

July 1, 2011
EN-11-017

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: Luzenac America, Inc.
Three Forks, Montana

EA-11-022

Subject: NOTICE OF VIOLATION AND PROPOSED IMPOSITION OF CIVIL PENALTY -
\$8,500

This notification is to inform the Commission that a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$8,500 will be issued on or about July 7, 2011, to Luzenac America, Inc., for a Severity Level III violation of 10 CFR 31.5(c)(8), involving the failure to transfer or dispose of a device containing byproduct material using one of the approved methods in 10 CFR 31.5(c)(8)(i). Specifically, as of December 2, 2010, the licensee transferred a fixed gauge to a recycling company that was not authorized to receive it.

The NRC became aware of the unauthorized transferred after discovery of the orphan fixed gauge by the recycling company, Pacific Steel & Recycling, at their facility. After additional research by NRC staff, the gauge was determined to belong to Luzenac America, Inc. The NRC also discovered that Luzenac America, Inc., could not determine the exact location of the gauge within Yellowstone Mine from 1988 through summer 2010. As a result of an extensive cleanup during the summer of 2010, various metal items were transferred from the Yellowstone Mine to Pacific Steel & Recycling. It was determined that the gauge was included in that transfer. Post-discovery evaluation of the gauge indicated that the shielding around the radioactive source inside the gauge was still intact. Surveys of the gauge were conducted and results were identified as normal. It was also concluded that workers at Pacific Steel & Recycling did not receive doses in excess of any NRC limits.

The staff determined that credit for identification was not warranted because the violation was not identified by the licensee. Credit for corrective action was appropriate because the licensee's corrective actions, once the issue was identified, were prompt and comprehensive. Corrective actions taken by Luzenac America, Inc., included, but were not limited to, (1) removing the device from its unauthorized location and transferring the device to a licensee authorized to receive it for disposal; (2) conducting a site survey for additional radioactive devices and equipment; and (3) purchasing hand held scanners and implementing a scrap metal sampling procedure for radioactive materials prior to recycling. Notwithstanding corrective action credit, this violation will be assessed a civil penalty. The assessment of a base civil penalty is a result of the NRC enforcement policy that specifically addressed lost sources and devices.

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	July 7, 2011
Telephone Notification of Licensee	July 7, 2011

The State of Montana will be notified.

CONTACTS: Nicole Coleman, OE, 301-415-1048
Electronic Distribution: EN-11-017, July 1, 2011

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