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# NRC NEWS

## U.S. NUCLEAR REGULATORY COMMISSION

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### **NRC PROPOSES \$3,250 FINE FOR VA. FIRM FOR IMPROPER GAUGE TRANSFERS**

The Nuclear Regulatory Commission has proposed a \$3,250 fine for a Virginia company for an apparent violation of agency requirements involving the improper transfers of portable nuclear gauges. The devices, which contain radioactive sources, are used for industrial purposes such as measuring soil density.

During an NRC inspection conducted in May 2004, as well as a subsequent investigation by the agency's Office of Investigations completed in March 2005, the NRC determined that portable gauges holding licensed nuclear material were transferred from the Chantilly, Va., office of ECS Mid-Atlantic, LLC, to Universal Calibrations (UC) of Westbrook, Maine. These transfers occurred even though UC is not authorized by either the NRC or an Agreement State license to receive such material. (Agreement States are states that have reached an agreement with the NRC to regulate within their borders radioactive materials typically licensed by the NRC. Maine is an Agreement State; Virginia is not.) Further, ECS Mid-Atlantic did not verify via an acceptable method whether UC was an authorized recipient of the material.

The improper transfers, involving several gauges, took place on April 29, 2004 and other undetermined dates.

Because the NRC considers the gauge transfers from the Chantilly office to be willful, a civil penalty has been proposed for the apparent violation. Separately, the NRC is issuing a Severity Level III violation to the company's Richmond office for the improper sale and transfer of a portable gauge to UC on Sept. 15, 2003, which was not deemed to be willful.

"Although the individual who received the gauges from your Richmond and Chantilly facilities was knowledgeable in the proper procedures for handling radioactive material, these violations are of concern to the NRC because the transfer of licensed material to an individual not authorized to receive or possess the material is a violation of NRC requirements and circumvents the NRC licensing process," NRC Region I Administrator Samuel J. Collins wrote to the company regarding the enforcement action. "The transfer of licensed material to an unauthorized individual could have exposed members of the public to unnecessary risks."

ECS Mid-Atlantic attended a Predecisional Enforcement Conference in the NRC's Region I Office on July 28, 2005. At that meeting, company representatives acknowledged the facts surrounding the transfers of the gauges, discussed steps the firm had taken to prevent a recurrence and took exception to the NRC conclusion that the transfers from the Chantilly facility were willful.

In addition to the fine proposed for ECS, the NRC has issued an order to John Myers, UC's president and sole employee. It prohibits him from engaging in NRC-licensed activities for five years for deliberately violating NRC requirements by taking possession of the gauges without an NRC or Agreement State license to possess byproduct material.

Both ECS Mid-Atlantic and Myers are required to respond in writing to the enforcement actions.

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