

EDO Principal Correspondence Control

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DOC DT: 11/16/06
FINAL REPLY:

John L. Wittenborn
Kelley Drye/Collier Shannon LLP

TO:

Chairman Klein

FOR SIGNATURE OF :

** GRN **

CRC NO: 06-0606

Strosnider, NMSS

DESC:

ROUTING:

Request for Meeting - Radioactive Scrap Metal/
Category 3 Sources

Reyes
Virgilio
Kane
Silber
Johnson
Cyr/Burns

DATE: 12/01/06

ASSIGNED TO:

CONTACT:

NMSS

Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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ACTION OFFICE: EDO

AUTHOR: John Wittenborn
AFFILIATION: DC
ADDRESSEE: Dale Klein
SUBJECT: Meeting request

ACTION: Appropriate
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LETTER DATE: 11/16/2006

ACKNOWLEDGED No
SPECIAL HANDLING: Made publicly available in ADAMS via EDO/DPC

NOTES: OCM #529...The Chairman is not available to meet with MIRC

FILE LOCATION: ADAMS

DATE DUE: **DATE SIGNED:**

EDO --G20060978

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November 16, 2006

VIA ELECTRONIC MAIL

Dale E. Klein, Chairman
U.S. Nuclear Regulatory Commission
One White Flint North
11545 Rockville Pike
Rockville, Maryland 20852-2738

Re: Meeting Request

Dear Chairman Klein:

We are writing to request a meeting with you and your staff to discuss matters of interest to the Metals Industries Recycling Coalition ("MIRC"). MIRC is an *ad hoc* coalition of metals industry trade associations and companies comprised of the American Iron and Steel Institute ("AISI"), the Copper and Brass Fabricators Council ("CBFC"), Inco, Inc. ("Inco"), the Nickel Institute ("NI"), the Steel Manufacturers Association ("SMA"), and the Specialty Steel Industry of North America ("SSINA").

Associations and their companies that are members of the associations that comprise MIRC play a major role in the U.S. economy. Among other things, they recycle scrap metal to make new metal products. These companies are the largest recyclers by volume in the country.

Each year steel mills operating electric arc and basic oxygen furnaces recycle more than 75 million tons of scrap into new steel products. Steel products contain, on average, 66 percent recycled content. These products have wide ranging applications including many consumer products such as food and beverage containers, automobiles, homes and even surgical implants.

Copper and brass scrap is also widely recycled into a variety of products that go into consumer use. In 2005, the copper industry recycled approximately 1,140,000 tons of scrap into new products. Copper and brass products contain, on average, 50 percent recycled content.

Nickel, a highly valued metal, is recycled at an exceptionally high rate. Nickel not only is recycled as scrap, but also is recovered from waste materials such as used batteries and electric arc furnace ("EAF") pollution control dust. In fact, upwards of 95 percent of the nickel content in stainless steelmaking EAF dust and other wastes can be recovered for reuse in new products.

Over the past two decades, an industry-wide problem has emerged involving the amount of scrap metal contaminated with radioactive material. The most dangerous and potentially life-

CHAIRMAN REC'D
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threatening form of this contamination is from the presence of shielded radioactive sources – typically Cs-137 or Co-60 in the scrap supply.

In order to foster a safer scrap feedstock for its member companies, MIRC has worked closely with the NRC, the Department of Energy, and the Environmental Protection Agency to develop mechanisms and regulatory policies to exclude radioactive materials from the scrap stream. We have worked with NRC to develop a registration program for certain generally licensed sources and for the imposition of registration fees. We strongly supported NRC's efforts to increase the base civil penalties for the loss, abandonment, or improper transfer or disposal of sealed sources and devices. We have also worked closely with NRC to seek a safe and cost-effective means of disposing of waste following the inadvertent melting of a sealed source.

More recently, MIRC has worked with NRC on a staff proposal to prevent the release of slightly radioactive scrap metal into the recycling stream. The staff proposal would have established a 1 millirem ("mrem") annual dose limit for "releasing" solid material that originated in radioactively restricted and/or impacted areas of a facility into a limited number of pathways. Of specific importance to the metals industry, the staff proposal would not have allowed for the preapproved release of metals for recycling. Instead, on an individual case-specific basis, a licensee seeking to release scrap metal for recycling would have been required to apply to the NRC for approval and proposed procedures for such release. As a result, radioactive scrap metal would only be released for recycling on a case-by-case basis under the oversight of the NRC. Additionally, materials exceeding the 1 mrem annual dose limit would be entirely segregated from the scrap stream.

MIRC was disappointed by the June 2, 2005 announcement that the Commission had voted to disapprove publication of the staff's proposal regarding radiological criteria for controlling the disposition of solid materials, and we hope it can be resurrected in the future. Meanwhile, the integrity of the metals industry's scrap feedstock remains at risk.

Most recently, on November 8, 2006, the Nuclear Regulatory Commission ("NRC") issued its final rule on National Source Tracking of Sealed Sources ("NSTS") which took an important step in requiring greater stewardship over certain sealed sources. It did not, however, include Category 3 sources, which are the type most commonly found in MIRC member companies' feed stock. MIRC strongly supports the inclusion of Category 3 sources in this tracking program because the inclusion of these sources is critical for the safe operation of the metals recycling industry.

The NRC has expressly stated that it would consider the addition of Category 3 sources to the NSTS. It is our understanding that NRC staff is currently studying the extent of the problem regarding control and tracking of Category 3 sources.

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MIRC requests this meeting in order to provide you with a more in-depth overview of the unique dangers faced by the metals recycling industry. We would also like to discuss a number of the efforts undertaken by MIRC to protect against these unique dangers. In particular, we would like to discuss the metals recycling industry's critical need for the inclusion of Category 3 sources in the NSTS and the role we can play in helping NRC staff assess the importance of this issue.

Thank you for your consideration of this scheduling request. If you or your staff would like to coordinate a meeting, I can be reached at 202.342.8514 or jwittenborn@kelleydrye.com.

Sincerely,



John L. Wittenborn
Counsel to the Metals Industries
Recycling Coalition