



STATE OF NEW YORK DEPARTMENT OF HEALTH

Office of Public Health

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September 20, 1996

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Joseph DelMedico
Office of Nuclear Regulatory Research
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

DOCKET NUMBER
PROPOSED RULE PR 20
(61 FR 3334)

Re: Draft final rule on unauthorized use of radioactive materials

Dear Mr. DelMedico:

The Department concurs with the views expressed by other Agreement States and the Organization of Agreement States opposing the adoption of this rule. While the Department is concerned about unauthorized use of radioactive materials, the proposed rule does nothing to further protect the public health and safety and only adds another layer of regulation and cost to licensees and regulatory agencies. We are not aware of a single incident (in NYS) where this rule would have prevented an unnecessary exposure or prevented further unauthorized use of radioactive materials.

The draft rule cannot be justified in terms of providing a tangible benefit for the substantial cost it would impose. Additionally, the rule is not consistent with the NRC's recently released Strategic Assessment and Rebaselining Initiative Stakeholder Involvement Process Paper where on page DSI-12-2 it is stated that the NRC as well as Congress have issued directives to use risk-based and cost-benefit criteria in developing regulations. Further, the Department would not be able to justify adoption of this rule based on New York's regulatory process established by the Governor's Office of Regulatory Reform.

If I may be of assistance, please contact this office at (518) 458-6485, FAX: (518) 458-6434, E-mail: smg03@health.state.ny.us

Sincerely,

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Rule
Stephen M. Gavitt

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Stephen M. Gavitt, Chief
Radioactive Materials Section
Bureau of Environmental Radiation
Protection

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