

June 8, 2004

Department of Energy
ATTN: Julia Phifer
Office of Nuclear Fuel Supply Security,
NE-60
Washington, D.C.

Dear Ms. Phifer:

I am responding to your June 4, 2004, facsimile requesting clarification on the regulatory status of uranium oxide used to add color to glazed pottery, which you had originally directed to Mr. Marvin Peterson, in the NRC Office of International Programs. We understand that the information was requested by Mr. Phil Morgan, of Seagrove, North Carolina, through his Congressman, Howard Coble

Title 10 of the U.S. Code of Federal Regulations (10 CFR) Part 40.4 defines source material as (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of: (i) uranium, (ii) thorium or (iii) any combination thereof. Therefore, by definition (1), NRC considers the uranium oxide a source material.

Addressing your concern regarding the possession of source material used in or on pottery, there are two regulations that may apply:

1. 10 CFR 40.13 Unimportant quantities of source material. Specifically, Section 40.13(a) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, transfers or delivers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of 1 percent (0.05 percent) of the mixture, compound, solution or alloy.
2. 10 CFR 40.22 Small quantities of source material. Specifically, Section 40.22(a) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions and Federal, State and local government agencies to use and transfer not more than fifteen (15) pounds of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 150 pounds of source material in any one calendar year.

If Mr. Morgan's use of source material does **not** satisfy the criteria for the exemption or general license listed above, then the source material would be subject to specific licensing under Part 40. However, since Mr. Morgan resides in the Agreement State of North Carolina, they would

Phifer, J.

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have regulatory jurisdiction for source material, and he should check with them at the following address, as their requirements may be stricter.

Beverly O. Hall, Chief
Division of Radiation Protection
Department of Environment & Natural Resources
3825 Barrett Drive
Raleigh, NC 27609-7221
PH (919)571-4141 ext. 201 FX (919)571-4148
INET: beverly.hall@ncmail.net

If you have further questions regarding this matter please contact me directly at the address below.

Anthony S. Kirkwood, Health Physicist
NRC/NMSS/IMNS/MSIB-A
MS: T8F5, RM: T8F16
(301) 415-6140 (Voice), (301) 415-5369 (Fax)
E-mail: ask@nrc.gov

Sincerely,

/RA/

Anthony S. Kirkwood