



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

OCT 29 1984

PDR - 016

Mr. Daniel Hirsch, Director
Adlai E. Stevenson Program
on Nuclear Policy
University of California
Santa Cruz, CA 95064

IN RESPONSE REFER
TO FOIA-84-784

Dear Mr. Hirsch:

This is in partial response to your letter dated September 30, 1984, in which you requested, pursuant to the Freedom of Information Act, four categories of records related to the proposed rule to reduce the use of Highly Enriched Uranium at Research and Test Reactors.

The documents listed on Appendix A are subject to Categories 1 and 3 and are being placed in the NRC Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC. The documents listed on Appendix B are subject to Categories 1, 3 and 4 and are already available in the PDR. The PDR Accession Numbers are indicated beside the document descriptions.

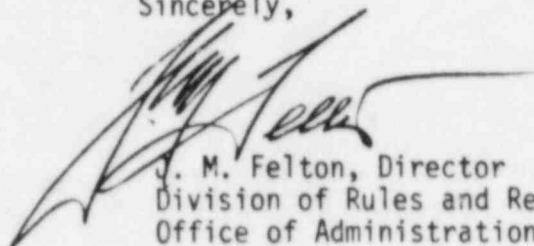
The two documents listed on Appendix C are subject to Category 3 of your request and are being withheld. Both documents contain the predecisional legal analyses, opinions and recommendations of the Office of the General Counsel for the Commissioners' consideration of the proposed rule for limiting the use of high-enriched uranium in research and test reactors. Because the documents reflect the predecisional process between the Office of the General Counsel and the Commissioners, the documents are exempt from mandatory disclosure pursuant to Exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5), and the Commission's regulations, 10 CFR 9.5(a)(5). Release of the documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. The documents do not contain any reasonably segregable factual portions. The documents are being withheld in their entirety. James A. Fitzgerald, Assistant General Counsel, is the withholding official.

This denial may be appealed to the NRC within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

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The search for and review of additional documents subject to your request have not been completed. As soon as the search and review are completed, we will contact you.

Sincerely,



J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

APPENDIX A

DOCUMENTS BEING PLACED IN THE PDR

1. 3/5/84 Letter from Palladino to Rep. Ottinger re: Development of a Rule for Conversion of Research and Test Reactors from HEU to LEU (1 page)
2. 3/8/84 Note from Wigginton to Shelton re: Prop Rule - Limiting the Use of HEU in Research Reactors (1 page)
3. 3/8/84 Note from Wigginton to Shelton re: Prop Rule - Limiting the Use of HEU in Research Reactors (1 page)
4. 3/9/84 Memo from Felton to Smith re: DRR Review of 10 CFR Part 50 Proposed Rule - Limiting the Use of HEU in Research Reactors (1 pg.)
5. 3/13/84 Routing and Transmittal Slip from Wigginton to Don Smith re: Paperwork Reduction Act Statement (2 pages)
6. 3/19/84 Letter from Milton Levenson to Palladino re: Conversion of Fuel Elements of Small Reactors from HEU to LEU (2 pages)
7. 4/5/84 Memo to Felton to Bernero re: Office Concurrence Request: Prop. Part 50 Amendment to Limit the Use of HEU in Non-Power Reactors (2 pages)
8. 4/20/84 Status of HEU/LEU Rule (1 page)
9. 5/1/84 Memo from Fischer to J. Ebersole re: Prop. Part 50 Amendment to Limit the Use of HEU in Non-Power Reactors (45 pages)
10. 5/11/84 Memo from Fraley to Gilinsky re: Comments of ACRS Members Regarding Use of LEU in Research Reactors (9 pages)
11. 5/22/84 Annotated copy of SECY-84-211 - Prop. Rule for Limiting the Use of HEU in Research and Test Reactors (49 pages)
12. 5/24/84 Letter from Rep. Lagomarsino to Dircks enclosing constituent's comments on the proposed rule (5 pages)
13. 5/25/84 Routing and Transmittal Slip from Wigginton to LaHS suggesting changes to the proposed rule (1 page)
14. 5/25/84 Memo from Shelton to Philips - Request for Comment/Concurrence on the New 10 CFR 50.64 (1 page)
15. 6/4/84 Presentation by Edwin Zebroski to the American Nuclear Society on Relative Diversion Exposures of HEU: Relation to University Research Reactors (Reference 7 from ACRS letter Report dated 6/18/84) (15 pages)

16. 6/5/84 Memo from Fischer to Ebersole re: Project Status Report for the ACRS Subcommittee Meeting on Safeguards and Security June 12, 1984 (31 pages)
17. 6/11/84 Memo from Chilk to Dircks - Staff Requirements - Discussion/Possible Vote on Prop. Rule on LEU/HEU Fuel (1 page)
18. 6/12/84 Tentative Schedule for the Safeguards and Security ACRS Subcommittee Meeting on June 12, 1984 (2 pages)
19. 6/12/84 Memo from McKinley to Ebersole re: HEU/LEU Fuel in Non-Power Reactors Comments by F. J. Remick (3 pages)
20. 6/12/84 Memo from Feltz to McKinley re: Comments on LEU Conversion for Research Reactors (Reference 5 from ACRS letter report dated 6/18/84) (1 page)
21. 6/12/84 Letter from McGovern to NRC re: HEU to LEU Conversion of Research Reactor Fuel (Reference 6 from ACRS letter report dated 6/18/84 (2 pages)
22. 6/12/84 Prepared Statement of William R. Mowry to the ACRS on GA Technologies Inc. Activities (Reference 8 from ACRS letter report dated 6/18/84) (4 pages)
23. 6/14/84 Memo from McClain to Ebersole & Mark re: Summary of Meeting to Review Prop. Fuel Conversion and Interim Security Measures at Non-Power Reactors, June 12, 1984 (6 pages)
24. 6/18/84 Letter from Turinsky to Palladino submitting comments on the proposed HEU/LEU conversion rule, with 7/18/84 response from Minogue (2 pages)
25. 6/21/84 Letter from Murray to Reagan expressing concerns over the proposed rule (9 pages)
26. 6/22/84 Letter from Erdman to Palladino, submitting comments on the proposed rule (1 page)
27. 6/25/84 Letter from Dircks to Huttenback responding to his comments on the proposed rule (2 pages)
28. 6/28/84 Letter from Dircks to Rep. Lagomarsino, responding to incoming letter dated 5/24/84 (1 page)
29. 6/29/84 Letter from Felton to Thompson transmitting copy of the proposed rule (1 page)
30. 6/29/84 Memo from Felton to Chilk transmitting copy of the proposed rule (1 page)
31. 7/6/84 Excerpt from the Federal Register - Prop. Rule - 10 CFR Part 50 - Limiting the Use of HEU in Domestic Research and Test Reactors (4 pages)

32. 7/11/84 Letter from Dircks to Hendrie re: Conversion of Non-Power Reactors from HEU to LEU (1 page)
33. 7/17/84 Letter from Kime1 to Applestein submitting comments on the Proposed Rule (2 pages)
34. 8/6/84 Letter from Minogue to Whittemore responding to his concerns over the proposed rule (1 page)
35. 8/14/84 Excerpt from the Federal Register - Prop. Rule - 10 CFR Part 50 - Limiting the Use of HEU in Domestic Research and Test Reactors, Extension of Comment Period (1 page)
36. 8/22/84 Letter from Sen. Goldwater to the Office of Congressional Affairs transmitting a constituent's concerns about the proposed rule (6 pages)
37. 9/24/84 Letter from Dircks to Sen. DeConcini responding to his constituent's concerns about the proposed rule (8 pages)
38. 9/24/84 Letter from Dircks to Sen. Goldwater responding to his constituent's concerns about the prop rule (1 page)
39. Undated Note re: SECY-84-211 (1 page)

APPENDIX B

DOCUMENTS ALREADY IN THE PDR

1. 2/23/84 Memo from Chilk to Dircks, subject: Development of a Proposed Rule on the Use of HEU and Steps to Improve Security Measures
Accession No. 8403080106
2. 5/31/84 Commission Meeting Transcript - Discussion/Possible Vote on Proposed Rule on LEU/HEU Fuel, Accession No. 8406110108/PDR/10 CFR
3. 6/12/84 ACRS Safeguards & Security Subcommittee Meeting Minutes: ACRS-2221
Transcript: ACRST-1323-Accession No. 8406190136
4. 6/15/84 290th ACRS Meeting - Transcript: ACRST-1324, Accession No. 8406190091
5. Comments, with various dates, on PR50 49 FR 27769, Accession No. 8410050053
6. Comments, with various dates, on PR50 49 FR 27769 - Attachments to Accession No. 8409270317

APPENDIX C

DOCUMENTS BEING WITHHELD

1. 6/1/84 Memorandum from S. Trubatch, OGC, to Commissioner Assistants,
Subject: Proposed Rule for Limiting the Use of High-Enriched
Uranium (HEU) in Research and Test Reactors - SECY-84-211
(3 pages)
2. 9/24/84 Memorandum from S. Trubatch, OGC, to Commissioner Bernthal,
Subject: Certain Legal Issues Related to the Conversion of
Research Reactors from HEU to LEU (1 page)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
WASHINGTON, D. C. 20555

June 18, 1984

Honorable Nunzio J. Palladino
Chairman
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Dear Dr. Palladino:

SUBJECT: ACRS REPORT ON PROPOSED RULE FOR LIMITING THE USE OF HIGHLY
ENRICHED URANIUM IN DOMESTIC RESEARCH AND TEST REACTORS

During its 290th meeting, June 14-16, 1984, the Advisory Committee on Reactor Safeguards reviewed a proposed rule for limiting the use of highly enriched uranium in research and test reactors and a plan to increase security measures at nonpower reactors that use high-enrichment fuel. These matters were considered also during a Subcommittee meeting in Washington, D.C. on June 12, 1984. During our review, we had the benefit of discussions with representatives of the NRC Staff, affected users, and advocates of reduced availability of highly enriched uranium fuel. We also had the benefit of the documents referenced.

With regard to the proposed rule limiting the use of highly enriched uranium in domestic research and test reactors (contained in SECY-84-211), we believe it would be more appropriate to base the proposal on national policy as articulated in the Nuclear Nonproliferation Policy Act of 1978 than to try to tie it to an unidentified threat. If the proposal is based on national policy, it would be appropriate for the government to pay the costs of conversion from high-enrichment (HEU) to low-enrichment uranium fuel (LEU), including such costs as the licensees may incur to accomplish the conversion. The conversion should be made in a gradual and orderly manner as funds and fuels become available. The rule should provide the licensees with the option of conversion to LEU or retaining HEU and meeting appropriate security requirements.

If, as a consequence of changes needed to effect a conversion, a license amendment is required, then a hearing with the opportunity for public intervention is possible. Before the Commission adopts a rule which might permit unrestricted intervention, we recommend that the Commission obtain an evaluation of the course, nature, costs, and other relevant aspects of previous contested hearings involving nonpower reactors to determine if the hearings are serving their intended function effectively. It may be that the rules regarding hearings involving low power research reactors should be different than those for power reactors.

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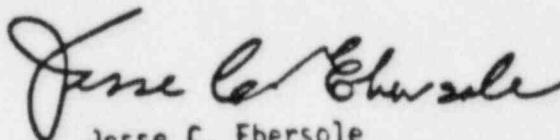
June 18, 1984

The exceptions in the proposed rule which would permit special purpose reactors to continue to use highly enriched uranium fuel are appropriate and should be retained.

With regard to the plan and schedule to increase security measures at nonpower reactors that use highly enriched uranium fuel, we find no objections to the proposals. We see no need to proceed on an expedited schedule.

Two of the Committee members who participated in this review are associated with affected institutions listed in the draft public announcement of this rule. Because they are rendering advice of a general nature from which their employers will gain no preference over others, they are not required to refrain from participating in this matter. Dr. M. W. Carbon did not participate in this review.

Sincerely,



Jesse C. Ebersole
Chairman

References:

1. Rulemaking Issue (SECY-84-211) from William J. Dircks to the Commissioners, Subject: Proposed Rule for Limiting the Use of High-Enriched Uranium in Research and Test Reactors, dated May 22, 1984
2. Rulemaking Issue (SECY-84-216) from William J. Dircks to the Commissioners, Subject: Security Measures at Nonpower Reactors, dated May 25, 1984
3. Policy Issue (SECY-84-220) from William J. Dircks for the Commissioners, Subject: Research Reactor Fuel Conversion Developments and Related Issues, dated May 30, 1984
4. Report to NRC Commissioners, "Weapons-Grade Uranium on Campus - The Need to Convert Research Reactors to Lower Enrichment Fuels," by Daniel Hirsch, Stevenson Programs on Nuclear Policy, University of California, Santa Cruz, dated January 27, 1984
5. Letter from Donald E. Feltz, Nuclear Science Center, Texas A&M University System, to John C. McKinley, Advisory Committee on Reactor Safeguards, dated June 12, 1984, Subject: ACRS meeting of June 12, 1984 regarding proposed rule on HEU
6. Letter from James J. McGovern, Business Manager, Radiochemicals, Union Carbide Corporation to U. S. Nuclear Regulatory Commission, Subject: Issue of HEU to LEU conversion of research reactor fuel, dated June 12, 1984
7. Report by Edwin L. Zebroski, Energy Study Center, Electric Power Research Institute, "Relative Diversion Exposures of High Enrichment

June 18, 1984

Uranium: Relation to University Research Reactors," dated June 4, 1984

- ✓ 8. Statement of William R. Mowry, License Administrator, GA Technologies, Inc. before the ACRS Subcommittee on Safeguards and Security dated June 12, 1984
9. Statement of Dr. David W. Hafemeister Before the NRC Regarding the Need to Convert Domestic Research Reactors from Highly Enriched to Low-Enriched Uranium Fuels, dated June 12, 1984
10. Statement of Paul L. Leventhal, Nuclear Control Institute, Before the Subcommittee on Safeguards and Security, ACRS, Regarding the Need to Convert Domestic Research Reactors From Highly Enriched to Low-Enriched Uranium Fuels, dated June 12, 1984



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 5, 1984

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The Honorable Richard L. Ottinger, Chairman
Subcommittee on Energy Conservation and Power
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your letter of January 26, 1984 commenting on the Commission's consideration of the conversion of research and training reactors from high enrichment uranium (HEU) to low enriched uranium (LEU).

The Commission stated its support for this conversion in August 1982. Since that time the Nuclear Regulatory Commission staff has completed the research stage in developing a rule to brought before the Commission.

Recently, the Commission directed the staff to expedite development of the rule which would require the conversion of research and training reactors from use of HEU to LEU as promptly as it is technically feasible to do so. Exceptions will be considered based upon whether the unique purpose of the reactor depends upon the use of HEU. We expect that rule to be presented in the spring of this year.

We believe that your support of this effort will prove to be a valued contribution to reducing the risk of illegal diversion of HEU. Our rulemaking is based upon Congressional funding of DOE to provide the appreciably lower enrichment and LEU fuel for university reactors. Therefore, your continued support of the Reduced Enrichment for Research and Test Reactors (RERTR) program and willingness to seek the necessary funds to implement the conversion will help to alleviate potential problems and concerns that have been expressed by the reactor owners.

Your support of this effort is appreciated.

Sincerely,

Cleared with all Cmrs.' Offices by SECY
Ref.-CR-84-11

Original signed by
Nunzio J. Palladino

Nunzio J. Palladino

cc: Rep. Carlos Moorhead

Identical ltrs sent to: Rep. Howard Wolpe
and Edward J. Markey, cc: Rep. Ron Marlenee

Originating Office: EDO/RES:Kelber

CHM	OCM	OCM	OCM
NJPalladino	OCM	OCM	OCM
3/1/84	3/2/84	3/2/84	3/2/84

OFFICE	SECY	SECY	OCA	OCM	OCM	OCM
SURNAME	KBissell	TCombs	EFay	JLH	CU	LMH
DATE	3/1/84	3/1/84	3/1/84	3/1/84	3/1/84	3/2/84

DATE: March 8, 1984

NOTE FOR: Brenda Shelton, DMB, W-548

FROM: Sarah N. Wigginton, RPB, 4000 MNBB *on*

A copy of the proposed rule, "Limiting the Use of Highly Enriched Uranium in Research Reactors" amending 10 CFR Part(s) 50 is enclosed for your review of its paperwork requirements.

I would appreciate your notifying me by March 14, 1984 if the Paperwork Reduction Act Statement is not appropriate for the requirements in the rule or, if necessary, if there is any difficulty obtaining OMB approval.

*John Philips called Ned Parcover on this 3/9/84. to expedite, since the memo responding was mailed to D. Smith 3/9/84. *on**

DATE:

NOTE FOR: Sarah N. Wigginton, RPB, 4000 MNBB

FROM: Brenda Shelton, DMB, W-548

I received on _____ 1983, a copy of the proposed rule,

" _____ " amending 10 CFR Part(s) _____.

I will notify you by _____ if the Paperwork Reduction Act Statement is not appropriate or, if necessary, of any difficulty in obtaining OMB approval.

Ret. 3/12/84

DATE: March 8, 1984

NOTE FOR: Brenda Shelton, DMB, W-548

FROM: Sarah N. Wigginton, RPB, 4000 MNBB
on

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DATE:

NOTE FOR: Sarah N. Wigginton, RPB, 4000 MNBB

FROM: Brenda Shelton, DMB, W-548

I received on 3/12/84 1983, a copy of the proposed rule, "5061" amending 10 CFR Part(s) .

I will notify you by 3/12/84 if the Paperwork Reduction Act Statement is not appropriate or, if necessary, of any difficulty in obtaining OMB approval.

CPA statement is correct for this new application. DO not publish w/ statement. Use suggested statement #2.