

From: Dimmick, Lisa
Sent: Wednesday, December 08, 2010 10:48 AM
To: saporito3@gmail.com
Cc: Barkman Marsh, Molly
Subject: Your petition under 10CFR2.206 pertaining to X-ray backscanners
Attachments: MD 8 11.pdf

December 8, 2010

Mr. Thomas Saporito, Petitioner
Post Office Box 8413
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saporito3@gmail.com

I have been assigned as the Petition Manager for the 10 CFR 2.206 petition that you submitted to the NRC on November 27, 2010, regarding your concerns about "*operation and manufacture of x-ray backscanners*," by Autoclear, Scintrex Trace Corporation and Control Screening.

Section 2.206 of Title 10 of the Code of Federal Regulations describes the petition process – the primary mechanism for the public to request enforcement action by the Nuclear Regulatory Commission (NRC) in a public process. This process permits anyone to petition NRC to take enforcement-type action related to NRC licensees or licensed activities. Depending on the results of its evaluation, the NRC could modify, suspend or revoke an NRC-issued license or take any other appropriate enforcement action to resolve a problem. The NRC staff's guidance for the disposition of 2.206 petition requests is in Management Directive 8.11, which is publicly available.

The 2.206 process provides a mechanism for any member of the public to request enforcement action against NRC licensees. Therefore, because you specifically requested in your letter that the NRC:

- (1) take enforcement action against the licensee, Autoclear, Scintrex Trace Corporation and Control Screening;
- (2) issue a notice of violation to the licensee, Autoclear, Scintrex Trace Corporation and Control Screening; and
- (3) require the licensee, Autoclear, Scintrex Trace Corporation and Control Screening, to determine and document the effects of x-ray backscanner equipment radiation emissions.

Your petition was referred to the 2.206 process. The 2.206 process is separate from the allegations process which affords individuals who raise safety concerns a degree of protection of their identity. In the 2.206 process, all of the information in your letter will be made public, including your identity.

The staff has reviewed your submittal and determined that your petition does not meet the criteria for consideration under the 2.206 process because the NRC does not have jurisdiction

over radiation-emitting electronic products. The NRC regulates nuclear materials and not all sources of radiation. Although the licensee, Autoclear, Scintrex Trace Corporation and Control Screening, held a materials license issued by the NRC, possession and use of radiation-emitting electronic products are not authorized by way of a materials license. (In addition, the NRC license was transferred to New Jersey in 2009). The U.S. Food and Drug Administration's Center for Devices and Radiological Health (CDRH) is responsible for regulating radiation-emitting electronic products. CDRH regulates the manufacture of products. The states regulate the use radiation-emitting electronic products.

Since the staff has made a determination that your petition request does not fall under the jurisdiction of NRC authority, I would like to discuss with you, to assist in understanding the basis of the staff decision, and discuss the disposition of your petition request. Please contact me by phone at 301-415-0694 as soon as you can, preferably by December 13, 2010.

However, in accordance with NRC Management Directive 8.11 (which I have attached for your reference), you have the opportunity to address the NRC Petition Review Board (PRB) to further discuss your petition, either in person at the NRC Headquarters in Rockville, MD, or by telephone conference.

If you would like to meet in person, I will need to schedule a formal public meeting at the NRC Headquarters. If you would prefer to address the PRB via telephone, I will also work with you to coordinate a date/time during the upcoming week. To assist in planning a compatible schedule for all participants at the PRM meeting, please provide your anticipated "windows of opportunity" (that is, periods of time on specific days between now and December 21, 2010) for meeting in person or by telephone.

If you have any questions, please contact me by telephone or email.

Regards,

Lisa Dimmick

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