July 5, 2012

Ms. Sandra Blanco
4625 W Jefferson Blvd.
Los Angeles, CA 90016

Dear Ms. Blanco:

I am responding to your correspondence to the U.S. Nuclear Regulatory Commission (NRC) dated December 2, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12132A332), which you re-filed with the NRC by priority mail on April 25, 2012. In your correspondence, you requested that the NRC amend its requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 32.14, 32.15, and 32.22(b) to include illumination markers containing tritium.

A request that the NRC amend it regulations is considered to be a petition for rulemaking and, as such, must meet the criteria in 10 CFR 2.802, "Petition for Rulemaking." We have carefully reviewed your request and have concluded that the information provided does not fully meet the Commission's criteria under 10 CFR 2.802(c) for a petition for rulemaking.

Your request stated, "[w]e hereby file a petition for regulation to amend NRC Regulations 10 CFR 32.14, "Certain items containing byproduct material; requirements for license to apply or initially transfer," and 32.15, "Certain items containing byproduct material" to include illumination markers containing tritium, as well as 10 CFR 32.22(b), Self-luminous products containing tritium, krypton-85 or promethium-147: Requirements for license to manufacture, process, produce, or initially transfer," to include illumination markers containing tritium." It is unclear from the titles presented in your request which regulations you want amended. It appears, based on the title of the section, that you may have erroneously cited 10 CFR 32.15 rather than 10 CFR 30.15. Similarly, it is unclear whether or how you want 10 CFR 32.14 and 32.22 amended, or if you simply intend to subsequently submit a license application pursuant to either of those sections.

Your request stated, "[e]nclosed are radiation dose calculations which verify that under 10 CFR 32.23 and 32.24 during expected use and accident conditions, doses to users of marker devices containing 25 mCi H-3 would be below regulatory limits, based on the NUREG-1717 methodology." The dose calculations that you referenced were not submitted with the incoming request.

If you would like to clarify further your request in order to meet the criteria at 10 CFR 2.802, your request should include supporting documentation with respect to relevant technical, scientific, or other data involved that are reasonably available and other pertinent information necessary to support the actions sought and any specific cases of which you are aware where the current rule is deficient or needs to be strengthened. In addition, your request should include the referenced dose calculations and clearly identify the specific regulations you want amended.

Accordingly, if you want the NRC to consider your request further, you must supplement your correspondence of December 2, 2011, to meet the minimum requirements for a petition for rulemaking. This information must be received by the NRC within 90 days of the date of this letter or your request will be considered closed.

The regulations pertaining to the petition process may also be found online at http://www.nrc.gov/reading-rm/doc-collections/cfr.

If you have any questions, please contact Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, by calling 301-492-3667 or toll-free 1-800-368-5642, or by e-mail to Cindy.Bladey@nrc.gov.

Sincerely,

/RA/

R. W. Borchardt
Executive Director
for Operations

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Executive Director
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