stakeholders have noted that there may be potential adverse impacts from and issues with blending, particularly large scale blending. For example, blending can be contrary to volume reduction principles.[3] Waste with Class B and C concentrations of radionuclides is often processed to reduce its volume. If this waste were instead mixed with Class A wastes, these reductions in volume would not be achieved. Blending may also be viewed by some as equivalent to disposing of Class B or C waste in a Class A disposal facility. The purpose of the public meeting and NRC's solicitation of public comments is for NRC to better understand these impacts and issues.

NRC's 1995 CA BTP recommends limits on blending of LLRW by applying a ''factor of 10'' rule, whereby the concentrations of batches of LLRW to be mixed must be within a factor of 10 of the average concentration of the final mixture. The safety benefit of the ''factor of 10'' rule is unclear for final mixtures that are homogeneous, since any concentrated materials that go into a mixture are blended down to lower concentrations that are relatively uniform over the volume of the material. By placing limits on the amount of mixing, however, the ''factor of 10'' rule furthers the agency's policy that discourages mixing to reduce waste classification. It should be noted that some waste class reduction could occur when waste is mixed in accordance with the ''factor of 10'' rule, since some of the waste classes of some radionuclides differ by a ''factor of 10.'' The mixing constraint in the CA BTP specifies that batches of greater than a factor of 10 difference in concentration can be mixed. The CA BTP also includes in an appendix with staff responses to public comments received on an earlier draft of the CA BTP. The appendix states that wastes should not be intentionally mixed solely to lower the waste classification. The staff positions in the CA BTP itself do not contain this guidance, however.

The CA BTP allows important exceptions from the ''factor of 10'' rule when operational efficiency or worker dose reductions can be demonstrated, and one of the current industry blending proposals relies on these exceptions to conduct expanded blending operations. Although not explicitly stated, the CA BTP positions appear to be based on a combination of practical considerations in the operation of a facility, whereby wastes are routinely combined or mixed for operational efficiency and ALARA reasons, and NRC's general position that discourages mixing for the purposes of reducing the waste class. These two objectives are not fully compatible, but the CA BTP attempts to provide positions that balance them.

NRC guidance for other programs similarly discourages blending, while recognizing that it may be appropriate in some circumstances. In a document for the decommissioning program, ''Consolidated Decommissioning Guidance'' (NUREG–1757, Volume 1, Revision 2), NRC staff states that mixing of soils to meet the waste acceptance criteria of an offsite disposal facility ''should not result in lowering the classification of the waste.'' As a practical matter, contaminated soils from sites undergoing decommissioning are rarely Class B/C concentrations. At the same time, the guidance allows for blending to reduce the classification of the waste from licensable material that must be disposed of in a licensed disposal facility to exempt material suitable for disposal in landfills. This decommissioning guidance also recognizes that mixing of clean and contaminated soils may be appropriate under certain very limited circumstances to meet the dose standard in 10 CFR part 20, subpart E.

II. Questions Related to Blending of LLRW

This section identifies questions associated with blending of LLRW that results in lower waste classification of components of the mixture. These questions are not meant to be a complete or final list, but are intended to initiate discussion. These questions will help to focus the discussion at the public meetings. All public feedback will be used in developing options for NRC consideration.

1. What safety and security considerations are associated with blending of LLRW, particularly large scale blending that result in a change in waste classification?

2. What are the practical considerations in operating a facility that bear on blending of LLRW?

3. What policy issues are raised by blending of LLRW that lowers the waste classification?

4. What are the potential blending policies/positions that NRC could take and the advantages and disadvantages of each?

5. How should NRC implement a position on blending of LLRW (*i.e.,* by rulemaking, guidance, policy statement or other means)?

6. If a rule were to be promulgated, what compatibility category should it be; *i.e.,* how strictly must Agreement States follow any NRC rule?

7. NRC regulations only require waste to be classified when it's ready for disposal. What advantages or disadvantages might there be to classifying it earlier?

8. If blended waste could not be attributed to the original generator of the waste, what issues does this raise that NRC should address, if any?

9. What would be a risk-informed, performance-based approach to addressing blending?

10. Given that Agreement States are not required to adopt NRC's guidance on blending, how are different States addressing this issue? What are the advantages and disadvantages of these approaches?

11. NRC is budgeting resources to initiate a long-term rulemaking to revise the waste classification system. How might alternative waste classification systems be affected by blending?

12. What oversight might be needed to ensure that blending is performed appropriately?

13. What other issues should NRC staff consider in developing options for Commission consideration related to blending?

Dated at Rockville, Maryland this 23rd day of November, 2009.

For The Nuclear Regulatory Commission.

Gregory F. Suber,

Acting Deputy Director, Environmental Protection, and Performance Assessment Directorate, Division of Waste Management, and Environmental Protection, Office of Federal and State Materials, and Environmental Management Programs.

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[3] NRC issued a ''Policy Statement on Low-Level Waste Volume Reduction'' on July 16, 1981, which encourages licensees to reduce the volume of waste for disposal. *See* July 16, 1981, **Federal Register** Notice, 46 FR 51100.

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0517; Docket Nos. 50–250 and 50–251; License Nos. DPR–31 and DPR–41]

Florida Power and Light Company; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated January 11, 2009, Mr. Thomas Saporito (petitioner) has requested that the NRC take action with regard to Florida Power & Light Company's Turkey Point Nuclear Generating Units 3 and 4. The petitioner requests that the NRC take enforcement action against Florida Power & Light Company (FPL) by issuing a Notice of Violation and Imposition of Civil Penalty in the

amount of $1,000,000 and further issue a Confirmatory Order modifying FPL's operating licenses DPR–31 and DPR–41 for the Turkey Point Nuclear Generating Units 3 and 4, Docket Nos. 50–250 and 50–251. The Order would include requiring an independent assessment of FPL's Employee Concerns Program and management implementation of the program in addition to providing training on the program and advertisement of the program to the employees.

As the basis for this request, the petitioner restates the concerns identified in FPL's self-assessment of their Employee Concerns Program (ECP):

Management attention to the ECP did not meet expectations and management's awareness of the ECP was superficial and program values had not been emphasized with employees.

The ECP facility was of low quality and did not give the impression of being important to management.

There is a perception problem with the ECP in the areas of confidentiality and potential retribution. The perception remains as evidenced by surveys, interviews and the high percentage of anonymous concerns. Previous surveys and assessments identified this perception, but little or no progress has been made in reversing this perception.

The ECP was most frequently thought to be a mechanism to use in addition to discussing concerns with the NRC and not as the first alternative to the Correction Action Program ''CAP.''

While meeting most of the program requirements and having a technically qualified individual in the ECP coordinator position, the overall effectiveness of the program was marginal.

The ECP representative has very low visibility or recognition in the plant and has not been integrated into the management team or plant activities.

The large percentage of concerns submitted anonymously hampers feedback to concerned individuals. The written feedback process to non-anonymous individuals is impersonal and lacks feedback mechanisms for the ECP coordinator to judge the program's effectiveness.

The ECP process also does not provide assurance that conditions adverse to quality identified in the ECP review process would get entered into CAP, creating potential to miss correction and trending opportunities.

The request is being treated pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner met with the Office of Nuclear Reactor Regulation petition review board on March 19 and May 7, 2009, to discuss the petition. The results of that discussion were considered in the board's determination regarding the schedule for the review of the petition. A copy of the petition is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr.Resource@nrc.gov*.

Dated at Rockville, Maryland, this 19th day of November 2009.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E9–28510 Filed 11–27–09; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29062; File No. 812–13654]

Members Mutual Funds, et al.; Notice of Application

November 23, 2009.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

Summary of Application: The requested order would permit certain registered open-end management investment companies to enter into and materially amend subadvisory agreements without shareholder approval.

Applicants: Members Mutual Funds (''MMF''), Ultra Series Fund (''USF'') and Madison Asset Management, LLC (''MAM'').

DATES: *Filing Dates:* The application was filed on April 16, 2009, and amended on September 23, 2009 and November 23, 2009.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 18, 2009 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, W. Richard Mason, Esq., Corporate Counsel and CCO, Madison Asset Management, LLC c/o Madison/Mosaic Legal and Compliance Department, 8777 N. Gainey Center Drive, Suite 220, Scottsdale, AZ 85258.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel at (202) 551–6915, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. MMF and USF are open-end management investment companies registered under the Act. MMF is organized as a Delaware business trust. USF is organized as a Massachusetts business trust. MMF is currently comprised of 14 separate series and USF is currently comprised of 18 separate series each of which has its own investment objectives and policies (such series, together with the future series of MMF and USF, the ''Funds,'' and each a ''Fund''). Applicants also request relief with respect to current and future series of all registered open-end management investment companies and their series that are now, or in the future, advised by MAM or any entity controlling, controlled by or under common control (within the meaning of section 2(a)(9) of the Act) with MAM, or any successor to MAM (collectively, the ''Adviser'') that comply with the terms and conditions as set forth in the application and that