

NOTATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: COMMISSIONER BERNTHAL

SUBJECT: SECY-85-373 - DENIAL OF DOE REQUEST FOR EXEMPTION TO PERMIT SALVAGING CONTAMINATED SMELTED ALLOYS

APPROVED  DISAPPROVED \_\_\_\_\_ ABSTAIN \_\_\_\_\_  
NOT PARTICIPATING \_\_\_\_\_ REQUEST DISCUSSION \_\_\_\_\_

COMMENTS: *See attached.*

  
SIGNATURE

*12/18/85*  
DATE

Entered on "AS"      YES      NO  
     

SECRETARIAT NOTE: PLEASE ALSO RESPOND TO AND/OR COMMENT ON OGC/OPE MEMORANDUM IF ONE HAS BEEN ISSUED ON THIS PAPER.

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Comments of Commissioner Bernthal on SECY 35-373:

I do not necessarily disagree with the current Staff recommendation, and in particular, should satisfactory answers be provided to the questions and comments below, I would agree with the Chairman's comments on the OPE paper. But I am surprised by more than one aspect of this matter:

1) Why have Staff (and presumably DOE) apparently ignored the worthwhile suggestions made by EPA in its January 26, 1981 letter? Virtually the first thought that occurs in relation to the difficult question of permitting general use of such salvaged materials in consumer products is, as EPA noted:

"To avoid the potential problems of industrial or consumer use we recommend that the Nuclear Regulatory Commission (NRC) give more consideration to recycle of the materials within the nuclear industry. Another alternative which analysis may show feasible is to consider commercial uses that, at least following the initial smelting, place the material in products that minimally expose individuals, e.g. battery components or rails....A third alternative which was inadequately addressed in the DES is the recycle of the DOE materials back to DOE facilities."

Has any thought at all been given to the potential use of this material in the fabrication of structural components and/or waste package materials under development by DOE for its high-level waste repository?

2) I could not help but note that the attachment to the above referenced EPA letter listed numerous apparent conceptual and analytical errors in NRC's draft NUREG-0518. If the EPA analysis is even approximately correct, I would frankly have been embarrassed to have been associated with such work, and would probably have joined the 3000-odd dissenters. It is not surprising EPA rated our work "Category 3 (Inadequate)", whatever that may have meant. I trust that the NRC Staff of today would improve considerably on similar work in the future.

3) I would like ACRS to provide its views on the general standards suggested in the original draft EIS, and on EPA's comments and recommendations.

4) Finally, Staff should explain what happened to this matter between 1981 and 1985.