

No: I-14-005

February 6, 2014

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NRC Proposes \$3,500 Fine for Pennsylvania-Based Firm Over Temporary Loss of Nuclear Gauge in West Virginia

The Nuclear Regulatory Commission staff is proposing a \$3,500 civil penalty for a Pennsylvania-based company over violations involving inadequate control and security of a portable nuclear gauge. The gauge went temporarily missing in West Virginia last May.

Small amounts of radioactive material are housed in the gauge, which is used for such industrial purposes as measuring the density of soil at construction sites.

“While this gauge was fortunately recovered through the assistance of a citizen, the potential existed for a significant exposure to radioactivity had its container been breached,” NRC Region I Administrator Bill Dean said. “We continue to emphasize to the companies that use nuclear gauges that the utmost care must be taken to ensure they are properly secured and protected.”

On May 3, 2013, Valley Quarries, Inc., based in Chambersburg (Franklin County), Pa., reported that one of its nuclear gauges was missing. One of the company’s employees had been using the device that day to take a compaction reading at a road construction site near Martinsburg, W.Va. After completing the reading, the individual placed the gauge in the back of a pick-up truck and departed for another work site.

Upon arriving at the second site, the employee realized the truck’s gate had opened and the gauge was missing. A search for the gauge failed to locate it.

However, a member of the public found the device on the roadside. After seeing public notices from the Pennsylvania Department of Environmental Protection (DEP) and the NRC that the gauge was being sought, the citizen turned it over to the DEP on May 15. The DEP later returned the gauge to Valley Quarries.

Based on subsequent inspections by the NRC staff and an investigation by the agency’s Office of Investigations, the NRC is proposing the fine for three violations of agency requirements: (1) failure to properly secure the gauge from shifting during transport; (2) failure to control and maintain constant surveillance of the gauge; and (3) failure to use two independent physical controls to secure the gauge from unauthorized removal.

Valley Quarries is licensed to use nuclear gauges by Pennsylvania, which is an NRC Agreement State. That means the state oversees nuclear material license-holders within its borders. However, the company was performing the work in West Virginia, which is not an Agreement State, under a

reciprocity agreement with the NRC. Therefore, this event was under the NRC's jurisdiction, though the agency coordinated follow-up activities with Pennsylvania.

The company is required to provide the NRC with a response to the proposed civil penalty within 30 days.