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PROPOSED RULE PR-30,40,61 et al. (57)
(50 FR 23960)

American Council of Independent Laboratories, Inc.

1725 K Street N.W., Washington, DC 20006

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September 25, 1985

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Docketing and Service Branch
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gentlemen:

We are writing with regard to the Advance Notice of Proposed Rulemaking (ANPRM) which appears at 50 FR 23961 dated June 7, 1985. This ANPRM is a request for advice and recommendations concerning proposed financial responsibility requirements applicable to NRC licensees for cleanup of accidental and unexpected releases of radioactive materials.

ACIL is the national association of independent inspection, research and testing laboratories. It is comprised of over 250 members, and with a few exceptions the members are all classified as small businesses. Many of our laboratory members are engaged in the construction material inspection and testing area on soils, concrete, and steel. In the execution of their work on soils many use a device identified as a Troxler moisture density gauge. The Troxler gauge, and other similar instruments have a very low-level radioactive source and are included in the "Purpose and Scope" of the SUPPLEMENTARY INFORMATION-BACKGROUND as "users of gauging devices". All of these laboratories using the Troxler gauge and other moisture density gauges are current licensees of NRC. We know of one member who owns 13 Troxler gauges, and another who uses 8 Troxler units. They and other members all support the following recommendation.

ACIL believes that the Troxler moisture density gauges should be exempt from the proposed rulemaking. This would be consistent with the reasoning proposed in SPECIFIC CONSIDERATIONS, Question 2 (d).

Our reasons for this recommendation follow:

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Acknowledged by card... OCT 03 1985

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September 25, 1985

1. The Troxler moisture density gauge is a very low-level source of radiation.

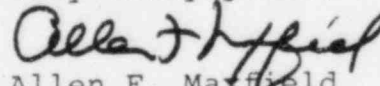
2. The past history of this instrument, with over 20,000 in use shows a perfect safety record. The Troxler gauges have never been involved in an accident that caused a release of radioactive material. An accident that would release the source is highly unlikely.

3. In the "Impact" section of the SUPPLEMENTARY INFORMATION - BACKGROUND of the ANPRM the statement is presented concerning the financial resources of the licensees. As stated earlier many of the inspection and testing laboratories performing the services requiring the Troxler gauges are small businesses. ACIL is concerned that an unwarranted financial burden will be placed on these small businesses no matter what form of financial/legal/insurance mechanism is chosen to assure financial responsibility for cleanup of accidental release of radioactive materials. This statement is based on the general concern within the insurance industry with liability coverage for hazardous and/or radioactive waste and cleanup related activities. Also the concept of setting aside 100% of the estimated cost of cleanup, in the case of licensees utilizing Troxler gauges is meaningless. By this we mean that a laboratory might have to put in escrow a large amount of cash to provide for the cleanup of a very improbable accident. ACIL notices the \$2,000,000 baseline stated in the NRC proposal.

4. The administrative cost to the licensees would also be an unnecessary burden for many small laboratories. While they can accept the licensing requirement which is financially expensive now, the added documentation would also be a severe time problem as they attempt to show financial responsibility to NRC.

For all of these reasons ACIL recommends that the Troxler nuclear moisture density gauges be excluded from the proposed regulation. We will be pleased to answer any questions you may have.

Very truly yours,



Allen F. Maxfield

Chairman, Government Relations