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~~DOCKET NUMBER~~
PROPOSED RULE PR 30
(68FR 45172)



October 10, 2003

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTN: Rulemaking and Adjudications Staff

Re: RIN 3150-AH06
Proposed Rule Concerning Security Requirements for Portable Gauges

DOCKETED
USNRC

October 14, 2003 (10:46AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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AMEC Earth & Environmental, Inc. (AMEC) is a multi-faceted firm with 51 offices in the United States. We hold 11 State licenses and an NRC license for moisture/density gauges as well as an industrial radiography license. We presently have 18 permanent locations throughout the United States that utilize gauges. AMEC's corporate radiation safety program began in 1991 and has developed into a program that we are very proud of. Our comments are as follows:

The proposed rule will not keep one gauge from getting stolen.

Licensee's have always been required to maintain "adequate security" of their materials. Adequate means good enough so that the material is not stolen. The information published in the Federal Register states that approximately 450 gauges have been stolen since 1990 and that more than two thirds of this number were basically stolen from homes from the open bed of a pickup truck after the chain was cut. Obviously, leaving the gauge in the open bed of a pickup truck chained to the side of the truck in someone's driveway has not been "adequate security" and, therefore, a violation of regulatory requirements for 13 years. Yet, this practice continues with almost all licensees. Attached to this submission is the form that AMEC utilizes (for Arizona) that technicians must complete to receive approval prior to storing a gauge at home. Unless security is "adequate" permission is not granted. AMEC has had one gauge stolen from a technician's driveway – he did not have permission to store the gauge at home and was terminated for violation of radiation safety program requirements.

Since September 11, 2001 we have received 48 notices requiring the implementation of extra security measures regarding our gauges. AMEC has implemented many. On September 4, 2003, King 5 news in the State of Washington reported a gauge being stolen from a technician's driveway. A quote from the article states "The company says it's now tightening it's security procedures....". After ignoring two years worth of notices requiring that extra security measures be implemented, they now say they are tightening their security procedures for penalty mitigation. Every licensee that is still allowing technicians to store a gauge at home, in the driveway, in the open bed of a pickup truck, is not only in violation of the original "adequate security" regulatory requirement that has been in place for more than 20 years, but are also in violation of the many requirements for additional security measures to be implemented that have been issued for the last two years.

Since most licensees will ignore the new rule as they have the rules that are now in effect, the only licensees that will be affected are the licensees that strive to remain compliant. The compliant licensees will take the time and spend the money to meet the new rule. The compliant licensees are paying the price for the non-compliant licensees and gauges will be stolen at the same rate as they are now.

This is going to sound strange coming from a licensee, however, the better solution is stricter enforcement of the regulatory requirements that are now in effect. Instead of penalizing all licensees, penalize the non-compliant ones.

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Limitation of "Adequate Security"

If the methods of "adequate security" are dictated in as much detail as in the proposed rule, it severely limits our ability to be creative regarding the security that is necessary. If we are storing a gauge at Vandenberg Air Force Base that has armed guards, normal security will suffice. If we are storing a gauge at a construction site in a high crime area without much security, many additional measures will be necessary.

Stolen Devices Ending Up In Steel Mills

The information in the Federal Register does not specify how many moisture/density gauges have been found in steel mills for recycling or, of that number, how many are believed to be stolen devices. I believe that a study would show that most of these devices end up in scrap yards due to the difficulty of disposing of the equipment, and the associated cost.

Thank you for the opportunity to comment.

Respectfully submitted,

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Dmk/dmk
c: file

**AMEC EARTH & ENVIRONMENTAL, INC.
GAUGE STORAGE APPROVAL SHEET
OVERNIGHT HOME STORAGE**

LICENSE NUMBER _____

GAUGE INFORMATION:

MAKE _____ MODEL _____ SN _____
CONTENTS: _____ ACTIVITY: _____

PROPOSED DATES OF STORAGE: FROM _____ TO _____

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LAST LEAK TEST DATE: _____

TECHNICIAN INFORMATION:

NAME _____ PHONE _____

ADDRESS _____

DETAILS REGARDING WHERE GAUGE WILL BE STORED, AND HOW GAUGE WILL BE KEPT SECURE: (BE
DETAILED - i.e. IN LOCKED GARAGE,
ETC.) _____

I FULLY UNDERSTAND THAT I AM TO KEEP THE ABOVE LISTED GAUGE SECURE AT ALL TIMES
WHILE IN MY POSSESSION, AND THAT BY STORING THE GAUGE AT MY RESIDENCE, I AM
GRANTING THE ARIZONA RADIATION REGULATORY AGENCY THE AUTHORITY TO INSPECT
THE GAUGE AT MY RESIDENCE AT ANY TIME IT IS PRESENT.

Name (Printed) _____

Signature _____

RSO NAME _____

SIGNATURE _____

DATE _____

APPROVED _____ DECLINED _____

Copy faxed to ARRA _____