

June 16, 2004
EN 04-037

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Pepperidge Farm, Inc. (EA-04-074)
Norwalk, CT 06851-4482
Docket No. 99990001

Subject: PROPOSED IMPOSITION OF CIVIL PENALTY - \$7,500

This is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$7,500 will be issued on or about June 21, 2004, to Pepperidge Farm, Inc. This action is based on a Severity Level (SL) III violation involving the failure to maintain control of a moisture sensor device containing 36 millicuries of cesium-137 (Cs-137) which resulted in the loss of the device. Specifically, when production ceased at the facility, and the device was taken out of service, the licensee failed to secure the device, resulting in its loss. The licensee concluded that the device was most likely inadvertently sent to a salvage yard for recycling. In addition, the NOV includes three additional Severity Level IV violations involving (1) the failure to appoint an individual responsible for having knowledge of the appropriate regulations and requirements and having the authority to take required actions to comply with appropriate regulations and actions; (2) the failure to appropriately dispose of a device (the moisture sensor device) that had not been in use for longer than two years; and (3) the loss of an x-ray fluorescence analyzer containing less than 1.0 millicurie of iron-55 (Fe-55).

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). Therefore, the staff is proposing imposition of the base civil penalty in the amount of \$7,500.

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	June 21, 2004
Telephone Notification of Licensee	June 21, 2004

The State of Connecticut 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; Chris Nolan, OE, 415-2741

Distribution
EA-04-074

OWFN _____
Chairman _____
Comm. _____
Comm. _____

SECY
OCA
PA
IP

OWFN _____
EDO
DEDR
DEDMRS
OE
OGC
NRR
OI
STP

TWFN _____
OCFO
OP CTR
NMSS
OCIO
OIG
RES
ACRS

Regional Offices
RI _____ RIV _____
RII _____
RIII _____

MAIL
PUBLIC

ADAMS ACCESSION No. ML041680441

OE:ES
SMerchant
06/16/04

OE:SL
CNolan
06/16/04

C:\ORPCheckout\FileNET\ML041680441.wpd

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