

T R O X L E R

Secretary of the Commission
United States Nuclear Regulatory Commission
Washington, DC 20555

DOCKET NUMBER
PROPOSED RULE PR-304061 et al.
(50FR23960) (53)

'85 SEP 24 A11:36

In Response to: Advance notice of proposed rulemaking "Financial Responsibility Requirements Applicable to NRC Licensees for Cleanup of Accidental and Unexpected Releases of Radioactive Materials". Federal Register, Volume 50 Number 110, Friday June 7, 1985.

The concept and intent of the above referenced notice has merit and deserves additional consideration. With regards to the specific questions in this proposal, we tender the following comments for consideration.

1. Troxler Electronic Laboratories, Inc. is a manufacturer of nuclear testing devices used in the research, construction, and agricultural markets. With over twenty five years of manufacturing experience using special form sealed sources, Troxler gauges have never been involved in any accident or other situation that caused a release of the radioactive material. This history includes our manufacturing operation and the use of the gauges in the field by our customers. Based on the history of this industry and the stringent requirements that must be met before a radioactive material can be called "Special form"; the Commission should consider exempting these types of gauging devices from this requirement.
2. Before the Commission can determine a financial liability, a response action criteria should be established. By giving consideration to the type, quantity and form of the radioactive material, a response guideline can be developed outlining the necessary cleanup actions and the approximate cost for each procedure. This response criteria should be developed taking into account the general public's apprehension and fear of anything "radioactive". Means must be established to ensure that the cleanup actions are necessary and not overkill. A response action guideline will enable all Licensees to review what they are being required to fund. The supplemental information of this proposal gives examples of three incidents which required substantial monetary commitments; and, inference was made that somewhat less than one percent of all fuel cycle and material licensees incurred any cleanup cost. Based on this limited information, the Commission should not penalize or financially burden an entire industry. Notation is made of the comment in this proposal that another United States governmental agency "have gone forward with financial responsibility requirements in the absence of a large documented data base". One agency's assumptive attitude should not be used to attempt justification of another agency's regulatory decision making.

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Acknowledged by card SEP 24 1985

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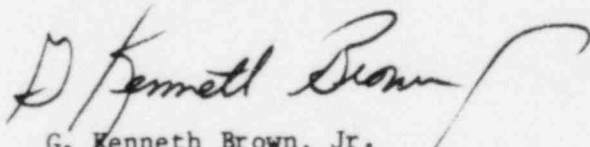
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A much preferable method that would yield the same results as this proposal should be considered. As written, this proposed regulation would be costly to a large segment of American Industries; and, costly and time consuming to the Commission and Agreement State Agencies in attempting to ensure compliance with a regulation that must cover a broad range of Licensees and therefore requires much interpretation. As noted previously, based on the most current data available, in the event of an accidental release the Licensee is able to financially support the cleanup operation. Only one incident was noted in which the government agency expended funds for the cleanup operations. With these facts in mind, the Commission should consider a request to Congress to establish a fund that will be used by the Commission and Agreement States Agencies for cleanup operations. The Commission can then enact one general regulation that makes the Licensee responsible to repay the fund for all cleanup expenditures caused by the material possessed by that Licensee. In this way each Licensee and their insurance carrier can determine the proper way to ensure its financial concerns. Allowing the American Industry to be a responsible partner with the Commission in promoting and providing a quality radiological safety program negates the need for unnecessary and costly regulations.

Submitted September 20, 1985

Respectfully,

TROXLER ELECTRONIC LABORATORIES, INC.



G. Kenneth Brown, Jr.
Quality Assurance Manager
Radiation Safety Officer

GKB/mh

cc: The Honorable Jesse A. Helms
The Honorable John P. East
The Honorable William W. Cobey, Jr.
The Honorable Tim Valentine