

July 28, 2006

Mr. Thomas K. Fidler, Deputy Secretary
Pennsylvania Department of Environmental Protection
P.O. Box 2063
Harrisburg, PA 17105

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION RESPONSE TO
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
MAY 15, 2006, LETTER ON DISPOSAL AND LICENSING OF TRITIUM EXIT
SIGNS

Dear Mr. Fidler:

I am responding to your May 15, 2006, letter, which responds to my letter, dated March 10, 2006. In your letter, you agreed with the U.S. Nuclear Regulatory Commission (NRC) statement that if tritium exit signs are designed and used in accordance with applicable design standards and NRC regulations, they represent a low public-health risk because there is virtually no external radiation hazard. However, you also stated concerns and requested information related to disposal and product stewardship.

In response to your request, NRC staff searched the Nuclear Material Events Database (NMED) data, from the beginning of this database in 1990, for events involving the improper disposal or loss of tritium exit signs. From 1990 to date, there have been 118 events reported involving the disposal or loss of tritium exit signs, averaging approximately 7 events per year. Note that each event can be comprised of one, or multiple, tritium exit signs lost or disposed of improperly. It should also be noted that the primary function of NMED is to catalogue reportable events based on NRC's regulations, and it can only be used to identify events that have been reported to NRC. The enclosed data from NMED show the number of events per year, the total sum of the events, and the average number of events per year.

NRC has been and continues to be concerned about the improper transfer and disposal of generally licensed devices. NRC issued Information Notices (INs) 87-37 and 99-26 regarding generally licensed devices. In 1987, NRC issued IN 87-37 to inform manufacturers and distributors (vendors) about the results of a study on the effectiveness of the general license. The IN was intended to help the vendors better understand what constitutes potential violations, such as the improper disposal of generally licensed devices. This would enable vendors to more effectively assist their customers (general licensees) in complying with NRC requirements and avoiding violations. In 1999, NRC issued IN 99-26, to alert vendors of the possible threat to public safety caused by misleading marketing and lack of end-user understanding of the general license regulatory requirements. The IN stated that vendors of generally licensed products should provide information to the customers so that they are fully aware, before acquisition of the products, of regulatory responsibilities associated with use, transfer, and disposal of radioactive products.

In response to your request to provide guidance regarding the proper transfer or disposal of generally licensed tritium exit signs, NRC plans to issue guidance regarding the proper disposal of tritium exit signs in the form of a generic communication by December, 2006.

Two provisions of your May 15, 2006, letter request that NRC revise its regulations. If granted, your request for financial assurance requirements for generally licensed exit signs would likely require revisions to 10 CFR Part 31.5, and your request to change the labeling of generally licensed exit signs would require an amendment to subpart B of 10 CFR Part 32. In your letter, in the final paragraph on page three, you requested that NRC, "amend its regulations," and then at the top of page four, you requested that NRC publish, "...an Advanced Notice of Proposed Rulemaking." Therefore, in accordance with established NRC procedures and NRC's obligations under the Administrative Procedure Act, the staff initiated internal processes to treat your letter as a petition for rulemaking, under 10 CFR Part 2.802.

However, in subsequent telephone conversations your staff has indicated that it may not have been your intent to file a petition for rulemaking. If this is indeed the case, please notify me in writing within 30 days that your intent was not to petition for rulemaking. If 30 days are insufficient for you to prepare that response, please advise me in writing that you will require additional time to prepare a complete response. After 30 days, if I have not received written instructions from you, either affirming the letter in question is not a petition for rulemaking or requesting additional time to respond, NRC will continue to proceed with its treatment of your letter as a petition.

Therefore, depending on your response to this letter, the issues you raised regarding financial assurance and the labeling requirements for tritium exit signs will be resolved in one of two ways. If you respond by indicating that you did not intend your May 15, 2006, letter to be treated as a petition, the staff will discontinue the process initiated under 10 CFR Part 2.802. Discontinuing this process will not affect your right to file a new petition dealing with these issues in the future. If you respond by indicating that your May 15, 2006, letter should be treated as a petition, or fail to provide any response within 30 days, the staff will consider your concerns through the process described in 10 CFR Part 2.802.

Sincerely,

/RA/

Jack R. Strosnider, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: Tritium Exit Signs

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Jack R. Strosnider, Director
Office of Nuclear Material Safety
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Enclosure: Tritium Exit Signs

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