



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 20, 1995

40-7102

Mr. Robert W. Hargrove, Chief
Environmental Impacts Branch
United States Environmental Protection Agency
Region II
Jacob K. Javits Federal Building
New York, New York 10278-0012

SUBJECT: SHIELDALLOY METALLURGICAL CORPORATION EIS DEVELOPMENT

Dear Mr. Hargrove:

As you may be aware, the U.S. Nuclear Regulatory Commission has delayed issuance of the draft environmental impact statement (EIS) regarding decommissioning of the Shieldalloy Metallurgical Corporation (SMC) facility located in Newfield, New Jersey. This delay is a result of a lack of complete data submittals from SMC and some internal NRC redirection; the scope of the EIS will remain the same as that published in the July 15, 1994, scoping report. NRC is aiming to issue the draft EIS in early 1996.

In your June 22, 1994, letter, you stated that the 1977 license application from SMC refers to the existing slag piles as "slag dump areas" and "slag disposal areas" and that the terms "dumping" and "disposing" are included in the definition of release presented in Section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986. In that same letter you requested that NRC provide further justification for its conclusion that the slag piles are not a release.

For the following reason NRC maintains that these piles are not a release and are only considered to be in storage. First, the terms used in the 1977 license application predate the imposition of CERCLA and as such, the terms held a different connotation in 1977 for this license. Second, Condition 13 of the approved license issued in 1980 states "Except as specifically provided otherwise by this license, the licensee shall possess and use licensed material... in accordance with statements, representations, and procedures contained in application dated December 23, 1977, as amended by letter dated... May 27, 1980." The May 27, 1980, letter to the NRC states that "I am sending you the requested information concerning the storage of our ferro-columbium slag." It continues, "We understand your office's concern over the long-term effect of storage of our slag material, and for this reason, we will make an attempt to locate a solid waste facility in our area... we are now considering the possibility of reclaiming this material for the contained columbium oxide." Because this letter amends the 1977 application prior to the issuance of the license by NRC, it shows that the licensee and the NRC intent considered this material to be in temporary storage.

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Thus, the licensee believed and still believes that the slag retains a potential economic value. In fact, in December 1994, SMC applied for an export permit for a trial shipment of ferro-columbium slag to be used in foreign steel production. SMC currently ships ferro-vanadium slag (not required to be licensed by NRC) to domestic steel mills for use as a steel conditioner to remove impurities. Based upon metallurgical analyses, SMC predicts that the ferro-columbium slag will be even more beneficial to the steel processing and would like to sell it for economic benefit. If the trial shipment shows success, SMC will likely apply for export permits to remove a large majority of the slag from the site, which may impact the EIS evaluation. NRC is currently evaluating SMC's application.

Finally, our legal counsel advises that, if the slag were considered a waste held under an NRC license, it could only be released from regulatory control (and thus be a federally permitted release in accord with CERCLA Section 101(10)(K)) through one or more of the waste disposal procedures identified in 10 CFR Part 20, Subpart K. To date none of the identified procedures have been implemented with respect to the Newfield slags. In fact, a specific purpose of the EIS is to determine if one of those procedures, on site disposal, is environmentally acceptable.

If you have any questions about the matters discussed in this letter, please call me at (301) 415-8106.

Sincerely,

Original Signed by:
 Gary C. Comfort, Jr.
 Licensing Section 2
 Licensing Branch
 Division of Fuel Cycle Safety
 and Safeguards, NMSS

cc: Ms. Donna Gaffigan
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