

STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

September 15, 2011

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Ms. Cindy Bladey, Chief
Rules, Announcements, and Directives Branch
Office of Administration
MS: TWB-05-B01M
U.S Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Docket: NRC-2011-0162, Prompt Remediation of Radioactive Contamination

Ms. Bladey,

CDPHE staff could not participate in the webinar held on July 25, 2011, but would like to offer the following comments, and appreciates the opportunity to weigh in on the issue of prompt remediation.

NRC is asking if they should proceed with a rulemaking requiring prompt remediation of spills and leaks of radioactive contamination. We concur that a rulemaking should go forward relative to prompt remediation of spills and leaks.

We think NRC should give more consideration to "alternatives to the dose limits to address the intent of this objective."

It must be noted that in many other industries there already are strict regulations, such as under the Resource Conservation and Recovery Act (RCRA) Corrective Action Program addressing cleanup of spills. While we understand that Congress did not want byproduct material subject to dual regulation, facilities licensed under the Atomic Energy Act should have a consistent level of diligence and care when protecting the environment, worker and public health as with other industries. The rulemaking should consider the requirements of RCRA and consider them when formulating the rulemaking.

While we can accept the staff's preferred alternative in the Proposed Technical Basis, it may be more consistent with RCRA to reconsider the alternative listed on page 13, in that it would diminish the ability to delay or not conduct cleanup. It is our experience that financial concerns often drive the

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Attd = C. Glenn (6592)

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licensees decisions, and so consider a requirement to promptly revise the decommissioning funding plan and increase surety upon discovery of the spill or leak such that there is a financial benefit to the licensee to address the spill sooner rather than later.

We agree that soil screening limits and MCLs may be appropriate thresholds but note that many constituents do not have MCLs, and suggest the RCRA 40 CFR 264 Appendix IX table limits be utilized in those cases (as is done for Part 40, Appendix A).

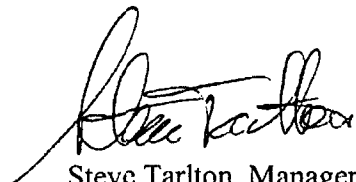
We suggest that in addition to the factors listed on page 8, impacts to financial assurance be added, as noted above. It is our experience that licensees will respond to increases in surety because they would have to tie up money in the surety, and would rather spend the money once in the short term on remediation.

We do not prefer a strict reliance on dose as a criterion for pursuing cleanups. As you note elsewhere, chronic leaks can contaminate large areas without exceeding a dose limit. Spills can have the same effect as chronic leaks if of sufficient quantity, solubility and activity. This is largely an issue of environmental diligence and financial responsibility.

We concur that there are logistical considerations relative to remediation in areas of ongoing operations, however that should not preclude prompt cleanup; rather the evaluation on potential impacts should be clearly demonstrated, i.e. the burden must be on the licensee to demonstrate why cleanup should not be done promptly. We all drive down roads and over bridges that are undergoing construction; it is possible to do both activities safely in many, if not most circumstances.

We appreciate the opportunity to provide comment on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Tarlton", written over a horizontal line.

Steve Tarlton, Manager
Radiation Program

SFT:pve

Cc: Phil Egidi