responsible for the contamination of Dr. Ma[36] and of the water cooler, which was the source of contamination to the 26 NIH employees, however, was definitively identified. In the absence of any evidence to the contrary, NRC presumes that the violations were caused by an employee(s) of NIH and that the material belonged to NIH. As explained above, NRC also concludes that the contamination of Dr. Ma and of the water cooler was not a result of the Licensee's violations of NRC requirements for security and control of radioactive material. *See* Section III. A, ''Violations of NRC requirements for security and control of licensed material'', *supra.* Normally, the exposures beyond regulatory limits in this case would be subject to significant enforcement action. However, under the circumstances of this case, the Commission has decided to exercise its enforcement discretion and not initiate formal enforcement action against NIH for these violations. Discretion is being exercised because NIH fully cooperated with the investigation, there is no evidence that NIH contributed directly or indirectly to the deliberate misuse of licensed material involved, and NIH could not reasonably foresee that an employee or employees would maliciously misuse radioactive material as was done in this case.

Accordingly, enforcement action against NIH, in addition to that already taken in the NOV and Proposed Imposition of Civil Penalty $2500 (EA 96–027) and the Order Imposing Civil Penalty $2500 (EA 96–027), is not warranted in this case for the occupational exposure of Dr. Ma beyond regulatory limits, the exposure of the member of the public beyond regulatory limits, or the contamination of the water cooler.[37]

IV. Conclusions

The following requests of Petitioners are granted in part as described above: for enforcement action against NIH for violations of NRC security and control requirements and for violation of NRC requirements related to radiation safety training, ordering radioactive materials, inventory control of radioactive materials, monitoring, and the issuance, use, and collection of dosimetry. Petitioners' request for NRC action to ensure adequate procedures and instructions to exposed persons for sample collection is granted as described above. The following requests of Petitioners for enforcement action against NIH are denied: for the exposure of Dr. Ma beyond regulatory limits, for the exposure of Dr. Ma's fetus, and for the contamination of the water cooler; regarding notification to Dr. Ma of her level of contamination; regarding Dr. Ma's declaration of pregnancy; regarding the conduct of surveys after Dr. Ma's contamination; and for the failure to accurately calculate Dr. Ma's occupational radiation dose. Finally, Petitioners' request to suspend or revoke the NIH license is denied.

A copy of this Decision will be filed with the Secretary of the Commission for Commission review in accordance with 10 CFR § 2.206(c) of the Commission's regulations. As provided 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.

This 17th day of September 1997, Rockville, Maryland.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

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used by Dr. Ma to eat the food she brought to NIH, were surveyed, and no contamination was found. Additionally, the evidence indicates that the P–32 contamination of the carpet in front of the conference room refrigerator occurred sometime after 5:00 p.m. on June 29. The AIT report states in the chronology that the NIH RSB initial estimated time of ingestion was noon on June 29, 1995. However, after review of the physical evidence and radiation surveys, NIH used 11:00 am, June 28, 1995, as the most probable initial ingestion time. NIH also used this initial ingestion time for the other 26 contaminated NIH individuals involved. NRC also used this initial time of ingestion in its dose estimates.

[36] The investigation produced no evidence to corroborate Petitioners' assertions that Dr. Weinstein had suggested to several people either that Petitioners already had a child in China, or that Petitioners deliberately contaminated themselves in order to terminate Dr. Ma's pregnancy.

[37] See letter from Ashok C. Thadani, Acting Deputy Executive Director for Regulatory Effectiveness, to Michael M. Gottesman, M.D., Deputy Director for Intramural Research, NIH, dated September 17, 1997.

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 13e–1, SEC File No. 270–255, OMB Control No. 3235–0305. Rule 12g3–2, SEC File No. 270–104, OMB Control No. 3235–0119, Trust Indenture Act Rules, SEC File No. 270–115, OMB Control No. 3235–0132.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission. (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval:

''Purchase of Securities by issuer thereof under the Securities Exchange Act of 1934''. Rule 13e–1 under the Exchange Act is designed to provide shareholders and the marketplace with relevant information concerning issuer repurchases during a tender offer for its securities by a third party. Public companies are the respondents. An estimated 20 respondents wiil file submissions annually at and estimated 13 hours per response for a total annual burden of 260 hours.

''Securities Exchange Act of 1934—Rule 12g3–2.'' Rule 12g3–2 provides an exemption for certain foreign securities. It affects approximately 1800 foreign issuer respondents at an estimated one burden hour per response for a total annual burden of 1800 hours.

''Requirements as to Form and Content of Applications, Statements and Reports under the Trust Indenture Act of 1939.'' Rules 7a–15 through 7a–37 under the Trust Indenture Act of 1939 (''TIA'') provides guidance for complying with requirements under the TIA. Persons and entities subject to TIA requirements are the respondents. No information collection burdens are imposed directly by these rules so they are assigned only one burden hour for administrative convenience.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing on or before November 24, 1997.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: September 16, 1997.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17f–6, SEC File No. 270–392, OMB Control No. 3235–0447. Rule 2a19–1, SEC File No. 270–294, OMB Control No. 3235–0332. Rule 17f–2, SEC File No. 270–233, OMB Control No. 3235–0223.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 17f–6 under the Investment Company Act of 1940 (''Act'') permits registered investment companies (''funds'') to maintain assets (i.e., margin) with futures commission merchants (''FCMs'') in connection with commodity transactions effected on both domestic and foreign exchanges.[1] Prior to the adoption of the rule, funds generally were required to maintain such assets in special accounts with a custodian bank.

Rule 17f–6 permits funds to maintain their assets with FCMs that are registered under the Commodity Exchange Act (''CEA'') and that are not affiliated with the fund. The rule requires that the manner in which the FCM maintains a fund's assets be governed by a written contract, which must contain certain provisions. First, the contract must provide that the FCM must comply with the segregation requirements of section 4d(2) of the CEA [7 U.S.C. 6d(2)] and the rules thereunder [17 CFR Chapter I] or, if applicable, the secured amount requirements of rule 30.7 under the CEA [17 CFR 30.7]. Second, the contract must provide that when placing the fund's margin with another entity for clearing purposes, the FCM must obtain an acknowledgment that the fund's assets are held on behalf of the FCM's customers in accordance with provisions under the CEA. Lastly, the contract must require the FCM, upon request, to furnish records on the fund's assets to the Commission or its staff.

The requirement of a written contract that contains certain provisions ensure important safeguards and other benefits relative to the custody of investment company assets by FCMs. For example, requiring FCMs upon request to furnish to the Commission or its staff information concerning the investment company's assets facilitates Commission inspections of investment companies. The contract requirement governing transfers of investment company margin seeks to accommodate the legitimate needs of the participants in the commodity settlement process, consistent with the safekeeping of investment company assets. The contract requirement requiring FCMs to comply with the segregation or secured amount requirements of the CEA and the rules thereunder is designed to safeguard fund assets held by FCMs.

The Commission estimates that approximately 2,000 investment companies could deposit margin with FCMs under rule 17f–6 in connection with their investments in futures contracts and commodity options. It is estimated that each investment company uses and deposits margin with 3 different FCMs in connection with its commodity transactions. Approximately 241 FCMs are eligible to hold investment company margin under the rule.[2]

The only paperwork burden of the rule consists of meeting the rule's contract requirements. The Commission estimates that after the first year, 2,000 investment companies will spend an average of 1 hour complying with the contract requirements of the rule (e.g., signing contracts with additional FCMs), for a total of 2,000 burden hours. The Commission estimates that each of the 241 FCMs eligible to hold investment company margin under the rule will spend 2 hours complying with the rule's contract requirements, for a total of 482 burden hours. The total annual burden for the rule are estimated to be 2,482 hours.

Rule 2a19–1 under the Act provides that investment company directors will not be considered interested persons, as defined by section 2(a) (19) of the Act, solely because they are registered broker-dealers or affiliated persons of registered broker-dealers, provided that the broker-dealer does not execute any portfolio transactions for the company's complex, engage in any principal transactions with the complex or distribute shares for the complex for at least six months prior to the time that the director is to be considered not to be an interested person and for the period during which the director continues to be considered not to be an interested person. The rule also requires the investment company's board of directors to determine that the company would not be adversely affected by refraining from business with the broker-dealer. In addition, the rule provides that no more than a minority of the disinterested directors of the company may be registered broker-dealers or their affiliates.

Before the adoption of rule 2a19–1, many investment companies found it necessary to file with the Commission applications for orders exempting directors from section 2(a)(19) of the Act. Rule 2a19–1 is intended to alleviate the burdens on the investment company industry of filing for such orders in circumstances where there is no potential conflict of interest. The conditions of the rule are designed to indicate whether the director has a stake in the broker-dealer's business with the company such that he or she might not be able to act independently of the company's management.

It is estimated that approximately 3,200 investment companies may choose to rely on the rule, and each investment company may spend one hour annually compiling and keeping records related to the requirements of the rule. The total annual burden associated with the rule is estimated to be 3,200 hours.

Rule 17f–2, under the Act, establishes safeguards for arrangements in which a registered management investment company is deemed to maintain custody of its own assets, such as when the fund maintains its assets in a facility that provides safekeeping but not custodial services. The rule includes several recordkeeping or reporting requirements. The funds directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund's assets. The designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Independent public accountants must verify the fund's assets without prior notice to the fund twice each year.

[1] Custody of Investment Company Assets With Futures Commission Merchants and Commodity Clearing Organizations, Investment Company Act Release No. 22389 (Dec. 11, 1996) (61 FR 66207 (Dec. 17, 1996)).

[2] Commodity Futures Trading Commission, Annual Report (1996).