

DOCKET NUMBER

PETITION RULE PRM 40-25
(50 FR 53335)

7590-01

NUCLEAR REGULATORY COMMISSION

10 CFR PART 40

Docket No. PRM-40-25

State of Alabama: Receipt of a Petition for Rulemaking ⁸⁵ DEF 26 P3 08

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment a notice of receipt of a petition for rulemaking submitted by the State of Alabama. The petition requests that the NRC amend its regulations governing unimportant quantities of source material. The petitioner suggests that the NRC examine the exemption from licensing requirements for products or parts fabricated of or containing tungsten or magnesium-thorium alloys whose thorium content is less than 4 percent by weight and either remove the restriction on this exemption or set out the restriction as part of a general license. The petitioner requests this action so that a person who obtains an exempt product covered by the exemption would be aware of limitations placed on its use.

DATE: Submit comments by **MAR 3 1985**. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Correspondence and Records Branch.

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add John Hickey, 39655

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For a copy of the petition write: Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Inspect and copy the petition or comments received on the petition at: The NRC Public Document Room, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7086 or Toll Free (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking from the State of Alabama. This petition for rulemaking has been assigned Docket No. PRM-40-25. The petitioner requests that the NRC amend its regulations governing unimportant quantities of source material.

Section 40.13(c)(4) sets out an exemption from licensing requirements for any person who receives, possesses, uses, or transfers a product or part fabricated of, or containing tungsten or magnesium - thorium alloys if the thorium content of the alloy does not exceed four percent by weight. This provision also restricts the exemption by not authorizing the chemical, physical, or metallurgical treatment or processing of the exempt product.

The petitioner believes that in placing a restriction on an exemption, the NRC has created a structurally deficient regulation that may lead to unintentional violations by persons who may receive products covered by the exemption and be

unaware of any further regulatory restriction. The petitioner identified a situation where materials were distributed under this exemption in scrap metals which were melted and cut by an oxyacetylene torch.

To remedy this situation, the petitioner suggests that a safety evaluation be performed to determine whether or not this restriction is necessary. If the safety evaluation does not indicate that the restriction is needed, the petitioner believes it should be removed. However, if the restriction is needed, for the use of four percent magnesium-thorium alloys, it should not be presented as part of an exemption, but should be included under a general license.

The petitioner believes the appropriate course of action is to place these products in the general license provisions of 10 CFR 40.25 and suggests the following amendments to the regulations to accomplish this action.

1. In §40.25, add a new paragraph (f) to read as follows:

§40.25 General license for use of certain industrial products or devices.

* * * * *

"(f) A general license is hereby issued to receive, acquire, possess, and use any finished product or part fabricated of, or containing tungsten or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the general license contained in this paragraph (f) shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such product or part. Any general licensee is authorized to transfer such product or part to another general licensee only:

- (1) when the product or part remains in use at the same location, or
- (2) where the product or part is held in storage in the original shipping container at its intended location of use prior to the initial use by a general licensee."

2. In §40.34, paragraph (d) is added to read as follows:

§40.34 Special requirements for the issuance of a specific license.

* * * * *

"(d) An application for a specific license to manufacture or initially transfer the products or parts containing not more than 4 percent thorium to persons generally licensed under §40.25(f) of this Chapter or equivalent regulations of an Agreement State will be approved if:

(1) The applicant has satisfied the general requirements of §40.32 of this Chapter;

(2) The applicant submits sufficient information relating to the manufacture, quality control, labels, proposed uses and potential hazards of the product or part to provide reasonable assurance that:

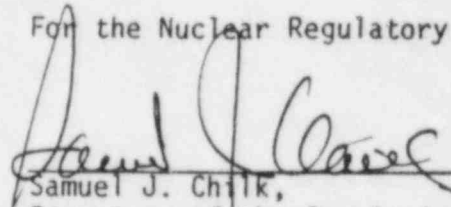
(i) Under ordinary condition of handling, storage, and use the product or part the thorium contained in the product or part will not be released or inadvertently removed from the product or part and it is unlikely that any person will receive in any period of one calendar quarter a dose in excess of 10 percent of the limits specified in the table in §20.101(a) of this Chapter or if the exposure may be to radioactive materials in air in excess of 10 percent of the limits specified in §20.103(a) of this Chapter; and,

- (ii) Under accident condition such as fire and/or explosion associated with the handling, storage, and use of the product or part, it is unlikely that a person would receive an external radiation dose or an internal dose commitment in excess of the dose to the appropriate organ as specified in column IV of the Table in §32.24 of this Chapter.
- (3) Each product or part bears or has an accompanying label or instructions approved by the Commission which contain in a clearly identified and separate statement instructions and precautions necessary to assure safe installation, operation, servicing, and disposal of the product or part;
- (4) Each person licensed under this section shall furnish a copy of the general license contained in §40.25(f) or an Agreement State's regulation equivalent to §40.25(f) to each person to whom he directly or through an intermediate person transfers thorium in a product or part. Further, each person licensed under this section shall report the transfer of such product or parts in the manner required for generally licensed devices pursuant to §32.52 of this Chapter."

The NRC invites public comment on PRM-40-25. Those who intend to submit comments on the petition may obtain a copy of the petition from the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Washington, DC this 26th day of December 1985.

For the Nuclear Regulatory Commission.


Samuel J. Chalk,
Secretary of the Commission.