



July 6, 2004

Mr. F. Congel
Director Office of Enforcement
US Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

SUBJECT: REPLY TO NOTICE OF VIOLATION, EA-04-074

Dear Mr. Congel,

This letter is being submitted in response to the Notice of Violation EA-04-074 issued on June 21, 2004 to Pepperidge Farm, Inc. Attached to this letter please find the following supportive documents:

- 1) Letter to Mr. Hubert Miller dated February 9, 2004.
- 2) General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
- 3) Copy of check issued to NRC for \$7,500.

Pepperidge Farm responses to the Notice of Violation #EA-04-074 are as follows:

(I) VIOLATION ASSESSED A CIVIL PENALTY

On an indeterminate date in September 2003, the licensee transferred a Kay-Ray/Sensall Model No. 7107 moisture sensor device (Serial No., 7107-12), a generally-licensed device containing approximately 36 millicuries of Cesium-137 to another person not authorized to receive the device.

1. Pepperidge Farm transferred a Kay-Ray/Sensall Model No. 7107 moisture sensor device containing approximately 36 millicuries of Cesium-137 to LaJoie's Auto Salvage in September 2003.
2. The reasons for the transfer are found in Sections (ii) and (iii) of the attached February 9, 2004 letter to Mr. Hubert Miller.
3. Corrective steps taken and the results achieved can be found in Section (v) of the attached February 9, 2004 to Mr. Hubert Miller.
4. Corrective steps taken to avoid future potential violations can be found in Section (vi) of the attached February 9, 2004 letter which addresses issue that may arise during plant closures. The attached General Policy regarding

Regulated Materials dated March 2004 will cover any new regulated materials that Pepperidge Farm may purchase.

5. Changes outlined in section (vi) of the attached February 9, 2004 letter were implemented on February 26, 2004. The General Policy regarding Regulated Materials was issued in March 2004.

(II) VIOLATIONS NOT ASSESSED A CIVIL PENALTY

- A. From approximately June 2003 until March 2004, the general licensee did not have an individual responsible for having knowledge of the appropriate regulations and requirements and with the authority for taking required actions to comply with appropriate regulations and requirements pertaining to generally-licensed devices. This is a Severity Level IV violation (Supplement VI).
 1. From June 2003 until March 2004, (at Pepperidge's Norwalk, CT facility), Pepperidge Farm had not designated a specific responsible person for having knowledge of the appropriate regulations and requirements and with authority to take required action to comply with such regulations and requirements pertaining to generally-licensed devices.
 2. The project engineer responsible for the generally-licensed device was transferred to another facility in approximately June 2003 and a replacement was not designated.
 3. Corrective steps taken and the results achieved can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 4. Corrective steps taken to avoid future potential violations can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 5. The General Policy regarding Regulated Materials was issued in March 2004.
- B. The general licensee held a device that was not in use for longer than 2 years. Specifically, the general licensee held a Kay-Ray/Sensall Model No. 7107 moisture sensor device (Serial No. 7107-12), a generally-licensed device containing approximately 36 millicuries of cesium-137 (Cs-137), that had not been in use since 1992, a period longer than 2 years.
 1. Pepperidge Farm held a Kay-Ray/Sensall Model No. 7107 moisture sensor device (Serial No. 7107-12) containing approximately 36 millicureis of cesium-137 (Cs-137) that had not been in use since 1992.

2. Operations stopped using the moisture analyzer in 1992. Engineer was unaware of a 2 year non-use regulation.
 3. Corrective steps taken and the results achieved can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 4. Corrective steps taken to avoid potential future violations can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 5. The General Policy regarding Regulated Materials was issued in March 2004.
- C. On an indeterminate date between July 2003 and September 2003, the licensee transferred an Oxford Instruments Model LABX-7 1001 x-ray fluorescence analyzer, a generally-licensed device containing less than 1.0 millicurie of iron-55 (Fe-55) to another person not authorized to receive the device.
1. Between July 2003 and September 2003, Pepperidge Farm transferred an Oxford Instruments Model LABX-7 1001 x-ray fluorescence analyzer containing less than 10 millicurie of iron-55 (Fe-55) to an undetermined location.
 2. Equipment was transferred from QC lab to another location in 2003. The lab technician was unaware of any regulatory restrictions.
 3. Corrective steps taken and the results achieved can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 4. Corrective steps taken to avoid potential future violations can be found in General Policy for the Purchase, Monitoring, and Disposal of Devices Containing Regulated Materials dated March 2004.
 5. The General Policy regarding Regulated Materials was issued in March 2004.

A civil penalty payment of \$7,500 was made in the form of a check (copy attached). The original has been mailed to the following address:

U.S. Nuclear Regulatory Commission
License Fee and Accounts Receivable Branch
P.O. Box 954514
St. Louis, MO 63195-4514

Any other information you may require regarding this subject can be obtained by calling Mr. Tom Rieth, Mgr. Infrastructure and Environmental Engineering at (203) 846-7471.

David W. Watson / D.W.Z.

David W. Watson
Vice President Corporate Engineering
Pepperidge Farm, Incorporated

Cc: Robert Shober, Campbell Soup Company
Hubert Miller, Regional Administrator, USNRC, Region 1
Thomas Rieth, Pepperidge Farm
Carlos Pena, Pepperidge Farm
Faith Greenfield Campbell Soup Company



United States Nuclear Regulatory Commission
License Fee and Accounts Receivable Branch
P.O. Box 954514
King of Prussia, PA 63195-4514

EA-04-074
NMED No. 040050
NRC Inspection Report No. 99990001/2004003

July 1, 2004

To Whom It May Concern:

Attached please find a check for seven thousand five hundred dollars (\$7500.00) to cover the cost of the imposed civil penalty. Information concerning this fine was supplied in a letter dated June 21, 2004 to Mr. David W. Watson. Please contact me at 203-846-7471 if you have any questions.

Sincerely,

Mr. Thomas Rieth
Manager, Infrastructure &
Environmental Engineering

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Pressure Seal 4318, 128 - 0221

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INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	AMOUNT PAID
EA-04-074	This is for "Notice of Violation and Proposed Imposition of Civil Penalty - \$7,500" (NRC Inspection Report No. 99990001/2004003) dated June 21, 2004.	7,500.00	7,500.00
CHECK NO. 432461	DATE 07/01/2004	VENDOR NO. 59747	VENDOR NAME U.S.NUCLEAR REGULATORY COMMISS
			TOTAL AMOUNT \$7,500.00

REMOVE DOCUMENT ALONG THIS PERFORATION

THIS DOCUMENT IS PRINTED IN TWO COLORS. DO NOT ACCEPT UNLESS BLUE AND GREEN ARE PRESENT.

Norwalk, CT-Corporate

PEPPERIDGE FARM

62-22
311

432461
CHECK NUMBER

DATE 07/01/2004

PEPPERIDGE FARM INCORPORATED, NORWALK, CONN 06856

PAY: Seven thousand five hundred and 00/100 Dollars

\$7,500.00

TO THE U.S. NUCLEAR REGULATORY COMMISS

ORDER OF:

Jail Q. Redenzy
AUDITOR OF DISBURSEMENTS

Wachovia Bank
Delaware, NA

⑈432461⑈ ⑆031100225⑆ 2079950041119⑈

SEE REVERSE SIDE FOR
OPENING INSTRUCTIONS

OPENING INSTRUCTIONS

PEPPERIDGE FARM, INC.
595 WESTPORT AVE.
NORWALK, CT 06851

U.S.NUCLEAR REGULATORY COMMISS

*LACOBELLE



COPY

"PRIVILEGED AND CONFIDENTIAL"

February 9, 2004

Mr. Hubert Miller
Region Administrator
US NRC Region I
475 Allendale Road
King of Prussia, PA 19406

Dear Mr. Miller,

This letter is being submitted in compliance with regulation 10 CFR 20.2201 Reports of theft or loss of licensed material section b.

(i) A description of the licensed material involved, including kind, quantity, and chemical and physical form;

The licensed unit was a K-Ray model 7107 in-line chute moisture measurement system, operated under license NRC 298923. The system contains a source to generate gamma rays used in computerized density calculations. The source was 50 mCi of Cesium 137 when purchased in 1982. It has been estimated that the current content is only 25 mCi due to the natural radiation process.

(ii) A description of the circumstances under which the loss or theft occurred;

The Pepperidge Farm Norwalk Connecticut Bakery had fully shut down its production operation on July 31, 2003. Equipment from various production areas was transferred to other existing operating plants. Any equipment not being transferred was to be sold through our asset recovery broker to used equipment dealers. Any equipment remaining was to be scrapped to LaJoie's Auto Salvage in Norwalk, CT.

A letter received from the State of Connecticut, Department of Environmental Protection dated December 12, 2003 by Ms. Maria Fernandez was forwarded to the writer. The letter called for the renewal of the Norwalk Plant's moisture analyzer registration. Upon confirmation that the unit was not transferred to any operating plants, a call was placed to our equipment broker who contacted any likely buyers of equipment from that area. An extensive search was performed of the remaining Norwalk Plant equipment not yet removed. Daily time slips of the riggers removing the equipment revealed that the moisture analyzer was removed and scrapped to LaJoie's Auto Salvage the week of September 27, 2003.

(iii) A statement of disposition, or probable disposition, of the licensed material involved;

Upon leaving the Norwalk Bakery as scrap, the unit was sent to LaJoie's Salvage. It would have been shredded, bailed and sent to either one of two metal processing companies. They are Metal Management, New Haven, CT and Hugo Neu Schnitzer East, Jersey City, NJ. Both LaJoie's Salvage and the Connecticut Department of Environmental Protection have notified these companies regarding the missing material.

(iv) Exposure of individuals to radiation, circumstances under which the exposure occurred, and the possible total effective dose equivalent to persons in unrestricted areas;

The source was encased in a K-Ray manufactured double encapsulated sealed containment. Thermo MeasureTech performed a test on this unit on August 6, 2002. The results (copy attached) were negative $<2.0E-4$ uCi. The unit was not being used by the plant during production since 1992. It was shuttered closed. The shutter would have stayed closed during the removal and transporting to the scrap yard. The scrap yards' procedure is to mechanically shred its scrap metal without human intervention. The shredders' effect on the encapsulated container would be to form a lead ball from the friction of the shredding process. Any inner source material would have been re-encapsulated in the melted lead. Exposure to individuals would have been negligible.

(v) Actions that have been taken, or will be taken, to recover the material;

Time Line

#	DATE	EVENT	AGENCY	PERSONNEL	LOC.
1	9/18/03	Equipment removed from Norwalk 2 nd floor dry area to 1 st floor.	K&K Millwrights	K&K Millwrights	Norwalk Plant
2	9/23/03	Equipment removed from plant and placed in LaJoie's scrap containers	K&K Millwrights	K&K Millwrights	Norwalk Plant
3	9/24/03	Scrap picked up by LaJoie's Auto Salvage	LaJoie's Salvage	James Murphy	LaJoie's Salvage
4	12/12/03	Letter sent from CT-DEP to Maria Fernandez invoicing the plant for it's NRC license.	CT-DEP		Norwalk Plant
5	1/13/04	Called Maria Fernandez confirming the moisture analyzer was not sent to any existing operating plants.	Pepperidge Farm	Maria Fernandez, Tom Rieth	Bloom-field Plant
6	1/14/04	Phone call to Drew Karol Industries confirming that the hopper was not sold.	Drew Karol Ind.	Andy Mizlowski	Norwalk Plant
7	1/14/04	Performed an on-site inspection of LaJoie's Auto Salvage yard looking for missing analyzer	LaJoie's Salvage	James Murphy 203.854.0767, Tom Rieth 203.846.7471	LaJoie's Salvage

8	1/15/04	Call to CT-DEP informing them of missing analyzer.	CT-DEP	Andrew Zwick, 860.424.3535	Hartford, CT
9	1/20/04	Called from CT-DEP asking us to recheck salvage yard and provide more details on event.	CT-DEP	Andrew Zwick, 860.424.3535	Hartford, CT
10	1/20/04	Asked salvage inspector with geiger counter to come up from Pennsylvania, PA on 1/22/04	Health Physics Associates	Tony Lamastra 610.756.4153	Lionsville, PA
11	1/21/04	Visit from CT-DEP, two inspectors with geiger counters to help inspect salvage yard. Nothing was found.	CT-DEP, LaJoie's Salvage	Mike Firsick 860.424.3517, Fred Scheuritzel 860.424.3530 James Murphy 203.854.0767 Tom Rieth 203.846.7471	LaJoie's Salvage
12	1/21/04	Cancelled Health Physics Associates inspector. CT-DEP sent their own health physics inspectors to examine the scrap yard a day earlier than the HPA inspector was scheduled to arrive.	Health Physics Associates	Tony Lamastra 610.756.4153	Lionsville, PA
13	1/22/04	Visit from CT-DEP inspector looking at the Norwalk facility and checking on the status of the device's leak testing reports. All records were in order. A survey of the closed plant by geiger counter revealed no radioactive sources present.	CT-DEP	Fred Scheuritzel 860.424.3530, Tom Rieth 203.846.7471	Norwalk Plant & Corp.
14	1/22/04	Conversation with the NRC on the missing unit. Filled in all the details requested by phone in accordance with regulation, 10 CFR 20.2201 Reports of theft or loss of licensed material.	NRC	Donna Janda NRC Health Physicist 610.337.5371 Tom Rieth 203.846.7471	NRC, Region I King of Prussia, PA
15	1/23/04	Performed an additional on-site inspection of LaJoie's Auto Salvage yard looking for missing analyzer. Brought color pictures of the unit and showed to employees.	LaJoie's Salvage	James Murphy 203.854.0767 Tom Rieth 203.846.7471	LaJoie's Salvage

16	1/27/04	Trailers of used equipment purchased by vendors but still on-site opened and inspected for analyzer. Nothing was found.	Pepperidge Farm	Tom Rieth 203.846.7471, Wayne Pelzer	Norwalk Plant
17	3/1/04	Follow up phone call to the two possible metal processing companies, inquiring about missing material status.	Pepperidge Farm	Tom Rieth 203.846.7471	Norwalk Corp.

(vi) Procedures or measures that have been, or will be adopted to ensure against a recurrence of the loss or theft of the licensed material.

The environmental section of the Campbell Soup Company Plant Closing Procedures will be amended to include the following:

9. An examination is to be made into any existing NRC licenses for the facility. All devices containing nuclear sources are to be decommissioned by a properly licensed firm and disposed of in a manner acceptable to all current NRC regulations.

Any questions remaining or clarifications required regarding this letter, feel free to phone the writer at (203) 846-7471.



Thomas E. Rieth
Manager Infrastructure & Environmental Engineering
Pepperidge Farm, Inc.

Cc: Michael Firsick, CTDEP
Frederick Scheuritzel, Jr., CTDEP
Robert Shober, Campbell Soup Company
Dave Watson, Pepperidge Farm
Carlos Pena, Pepperidge Farm
Faith Greenfield Campbell Soup Company



GENERAL POLICY FOR THE PURCHASE, MONITORING, AND DISPOSAL OF DEVICES CONTAINING REGULATED MATERIALS (DRAFT)

1. Procurement

- a) The purchaser must obtain the proper license prior to receipt of any restricted equipment
- b) All instrumentation shall be purchased and installed by trained and licensed manufacturers representative.
- c) All licenses must be renewed as needed
- d) All purchases must be authorized by the VP R&D/QA for Pepperidge Farm
- e) A equipment file will be maintained for all lab equipment, by the Lab Mgr and Corp Eng.

2. Use and Handling of Equipment

- a) All personnel using such restricted equipment must be fully trained in its proper use and handling.
- b) An individual must be appointed for it's day to day compliance to NRC guidelines.
- c) All labels affixed to the equipment at time of receipt bearing a "removal is prohibited" statement must be maintained, and all instructions and precautions must be fully adhered to.
- d) All restricted equipment must be tested for leakage and proper operation of the on/off mechanism and indicator at six-month intervals.
- e) All results of the equipment testing must be recorded and contain results of tests, date of tests, name of persons performing tests. All records must be maintained for at least seven years.
- f) Any failures of these tests must be reported to the NRC within 30 days. The equipment cannot be used until it has been properly repaired by manufacturer or licensed professional.
- g) If equipment is not in use for more one year than it must be decommissioned.

File name:	Date of Issue:	Supersedes Dates:	Approval:		Page 1 of 2
Lab_Equipment_Protocols.doc	Mar 2004	New issue	Corp QA		



3. Decommissioning and Disposable of Restricted Equipment

- a) All equipment containing radioactive material, or other material deemed to be hazardous, must be disposed of in accordance to NRC guidelines by manufacturer or licensed professional.
- b) Notification of disposition must be made with in 30 days to the NRC including name, manufacturer, model and serial numbers of device, name, address and license number of person's device is transferred to and date of transfer
- c) A log of decommissioned equipment, will be kept by Corp Eng, and the Lab Mgr.

Equipment Name/ Asset Tag:
Supplier Name and Address:
Phone, Fax, and Email:

File name:	Date of Issue:	Supersedes Dates:	Approval:		Page 2 of 2
Lab_Equipment_Protocols.doc	Mar 2004	New issue	Corp QA		