

EDO Principal Correspondence Control

FROM: Lisa P. Jackson
State of New Jersey

DUE: / /

EDO CONTROL: G20060660
DOC DT: 06/27/06
FINAL REPLY:

TO: Chairman Klein

FOR SIGNATURE OF : ** GRN ** CRC NO: 06-0356

DESC: Disposal of Generally Licensed Tritium Exit Signs

ROUTING: Reyes
Virgilio
Kane
Silber
Dean
Cyr/Burns
Collins, RI
Schlueter, STP

DATE: 07/21/06

ASSIGNED TO: NMSS CONTACT: Strosnider

SPECIAL INSTRUCTIONS OR REMARKS:

For Appropriate Action.

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jul 21, 2006 08:47

PAPER NUMBER: LTR-06-0356 **LOGGING DATE:** 07/20/2006
ACTION OFFICE: EDO

AUTHOR: Lisa Jackson
AFFILIATION: NJ
ADDRESSEE: CHRM NRC Chairman
SUBJECT: Concerns improper disposal of generally licensed tritium exit signs

ACTION: Signature of Chairman
DISTRIBUTION: SECY to Ack, RF

LETTER DATE: 06/27/2006

ACKNOWLEDGED: No
SPECIAL HANDLING: Immediate release to the public via SECY/EDO/DPC

NOTES:

FILE LOCATION: ADAMS

DATE DUE: 08/03/2006 **DATE SIGNED:**

EDO --G20060660



State of New Jersey
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JON S. CORZINE
Governor

LISA P. JACKSON
Commissioner

June 27, 2006

Honorable Nils J. Diaz
Chairman, Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chairman Diaz:

I have recently been made aware of the Commonwealth of Pennsylvania's Department of Environmental Protection (PADEP) findings concerning their State's leachate monitoring program. This program found significant concentration levels of tritium that were hypothesized to be the result of improper disposal of generally licensed tritium exit signs. Based on the information provided by the PADEP and New Jersey's own history with such disposals, there is no reason to believe results of a monitoring initiative for tritium in New Jersey's landfill leachate would yield different results.

In a letter sent to the U.S. Nuclear Regulatory Commission (Commission) dated July 28, 1998 and signed by New Jersey Governor Christine Todd Whitman, the Governor urged the Commission to take quick and comprehensive action to locate the approximately 1.5 million generally licensed devices that were estimated to be in the nation and to remind the licensees of their responsibility to properly handle the devices while used and especially during disposal. According to the Commission's statistics at that time, 71% of such devices were tritium exit signs.

Also mentioned in the Governor's letter were accounts of two tritium incidents that occurred in our state resulting in several children becoming contaminated as well as more than a half a million dollars in cost to the State to decontaminate the residence of the affected individuals and dispose of the contaminated materials.

As the result of Pennsylvania's findings and New Jersey's experience with tritium incidents, I have the following recommendations for the Commission to consider:

1. Regulators should look into the possible misuse of 10CFR 31.5(c)(9)(ii). Some electrical distributors may be stepping over the line and becoming warehouses and redistributors of exit signs without a Specific License for such activity.
2. Sales literature should be required to clearly state that the devices contain radioactive material and the purchaser becomes a general licensee with rights and responsibilities.

3. Before they are allowed to ship a general licensed device, distributors should be required to obtain from the customer a signed statement that they acknowledge the fact that they received copies of the regulations and they are aware of the rights and responsibilities of a general licensee.
4. There should be a possession limit on the number of generally licensed devices one could possess before they become a Specific Licensee.

The New Jersey Department of Environmental Protection wholeheartedly supports the PADEP in its request that the Commission re-evaluate their regulatory and licensing aspects of tritium exit signs.

If I or my staff can assist the Commission in expediting the necessary regulatory changes, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a long horizontal flourish extending to the right.

Lisa P. Jackson
Commissioner

Office of the Governor

PO Box 004

Trenton, NJ 08625

The Honorable Dr. Shirley A. Jackson, Chairman

U.S. Nuclear Regulatory Commission

Washington, D.C. 20555

Dear Chairman Jackson:

This letter is to express New Jersey's support for an aggressive regulatory program for generally licensed devices containing radioactive material. There is something fundamentally wrong with a regulatory system where the material is tightly regulated at the manufacturer, very restricted in terms of waste disposal, but can be neglected for years at the consumer's location. The consequences of this neglect are that the materials may find their way into the public domain, and present a risk to human health and the environment. I commend your leadership in recognizing that a comprehensive and an expedited program of regulatory reform is needed.

New Jersey has had an increasing number of incidents where radioactive material was found in

scrap metal or in trash. Since 1995, there were 36, 48, and 85 incidents in each year, respectively. When an incident is reported, there is no way to predict whether our staff will be responding to a short-lived radioactive materials from hospital patient waste, or a long-lived radioactive materials from a licensed source that somehow managed to find its way into the public domain. All calls require response, separation of the radioactive materials from the rest of the waste, attempts to find the responsible party, and advice to the new "owner" of the material about options for proper disposal. This shifts the regulatory burden from the Nuclear Regulatory Commission (Commission) to the unwitting discoverer of the source, and from there, to the state.

New Jersey has had two incidents where children were contaminated with tritium from radioactive exit signs. It was only due to quick and comprehensive action by our staff that serious consequences were averted. These actions have been costly, however. Cleanups have cost between \$100,000 and \$200,000 for the tritium incidents. And, there are some 55,000 tritium signs in use in our state. When I learned of these situations, I directed Commissioner Shinn of the Department of Environmental Protection to issue instructions to all fire and police departments in the state for proper handling should they encounter these signs. He also sent letters to all of our building code enforcement officials asking them to take special notice of any of these devices in buildings where a demolition permit was requested.

All of these actions are "after the fact." The philosophy that must be employed is pollution prevention. It is far less costly to regulate these sources during their entire useful life cycle than it is to respond to problems once they have found their way into the environment.

A public briefing on Generally Licensed devices was held on January 21, 1998 and based on consideration of many of the issues raised, the Commission issued a memorandum on April 13, 1998 directing its staff to develop a proposed rule which would require a registration and follow up investigation program, allow initial and annual registration fees and require permanent labeling of devices. This proposed rule, although a laudable effort, would cover only 6,000 of the estimated 100,000 general

licensees nationwide and as I understand it, would not cover radioactive exit signs.

According to the statistics provided by the Commission, radioactive exit signs constitute 71% of the devices used under a general license. Given this fact combined with the recent history of incidents involving radioactive exit signs in New Jersey, I am urging you to take quick and comprehensive action to locate all of the estimated 1,500,000 generally licensed devices in the nation, and to remind all of those licensees of their responsibility to properly handle the devices during their use and especially during disposal.

If there is anything I or my staff can do to assist you in acting quickly to close this regulatory loophole, please do not hesitate to ask.

Sincerely,

Christine Todd Whitman

c: Commissioner Shinn



CHAIRMAN

MCM

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

Aug 27 1998

August 24, 1998

Bob S.

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READ BY CTW

The Honorable Christine Todd Whitman
Governor of New Jersey
Trenton, New Jersey 08625-0001

Dear Governor Whitman:

I am responding to your letter of July 28, 1998, which expressed your concern about incidents of inappropriately handled generally licensed devices and your interest in our efforts to improve the regulatory program to prevent inadvertent exposures and cleanup costs. The Commission is in the process of conducting two rulemakings to address the control of generally licensed devices. The first will provide the basis for instituting a registration system for devices that present a higher risk of inadvertent exposures relative to other generally licensed devices. It is expected that this proposed rule will be published for comment this fall. The initiation of registration will also depend on the development of an automated registration system.

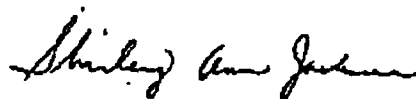
The criteria for inclusion in a registration system were based on the recommendations of an NRC-Agreement State Working Group which focused on higher risk radionuclides such as cesium-137 and cobalt-60. This registration program will not, at least initially, include tritium (H-3) exit signs, because the quantity and radiological properties of the isotope used in these signs is of lower risk significance. We recognize that, because of the nature of these signs, places of use, and very large numbers of them in use, they are involved in a number of incidents of mishandling, loss, and breakage. However, the resulting health and safety impacts of these incidents are relatively low in comparison with the potential impacts from incidents involving devices containing the isotopes and quantities to be included in the initial scope of the proposed registration system. The exposures that resulted in the cases you mentioned were not estimated to exceed the dose limit for members of the public. Although higher doses are possible, it is unlikely for incidents involving tritium exit signs to result in exposures that could have significant health consequences.

Work on a second, more comprehensive rule is also proceeding on a rapid schedule. This rule will consider other aspects of the NRC-Agreement State Working Group recommendations, in particular, revisions to reporting, recordkeeping, and labeling requirements for vendors and fees for registration of generally licensed devices, as well as some additional issues identified by my staff. It will also establish the level of compatibility for Agreement State regulations with regard to the additional requirements in this area. This rulemaking will include some provisions applicable to a much broader range of devices, including exit signs. These provisions include requirements for labeling and transfer of devices and may improve accountability of devices distributed in the future. In so developing the more comprehensive rule, the staff is making efforts to coordinate with the States to develop a cost-effective nationwide program to improve control and accountability of generally licensed devices. There are a number of avenues planned and being explored to involve the States in the process of developing this rule, as well

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as means for implementing an increased oversight program. My staff recently corresponded with Dr. Jill Lipoti, of the New Jersey Department of Environmental Protection, concerning her interest in assisting with this process (enclosed). Dr. Lipoti and Dr. Patricia Holahan of my staff discussed by telephone on August 11, 1998, participation by the State of New Jersey in the rulemaking efforts. We will continue to coordinate closely with Dr. Lipoti and her staff throughout this process.

Sincerely,



Shirley Ann Jackson

Enclosure: As stated