

August 18, 2006

Terrence O. Hee
Ion Technology
4530 West 6200 South
Kearns, UT 84118

Dear Mr. Hee:

I am responding to the petition for rulemaking dated July 26, 2003, that you submitted to the U.S. Nuclear Regulatory Commission (NRC). Your petition was docketed as PRM-40-29 and requested that NRC amend its regulations regarding unimportant quantities of source material to exempt end users of a catalytic device containing thorium from NRC's licensing requirements.

The notice of receipt of the petition was published in the *Federal Register*, on October 15, 2003 (68 FR 59346). The comment period closed on December 29, 2003. The NRC did not receive any comments on the petition.

NRC has considered the petition and your supporting rationale. For the reasons provided in the enclosed *Federal Register* notice, your petition is being denied. In summary, the petition is being denied because the information submitted in the petition and subsequent "Petitioner's Environmental Report," dated January 2005 (hereafter referred to as Report), was not of sufficient scope and depth for NRC to determine the adequacy of this product to be distributed to persons exempt from licensing and regulatory requirements. NRC could not ensure that the public health and safety, and the environment, would be protected based on the information submitted in support of the petition.

You requested that Addendum "A" to the Report be withheld from public disclosure on the basis that it contains confidential and trade-secret information. Ideally, information used to reach decisions on petitions for rulemaking should be public documents (with the exception of classified or safeguards information). In addition, an extensive amount of Addendum "A" was in Japanese, and many of the diagrams and pictures included in Addendum "A" were difficult to read and interpret. You did not provide an English translation of Addendum "A." Because it was clear that, even with a translation of Addendum "A," NRC would not have reached a different decision, we did not ask you to provide a translation. Therefore, NRC did not

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use Addendum "A" in reaching its decision on the petition, and since we do not keep such information unnecessarily, Addendum "A" is being returned to you.

The enclosed *Federal Register* notice denying the petition is being transmitted to the Office of the Federal Register for publication.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice Denying Petition
2. Addendum "A"

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use Addendum "A" in reaching its decision on the petition, and since we do not keep such information unnecessarily, Addendum "A" is being returned to you.

The enclosed *Federal Register* notice denying the petition is being transmitted to the Office of the Federal Register for publication.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

Enclosures:

1. *Federal Register* Notice Denying Petition
2. Addendum "A"

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