design basis includes the ability to withstand an earthquake and to retain sufficient water to adequately cool and shield the stored spent fuel. In the MYAPS Defueled Safety Analysis Report, the licensee specifically states that the SFP structure is designed to Seismic Class I requirements and is capable of performing its intended safety function under the licensee's design-basis hypothetical earthquake with a 0.1-g peak ground acceleration. The floor and walls of the SFP are constructed of 6-ft thick reinforced concrete and are completely lined with ¼-inch steel plates. To add to the robustness of the design, the pool is founded on bedrock and is embedded 12.5 feet below grade level. Since the analyses used in designing the capability of structures, systems, and components (SSCs) to perform their safety function under a hypothetical earthquake have significant margin in them, it is expected that an SSC built to withstand the hypothetical design-basis earthquake actually will be able to withstand a larger earthquake. Thus, the loss of coolant from the Maine Yankee SFP, which partially or completely uncovers the fuel, is a beyond-design-basis event with a very low probability of occurrence.

The NRC staff has determined that a significant accident sequence for a permanently shutdown reactor involves the loss of water from the SFP and subsequent heatup of the fuel. If the decay heat is high enough, oxidation of the zirconium fuel clad could become self-sustaining, resulting in a zirconium clad fire. Although the zirconium clad fire may not be included in the design basis of the facility, the NRC staff considers it among those accidents that are ''reasonably conceivable'' and that should be considered in determining whether there is undue risk to the public from a permanently shutdown reactor facility. Analysis sponsored by the NRC in the late 1980s identified approximately 2 years after shutdown as the critical decay time necessary for pressurized-water reactor fuel to reach a decay power below the minimum decay power for self-sustaining oxidation. Additional NRC-sponsored analysis completed in 1997 identified 17 months as the critical decay time for pressurized-water reactors. On December 6, 1998, Maine Yankee had been shut down for 24 months. Because of the robust design and construction of the SFP and the fuel's having exceeded the critical decay time for the representative pressurized-water reactor, the staff has determined that there is reasonable assurance that rapid zirconium oxidation of the fuel cladding is no longer possible. The staff has also concluded that the cost of recovering from a loss of SFP water would be bounded by other accidents that may occur at a permanently defueled site.

In SECY 96–256, ''Changes to the Financial Protection Requirements for Permanently Shutdown Nuclear Power Reactors, 10 CFR 50.54(w) and 10 CFR 140.11,'' dated December 17, 1996, the staff estimated the onsite cleanup costs of accidents considered to be the most costly at a permanently defueled site with spent fuel stored in the SFP. The staff found that the onsite recovery costs for a fuel-handling accident could range up to $24 million. The estimated onsite cleanup costs to recover from the rupture of a large liquid radwaste storage tank could range up to $50 million. The licensee's proposed level of $50 million for onsite property insurance is sufficient to cover these estimated cleanup costs.

The offsite cleanup costs of the accident scenarios previously discussed are estimated to be negligible in SECY 96–256. However, a licensee's liability for offsite costs may be significant as a result of lawsuits alleging damages from offsite releases. Experience at Three Mile Island Unit 2 showed that significant judgments against a licensee are possible despite negligible dose consequences from an offsite release. An appropriate level of financial liability coverage is needed to account for potential judgments and settlements and to protect the Federal Government from indemnity claims. The licensee's proposed level of $100 million in primary offsite liability coverage is sufficient for this purpose.

The staff has determined that participation in the secondary insurance pool for offsite financial protection is not required for a permanently shutdown and defueled plant after the time that air cooling of the spent fuel is sufficient to maintain the integrity of the fuel cladding. As previously noted, the staff finds that sufficient time has elapsed to ensure the integrity of the MYAPS spent fuel cladding.

IV

The NRC staff has completed its review of the licensee's request to reduce financial protection limits to $50 million for onsite property insurance and $100 million for offsite liability insurance. On the basis of its review, the NRC staff finds that the spent fuel stored in MYAPS's SFP is no longer susceptible to rapid zirconium oxidation. The requested reductions are consistent with SECY 96–256. The Commission informed the staff in a staff requirements memorandum dated January 28, 1997, that it did not object to the insurance reductions recommended in SECY 96–256. The licensee's proposed financial protection limits will provide sufficient insurance to recover from limiting hypothetical events, if they occur. Thus, the underlying purposes of the regulations will not be adversely affected by the reductions in insurance coverage.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption to reduce onsite property insurance to $50 million is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. Further, special circumstances are present, as set forth in 10 CFR 50.12(a)(2)(ii). Therefore the Commission hereby grants an exemption from the requirements of 10 CFR 50.54(w).

In addition, the Commission has determined that, pursuant to 10 CFR 140.8, an exemption to reduce primary offsite liability insurance to $100 million, accompanied by withdrawal from the secondary insurance pool for offsite liability insurance, is authorized by law and is in the public interest. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 140.11(a)(4).

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will not have a significant effect on the quality of the human environment (63 FR 67943, printed December 9, 1998).

These exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 7th day of January 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1075 Filed 1–15–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co., Haddam Neck Plant; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision concerning a petition dated September 11, 1998, filed by Ms. Rosemary Bassilakis, pursuant to Title

10 of the Code of Federal Regulations, § 2.206, (10 CFR 2.206), on behalf of the Citizens Awareness Network (Petitioner). The petition requests that (1) the U.S. Nuclear Regulatory Commission (NRC) immediately revoke or suspend the Connecticut Yankee Atomic Power Company's (CYAPCO's) operating license for the Haddam Neck Plant (HNP), (2) an informal public hearing on the petition be held in the vicinity of the site, and (3) the NRC consider requiring CYAPCO to conduct decommissioning activities under 10 CFR part 72.

The Director, Office of Nuclear Reactor Regulation, has determined that the Petition should be denied in part and granted in part for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–99–01). The complete text that follows this notice is available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2210 L Street, NW., Washington, DC, and at the Local Public Document Room for HNP at the Russell Library, 123 Broad Street, Middletown, Connecticut.

A copy of this decision has been filed with the Secretary of the Commission for the Commission's review. As provided for by 10 CFR 2.206(c), the decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 12th day of January 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

I. Introduction

On September 11, 1998, Ms. Rosemary Bassilakis submitted a petition pursuant to Title 10 of the Code of Federal Regulations, § 2.206 (10 CFR 2.206), on behalf of the Citizens Awareness Network requesting (1) that the U.S. Nuclear Regulatory Commission (NRC) immediately revoke or suspend the Connecticut Yankee Atomic Power Company's (CYAPCO's) operating license for the Haddam Neck Plant (HNP), (2) an informal public hearing on the petition be held in the vicinity of the site, and (3) that the NRC consider requiring CYAPCO to conduct decommissioning activities under 10 CFR part 72.

In support of their requests, the petitioners state that (1) CYAPCO demonstrates incompetence in creating and maintaining a safe work environment and an effective, well-trained staff; (2) CYAPCO is not conducting its decommissioning activities in accordance with its post-shutdown decommissioning activities report (PSDAR) and, therefore, poses an undue risk to public health; (3) the problems encountered at the plant during the summer of 1998 might not have occurred if the requirements under 10 CFR Part 72 had been applied; and (4) the spent fuel stored onsite in the spent fuel pool (SFP) is the primary risk to public health and safety.

II. Background

CYAPCO submitted written certifications of permanent cessation of operations of HNP and permanent removal of fuel from the HNP reactor vessel on December 5, 1996. Upon the docketing of these documents, in accordance with 10 CFR 50.82(a)(2), CYAPCO was no longer authorized to operate the reactor or to place fuel into the reactor vessel. CYAPCO submitted its PSDAR on August 22, 1997, which, among other items, described its schedule and commitments for decommissioning HNP. The licensee chose the DECON option for the plant.

The licensee plans to keep its spent fuel stored in the SFP until such time as the Department of Energy takes possession of it. Systems supporting the SFP are being modified to operate independently of the rest of the site so that decommissioning activities will have no impact on the SFP.

On March 4, 1997, the NRC issued a confirmatory action letter to document the licensee's commitments to improve its radiological controls program. Subsequently, on May 5, 1998, the NRC determined that CYAPCO had met its commitments to make those improvements.

The petitioners state that since May 5, 1998, a series of incidents that occurred at HNP raises questions regarding the ability of CYAPCO to protect worker and public health and safety and the environment. The incidents noted by the petitioners and a brief statement of NRC's enforcement actions taken to date are listed below:

1. On June 20, 1998, 800 gallons of radioactive liquid, containing approximately 2,200 microcuries total activity (excluding tritium and noble gases), were inadvertently released into the Connecticut River from the HNP waste test tank (WTT). The licensee did not report the release for 2 days.

This event is discussed in Inspection Report 50–213/98–03, which was issued on August 21, 1998. The release was within regulatory limits. However, the event resulted in a Severity Level IV violation because of the licensee's failure to declare an Unusual Event for an unplanned liquid discharge in which the total activity exceeds 1,000 microcuries (excluding tritium and noble gases). The event also contributed to a Severity Level IV violation for inadequate configuration control in that a valve required to be closed was open.

2. On July 7, 1998, 350 gallons of demineralized water were inadvertently spilled, spraying workers in the spent fuel building.

This event is discussed in Inspection Report 50–213/98–03, which was issued on August 21, 1998. The workers involved were neither contaminated nor injured. However, the event contributed to a Severity Level IV violation for inadequate configuration control in that valves red-tagged shut and verified as closed were found open.

3. On July 27, 1998, approximately 1,000 gallons of reactor coolant system (RCS) decontamination solution were spilled inside the plant.

This event is mentioned in Inspection Report 50–213/98–03, which was issued on August 21, 1998, as an example of inadequate configuration control in that a valve required to be full open was found less than full open, which contributed to pressure transients and vibrations that resulted in the spill. The partially closed valve contributed to a Severity Level IV violation for inadequate configuration control.

The event is discussed in detail in Inspection Report 50–213/98–04, which was issued on October 29, 1998. There was no release of radioactive water to the environment. However, the report found that the licensee did not perform walkdown inspections or visual leak checks in the plant's pipe trenches during leak testing of the systems in preparation for the RCS decontamination. In addition, the report found that the licensee failed to adequately address potential transient conditions in the letdown system equipment. The NRC identified these deficiencies as apparent violations in that corrective actions to address weaknesses in configuration control were inadequate. The need for enforcement action related to this event is being evaluated by the NRC.

4. On August 11, 1998, the SFP demineralizer retention element and filter failed, allowing contaminated resin beads to enter plant piping.

This event is discussed in Inspection Report 50–213/98–04, which was issued on October 29, 1998. The failures were caused by a combination of increased flow and corrosion due to operating conditions created by the RCS decontamination procedure. The contaminated resin beads increased

radiation levels in the pipe trench and containment, areas not readily accessible to workers. The NRC identified this event as an apparent violation in that the licensee's technical evaluations and procedural controls failed to ensure that contaminated resin remained inside the demineralizer tank.

The final disposition of the apparent violations identified in items 3 and 4 above will be taken in accordance with the NRC's enforcement policy. The NRC is currently evaluating the events and the need for enforcement action. The results of the evaluation will be made available to the public.

The series of events during the summer of 1998 prompted the NRC to conduct a number of conference calls and management meetings with the licensee. Conference calls were made to licensee management on July 8 and 15, 1998. During the calls, the licensee described the results of its preliminary root cause analyses of the events of June 20 and July 7, 1998, and presented the corrective actions it took to ensure that no similar events would occur during the RCS decontamination procedure. The licensee documented the commitments it made during those calls in a letter dated July 16, 1998. As a result of the July 27 event, a management meeting was held at the plant site on August 3, 1998, to discuss additional corrective actions taken by the licensee. These commitments were documented by the licensee in a letter dated August 12, 1998. The Regional Administrator for NRC Region I met with licensee management on August 20, 1998, to discuss concerns raised by the licensee's performance. On September 3–4, 1998, Region I and Headquarters personnel conducted interviews at the site with 30 licensee managers, supervisors, and workers to obtain information on organizational and management issues associated with the events during the RCS decontamination.

The petitioners state that CYAPCO never finished its root cause analysis for the incident on June 20, 1998, before commencing similar work. By letter dated July 16, 1998, CYAPCO committed to completing a root cause analysis by July 27, 1998, but did not commit to limit or prohibit similar work until the analysis was completed. Inspection Report 50–213/98–03 stated that the licensee's preliminary analysis of the June 20 event found that the root cause was accidental bumping of a cross-connect valve, which allowed partial discharge of the ''A'' WTT while the ''B'' WTT was being discharged. Both tanks had been properly prepared for release; however, they were intended to be released one at a time. The licensee suspended WTT discharges until a number of corrective actions, such as installation of a locking device on the cross-connect valve, were taken to prevent recurrence of a similar event. After the preliminary corrective actions were taken, the licensee removed the prohibition on WTT discharges. The final root cause analysis was issued by CYAPCO as an internal document and was approved by the HNP Unit Director on July 29, 1998. However, there was no requirement to place the analysis on the docket.

The petitioners also state that, as of the time of their September 11, 1998 petition, they had not received a response to their letter dated July 7, 1998, to NRC Chairman Jackson, in which they requested that NRC delay the start of the RCS chemical decontamination. The NRC staff issued a response to the petitioners in a letter dated August 31, 1998. The response was docketed on September 8, 1998, under accession number 9809080105.

III. Discussion of Petitioners' Requests

The petitioners' first request is to revoke or suspend the HNP operating license. The petitioners' basis for the request is that CYAPCO continues to demonstrate incompetence in creating and maintaining a safe work environment and an effective, well-trained staff.

The petitioners present the series of events outlined in Section II, ''Background'' as evidence to support their basis.

The NRC considers the series of events that occurred during the summer of 1998 to have been challenges to the licensee's ability to maintain a safe work environment. As noted in Section II, NRC has taken enforcement action in response to the events. The enforcement actions are based on the Commission's regulations, which place certain requirements on a licensee. To place a licensee under the authority of the regulations, the Commission issues a license with appropriate conditions. As a result, the facility operating license becomes a mechanism through which the Commission holds a licensee to its regulatory responsibilities. Revoking or suspending the HNP license would not relieve the licensee of its responsibilities but could impede the NRC's ability to enforce regulatory requirements.

The events previously outlined did not result in a radiological release to the environment above regulatory limits, did not cause radiation exposure above regulatory limits, and did not cause injury to workers or the public. In addition, the permanently shutdown and defueled condition of the plant substantially reduces the risk to public health and safety. In light of these facts, the NRC believes that revoking or suspending the HNP license is not necessary or appropriate. The NRC's enforcement policy provides objective criteria for responding to licensee actions and is adequate to require CYAPCO to take appropriate corrective actions in response to the events outlined. Therefore, the request to revoke or suspend the HNP operating license is denied.

The petitioners' second request is to hold an informal public hearing in the vicinity of the site. The petitioners' basis for the request is that CYAPCO is not conducting its decommissioning activities in accordance with its PSDAR and, therefore, poses an undue risk to the public.

With regard to the petitioners' request for an informal public hearing, the staff reviewed the PSDAR and found that CYAPCO has followed the sequence of activities included in the PSDAR as Figure 1, ''CY Decommissioning Schedule.'' Additionally, in its PSDAR, CYAPCO committed to controlling radiation exposure to offsite individuals to levels less than both the Environmental Protection Agency's Protective Action Guidelines and NRC's regulations. Both radiation exposures to individuals and effluents to the environment due to decommissioning activities have been within regulatory limits. On the basis of these facts, the staff finds that there is no undue risk to public health and safety. The staff also determined that the petitioners neither provided new information that raised the potential for a significant safety issue (SSI) nor presented a new SSI or new information on a previously evaluated SSI. Therefore, the criteria for an informal public hearing on a petition submitted under the provisions of 10 CFR 2.206, contained in Part III (c) of Management Directive 8.11, are not satisfied and the petitioners' request for an informal public hearing has been denied.

The petitioners' third request is for the NRC staff to consider applying the requirements of 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste,'' to decommissioning activities at HNP. The petitioners present two bases for this request. First, the problems encountered during the decommissioning activities in the summer of 1998 might not have occurred if 10 CFR part 72 had been applied at HNP. Second, the spent fuel

stored in the SFP is the primary risk to public health and safety.

The problems encountered by the licensee during the summer of 1998 have been examined by the NRC. As illustrated in Section II, the problems were not due to a lack of regulatory requirements. Therefore, the staff believes that the requirements of 10 CFR part 72, which address activities associated with an independent spent fuel storage installation (ISFSI), would not have been applicable to the decommissioning activities underway at HNP during the summer of 1998.

The second basis for the request concerns the safe storage of spent fuel at HNP. The staff's consideration of applying the requirements of 10 CFR part 72 at HNP is presented in Section IV, below. Therefore, the third request is granted.

IV. Application of 10 CFR Part 72 at HNP

The staff reviewed the requirements of 10 CFR part 72 and compared them with the requirements of 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' which currently apply to HNP. The scope of part 72, as stated in 10 CFR 72.2, is limited to the receipt, transfer, packaging, and possession of power reactor spent fuel and other radioactive materials associated with spent fuel storage. As a result, decommissioning activities under part 72 would apply only to the portion of the 10 CFR part 50 site licensed as an ISFSI. However, the licensee has not applied for a part 72 license to establish the SFP as an ISFSI. Furthermore, the licensee does not intend to decommission the SFP until after the Department of Energy takes possession of the spent fuel. In light of these facts, part 72 does not apply to HNP and, even if CYAPCO held a part 72 license, the decommissioning provisions of that part would not apply to the decommissioning activities currently underway at the facility. Because the HNP facility consists of contaminated and activated structures, systems, and components associated with a permanently defueled reactor as well as the SFP, the limited scope of part 72 is not sufficient to cover the full range of decommissioning activities at a power reactor facility such as HNP.

In contrast, the scope of 10 CFR part 50 applies to HNP and covers all the structures, systems, and components of a power reactor facility, including the SFP. Part 50 contains specific provisions for decommissioning power reactors in § 50.82, as well as other applicable sections. It follows that the decommissioning of HNP must proceed under 10 CFR part 50, at least until such time as the decommissioning activities at HNP fall completely within the scope of 10 CFR part 72 and the licensee applies for and obtains a part 72 license. As of now, the activities at HNP extend beyond the scope of part 72, and part 50 would continue to apply even if a licensed ISFSI were established at the site.

After considering the applicability of the regulations noted above, the staff concludes that 10 CFR part 72 does not apply to HNP at this time because the licensee does not possess an ISFSI licensed under part 72 and many of the decommissioning activities to be performed cannot be accommodated within the scope of part 72.

V. Decision

For the reasons stated herein, the petition is denied in part and granted in part. The requests to revoke or suspend the HNP operating license and to hold an informal public hearing in the vicinity of the site are denied. The request to consider application of the requirements of 10 CFR part 72 to HNP is granted. The staff's evaluation of the applicability of 10 CFR part 72 at HNP is presented in Section IV; however, the staff finds that part 72 does not apply to the decommissioning activities now underway at the plant.

The decision and the documents cited in the decision are available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the Local Public Document Room for HNP at the Russell Library, 123 Broad Street, Middletown, Connecticut.

In accordance with 10 CFR 2.206(c), a copy of this decision will be filed with the Secretary of the Commission for the Commission's review. As provided for by this regulation, the decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 12th day of January 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–1086 Filed 1–15–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23645; 812–11180]

Ivy Fund, et al.; Notice of Application

January 12, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to implement a ''fund of funds'' arrangement. The fund of funds would invest in funds in the same group of investment companies, and in funds that are not part of the same group of investment companies in reliance on section 12(d)(1)(F) of the Act. The order also would permit the fund of funds to offer its shares to the public with a sales load that exceeds the 1.5% limit of section 12(d)(1)(F)(ii) of the Act.

APPLICANTS: Ivy Management, Inc. (''IMI''); Ivy Mackenzie Distributors, Inc. (''IMDI''); Mackenzie Financial Corporation (''MFC''); Ivy Fund, on behalf of its series (Ivy Asia Pacific Fund; Ivy Bond Fund; Ivy Canada Fund; Ivy China Region Fund; Ivy Developing Nations Fund; Ivy Global Fund; Ivy Global Natural Resources Fund; Ivy Global Science & Technology Fund; Ivy Growth Fund; Ivy Growth With Income Fund; Ivy International Fund; Ivy International Fund II; Ivy International Small Companies Fund; Ivy International Strategic Bond Fund; Ivy Money Market Fund; Ivy Pan-Europe Fund; Ivy South America Fund; Ivy US Blue Chip Fund; and Ivy US Emerging Growth Fund); and Mackenzie Solutions, on behalf of its series (International Solutions I—Conservative Growth; International Solutions II—Balanced Growth; International Solutions III—Moderate Growth; International Solutions IV—Long-Term Growth; and International Solutions V—Aggressive Growth).

FILING DATES: The application was filed on June 10, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 applicants with a