



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
December 6, 1985

MEMORANDUM FOR: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
John E. Zerbo
FROM: John E. Zerbo, Director
Office of Policy Evaluation
SUBJECT: OPE COMMENTS ON: DENIAL OF DOE REQUEST FOR EXEMPTION TO
PERMIT SALVAGING CONTAMINATED SMELTED ALLOYS (SECY-85-373)

We agree with the staff's recommendation to deny the DOE exemption request, withdraw the proposed rule, and inform the public and Congress that we believe that EPA should take the lead in developing federal guidelines with respect to residual radioactive contamination. However, we recommend strengthening the rationale for NRC's withdrawal of the proposed rule published in the Federal Register on October 27, 1980.

We do not believe that (1) the difficulty of preparing a Final Environmental Statement which adequately addresses all of the issues pertaining to the use of contaminated materials in commerce or in consumer products, and (2) the large number (about 3700) of adverse public comments (particularly where many of the comments may have been organized around a common viewpoint) irrespective of technical merit, are sufficient reason to withdraw the proposal.

We suggest that the rationale emphasize the importance of developing an integrated federal policy and consistent guidelines on the more general issues of decontamination and decommissioning of nuclear facilities, as well as the recycling and reuse of decontaminated lands, facilities, materials, and equipment.

To illustrate how such strengthening might be effected, we attach a markup of Enclosure E to SECY-85-373. If you agree, the other enclosures could be revised accordingly.

Attachment:
As stated

cc: H. E. Plaine, GC
S. J. Chilk, SECY
W. J. Dircks, EDO
R. B. Minogue, RES

Contacts:
Joan Aron, OPE (X-43302)
Clyde Jupiter, OPE (X-43295)

ATTACHMENT

ENCLOSURE E
DRAFT CONGRESSIONAL NOTIFICATION

Dear Chairman:

Enclosed for the information of the Subcommittee is a copy of a Notice of Withdrawal of a Proposed Rule to be published in the Federal Register. The proposed rule, which was published in the Federal Register on October 27, 1980, would have exempted smelted alloys containing very small quantities of residual radioactivity from NRC regulatory requirements. Specifically, the proposed rule would have allowed the U.S. Department of Energy to recycle in commercial channels about \$57 million worth of smelted alloys produced in the upgrading of the Department's gaseous diffusion plants.

The proposed rule is being withdrawn in favor of developing an integrated federal policy which would establish consistent guidelines for dealing with the more general issues of decontamination and decommissioning of nuclear facilities as well as the recycling and reuse of decontaminated lands, facilities, materials, and equipment.

This action is being taken because of comments received on the proposed rule and associated draft environmental statement and anticipation of the development of generally applicable Federal guidelines regarding the unrestricted release and potential reuse of lands, facilities, equipment and material having residual radioactive contamination by the Environmental Protection Agency.

Sincerely,

Robert B. Minogue, Director
Office of Nuclear Regulatory Research