

FACTUAL SUMMARY FOR OI REPORT 1-2004-027

This investigation was initiated by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, on May 20, 2004, to determine if (1) a former employee of Professional Inspection and Testing Services (PITS) deliberately violated NRC requirements by failing to control radioactive material in an unrestricted area, and (2) whether officials of PITS failed to notify the NRC in a timely fashion of the missing/stolen radioactive material.

Based on the evidence developed during this investigation, OI concluded (1) that a former employee of PITS 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 and did so with the knowledge that this was in violation of 10 CFR 20.1802 and Condition 16 of the company's NRC license, and (2) that there is insufficient evidence to conclude that PITS failed to make a timely report to the NRC concerning the missing/stolen radioactive material.

In making the conclusion that the former PITS employee deliberately violated NRC requirements, the NRC considered that the nuclear gauge was last known to have been used by the employee at a location in Maryland on March 25, 2004. Company officials were unable to contact the gauge user when he did not arrive at an assigned work location on April 2, 2004, and after all attempts to locate him failed, reported the vehicle used by the employee stolen. On April 5, 2004, local law enforcement officials recovered the company vehicle which did not contain the gauge. However, the gauge was later found on April 15, 2004, in the apartment of a friend of the gauge user. The nuclear gauge was unlocked at the time it was recovered and in the possession of persons unauthorized to possess the material. Regarding this finding, OI was unable to locate the gauge user for an interview and OI noted that as of the time of this report, the individual remained a fugitive based on an active arrest warrant.

Regarding the actions of PITS company officials with respect to the timeliness of reporting the missing gauge, the NRC considered that, although company officials were unable to contact the gauge user, evidence indicated that they believed that the gauge was secured at the gauge user's assigned work location. On April 2, 2004, after all attempts to locate the former employee failed, company officials initiated a physical inventory of all company gauges. The physical inventory of all company gauges was completed on April 6, 2004, and the company contacted the NRC on April 7, 2004, to report the gauge missing after verifying that the gauge was not at the gauge user's assigned work location.