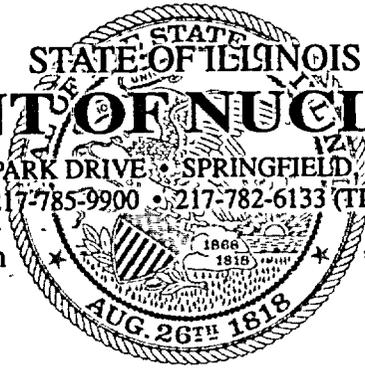


STATE OF ILLINOIS  
**DEPARTMENT OF NUCLEAR SAFETY**

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704  
217-785-9900 • 217-782-6133 (TDD)

George H. Ryan  
Governor



Thomas W. Ortziger  
Director

January 9, 2003

U.S. Nuclear Regulatory Commission  
ATTN: Andrew Mauer  
1 White Flint North  
11555 Rockville Pike, 3<sup>rd</sup> Floor  
Rockville, MD 20852

Re: Early Opportunity to Comment on Proposed Portable Gauge Rule (STP-02-083)

Dear Mr. Mauer:

The Illinois Department of Nuclear Safety hereby submits the following comments on the above-identified draft proposed rulemaking. The rulemaking would enhance current NRC practice by requiring a minimum of two controls to secure portable gauges while in storage, in transport, or in storage incidental to transportation. The new requirements would be similar to those currently required by Florida and a few other Agreement States.

The Department of Nuclear Safety does not object to either the intent or scope of the proposed rulemaking. We agree with the NRC that the current loss rate of portable moisture/density gauges is unacceptable, particularly in light of the potential economic impact of lost gauges on the scrap and steel industries. We also agree that the loss of moisture/density gauges in the public domain creates a negative impression about the use of radioactive material. We fear that this impression could contribute to undesirable public policies in the future.

The proposed rule would clarify the NRC's expectations for control of portable gauges. Although we do not oppose such a step, we recommend that the NRC take additional measures if it seriously wishes to address the root cause of lost portable gauges. We believe that the most important of these is the training provided to workers who directly use portable moisture/density gauges. Our experience shows that most gauges are lost because workers failed to follow existing procedures rather than because procedures were inadequate in the first place. Indeed, we encounter situations where workers are neither aware of their employer's security requirements, nor the basis for them and the difficulties that might ensue if a moisture/density gauge were lost.

We therefore encourage the NRC to work with the Agreement States to prepare training standards for workers. The NRC's rule at 10 CFR 34.43 describes a comprehensive training and audit program for industrial radiographers, provisions of which could be adapted to the use of

portable moisture/density gauges. It is apparent that any such training program must emphasize the importance of device security and include procedures for maintaining physical control of devices. We note that these topics are underemphasized or absent from training provided by some manufacturers.

Beyond improvements in worker training, the Illinois Department of Nuclear Safety believes that strong enforcement coupled with an informational process are necessary to drive home the importance of device security. Consequently, and in consideration of the public's heightened sensitivity following the events of September 11, 2001, the Department of Nuclear Safety is aggressively pursuing enforcement against licensees that have lost control of moisture/density gauges. This includes the imposition of monetary civil penalties. The department plans to report to the regulated community the details and results of such enforcement cases. We anticipate that the knowledge thus imparted will demonstrate to licensees the economic advantage of maintaining physical control of devices.

In conclusion, the Department of Nuclear Safety believes that enhanced security requirements alone are inadequate to solve the problem of lost portable gauges. In addition, we recommend that regulators require licensees to instruct workers in relevant security requirements and their importance. We further suggest that regulatory agencies review enforcement and informational practices to ensure that licensees are aware of the obligation to maintain control of radioactive materials.

Thank you for the opportunity to comment on this draft proposed rulemaking. My telephone number is 217-785-9930 if you have questions or comments.

Sincerely,

  
Joseph G. Klinger, Chief  
Division of Radioactive Materials

JGK:kjg

cc: Jim Lynch  
NRC Region III



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OF NUCLEAR  
SAFETY

1035 OUTER PARK DRIVE  
SPRINGFIELD, ILLINOIS 62704

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U.S. Nuclear Regulatory Commission  
ATTN: Andrew Mauer  
1 White Flint North  
11555 Rockville Pike, 3rd Floor  
Rockville, MD 20852

20832+2738 13

