

August 2, 2012

Annette Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Mail Stop O-16G4
Washington, DC 20555-0001

DOCKETED
USNRC

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Dear Secretary Vietti-Cook,

Thank you for your response dated December 2, 2011, to the petition for rulemaking (PRM) submitted to the U.S. Nuclear Regulatory Commission (NRC) in December 2009 by the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). We are pleased that the NRC is in agreement with ASTSWMO that general licensee accountability may be strengthened by enhancing regulatory guidance and improving communication between the NRC (and Agreement States) and manufacturers. We look forward to contributing to the enhancement of current guidance by participating in the revision of NUREG 1556.

However, ASTSWMO is disappointed that the NRC denied the PRM regarding amending its regulations to improve the labeling and accountability of tritium exit signs. ASTSWMO believes that inadequate labeling has led to the improper disposal of these signs in landfills. This improper disposal practice increases the burden on States that regulate solid waste landfills by tasking these States with monitoring landfill leachate for potential tritium contamination. Since monitoring of this type is not consistent across the country some States may not know if the leachate from their landfills poses a potential impact to public health.

In the NRC's response to ASTSWMO's petition for rulemaking the NRC states:

Another commenter stated that while it is true that sampling of raw, untreated leachate from landfills in Pennsylvania and California confirmed above background levels of tritium, it has been determined that, considering the treatment, dilution and discharge process to which this leachate is subjected, there is currently no risk to drinking water supplies or possible human exposure (76 FR 76626).

The NRC must consider that landfills have a finite life of care and there will come a point when landfill leachate is no longer managed. This unmanaged leachate could impact groundwater and surface water. Additionally, there are other potential exposure pathways associated with improper disposal such as exposure to workers at transfer facilities and use of leachate as dust suppression.

As stated in your response, the results of NRC's Demand for Information on January 16, 2009, demonstrated that there is a lack of awareness among users of tritium exit signs concerning their regulatory responsibilities, which could and sometimes did result in improper disposal of tritium exit signs. The response goes on to say:



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The NRC considered enforcement action against general licensees that were found not to have complied with the regulatory requirements. In one case in which one entity using the general license provisions failed to appoint an individual responsible for ensuring compliance with NRC requirements pertaining to tritium exit signs and improperly transferred signs, the NRC determined that a civil penalty of \$369,300 could be appropriate for improper transfer or disposal of large numbers of tritium exit signs (76 FR 76627).

The NRC decided to exercise enforcement discretion and waived a civil penalty based on the company's prompt, comprehensive and extraordinary corrective and preventive actions.

After it was discovered that there was a problem with accounting for its tritium exit signs, the company applied considerable resources to resolve the problems, including inventorying all tritium exit signs at its stores nationwide, remediating contamination from damaged signs at several stores, and subsequently removing all tritium exit signs in the company's facilities and replacing them with exit signs that do not contain radioactive material. It should be noted that, though these actions benefited the store and the stores workers, there were no actions performed or required to be performed at the landfills to rectify the potential public and environmental consequences due to the improper disposal of these exit signs.

The NRC states, after vendor comment, that ASTSWMO referenced leachate studies do not prove that the tritium originates from exit signs. Currently ASTSWMO believes that improperly disposed tritium exit signs make up the majority of the tritium source term found in landfill leachate. If the majority source is not from improperly disposed exit signs then another causative source of tritium exists. If this is the case then the topic of tritium in landfill leachate is less understood than previous thought and this undefined tritium source should be identified.

ASTSWMO maintains that regulation of tritium exit signs should be amended to enhance tritium exit signs labeling and accountability requirements. ASTSWMO commits to improving industry's awareness of these tritium exit signs issues by working with the U.S. Environmental Protection Agency and presenting papers at forums. We also hope to continue our work with NRC, including our involvement in the revision of the NUREG 1556 guidance to improve communication between the NRC, Agreement States and manufacturers to prevent improper disposal of tritium exit signs.

Sincerely,



Ed Thamke, MT
ASTSWMO President

CC: ASTSWMO Radiation Focus Group
Kevin O'Sullivan, U.S. Nuclear Regulatory Commission