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December 22, 2006

via email and first class mail
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attention: Rulemakings and Adjudications Staff

Re: Petition for Rulemaking on NUREG-1757
Petition for a Hearing on NUREG-1757
Petition for a Stay of any Action on the
Shieldalloy Metallurgical Corporation (License
No. SMB-743) Decommissioning Plan (Docket No.
04007102)

Dear Staff:

Enclosed for filing, please find an original and two copies of the Petition for Rulemaking on NUREG-1757 and for a Stay, a Petition for a Hearing on NUREG-1757, the Declarations of Jennifer Goodman and John Burke, and a certification of service. These Petitions are being filed on behalf of the New Jersey Department of Environmental Protection ("NJDEP").

Service on the NJDEP should be provided to me at the address listed below. My email address is reeseand@dol.lps.state.nj.us.

Sincerely yours,

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY

By: Andrew D Reese
Andrew D. Reese
Deputy Attorney General



c: **via first class mail**
David R. Smith, Radiation Safety Officer
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UNITED STATES NUCLEAR REGULATORY COMMISSION

IN RE PETITION FOR RULEMAKING on)
NUREG-1757, pursuant to 10 C.F.R.)
§ 2.802(a))

IN RE PETITION FOR A STAY ON ANY)
ACTION ON THE SHIELD ALLOY METAL)
CORPORATION DECOMMISSIONING PLAN)
(Docket No. 04007102), pursuant)
to 10 C.F.R. § 2.802(d))

Submitted by:

State of New Jersey,
Department of Environmental Protection

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On the Petitions

The New Jersey Department of Environmental Protection ("NJDEP") files this petition for rulemaking pursuant to 10 C.F.R. § 2.802(a) seeking to rescind the portion of the finalized NUREG-1757, Consolidated Decommissioning Guidance, which sets forth the Long Term Control ("LTC") license, the legal agreement and restrictive covenant ("LA/RC"), the 1000 year dose modeling, the ALARA analysis, and the financial assurance. The revisions to the first two volumes of NUREG-1757 were finalized on or about October 27, 2006. The NJDEP is also filing a separate petition for a hearing seeking rescind these NUREG-1757 provisions.

Because Shieldalloy Metallurgical Corporation (License No. SMB-743) ("Shieldalloy") has submitted a decommissioning plan (Docket No. 04007102) ("DP") that relies upon NUREG-1757, NJDEP requests a formal stay of any action on the DP until the petitions are adjudged. 1757. See 10 C.F.R. § 2.802(d).

I. 10 C.F.R. § 2.802(c)(1): "Set forth a general solution to the problem or the substance or text of any proposed regulation or amendment, or specify the regulation which is to be revoked or amended."

NJDEP requests NRC to rescind the portion of NUREG-1757 which pertains to the LTC license, the LA/RC, the 1000 year dose

modeling, the ALARA analysis, and the financial assurance. Revisions to the first two volumes of NUREG-1757 were finalized on or about October 27, 2006.

A detailed explanation of the defects of NUREG-1757 and proposed remedies are provided in Section III below. Stated briefly, the LTC license and the LA/RC provided in NUREG-1757 does not adequately protect the public health and safety from decommissioning facilities that conduct onsite disposal of long-lived nuclides under the License Termination Rule ("LTR"), 10 C.F.R. Part 20, Subpart E. Also, NUREG-1757 fails to comply with various statutes, regulations, and NRC policies.

To remedy these defects NRC should rescind the portion of NUREG-1757 which provides for the LTC license and the LA/RC. Goodman Dec. ¶¶ passim.

II. 10 C.F.R. § 2.802(c)(2): "State clearly and concisely the petitioner's grounds for and interest in the action requested."

NJDEP files this petition for rulemaking so that NRC rescinds the portion of NUREG-1757 regarding the LTC license, the LA/RC, the 1000 year dose modeling, the ALARA analysis, and the financial assurance. Each of NJDEP's contentions are discussed in detail in Section III below. These contentions include, first, NUREG-1757

