

personnel radiation exposure. As a member of the group of transuranic elements, with alpha particle emissions, a physical half life of 458 years and an effective half-life in bone of about 140 years, unsealed and uncontrolled americium-241 is a significant internal radiation exposure hazard. Moreover, the fundamental cause of this incident was that the licensee possessed radioactive material and was not aware of it and did not control it.

In the view of the NRC staff, it is important to provide a strong message to licensees that it is not acceptable to possess radioactive material without appropriate controls. Given the quantity of licensed material that was lost, a civil penalty is warranted. Accordingly, pursuant to Section VII.A.1. of the Enforcement Policy, the NRC is exercising discretion by assessing a civil penalty to reflect the significance of not maintaining awareness of possession and not controlling the material.

#### *Summary of Licensee's Request for Mitigation*

The Dial Corporation (Dial) requests that the proposed civil penalty be mitigated for extenuating circumstances and as a Violation Involving Special Circumstances under NUREG-1600, Section VII.B.6. Dial indicates in its July 16, 1996, "Answer to a Notice of Violation," that the loss of the source was an inadvertent, one-time occurrence, that the loss occurred as long ago as 1992, and the loss was of limited safety significance.

Dial also contends that it was unaware of the presence of the device from the time of the asset transfer (from Purex) which occurred in 1985 until the October 25, 1995 call from OSHA. Therefore, it could not be expected to have prevented the violation.

Dial contends further that since it has no intention of possessing any licensed material in the future, a civil penalty can have no deterrent effect, and that the NRC enforcement program or goals are not served by imposing a penalty.

Finally, Dial took exception to the amount of the proposed civil penalty, contending that the amount of the penalty exceeded the \$730 that Dial estimated would be the cost to dispose of an americium-241 source.

#### *NRC Evaluation of Licensee's Request for Mitigation*

The NRC has reviewed the Licensee's request to mitigate the civil penalty pursuant to Section VII.B.6 of NUREG-1600, "Violations Involving Special Circumstances." As previously noted, the loss of the americium-241 source has potential radiation safety consequences for Dial employees and the general public. The NRC has not identified any other extenuating or special circumstances in the NRC Enforcement Policy or in Dial's response that warrants mitigation of the civil penalty.

The Licensee contends that from the time the London, Ohio, facility was purchased in 1985 from The Purex Corporation, it was unaware that it possessed licensed material until it was contacted by the Occupational Safety and Health Administration (OSHA), on October 25, 1995, and could not have been reasonably expected to prevent the violation. This contention is not supported

by the evidence. On May 21, 1991, NDC Systems, the manufacturer of the americium-241 gauge, repaired the device and on May 24, 1991, returned it to Dial at the London, Ohio, facility. Furthermore, NDC analyzed a leak test sample from the americium-241 source and provided Dial with a Leak Test Certificate, dated October 10, 1991.

Therefore, it is reasonable to conclude that Dial was or should have been aware of the americium-241 gauge before OSHA contacted the London, Ohio, facility about radioactive materials on October 25, 1995.

The NRC disagrees with the Licensee's contention that a civil penalty can have no deterrent effect and that the NRC's enforcement program and goals are not served by imposing a civil penalty. A civil penalty imposed for lost or missing radioactive sources emphasizes the importance the NRC places on the control of licensed material. It encourages compliance in all licensees in a manner that deters future violations.

The Licensee stated that if a civil penalty must be imposed, a civil penalty of \$730 would be realistic because it is the amount that Dial estimates it would cost for proper disposal of the americium-241 source. The Licensee based its estimate of \$730 for disposal on the cost of disposing of two, nominally 25 millicurie (925 MBq) sources of strontium-90. The Licensee did not consider the added cost for disposing of a transuranic (americium-241).

The staff contacted both the device manufacturer and an NRC-licensed waste disposal broker. The manufacturer indicated that it would cost about \$500 to have a device containing americium-241 returned for refurbishment. The waste broker estimated that it would cost approximately \$5,000 to take the americium-241 source for disposal. Consideration was therefore given to increasing the civil penalty to reflect the cost of disposal. However, in consideration of your intent not to possess radioactive material in the future, the civil penalty was not increased.

#### *NRC Conclusion*

The NRC has concluded that this violation occurred as stated and has potential safety consequences. Consequently, the proposed civil penalty in the amount of \$2,500 should be imposed. The NRC has also reconsidered the application of the enforcement discretion provisions in Section VII.A.1.(g) of the NRC Enforcement Policy. A \$2,500 civil penalty is in accordance with the discretion authorized in Section VII.A.1. of the NRC Enforcement Policy.

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[Docket No. 50-267]

### **Notice of Public Meeting With Public Service Company of Colorado on Decommissioning and License Termination of Fort St. Vrain Nuclear Generating Station, Platteville, Colorado**

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) will hold a public meeting in Platteville, Colorado on December 3, 1996, to discuss information concerning the decommissioning and license termination of the Public Service Company of Colorado's Fort St. Vrain Nuclear (FSV) Generating Station facility near Platteville, Colorado.

The entire meeting will be open to the public, NRC staff, licensee, local officials and citizen groups to provide comments, present questions, and share information concerning the status of decommissioning at the FSV facility and the projected schedule for the termination of the license.

**DATES AND ADDRESSES:** The meeting will be held on December 3, 1996, at the Platteville Community Center located at 508 Reynolds Ave, Platteville, CO. The meeting will begin at 7:00 p.m. and will end at 8:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Clayton L. Pittiglio, Project Manager, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T-7-F27, Washington, DC 20555-0001. Telephone (301) 415-6702.

Dated at Rockville, MD this 5th day of November 1996.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,  
Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

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## **SECURITIES AND EXCHANGE COMMISSION**

### **Request for Public Comment**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 24b-1, SEC File No. 270-205, OMB Control No. 3235-0194.

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