



International Isotopes Inc.

PR 10CFR Part 110
(77FR02924)

February 16, 2012

DOCKETED
USNRC

Ms. Annette L. Vietti-Cook
Secretary, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

February 17, 2012 (9:45 am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Subject: Comments on Branch Technical Position on the Import of Non-U.S. Origin
Radioactive Sources, Docket ID NRC-2012-0008

Dear Ms. Vietti-Cook:

I appreciate the opportunity to provide comments to the draft Branch Technical Position (BTP) on the Import of Non-U.S. Origin Radioactive Sources which was published in the Federal Register on January 20, 2012 (77 FR 2924). I also want to express my appreciation to the Staff for conducting the January 24, 2012 public meeting to discuss the draft BTP. I attended the public meeting and found it very helpful in understanding the Staff's position regarding the import of non-US origin sources, specifically in regards to sources containing accelerator produced byproduct material.

My reading of the regulation lead me to believe that radioactive sources containing accelerator produced byproduct material would meet the §110.2 definition of *radioactive waste* and would require a specific import license unless these sources met 1 of the 6 exemptions to the §110.2 definition. The basis for my interpretation was the use of the phrase "or equivalent facility" as used in the definition.

Radioactive waste, for the purposes of this part, means any material that contains or is contaminated with source, byproduct, or special nuclear material that by its possession would require a specific radioactive material license in accordance with this Chapter and is imported or exported for the purposes of disposal in a land disposal facility as defined in 10 CFR part 61, a disposal area as defined in Appendix A to 10 CFR part 40, or an equivalent facility; or recycling, waste treatment or other waste management process that generates radioactive material for disposal in a land disposal facility as defined in 10 CFR part 61, a disposal area as defined in Appendix A to 10 CFR part 40, or an equivalent facility.

I was under the impression that a State regulated RCRA facility could be interpreted as "an equivalent facility". Discussion on this topic during the January 24th public meeting clarified the meaning of "or an equivalent facility" as to not include a State regulated RCRA facility. While

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this clarification was provided during the public meeting I believe clarification should be included in the BTP. A statement such as:

Non-use origin radioactive sources containing byproduct material, as defined in paragraphs (3) and (4) of the definition of *Byproduct material* set forth in § 20.1003, does not require a specific import license if it is intended for disposal at a disposal facility authorized to dispose of such material in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

Should you have any questions, please contact me by phone at (208) 524-5300 or by email at jjmiller@intisoid.com.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Miller", with a long horizontal flourish extending to the right.

John J. Miller, CHP
Radiation Safety Officer

JJM-2012-08

Rulemaking Comments

From: John Miller [jjmiller@intisoid.com]
Sent: Thursday, February 16, 2012 1:53 PM
To: Rulemaking Comments
Subject: Comments on Branch Technical Position on the Import of Non-U.S. Origin
Attachments: JJM-2012-08_Comment to draft BTP.pdf

Please find attached letter submitting comments to NRC draft Branch Technical Position.

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