

commenters, the burden is on the licensee to demonstrate that termination of ground-water corrective actions would pose no significant threat to human health and the environment. Licensees may propose alternate concentration limits that meet the requirements of 10 CFR part 40, appendix A, criterion 5B(6).

Consideration of the remoteness of a site, potential future water uses, and future value may be included in a licensee's basis for determining that alternate concentration limits are protective of human health and the environment, and that limits are as low as reasonably achievable. These and other factors for consideration by the Commission are specifically mentioned in 10 CFR, part 40, appendix A, criterion 5B(6), which is appropriately cited in the standard review plan.

### 5. Comments Related to NRC Responsibilities Under the National Environmental Policy Act

*Issue:* The NRC is reviewing information that is outside its areas of regulatory authority.

*Comment:* Several commenters noted that the NRC is asking for information that appears to be beyond its regulatory authority. This includes information on nonradiological hazardous constituents and review of restoration plans for borrow areas.

*Response:* As a federal agency, the NRC is subject to the National Environmental Policy Act (NEPA). This requires the NRC to consider impacts to the human environment as a part of its decision making process. The regulations governing the NRC implementation of NEPA are described in 10 CFR part 51. Guidance to the NRC staff on conducting environmental reviews is also provided in NUREG-1748 "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs." With regard to NEPA, the NRC must consider the environmental impacts of both radiological and nonradiological aspects of a proposed action, particularly with regard to assessment of direct, indirect, and cumulative impacts of the proposed action. The exact nature of the information to be provided by a licensee and the level of NRC staff review will be determined on a site-specific basis. The standard review plan is intended as general guidance to the staff on the type of information that is commonly acceptable for evaluating the environmental impact of a proposed licensing action. Under the risk-informed, performance-based licensing philosophy used by the NRC, the

licensee is free to present alternative approaches for NRC consideration.

With regard to restoration plans for borrow areas, the intent of the section of the standard review plan identified by the commenter is to have staff review restoration plans for borrow areas as part of characterizing the stratigraphy and materials at a given site, and fulfilling NRC requirements under NEPA. The NRC also needs to consider the cumulative impacts of both radiological and nonradiological hazardous constituents to meet its obligations under NEPA. General guidance to the NRC staff for the evaluation of cumulative impacts is provided in Section 4.2.5 of NUREG-1748 "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs."

Dated at Rockville, Maryland this 15th day of August, 2003.

For the Nuclear Regulatory Commission.

**Robert C. Pierson,**

*Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26154; 812-12836]

### Nuveen Real Estate Income Fund, et al.; Notice of Application

August 20, 2003.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 19(b) of the Act and rule 19b-1 under the Act.

*Summary of Application:* Applicants request an order to permit certain registered closed-end management investment companies to make periodic distributions of long-term capital gains, as often as monthly, on their outstanding common stock and as often as distributions are specified in the terms of any series of preferred stock.

*Applicants:* Nuveen Real Estate Income Fund ("NREIF"), Nuveen Real Estate Income Fund 2 ("NREIF2"), Nuveen Real Estate Growth & Income Fund ("NREGIF"), Nuveen Preferred and Convertible Income Fund ("NPCIF"), Nuveen Preferred and Convertible Income Fund 2 ("NPCIF2"), Nuveen Diversified Dividend and Income Fund ("NDDIF") (together, the

"Current Funds"), Nuveen Institutional Advisory Corp. ("NIAC"), and each registered closed-end management investment company currently advised or to be advised in the future by NIAC (including any successor in interest)<sup>1</sup>, or by an entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with NIAC (together with NIAC, the "Investment Advisers") that decides in the future to rely on the requested relief (the "Future Funds" and together with the Current Funds, the "Funds").<sup>2</sup>

*Filing Dates:* The application was filed on June 16, 2002 and amended on August 15, 2003.

*Hearing or Notification of Hearing:* An order granting the requested relief 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 September 10, 2003 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 reason 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, Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicants, Gifford R. Zimmerman, Nuveen Investments, 333 West Wacker Drive, Chicago, Illinois 60606.

**FOR FURTHER INFORMATION CONTACT:** Jaee F. Hahn, Senior Counsel, at (202) 942-0614, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street NW., Washington, DC 20549-0102 (tel. 202-942-8090).

### Applicants' Representations

1. Each of the Current Funds is organized as a Massachusetts business

<sup>1</sup> A successor in interest is limited to entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

<sup>2</sup> All existing Funds currently intending to rely on the requested order are named as applicants, and any Fund that may rely on the order in the future will comply with the terms and conditions of the application.