also prevented NRC inspectors from completing their examination of Five Star records.

V

The NRC and its licensees must be able to rely on licensee contractors and officers of licensee contractors, including providers of safety-related basic components such as Five Star Products, Inc., and suppliers of services associated with basic components, such as Construction Products Research, Inc., to comply with NRC requirements,

including the requirements to provide accurate and complete information in all material respects and the requirements to permit inspection of their records, premises, activities and components. Five Star Products' and Mr. H. Nash Babcock's violations of 10 CFR 21.41, 21.51(b), and 50.5 demonstrate that Five Star Products and its Vice President, Mr. Babcock, are unable or unwilling to comply with NRC requirements to permit inspections and to provide complete and accurate information to the NRC in all material respects. In addition, they did not permit NRC licensees access to CPR's facilities in order to conduct necessary audits. Construction Products Research's and Mr. Babcock's violation of 10 CFR 21.41, 21.51(b), and 50.5 demonstrate that Construction Products Research and its President, Mr. Babcock, are unable or unwilling to comply with NRC requirements to permit inspections by the NRC or its licensees and to provide complete and accurate information to the NRC in all material respects. Consequently, I lack the requisite reasonable assurance that the NRC and NRC licensees can rely on the statements or certifications of Five Star Products, Inc., Construction Products Research, Inc., or Mr. H. Nash Babcock, that basic components of Five Star Products, Inc. or associated services of Construction Products Research, Inc. meet NRC requirements necessary to protect public health and safety. Therefore, I find that the public health, safety, and interest require that Five Star Products, Inc., Construction Products Research, Inc. and Mr. Babcock (1) be prohibited from providing structures, systems, and components subject to a procurement contract specifying compliance with Appendix B, or basic components subject to a procurement contract specifying compliance with 10 CFR Part 21, and (2) must respond to this Order and take certain other actions if they desire to provide such products to NRC licensees who specify that they must meet the requirements of Appendix B, or 10 CFR Part 21 [1].

VI

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, Section 206 of the Energy Reorganization Act, as amended, and the Commission's regulations at 10 CFR 2.202, 10 CFR Parts 21 and 50, and 10 CFR 50.5, IT IS HEREBY ORDERED, THAT:

1. Until Five Star Products, Inc., Construction Products Research, Inc., H. Nash Babcock, and any concern which is owned, controlled, operated or managed by H. Nash Babcock, satisfy the provisions of paragraph 2., below, they are prohibited from:

A. providing or supplying structures, systems, or components, including grout and concrete, subject to a procurement contract specifying compliance with Appendix B; and

B. providing or supplying basic components, including grout and concrete, subject to a procurement contract specifying that the contract is subject to the requirements of 10 CFR Part 21;

2.A. If Five Star Products, Inc., Construction Products Research Inc., or any concern owned, controlled, operated or managed by H. Nash Babcock, desires to lift the prohibition specified in paragraph 1, above, then Five Star Products, Inc., Construction Products Research, Inc., H. Nash Babcock or the concern owned, controlled, operated, or managed by H. Nash Babcock, shall, at least 90 days prior to the date it desires to have the prohibition lifted:

(1) Advise the NRC of that intent in writing;

(2) Respond in writing under oath or affirmation specifically as to each of the violations listed in Section IV, including: (a) An admission or denial of the alleged violation, (b) the reasons for the violation if admitted, and if denied, the reasons why, (c) the corrective steps that have been taken and the results achieved, (d) the corrective steps that will be taken to avoid further violations, and (e) the date when full compliance will be achieved;

(3) Agree in writing, under oath or affirmation, and in fact, to permit the NRC, NRC licensees, and contractors performing QA functions for such licensees, to inspect the records, premises, basic components and activities of Five Star Products, Inc., of Construction Products Research, Inc., or of any concern owned, controlled, operated or managed by H. Nash Babcock that desires to provide safety related products or basic components, or to perform tests to support claims that those products or components and those testing services meet the standards of Appendix B and 10 CFR Part 21, and to signify in writing a willingness to do so in the future;

(4) Agree in writing under oath or affirmation to demonstrate and in fact to demonstrate that those basic components and services associated with basic components meet the standards of Appendix B by having tests performed by an independent third party and having that third party provide copies of the results of those tests directly to the NRC; and

(5) The officers, managers, and supervisors of Five Star Products, Inc. and Construction Products Research, Inc. provide statements that they understand that the activities and records of the organization are subject to NRC inspection, that communications with the NRC must be complete and accurate, and that any employee may provide information to the NRC at any time without fear of retribution; and

B. When all conditions of paragraph 2.A. above have been satisfied, and the NRC has conducted inspections of the QA program and Part 21 program of Five Star Products, Inc., Constructions Products Research, Inc., and any concern owned, controlled, operated, or managed by H. Nash Babcock, and any necessary corrective action has been completed, the prohibition of paragraph 1, above, will be lifted in writing.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Five Star Products, Inc., Construction Products Research, Inc., and Mr. H. Nash Babcock of good cause.

VII

In accordance with 10 CFR 2.202, Five Star Products, Inc., Construction Products Research, Inc., and H. Nash Babcock, or any other person adversely affected by the Order, may submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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 admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Five Star Products, Inc., Construction Products Research, Inc., and H. Nash Babcock, and any 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, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555, to

[1] This does not prohibit FSP from supplying commercial grade materials to NRC licensees, or CPR from testing and certifying commercial grade materials to NRC licensees, provided that no representations are made with regard to FSP products being qualified for safety-related applications in nuclear power plants based on compliance with 10 CFR Part 50, Appendix B, or that 10 CFR Part 21 requirements have been met.

the Assistant General Counsel for Hearings and Enforcement and the Director, Office of Nuclear Reactor Regulation, both at the same address. If a person other than Five Star Products, Inc., Construction Products Research, Inc., or H. Nash Babcock requests a hearing, that person shall set forth with particularity the manner in which his or her 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 Five Star Products, Inc., Construction Products Research, Inc., H. Nash Babcock, or any other 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. In the absence of any request for hearing, the provisions specified in Section VI above shall be effective and final 20 days from the date of this Order without further order or proceedings.

Dated at Rockville, Maryland this 1st day of December 1995.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 95–30174 Filed 12–11–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

High Intensity Drug Trafficking Areas; Availability of Funds

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of funds availability.

SUMMARY: Public Law 102–393 directs the Office of National Drug Control Policy (ONDCP) to transfer certain funds to Federal, State and local drug control entities in connection with the High Intensity Drug Trafficking Area (HIDTA) program. The purpose of this announcement is to communicate to potential applicants the policies and procedures that are used in administering the program. This announcement parallels requirements of the HIDTA Program Guidance which is issued annually to the HIDTA Directors.

FOR FURTHER INFORMATION CONTACT: The HIDTA Director in your area as follows:

Houston (and a surrounding area that includes Harris County, Galveston County, and all municipalities therein). Stan Furce (713) 567–9331.

Miami (and a surrounding area that includes Broward County, Dade County, Monroe County, and all municipalities therein). Doug Hughes (305) 597–2091.

New York City (and a surrounding area that includes Nassau County, Suffolk County, and Westchester County, New York and all municipalities therein; and Union County, Hudson County, Essex County, Bergen County, and Passaic County, New Jersey, and all the municipalities therein). Harry Brady (212) 385–6980.

Los Angeles (and a surrounding area that includes Los Angeles County, Orange County, Riverside County, and San Bernardino County, and all municipalities therein). Roger Bass (213) 894–1868.

Washington D.C./Baltimore (and a surrounding area that includes Baltimore County, Howard County, Anne Arundel County, Prince Georges County, Montgomery County, and Charles County, Maryland and all the municipalities therein; and Washington, D.C.; and Arlington County, Alexandria County, Fairfax County, Prince William County, and Loudoun County, Virginia, and all the municipalities therein). Tom Carr (301) 489–1777.

Puerto Rico/Virgin Islands, Bill Lindley (809) 766–5656.

The Southwest Border (and adjacent areas that include:

San Diego County and Imperial County, California, and all the municipalities therein;

Yuma County, Marcopia County, Pinal County, Pima County, Santa Cruz County, and Cochise County, Arizona, and all the municipalities therein;

Bernalillo County, Hidalgo County, Grant County, Luna County, Dona Ana County, Eddy County, Lea County, and Otero County, New Mexico, and all the municipalities therein;

El Paso County, Hudspeth County, Culberson County, Jeff Davis County, Presidio County, Brewster County, Pecos County, Terrell County, and Crockett County, Texas, and all the municipalities therein;

Bexar County, Val Verde County, Kinney County, Maverick County, Zavala County, Dimmit County, La Salle County, Webb County, Zapata County, Jim Hogg County, Starr County, Hildago County, Willacy County, and Cameron County, Texas, and all the municipalities therein).

Dennis Usrey (619) 557–6850.

Chicago, Illinois—Mark Prosperi (312) 886–7855.

Atlanta, Georgia—Zenford Mitchell (404) 730–9359.

Philadelphia, Pennsylvania and Camden, New Jersey—Dave Webb (215) 451–5450.

SUPPLEMENTARY INFORMATION: ONDCP hereby announces its policies and application procedures for funds available under Public Law 102–393 to state and local drug control entities for drug control activities consistent with the approved strategy for each HIDTA.

Eligible Applicants

Public Law 100–690, Nov. 18, 1988, authorized the Director of ONDCP to designate areas meeting certain criteria as HIDTAs. Houston, Los Angeles, Miami, New York and the Southwest Border were so designated as part of the 1990 National Drug Control Strategy. In 1994 Washington/Baltimore and Puerto Rico/Virgin Islands were also designated. Chicago, Atlanta and Philadelphia/Camden were designated Empowerment HIDTAs in 1995. Federal, State and local law enforcement agencies located within the specific geographical areas outlined in the National Drug Control Strategy are eligible to apply for funds under this notice.

Program Objective

The goal of the HIDTA program is to reduce drug trafficking. The primary objective is to severely disrupt and dismantle drug and money laundering organizations operating in and through the HIDTAs. In concert with Federally led HIDTA initiatives, State and local proposals focus on joint local, State and Federal law enforcement efforts that target major drug organizations that support the international organizations and cartels. Funds must be used strictly for implementing an approved joint HIDTA strategy. The funds cannot be used to supplant existing support for ongoing State or local drug control operations, which should be funded out of the agencies' normal operating budgets.

Available Funds

At least $55.0 million is available for State and local participation in the HIDTAs.

Application Procedures

Each applicant must submit a written joint proposal and cooperative agreement application to the HIDTA Director in the respective HIDTA. A majority, if not all, of the transfers may be in the form of cooperative agreements. The proposals must include a written statement of the purpose, scope and measurable objective of the initiative; a narrative of the implementation plan; administrative