

March 29, 2004

Mr. Kenneth W. Neczypor
Cleveland Crystals, Inc.
676 Alpha Drive
Highland Heights, OH 44143

Dear Mr. Neczypor:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your facsimile, dated January 23, 2004. In that facsimile, you asked the NRC to issue a license to authorize Cleveland Crystals, Inc., to temporarily import deuterium (heavy water) from the Commissariat à l'Énergie Atomique (French Atomic Energy Commission), and eventually return it to France.

Title 10, Section 110.9a, of the *Code of Federal Regulations* (10 CFR 110.9a) specifies the nuclear equipment and materials that fall within the NRC's import licensing jurisdiction; however, those materials do not include deuterium. Consequently, given that Ohio is an Agreement State, I recommend that you contact Ms. Carol O'Claire, the State Liaison Officer in the Ohio Emergency Management Agency. Ms. O'Claire can be reached at (614) 799-3915. You should note, however, that in certain instances, a foreign supplier's government has requested assurances from the U.S. Department of State that the deuterium will only be used for a specified non-nuclear, non-explosive purpose while in the United States, and will not be re-exported without first obtaining the consent of the foreign government. If the French government desires such assurances, please contact Mr. Robin DeLaBarre, the State Department contact for such matters, at (202) 647-3978.

By contrast, deuterium does fall within the NRC's export licensing jurisdiction, as specified by 10 CFR 110.9a(a). Consequently, Cleveland Crystals would require an NRC export license if, as you indicate, the amount of deuterium you will ultimately return to France is greater than 200 kilograms (440.9 pounds) or 1,000 kilograms heavy water (2,204.6 pounds). You should also be aware that processing an export license application can take one to several months. We therefore recommend submitting the required documents (NRC Form 7) and processing fee well in advance of a planned return shipment.

I urge you to review the NRC's import/export regulations in 10 CFR Part 110, which can be found on the NRC's public Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part110/>. In particular, I recommend that you review the general information provided in Section 110.9, "List of nuclear material under NRC export licensing authority"; Section 110.19, "Types of licenses"; Section 110.20, "General license information"; and Section 110.24, "General license for the export of deuterium."

K. W. Neczypor

2

If you have questions or would like to discuss this matter further, please contact Ms. Carlotta Coates of my staff at (301) 415-1787.

Sincerely,

/RA/

Edward T. Baker, Deputy Director
Office of International Programs

cc: M. Zobler, OIP
P. Tana, NSIR
R. DeLabarre, DOS
A. Scheinman, DOE/NNSA
S. Oehlbert, DOE/NNSA
N. Breland, DOE/NNSA
J. Bird, DOE/OR
J. Fedrigo, DOD
S. Clagett, DOC

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*Previously concurred

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