



NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

Office of Public Affairs, Region I
475 Allendale Road, King of Prussia, Pa.

www.nrc.gov

No. I-05-063

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November 23, 2005

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NRC PROPOSES \$3,250 CIVIL PENALTY FOR VIRGINIA FIRM OVER TEMPORARY LOSS OF GAUGE HOLDING RADIOACTIVE MATERIAL

The Nuclear Regulatory Commission staff has proposed a \$3,250 fine for a Virginia company over the temporary loss of a portable nuclear gauge last year. The device, which contains radioactive material and is used for industrial purposes such as measuring the density of soil at construction sites, is owned by Foundation Engineering Science, Inc., of Newport News, Va.

Based on the results of an NRC staff inspection and an investigation by the Office of Investigations, the NRC has determined that two violations of agency requirements occurred when a gauge owned by the company was stolen from one of its vehicles on Oct. 18, 2004, in Newport News. The device was not recovered until Oct. 29, 2004.

The NRC requires that nuclear gauges be secured against unauthorized removal or access. However, a company employee left the vehicle holding the gauge unlocked and unattended in a public parking lot, which is an unrestricted area. In addition, the company failed to report the theft of the device until Oct. 25, 2004, even though NRC regulations require the immediate reporting of such losses.

“Although you determined that the source material remained in its shielded position during the time the gauge was in the public domain and, therefore, it was unlikely that any member of the public received measurable radiation exposure, these violations are of concern to the NRC because (1) the failure to control radioactive material resulted in the gauge being in the public domain for approximately eleven days; and (2) such sources can result in unintended radiation dose to an individual if the source is removed from the shielded position,” NRC Region I Administrator Samuel J. Collins wrote in a letter to the company regarding the enforcement action.

Foundation Engineering Science representatives discussed the violations with NRC staff during a predecisional enforcement conference on Oct. 4, 2005. During that session, the company acknowledged the facts surrounding the loss of the gauge and its failure to immediately report the event to the NRC, and stated its regret that the event had occurred. The firm also discussed immediate and long-term corrective actions to ensure there is no recurrence of such violations. These include taking disciplinary action against the gauge user responsible for failing to maintain control of the gauge;

briefing all staff members on the event; and increasing field audits of gauge users to ensure proper control of NRC-licensed material.

Besides the enforcement action against Foundation Engineering Science, the NRC has issued a Severity Level III Violation to the company employee who was responsible for the gauge at the time it was removed from the vehicle. The violation issued to the employee is based on a finding by the NRC Office of Investigations that he engaged in deliberate misconduct by leaving the device unsecured in the back of the vehicle in a public parking lot and by not immediately notifying his employer of the theft.

Both the company and the individual, who no longer works for the company, are required to provide the NRC with written replies to the violations within 30 days.

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