

November 21, 2003
EN 03-048

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: ABB, Inc. (EA-03-196)
 Columbus, OH 43202-1577
 Docket No. 999-90002

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$3,000

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$3,000 will be issued on or about November 25, 2003, to ABB, Inc. This action is based on a Severity Level (SL) III problem involving the loss of a sealed source capsule from a gauge holder during preparation of the source for shipment. The source contained approximately 78 millicuries of strontium-90. Specifically, the licensee failed to secure the sealed source during dismantlement of the gauge which was located at a temporary job site at the Lees Carpet facility in Glasgow, Virginia (an unrestricted area). The licensee did not limit access and maintain constant surveillance of this licensed material resulting in the loss of the source, into the public domain (likely sent to the landfill in Rockbridge County, Virginia).

Although application of the normal civil penalty assessment process would not have resulted in a civil penalty in this case, the revised Enforcement Policy, published December 18, 2000, (effective February 16, 2001) provides that, notwithstanding normal application of the civil penalty assessment process, a civil penalty of at least the base amount should normally be proposed in this type of case to reflect the significance of the violations and to emphasize the importance of maintaining control of licensed material (see Section VII.A.1(g) of the Enforcement Policy). The revised Enforcement Policy also provides that civil penalties may be adjusted to better correspond to three times the actual cost for authorized disposal. The licensee stated that a vendor's estimated cost of disposal for the device was approximately \$260. However, the Enforcement Policy also states that a civil penalty amount less than lowest civil penalty listed in the Enforcement Policy Tables 1A.f3 and 1B (\$3000) would not be sufficient to adequately emphasize the importance of maintaining control of radioactive material. Therefore, the staff is proposing imposition of the base civil penalty in the amount of \$3,000.

It should be noted that the licensee has not been specifically informed of the enforcement action. The schedule of issuance and notification is:

Mailing of Notice
Telephone Notification of Licensee

November 26, 2003
November 26, 2003

The State of Ohio and the Commonwealth of Virginia will be notified.

The licensee has thirty days from the date of the Notice in which to respond. Following NRC evaluation of the response, the civil penalty may be remitted, mitigated, or imposed by Order.

Contacts: Sally L. Merchant, OE, 415-2747; James Luehman, OE, 415-2741

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**PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION**