



NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

Office of Public Affairs, Region I
475 Allendale Road, King of Prussia, Pa. 19406

Site: <http://www.nrc.gov>

No. I-09-016

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March 25, 2009

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NRC PROPOSES \$16,500 FINE AGAINST PUERTO RICO FIRM FOR VIOLATIONS PERTAINING TO NUCLEAR GAUGE SECURITY

The Nuclear Regulatory Commission staff is proposing a \$16,500 fine for a Puerto Rico company for three violations of agency requirements involving the security of portable nuclear gauges. Such gauges contain a small amount of radioactive material and are used for industrial purposes such as measuring the moisture content and density of soil at construction sites.

The violations against S&M Testing Laboratory were identified as a result of NRC inspections and an investigation by the agency's Office of Investigations. They include: (1) the storage of NRC-licensed radioactive material, contained in portable gauges owned by the company, at an unauthorized location; (2) a failure to respond to repeated NRC letters and phone calls requesting information on the company's licensed activities and the storage of the gauges; and (3) a failure to adhere to NRC requirements on physical security controls for the gauges.

Beginning in May 2007, the NRC sought to inspect S&M Testing's licensed activities as they relate to radiation safety and compliance with agency regulations and conditions. Attempts to reach the company by phone and certified letter were unsuccessful. On Dec. 6, 2007, an NRC inspector tried to inspect S&M Testing's licensed storage location in Caguas, Puerto Rico, and determined that the firm had vacated the premises. When the inspector contacted the company's President/Radiation Safety Officer (RSO) on the same day, she refused to provide information about either the location or condition of the gauges.

On March 7, 2008, the NRC Office of Investigations began an investigation to locate the President/RSO and the gauges. With the assistance of the Federal Bureau of Investigation (FBI), the investigators were able to find and contact the President/RSO on Aug. 6, 2008. At that time, she informed the NRC and FBI that the lease on the licensed storage location had expired and the gauges had been moved to a private residence in Gurabo, Puerto Rico. The gauges were stored at that unauthorized location between May 1, 2007, and Sept. 23, 2008. Further, she said S&M Testing no longer needed the gauges, but it did not have the resources to properly dispose of them. The NRC responded by arranging, through the Conference of Radiation Control Program Directors (CRCPD), for a contractor to remove the gauges from the Gurabo location, where they

were being kept in locked metal boxes under the portico of the home. This method of storage did not meet the NRC requirement that a minimum of two independent physical controls be used to secure gauges from unauthorized removal when they are not under the control and surveillance of company personnel. The CRCPD contractor appropriately stored the gauges until Nov. 19, 2008, when they were transferred to a vendor for disposal.

“The storage location was not an adequate facility for the storage of licensed radioactive material,” Cynthia Carpenter, Director of the NRC’s Office of Enforcement, wrote in a notice regarding the enforcement action sent to the company. “The storage location was neither properly controlled nor appropriately protected from the environment. This increased the potential that the gauges could have been accessed by a member of the public, thereby increasing the potential for members of the public to be exposed to radiation if the gauges had been mishandled.”

In addition to the violations for which the fine has been proposed, the NRC is also issuing an order prohibiting the President/RSO from involvement in NRC-licensed activities for five years. The order is based on the following: (1) her deliberate failure to obtain NRC authorization for the storage of the gauges at a location other than the approved site in Caguas; and (2) a deliberate failure to provide the NRC with an opportunity to inspect the gauges.

S&M Testing has 30 days to respond in writing to the Notice of Violation.

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