

applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in Part 52.

Dated at Rockville, Maryland, this 8th day of November, 2012.

For the Nuclear Regulatory Commission.

**Thomas H. Boyce,**

*Chief, Regulatory Guide Development Branch,  
Division of Engineering, Office of Nuclear  
Regulatory Research.*

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## NUCLEAR REGULATORY COMMISSION

[NRC-2012-0223]

### Combining Modal Responses and Spatial Components in Seismic Response Analysis

**AGENCY:** Nuclear Regulatory  
Commission.

**ACTION:** Regulatory guide; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 3 to Regulatory Guide (RG) 1.92, "Combining Modal Responses and Spatial Components in Seismic Response Analysis" as an administratively changed guide in which there are minor corrections with no substantive changes in the Staff Regulatory Guidance. This guide describes a method that the NRC staff considers acceptable for combining modal responses and spatial components in seismic response analysis of nuclear power plant structures, systems, and components that are important to safety.

**ADDRESSES:** Please refer to Docket ID NRC-2012-0223 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and are publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0223. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). Revision 3 of Regulatory Guide 1.92 is available in ADAMS under Accession No. ML12220A043. The regulatory analysis may be found in ADAMS under Accession No. ML122020A044.

- *NRC's Public Document Room:* You may examine and purchase copies of public documents at the NRC's Public Document Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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#### FOR FURTHER INFORMATION CONTACT:

Edward O'Donnell, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-251-7455; email: [Edward.ODonnell@nrc.gov](mailto:Edward.ODonnell@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The NRC is issuing an administrative to an existing guide in the NRC's "Regulatory Guide" series. The Regulatory Guides were developed to describe and make available to the public information methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses. The NRC typically seeks public comment on a draft version of a regulatory guide by announcing its availability for comment in the **Federal Register**. However, as explained on page 7 of NRC Management Directive 6.6 "Regulatory Guides," (ADAMS Accession Number ML110330475) the NRC may directly issue a final regulatory guide without a draft version or public comment period if the changes to the regulatory guide are non-substantive, including changes to the Staff Regulatory Guidance section. Issuance of regulatory guides using this direct final process reduces processing time and review costs. A regulatory guide revised using this process is called an Administratively Changed Guide (ACG).

##### II. Submitting Comments

Although Revision 3 of RG 1.92 is being issued as an administratively changed guide without public comment, comments are welcome on any final regulatory guide at any time. The input from the public and stakeholders will be

considered in future updates and enhancements of the regulatory guide. Comments can be submitted by the form available online at <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>.

##### III. Further Information

The NRC is issuing Revision 3 of RG 1.92 directly as a final regulatory guide because the changes between Revision 2 and Revision 3 are non-substantive. The current revision was published in 2006. In the course of a periodic review of the guide, the staff noted that some minor corrections were needed that would result in no substantive change in the Staff Regulatory Guidance. Among the corrections are the addition of missing ADAMS accession numbers for some of the references, and insertion of the language currently used for the Implementation Section. That section was revised subsequent to issuance of Revision 2 in 2006 to clarify that compliance with the Regulatory Guide is voluntary and that the NRC staff does not intend any backfitting of the guidance.

##### IV. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses.

This regulatory guide may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications for operating licenses and combined licenses submitted after the issuance of the regulatory guide. Such action does not constitute backfitting as defined in 10 CFR 50.109(a)(1) and is not otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in 10 CFR part 52.

Dated at Rockville, Maryland, this 7th day of November 2012.

For the Nuclear Regulatory Commission.  
**Thomas H. Boyce,**  
*Chief, Regulatory Guide Development Branch,  
 Division of Engineering, Office of Nuclear  
 Regulatory Research.*

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request Copies Available  
 From: Securities and Exchange  
 Commission, Office of Investor  
 Education and Advocacy,  
 Washington, DC 20549-0213.

*Extension:* Rule 17j-1.

OMB Control No. 3235-0224, SEC File No.  
 270-239.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Conflicts of interest between investment company personnel (such as portfolio managers) and their funds can arise when these persons buy and sell securities for their own accounts ("personal investment activities"). These conflicts arise because fund personnel have the opportunity to profit from information about fund transactions, often to the detriment of fund investors. Beginning in the early 1960s, Congress and the Securities and Exchange Commission ("Commission") sought to devise a regulatory scheme to effectively address these potential conflicts. These efforts culminated in the addition of section 17(j) to the Investment Company Act of 1940 (the "Investment Company Act") (15 U.S.C. 80a-17(j)) in 1970 and the adoption by the Commission of rule 17j-1 (17 CFR 270.17j-1) in 1980.<sup>1</sup> The Commission proposed amendments to rule 17j-1 in 1995 in response to recommendations made in the first detailed study of fund policies concerning personal investment activities by the Commission's Division of Investment Management since rule 17j-1 was adopted. Amendments to rule 17j-1, which were adopted in 1999,

enhanced fund oversight of personal investment activities and the board's role in carrying out that oversight.<sup>2</sup> Additional amendments to rule 17j-1 were made in 2004, conforming rule 17j-1 to rule 204A-1 under the Investment Advisers Act of 1940 (15 U.S.C. 80b), avoiding duplicative reporting, and modifying certain definitions and time restrictions.<sup>3</sup> Section 17(j) makes it unlawful for persons affiliated with a registered investment company ("fund") or with the fund's investment adviser or principal underwriter (each a "17j-1 organization"), in connection with the purchase or sale of securities held or to be acquired by the investment company, to engage in any fraudulent, deceptive, or manipulative act or practice in contravention of the Commission's rules and regulations. Section 17(j) also authorizes the Commission to promulgate rules requiring 17j-1 organizations to adopt codes of ethics.

In order to implement section 17(j), rule 17j-1 imposes certain requirements on 17j-1 organizations and "Access Persons"<sup>4</sup> of those organizations. The rule prohibits fraudulent, deceptive or manipulative acts by persons affiliated with a 17j-1 organization in connection with their personal securities transactions in securities held or to be acquired by the fund. The rule requires each 17j-1 organization, unless it is a money market fund or a fund that does not invest in Covered Securities,<sup>5</sup> to: (i) Adopt a written codes of ethics, (ii)

<sup>2</sup> Personal Investment Activities of Investment Company Personnel, Investment Company Act Release No. 23958 (Aug. 20, 1999) (64 FR 46821-01 (Aug. 27, 1999)).

<sup>3</sup> Investment Adviser Codes of Ethics, Investment Advisers Act Release No. 2256 (Jul. 2, 2004) (69 FR 41696 (Jul. 9, 2004)).

<sup>4</sup> Rule 17j-1(a)(1) defines an "access person" as "Any Advisory Person of a Fund or of a Fund's investment adviser. If an investment adviser's primary business is advising Funds or other advisory clients, all of the investment adviser's directors, officers, and general partners are presumed to be Access Persons of any Fund advised by the investment adviser. All of a Fund's directors, officers, and general partners are presumed to be Access Persons of the Fund." The definition of Access Person also includes "Any director, officer or general partner of a principal underwriter who, in the ordinary course of business, makes, participates in or obtains information regarding, the purchase or sale of Covered Securities by the Fund for which the principal underwriter acts, or whose functions or duties in the ordinary course of business relate to the making of any recommendation to the Fund regarding the purchase or sale of Covered Securities." Rule 17j-1(a)(1).

<sup>5</sup> A "Covered Security" is any security that falls within the definition in section 2(a)(36) of the Act, except for direct obligations of the U.S. Government, bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements, and shares issued by open-end funds. Rule 17j-1(a)(4).

submit the code and any material changes to the code, along with a certification that it has adopted procedures reasonably necessary to prevent Access Persons from violating the code of ethics, to the fund board for approval, (iii) use reasonable diligence and institute procedures reasonably necessary to prevent violations of the code, (iv) submit a written report to the fund describing any issues arising under the code and procedures and certifying that the 17j-1 entity has adopted procedures reasonably necessary to prevent Access Persons from violating the code, (v) identify Access Persons and notify them of their reporting obligations, and (vi) maintain and make available to the Commission for review certain records related to the code of ethics and transaction reporting by Access Persons.

The rule requires each Access Person of a fund (other than a money market fund or a fund that does not invest in Covered Securities) and of an investment adviser or principal underwriter of the fund, who is not subject to an exception,<sup>6</sup> to file: (i) Within 10 days of becoming an Access Person, a dated initial holdings report that sets forth certain information with respect to the Access Person's securities and accounts; (ii) dated quarterly transaction reports within 30 days of the end of each calendar quarter providing certain information with respect to any securities transactions during the quarter and any account established by the Access Person in which any securities were held during the quarter; and (iii) dated annual holding reports

<sup>6</sup> Rule 17j-1(d)(2) contains the following exceptions: (i) An Access Person need not file a report for transactions effected for, and securities held in, any account over which the Access Person does not have control; (ii) an independent director of the fund, who would otherwise be required to report solely by reason of being a fund director and who does not have information with respect to the fund's transactions in a particular security, does not have to file an initial holdings report or a quarterly transaction report; (iii) an Access Person of a principal underwriter of the fund does not have to file reports if the principal underwriter is not affiliated with the fund (unless the fund is a unit investment trust) or any investment adviser of the fund and the principal underwriter of the fund does not have any officer, director, or general partner who serves in one of those capacities for the fund or any investment adviser of the fund; (iv) an Access Person to an investment adviser need not make quarterly reports if the report would duplicate information provided under the reporting provisions of the Investment Adviser's Act of 1940; (v) an Access Person need not make quarterly transaction reports if the information provided in the report would duplicate information received by the 17j-1 organization in the form of broker trade confirmations or account statements or information otherwise in the records of the 17j-1 organization; and (vi) an Access Person need not make quarterly transaction reports with respect to transactions effected pursuant to an Automatic Investment Plan.

<sup>1</sup> Prevention of Certain Unlawful Activities with Respect to Registered Investment Companies, Investment Company Act Release No. 11421 (Oct. 31, 1980) (45 FR 73915 (Nov. 7, 1980)).