to fashion their own procedures for resolving the dispute. There are almost as many kinds of ADR as there are parties and disputes. Thus, in evaluating whether ADR processes may be useful, there are no hard and fast rules. Attorneys should begin considering whether ADR might be helpful in a particular case at the beginning of the litigation and should continue to revisit the question throughout the progress of the case. Such analysis must take account of the ADR processes that may be available through or imposed by the court in a particular district or circuit.[1] Attorneys also should keep in mind that many different kinds of ADR are available both through the courts and independent of the courts. Some forms of ADR may be more useful than others at particular points in the litigation. For example, early neutral evaluation, a process whereby a third-party neutral evaluates each side's case and helps the parties agree on the most efficient method of exchanging factual material, is most appropriate at the beginning of litigation and can be a useful tool in quickly obtaining a better understanding of the strengths and weaknesses of your case. By contrast, mediation, a process where a third party facilitates negotiation between the parties, may be most useful after the case has been more fully developed.

This statement on ADR relates to the government's voluntary participation in ADR. Nothing herein shall be construed to limit the government's duty to participate in ADR pursuant to court order or applicable local rules, except that Tax Division attorneys shall resist participation in ADR, by appropriate motion, whenever said participation would violate the U.S. Constitution or other governing law or would not be in the best interest of the United States.

This statement shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers, or any other person. This statement shall not be construed to create any right to judicial review involving the compliance or noncompliance of Tax Division attorneys with its terms.

The following is a list of factors to assist attorneys in the Tax Division in determining whether to use ADR in a particular case.[2] Not all listed factors will have relevance in any given case and factors not listed below may also be present that weigh in favor of or against the use of an ADR process.

Factors Favoring ADR

1. The case involves largely factual issues and the legal principles are well established (e.g., valuation cases, substantiation cases, trust fund recovery cases).
2. The case is legally and/or factually complex.
3. The case involves multiple independent factual issues (e.g., bankruptcy cases).
4. The case is one where there is a particular need for a prompt resolution of the dispute (e.g., summons, estate tax and bankruptcy cases).
5. The case is one where a consensual resolution may lead to greater future compliance (e.g., employee-independent contractor cases).
6. A settlement in the case would be based solely on collectibility.
7. The other party has a particular need to keep information confidential (e.g., financial information or trade secrets).
8. There are problems perceived either with respect to the decisionmaker or the forum, for example:
a. The judge is particularly slow in resolving cases;
b. The docket is backlogged with criminal and/or civil cases;
c. There is the potential for jury nullification.
9. The case is one where the Government will be required to litigate in a forum other than a federal court.
10. The case is one where the nature or status of a party to the dispute might, in itself, influence the outcome of the litigation (e.g., sympathetic plaintiff).
11. The case is one where there are substantial litigating hazards for both parties.
12. The case is one where trial preparation will be difficult, costly and/or lengthy and the expected out-of-pocket and lost opportunity costs outweigh any benefit the government can realistically expect to obtain through litigation.
13. The case is one where it is desirable to avoid adverse precedent.
14. The case is one where either the party or the attorney may have an unrealistic view of the merits of the case or an unreasonable desire to litigate, with insufficient regard for what may be in the client's best interest.
15. The case is one where the other party has expressed an interest in using ADR.
16. The case is one where the working relationship between the parties or their counsel suggests that the intervention of a neutral third party would be beneficial.
17. The case is one where traditional negotiations will be difficult and protracted.
18. The case is one where the progress of settlement discussions may be improved by a third-party neutral's ability to conduct frank, private discussions with each of the parties.

Factors Disfavoring ADR

1. Taxpayer's case clearly has no merit (e.g., certain *Bivens* cases or protestor suits).
2. The case is one that should be resolved on motion, such as a motion to dismiss or for summary judgment.
3. The case presents an issue where legal precedent is needed, for example:
a. Issue involved is of national or industry-wide significance;
b. Issue is presented in a substantial number of cases;
c. Issue is a continuing one with same taxpayer.
4. The importance of the issue involved in the case makes continued litigation necessary despite some adverse precedent.
5. The information presently available about the case is insufficient to evaluate meaningfully the issues involved or settlement potential.
6. The case involves significant enforcement issues, for example:
a. Case involves protestors;
b. Case is high profile and will involve publicity which could encourage taxpayer compliance;
c. Case involves a uniform settlement position (e.g., shelter cases).
7. The case involves a constitutional challenge.
8. The case is one where government concession is under consideration.
9. The case is one which is very likely to settle through traditional negotiations within a reasonable time after the facts have been ascertained, without a third-party neutral.
10. The case is one where Court imposed scheduling makes use of ADR impractical (e.g., ''rocket-dockets'').
11. The case is one where the other party has already engaged in ADR at the agency level.[3]
12. The case involves 26 U.S.C. Section 6103 information or privileges which would prevent open discussions with a third-party neutral (e.g., case involving request for third-party tax return information).

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[1] The taxpayer should be required to provide a waiver of 26 U.S.C. 6103 as a condition of the government's agreement to participate in ADR other than ADR imposed by the Court. In the absence of such a waiver, the government might not be able to make a full factual disclosure to the third-party neutral which would substantially undermine the utility of the ADR process.

[2] Many of these factors are equally applicable in determining whether a case should be settled using traditional, unassisted negotiations.

[3] For purposes of this factor, normal agency administrative procedures, such as appellate conferences or administrative claims review, are not considered to be ADR procedures.

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 28, 1996, Applied Science Labs, Division of Altech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

	Schedule
Drug:	
Heroin (9200)	I.
Morphine (9300)	II.

The firm plans to import the listed controlled substances in small quantities for the manufacture of reference standards.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: June 27, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

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NUCLEAR REGULATORY COMMISSION

[Docket 72–8 (50–317/318)]

Notice of Transfer of Authority to Receive, Possess, Store and Transfer Spent Fuel at the Calvert Cliffs Independent Spent Fuel Storage Installation From Baltimore Gas and Electric Company to Constellation Energy Corporation

Notice is hereby given that the U. S. Nuclear Regulatory Commission (Commission) is considering approval under Title 10 of the Code of Federal Regulations (10 CFR), Section 72.50, of the transfer of the license to receive, possess, store and transfer spent fuel at the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI), from Baltimore Gas and Electric Company (BG&E) to Constellation Energy Corporation (CEC). By application dated April 5, 1996, BG&E requested consent to the transfer, pursuant to 10 CFR 72.50, of the Materials License SNM–2505 for the Calvert Cliffs ISFSI. The approval of the proposed license transfer is requested in connection with the pending merger between BG&E and Potomac Electric Power Company into Constellation Energy Corporation. The proposed license transfer would transfer authority to receive, possess, store, and transfer spent fuel at the Calvert Cliffs ISFSI from BG&E to CEC.

Pursuant to 10 CFR 72.50, the Commission may approve the transfer of a license, after notice to interested persons, upon the Commission's determination that the holder of the license following the transfer is qualified to be a holder of the license and the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission. BG&E submitted the April 5, 1996, application to amend the license to reflect the transfer of the license from BG&E to CEC.

For further details with respect to this action, see the April 5, 1996, letter, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Calvert County Library, Prince Frederick, Maryland 20678.

Dated at Rockville, Maryland, this 5th day of July, 1996.

For the Nuclear Regulatory Commission.

William D. Travers,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

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[Docket Nos. 50–321 and 50–366]

Georgia Power Company, et al.; Edwin I. Hatch Nuclear Plant, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. DPR–57 and NPF–5, issued to Georgia Power Company, et al. (the licensee), for operation of the Edwin I. Hatch (Hatch) Nuclear Plants, Units 1 and 2, located in Appling County, Georgia.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 70.24, which requires, in each area in which special nuclear material is handled, used, or stored, a monitoring system that will energize clearly audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements of 10 CFR 70.24(a)(3) to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm and to conduct drills and designate responsible individuals for such emergency procedures.

The proposed action is in accordance with the licensee's application for exemption dated June 4, 1996.

The Need for the Proposed Action

Power reactor license applications are evaluated for the safe handling, use, and storage of special nuclear materials. The proposed exemption from criticality accident requirements is based on the original design for radiation monitoring at Hatch. Exemptions from the requirements of 10 CFR 70.24(a) ''Criticality Accident Requirements'' were granted in the Special Nuclear Material (SNM) licenses for each unit as part of the 10 CFR Part 70 license. However, with the issuance of the Part 50 license this exemption expired because it was inadvertently omitted in that license. Therefore, the exemption is needed to clearly define the design of the plant as evaluated and approved for licensing.

Environmental Impacts of the Proposed Action

The NRC staff has completed its evaluation of the proposed action and concludes that there is no significant