

189 to Facility Operating License No. NPF-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland this 28th day of November 2000.

For the Nuclear Regulatory Commission.

James W. Clifford,

Chief, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-336 and 50-423]

Northeast Nuclear Energy Company, et al.; Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 250 and 188 to Facility Operating License Nos. DPR-65 and NPF-49, issued to Northeast Nuclear Energy Company (NNECO), which revised the Technical Specifications (TSs) for operation of the Millstone Nuclear Power Station, Unit Nos. 2 and 3 located in New London, Connecticut. The amendment was effective as of the date of its issuance.

The amendments revise the TSs to relocate selected procedural details contained in the radiological effluent technical specifications (RETS) to the Radiological Effluent Monitoring and Offsite Dose Calculation Manual which is a licensee-controlled document. The relocation will be done in accordance with NRC guidance provided in: (1) Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program;" (2) NUREG-1431, "Standard Technical Specifications Westinghouse Plants;" and (3) NUREG-1432, "Standard Technical Specifications Combustion Engineering Plants." In addition, several administrative changes to the TSs for Unit 2 are included.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 9, 2000, (65 FR 48754). A request for a hearing was filed on September 8, 2000, by the Connecticut Coalition Against Millstone and the STAR (Standing for Truth About Radiation) Foundation.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendments involve no significant hazards consideration. The basis for this determination is contained in the Safety Evaluation related to this action. Accordingly, as described above, the amendments have been issued and made immediately effective and any hearing will be held after issuance.

The Commission has determined that the amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

For further details with respect to this action see (1) the application for amendments dated February 22, 2000, as supplemented August 28, 2000, (2) Amendment Nos. 250 and 188 to Facility Operating License Nos. DPR-65 and NPF-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 28th day of November 2000.

For the Nuclear Regulatory Commission.

James W. Clifford,

Chief, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 and 50-446]

TXU Utilities Electric Company, et al.; Comanche Peak Steam Electric Station, Units 1 and 2; notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of amendments to Facility Operating License Nos. NPF-87 and NPF-89 issued to TXU Electric Company, *et al.* (the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively. The CPSES facility is located at the licensee's site in Somervell County, Texas.

The proposed amendments would revise the technical specifications to reconfigure spent fuel storage in the spent fuel pool and increase the spent fuel pool storage capacity from 2,026 to 3,373 fuel assemblies.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This proposed license amendment includes changes which provide the criteria for acceptable fuel storage in Region I/Region II racks. The revised criteria for acceptable fuel storage in the Region I/Region II racks are discussed below.

The Region I/Region II racks proposed for Spent Fuel Pool One (SFP1) and Spent Fuel Pool Two (SFP2), are a nominal 10.6 × 11 inch and nominal 9 × 9 inch center to center spacing respectively. The SFP1 Region II racks are similar to the existing Region II racks in SFP2 (nominal 9 × 9 inch center to center). The proposed Region I/Region II racks and the existing Region II racks in SFP2 are free standing whereas the low density racks being removed from SFP1 are bolted to the pool. Administrative controls are used to maintain the specified storage patterns and to assure storage of a fuel assembly in a proper location based on initial U-235 enrichment, burnup, and decay time. The increased storage capacity results in added weight in the pools and additional heat loads.

There is no significant increase in the probability of an accident concerning the potential insertion of a fuel assembly in an incorrect location in the Region I/Region II racks. TXU Electric has used administrative controls to move fuel assemblies from location to location since the initial receipt of fuel on site. Fuel assembly placement will continue to be controlled pursuant to approved fuel handling procedures and will be in accordance with the Technical Specification spent fuel rack storage configuration limitations.

There is no increase in the probability of the loss of normal cooling to the fuel storage pool water due to the presence of soluble boron in the pool water for subcriticality control. A concentration of soluble boron similar to that currently approved (Technical Specification 3.7.16) has always been maintained in the fuel storage pool water. The amount of soluble boron required to offset the reactivity increase associated with water temperature outside the normal range was established for the proposed storage configurations.

The consequences of all of these changes have been assessed and the current acceptance criteria in the licensing basis of CPSES will continue to be met. The nuclear criticality, thermal-hydraulic, mechanical, material and structural designs will accommodate these changes. Potentially affected analyses, including a dropped spent fuel assembly, a loss of spent fuel pool cooling, a seismic event, a fuel assembly placed in a location other than a prescribed location, and a stuck fuel assembly and the associated uplift force continue to satisfy the CPSES licensing basis acceptance criteria. The analysis methods used by TXU Electric are consistent with methods used by TXU Electric in the past or methods used elsewhere in the industry and accepted by the NRC.

Based on the acceptability of the methodology used and compliance with the current CPSES licensing basis, use of the Region I/Region II racks and the increase in storage capacity do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The potential for criticality in the spent fuel pool is not a new or different type of accident. The potential criticality accidents have been reanalyzed to demonstrate that the pool remains subcritical.

Soluble boron has been maintained in the fuel storage pool water since its initial operation. The possibility of a fuel storage pool dilution is not affected by the proposed change to the Technical Specifications. Therefore, extending the Technical Specification controls for the soluble boron to include the Region II racks in SFP1 will not create the possibility of a new or different kind of accidental pool dilution.

With credit for soluble boron now a major factor in controlling subcriticality for the Region II racks in SFP1 (with no neutron absorber installed), the evaluation of fuel storage pool dilution events previously performed was updated. The results of the updated evaluation concluded that an event which would result in a reduction of the criticality margin below the 5% margin recommended by the NRC is not credible. In addition, the no soluble boron 95/95 criticality analysis assures that a boron concentration of zero ppm [parts per million] will not result in criticality.

The proposed changes which ensure the maintenance of the fuel storage pool boron concentration and storage configuration, do not represent new concepts. The actual boron concentration in the fuel storage pool is currently maintained at 2,400 ppm for SFP1 and SFP2 for refueling purposes. The criticality analysis determined that a boron concentration of 800 ppm (non-accident) and 1,900 ppm (accident) results in a $k_{eff} \leq 2$ 0.95.

For the Region I racks, credit is taken in the reactivity control analysis for the neutron absorber Boral (soluble boron is not credited). The criticality evaluation concluded that the requirement of $k_{eff} \leq 0.95$ when fully flooded with unborated water, including uncertainties, remain satisfied.

There is no significant change in plant configuration, equipment design, or usage of plant equipment. The safety analysis for boron dilution has been performed; however, the criticality analyses assure that the pool will remain subcritical with no credit for soluble boron. Therefore, the proposed changes will not create the possibility of a new or different kind of accident.

The installation and removal of racks meet the requirements of NUREG 0612, "Control of Heavy Loads at Nuclear Power Plants," and current CPSES Technical Requirement 13.9.34, "Refueling—Crane Travel—Spent Fuel Storage Areas."

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The NRC guidance has established that an evaluation of margin of safety should address the following areas:

- (1) Nuclear criticality considerations
- (2) Thermal-Hydraulic considerations
- (3) Mechanical, material and structural consideration

Proposed Technical Specifications 3.7.17 and 4.3 and the associated fuel storage requirements will provide adequate margin to assure that the fuel storage array (Region I and Region II) will always remain subcritical by the 5% margin recommended by the NRC.

While the criticality analysis for Region II utilized credit for soluble boron, the storage configurations have been defined using k_{eff} calculations to ensure that the spent fuel rack k_{eff} will be less than 1.0 with no soluble boron. The criticality analysis for Region I utilized credit for the neutron absorber material Boral, the storage configurations have been defined using k_{eff} calculations to ensure that the spent fuel rack k_{eff} will be less than or equal to 0.95 with no soluble boron.

Soluble boron credit is used to offset off-normal conditions (such as a misplaced assembly) and to provide subcritical margin such that the fuel storage pool k_{eff} is maintained less than or equal to 0.95.

The loss of substantial amount[s] of soluble boron from the spent fuel pools, which could lead to exceeding a k_{eff} of 0.95, has been evaluated and shown not to be credible. These evaluations show that the dilution of the spent fuel pools boron concentration from 1,900 ppm to 800 ppm is not credible and that the Region II spent fuel rack k_{eff} will remain less than 1.0 when flooded with unborated water.

The thermal-hydraulic evaluation of spent fuel pool cooling demonstrates that the temperature margin of safety will be maintained. Evaluation of the spent fuel pool cooling system for the increased heat loads shows that the spent fuel cooling system will maintain the temperature of the bulk spent fuel pool water within the limits of the existing licensing basis. Additionally, it shows that the maximum temperature will be within the existing design temperatures for the Region I / Region II racks, liner, structure, and cooling system and will not have any significant impact on the spent fuel pool demineralizers. Thus, the existing licensing basis remains valid, and there is no significant reduction in the margin of safety for the thermal-hydraulic design or spent fuel cooling.

The main safety function of the spent fuel pool and the Region I / Region II racks is to maintain the spent fuel assemblies in a safe configuration through normal and abnormal operating conditions. The design basis floor responses of the Fuel Building were confirmed to be adequate and conservative and the floor loading will not exceed the capacity of the Fuel Building. The structural considerations of the Region I / Region II racks maintain margin of safety against tilting and deflection or movement, such that the Region I / Region II racks do not impact each other or the pool walls, damage spent fuel assemblies, or cause criticality concerns. Thus, the margin of safety with respect to

mechanical, material or structural considerations is not significantly reduced by the use of the Region I / Region II racks.

Therefore the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, 20852 from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852 or by electronically accessing the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.org>).

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 3, 2001, the licensee may file a request for a hearing with respect

to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 or by electronically accessing the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.org>). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding, (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention

must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852 by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington,

DC 20555-0001, and to George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036, attorney for the licensee.

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).

The Commission hereby provides notice that this is a proceeding on an application for license amendments falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPAA), 42 U.S.C. 10154. Under section 134 of the NWPAA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPAA are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662, dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the

hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application for amendments dated October 4, 2000, which is available for public inspection at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852 and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://nrc.gov>).

Dated at Rockville, Maryland, this 27th day of November 2000.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43620; File No. SR-CSE-00-06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Cincinnati Stock Exchange, Inc., To Provide for the Listing and Trading of Index Fund Shares

November 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on October 13, 2000, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by the Exchange. On November 17, 2000, the CSE filed Amendment No. 1 to the proposal.³ The Commission is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the CSE requested accelerated effectiveness of the proposed rule change and provided reasons therefor. See Letter

publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons, and to grant accelerated approval of the proposed rule change and Amendment No. 1.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE proposes to amend its rules to adopt listing standards and trading rules for Index Fund Shares, including generic listing standards, which would permit the Exchange to trade, either by listing or pursuant to unlisted trading privileges ("UTP"), series of Index Fund Shares. Below is the text of the proposed rule change; new language is in italics.

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Chapter XI

Trading Rules

Rule 11.9 National Securities Trading System

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Rule 11.9(x) Index Fund Shares

(1) *Applicability. This Chapter is applicable only to Index Fund Shares. Except to the extent inconsistent with this Chapter, or unless the context otherwise requires, the provisions of the Constitution and all other rules and policies of the Exchange shall be applicable to the trading on the Exchange of Index Fund Shares. Index Fund Shares are included within the definition of "security" or "securities" as such terms are used in the Constitution and Rules of the Exchange.*

(2) *Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified.*

(a) *Index Fund Share*⁴ means a security (a) that is issued by an open-end management investment company based on a portfolio of stocks that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic stock index; (b) that is

from James M. Flynn, Staff Attorney, CSE, to Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission (November 16, 2000). The CSE in fact meant to request accelerated approval under Section 19(b)(2) of the Act in Amendment No. 1. Telephone conversation between James M. Flynn, Staff Attorney, CSE, and Michael Gaw, Attorney-Adviser, Division of Market Regulation, Commission, on November 21, 2000. Amendment No. 1 also made certain minor changes to the text of the proposed rule language, discussed below.

⁴ In the proposed rule language submitted by the CSE, the term "Index Fund Share" as used here inadvertently had the letter "s" at the end. In the final rule text, the word "Share" will be in the singular. See Amendment No. 1.