

## FACTUAL SUMMARY FOR OI REPORT 2-2005-003

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region II, on January 12, 2005, to determine if a former employee of Foundation Engineering Sciences, Inc. (1) deliberately violated NRC requirements by failing to properly control radioactive material in an unrestricted area, and (2) deliberately failed to report the theft of licensed material to licensee management and the NRC. The licensee had reported to the NRC on October 25, 2004, that a gauge containing cesium-137 and americium-241 (NRC licensed radioactive material) was stolen from the back of a company truck on October 18, 2004. The former employee filed a police report upon discovery of the theft on October 18, 2004, but did not report the theft to his management until October 25, 2004. Subsequently, the gauge was recovered from a nearby pawn shop on October 29, 2004.

Based on the evidence developed during this investigation, OI concluded (1) that the former employee deliberately failed to secure, control or maintain constant surveillance of a portable nuclear gauge containing NRC licensed material (americium-241 and cesium-137) when it was in an unrestricted area in violation of 10 CFR 20.1802, and (2) that the former employee deliberately failed to report the theft of the gauge to licensee management and the NRC.

In making the conclusion that the former employee deliberately violated NRC requirements regarding proper control of licensed material, the NRC noted that the former employee admitted that he knowingly violated policy and regulations by not securing the gauge with locks, and by not having the gauge properly secured within his vehicle.

In making the conclusion that the former employee deliberately failed to report the theft of the gauge to licensee management and the NRC, OI considered that (1) the former employee filed a police report indicating that the gauge was stolen from the back of his vehicle on October 18, 2004, yet he did not notify licensee management until October 25, 2004, after being confronted by licensee management as to the location of the gauge; (2) the former employee borrowed a gauge after his was stolen telling at least four other licensee employees that his gauge had been sent out for repairs; (3) the former employee admitted that he placed a notation on the stolen gauge's log sheet indicating that it had been returned to storage even though he knew the gauge, at that time, had been stolen; and (4) evidence obtained during the investigation indicated that the former employee attempted to conceal from licensee management that he had borrowed a gauge from another individual during the time that his gauge was stolen.

Licensee: Foundation Engineering Science, Inc.  
License No.: 45-25374-01  
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