



DEPARTMENT OF THE NAVY
NAVAL SEA SYSTEMS COMMAND
WASHINGTON, D.C. 20362

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IN REPLY REFER TO

644:JWD
Ser 19

Secretary
U.S. Nuclear Regulatory Commission
Attention: Docketing and Service Branch
Washington, D.C. 20555

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

JAN 23 1984

Gentlemen:

The Naval Sea Systems Command currently holds U.S. Nuclear Regulatory Commission License No. SUB-1190 for the Close-In Weapon System (CIWS), PHALANX Ammunition, containing Depleted Uranium (DU) penetrators. Due to the potential impact of the proposed rulemaking on tritium and source material reports published in the Federal Register, Volume 48, No. 230, Tuesday, November 29, 1983, the following observations, comments, and recommendations are submitted.

We have reviewed the text of the agreement between the United States of America and the International Atomic Energy Agency regarding the application of safeguards on source and special nuclear material. Several articles in the agreement support the position that source material transfer reports should not be required for DU penetrators in ammunition, specifically:

o Article 1(a) "...to permit the Agency to apply safeguards, in accordance with the terms of this agreement, on all source or special fissionable material in all facilities within the United States, excluding only those facilities associated with activities with direct national security significance to the United States..."

Comment: Depleted uranium penetrators in ammunition have direct national security significance to the United States.

o Article 6(b)(iii) "Concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of other nuclear material..."

Comment: Fabrication of a nuclear explosive device from depleted uranium would be a technology - intensive undertaking in itself. To use DU penetrators from the Navy's 20 mm PHALANX ammunition as source material, one would need 285,000 rounds of the ammunition for one "effective kilogram" of uranium. Concentration of verification procedures on material that is already strictly controlled as war reserve ammunition is not consistent with the safeguards agreement.

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o Article 36(b) "...the Agency shall exempt from safeguards nuclear material, which would otherwise be subject to safeguards under this Agreement, as follows:

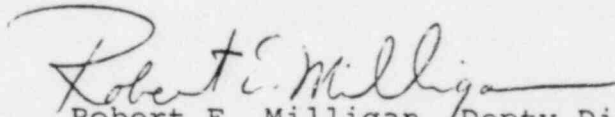
(b) Nuclear material, when it is used in non-nuclear activities in accordance with Article 13, if such nuclear material is recoverable..."

Comment: The reporting exemption for natural or depleted uranium metal used as permanently installed shielding that is granted in paragraph 40.64(d)(4) of the proposed rulemaking should be expanded to include the depleted uranium penetrators in ammunition held by the Department of Defense.

Accordingly, it is recommended that paragraph 40.64(d)(5) be added as follows:

(5) Any depleted uranium metal or depleted uranium alloys used as penetrators in ammunition held by the Department of Defense.

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