

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[PRM-32-8; NRC-2013-0078]

CampCo Petition to Allow Commercial Distribution of Tritium Markers

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; receipt and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing for comment a petition for rulemaking (PRM) filed with the Commission by CampCo (the petitioner) on December 2, 2011, and supplemented on September 18, 2012. The petitioner requests that the NRC amend its regulations to allow the commercial distribution of tritium markers for use under exemption from licensing requirements.

DATES: Submit comments by **[INSERT DATE 75 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0078**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-8342, e-mail: Vanessa.Cox@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID **NRC-2013-0078** when contacting the NRC about the availability of information for this petition for rulemaking. You may access information related to

this petition for rulemaking that the NRC possesses and is publicly available, by the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0078**. The full text of the incoming petition and supplemental information is available in the docket at www.regulations.gov.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The incoming petition and supplemental information is available in ADAMS under Accession Nos. ML12132A332 and ML13112B010.
- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID **NRC-2013-0078** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. The Petition

The NRC received a PRM (ADAMS Accession No. ML12132A332) requesting that the NRC amend its regulations concerning exemptions from licensing requirements to include illumination markers containing tritium.

On July 5, 2012 (ADAMS Accession No. ML121580046), the NRC requested supplemental information to further clarify the request. On September 18, 2012 (ADAMS Accession No. ML13112B010), the petitioner responded to our request and submitted supplemental information, which clarified that the request is for the NRC to amend its regulations at §§ 30.15, 30.19(c), and 32.22(b) of Title 10 of the *Code of Federal Regulations* (10 CFR) in order to allow the commercial distribution of tritium markers for use under exemption from licensing requirements. The petitioner also provided a dose assessment for the purpose of showing that the tritium markers would result in acceptably low doses.

III. The Petitioner

CampCo is an established wholesale stocking master distributor of tritium watches, knives, flashlights, binoculars, law enforcement and outdoor gear, located in Los Angeles, California.

IV. Background

Section 30.15, "Certain items containing byproduct material," is a list of exemptions from licensing requirements for specific products with specific radionuclide quantity limits and, in some cases, other limits. Section 30.19, "Self-luminous products containing tritium, krypton-85, or promethium-147," is a class exemption for self-luminous products containing certain radionuclides that can be used to create light. A class exemption covers a class of products for which a specific product must be approved through the licensing process, which involves providing safety information about the product and demonstrating that the product meets a number of safety criteria. Paragraph (c) in 10 CFR 30.19 restricts the use of the exemption in paragraph 30.19(a), indicating that the exemption does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments. Section 32.22, "Self-luminous products containing tritium, krypton-85 or promethium-147: Requirements for license to manufacture, process, produce, or initially transfer." contains the requirements for an applicant who wishes to obtain a license to distribute a product for use under the exemption in 10 CFR 30.19. Paragraph (b) of that section indicates that the Commission may deny an application for a specific license if the end uses of the product cannot be reasonably foreseen. The petitioner notes that the NRC has previously denied approval of products because end uses of the product could not be reasonably foreseen.

V. Proposed Actions

The specific actions requested by the petitioner are:

- 1) To amend 10 CFR 30.15 to add a specific exemption for tritium markers with maximum activity of 25 millicuries (925 mBq) of tritium;
- 2) To amend 10 CFR 30.19(c) to add that tritium markers used to label equipment are not considered to be toys or adornments and shall not be sold as such; and

- 3) To amend 10 CFR 32.22(b) to include a statement that an applicant cannot be denied a device registration or license if they have adequately demonstrated that the criteria in the applicable regulations have been met.

The petitioner contends that the statement in 10 CFR 32.22(b), allowing denial of an application if the end use of the product cannot be reasonably foreseen, is a subjective statement without specific criteria and that it is unfair to deny applications based upon subjective statements where the criteria are not codified in the regulations. The petitioner also states that the term “frivolous use” is not clearly defined in the NRC’s policy statement on consumer products (March 16, 1965, 30 FR 3462; proposed revision October 14, 2011, 76 FR 63957) or in NRC’s guidance and that there are no detailed criteria used to make determinations.

VI. Request for Comment

The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under § 2.802, “Petition for rulemaking,” and the petition has been docketed as PRM-32-8. The NRC is requesting public comments on the petition for rulemaking.

Dated at Rockville, Maryland, this 5th day of July 2013.

For the Nuclear Regulatory Commission.

/RA/

Rochelle C. Bavor,
Acting Secretary of the Commission.