

January 10, 2005

The Honorable Ralph M. Hall, Chairman  
Subcommittee on Energy and Air Quality  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I have enclosed a copy of a notice of denial of a petition for rulemaking submitted by Mr. Donald A. Barbour, Philotechnics. The petitioner requested that the U.S. Nuclear Regulatory Commission (NRC) amend its regulations to provide additional clarity regarding the effective control of depleted uranium aircraft counterweights held under the exemption found in 10 CFR 40.13(c)(5). The petitioner believes that the amendment should address a number of issues concerning the exemption, storage, and disposal of these devices. The petition was docketed as PRM-40-28.

The Commission is denying the petition because we have determined that current NRC regulations provide adequate clarity, are protective of the public health and safety and the environment, and effectively accomplish what the petitioner requests. The NRC believes that additional clarification of the regulation's intent could be useful; however, the NRC believes that this objective can be more efficiently accomplished through the issuance of a Regulatory Issue Summary (RIS), rather than through rulemaking. Issuance of the RIS should effectively accomplish the apparent intent of the petitioner's goals without imposing unnecessary burden on current holders of aircraft counterweights or the government agencies that would be required to develop, implement, and enforce the new regulations.

The *Federal Register* notice denying the petition is being transmitted to the Office of the Federal Register for publication.

Sincerely,

*/RA/*

Dennis K. Rathbun, Director  
Office of Congressional Affairs

Enclosure:  
*Federal Register* Notice

cc: Representative Rick Boucher

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**Identical Letter sent to The Honorable George V. Voinovich with cc: to Senator Thomas R. Carper**

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January 10, 2005

The Honorable George V. Voinovich, Chairman  
Subcommittee on Clean Air, Climate Change,  
and Nuclear Safety  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

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