

Nonlicensee

DCO/MB

NOV 13 1996

George W. Bruchmann, Chief
Division of Radiological Health
Department of Public Health
State of Michigan
3423 N. Martin L. King Jr. Blvd.
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Lansing, MI 48909

Dear Mr. Bruchmann:

This is in response to your February 1, 1996 letter in which you requested assistance in the interpretation of specific NRC regulations in 10 CFR Part 40.

In your letter you referred to a particular event in Pennsylvania where a load of scrap waste was returned to a Michigan shipper after it set off a radiation alarm. The waste contained, by weight, 0.07 percent of combined uranium and thorium embedded in a concrete-like material. Taken as a whole, the waste contained less than 0.05 percent by weight source material.

You requested the NRC evaluate the information and provide an interpretation as to whether the waste is exempt from NRC regulations pursuant to 10 CFR 40.13(a) since it is less than 0.05 percent by weight as a whole, or if it would fall under the general license requirements of 10 CFR 40.22.

Furthermore, you requested additional NRC guidance on these type of events as they are increasing with the proliferation of radiation alarm systems at recycling and waste disposal sites.

Section 40.13(a) exempts persons from the regulations in Part 40, and the requirements for a license to receive, possess, use, transfer or deliver source material, provided the source material (thorium and uranium in this case) is by weight less than 0.05 percent of the mixture, compound, solution or alloy in question.

The Office of Nuclear Material Safety and Safeguards has addressed these issues in separate internal correspondence. In calculating the percent by weight, only substances chemically bonded to, or in a true mixture with the source material, can be considered. Therefore, 10 CFR 40.13(a) does not apply to this waste.

However, Part 40.22 authorizing a general license to receive, possess, use, transfer or deliver small quantities of source material, not more than 15 pounds at any one time, or more than 150 pounds per year, does apply to this waste. The section explicitly exempts persons under this section from the provisions of Parts 19, 20, and 21, provided the

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