



UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 27, 2012

Docket No. 99990001  
EA-11-240

Non-Licensee

Scott Martin  
Project Manager  
URS Corporation  
c/o Sporting Goods Properties, Inc.  
615 Asylum Street  
Bridgeport, CT 06610

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION, SPORTING GOODS  
PROPERTIES, INC.

Dear Mr. Martin:

We are sending you this letter to document our discussions regarding your possession of an X-Ray Fluorescent (XRF) device containing byproduct material in the form of Cadmium-109 (Cd-109), and to provide our conclusions regarding URS Corporation (URS) and Sporting Goods Properties, Inc. (SGP), a subsidiary of E. I. du Pont de Nemours and Company, Inc. (Dupont), compliance with NRC regulations for this device.

During telephone conversations on October 6, 13, and 21, 2011, between Michael Coon of your staff and Steven Courtemanche of this office, we learned that URS possessed an XRF device containing a Cd-109 sealed source which has been kept in storage and not used since 2005, and was registered by the State of Connecticut. On November 7, 2011, we also learned from a telephone conversation between Mr. Coon and Mr. Courtemanche that URS, after consulting with representatives of Dupont, transferred the device to the manufacturer. Mr. Courtemanche contacted a representative of the manufacturer and confirmed the information regarding the transfer of the device.

You were informed on October 13, 2011, that the regulation of accelerator-produced Cd-109 was transferred to the NRC from the State of Connecticut. This change occurred with the enactment of the Energy Policy Act of 2005 (Act), and the NRC regulations resulting from the Act, which became effective on November 30, 2007. Mr. Coon stated that SGP and URS were unaware that the NRC had jurisdiction and that an NRC license was required for the device that was registered with Connecticut. Based on this information, Dupont representatives determined that the device should be returned to the manufacturer rather than being made part of its NRC license, i.e., License Number 07-13441-02. On November 7, 2011, SGP returned the device to the manufacturer.

Based on the above information, the NRC has determined that a violation of NRC requirements occurred. The violation involved the possession of byproduct material without a specific NRC license issued in accordance with the regulations in 10 CFR Part 30. Specifically, from November 30, 2007, to November 7, 2011, SGP, a subsidiary of Dupont, possessed a Niton Corporation Model 700 series XRF device containing byproduct material (Cd-109, sealed source, 40 millicuries) without obtaining a specific NRC license.

This violation would normally be categorized at Severity Level IV; however, in accordance with NRC Enforcement Guidance Memorandum (EGM) 09-004, dated May 13, 2009, the NRC will exercise discretion and not issue a violation. The NRC's decision is based on the criteria listed in EGM 09-004. Specifically, 1) this was the first occurrence SGP was involved in after November 30, 2007, the effective date of the requirement; 2) the failure did not result in an actual safety, health or security consequence; 3) the failure was not willful; 4) SGP, once aware of the requirements, took appropriate action; and 5) SGP promptly transferred the device containing byproduct material to a licensee authorized to possess it (the manufacturer).

On October 13, 2011, Mr. Courtemanche informed Mr. Coon and John Brisbin, Radiation Safety Officer of Dupont, of this conclusion by telephone and that a letter documenting the conclusion would be issued once the device was transferred to the manufacturer. No further action or response is necessary on your part. In the future, should SGP want authorization to possess byproduct material that is not authorized by the general license provisions in 10 CFR Part 30, SGP must either submit a license application to the NRC or an amendment to an existing NRC license, and receive authorization prior to receiving the byproduct material.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC document system (ADAMS), accessible through the NRC website at: <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary or safeguards information so that it could be made available to the Public without redaction.

Current NRC regulations and guidance are included on the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **Nuclear Materials; Med, Ind. & Academic Users**; then **Regulations, Guidance and Communications**. The current enforcement policy is included in the NRC's website at [www.nrc.gov](http://www.nrc.gov); select **About NRC, Organizations & Functions; Office of Enforcement; Enforcement Documents**; then **Enforcement Policy (Under "Related Information")**. You may also obtain these documents by contacting the Government Printing Office (GPO) toll-free at 1-866-512-1800. The GPO is open from 8:00 a.m. to 5:30 p.m. EST, Monday through Friday (except Federal holidays).

Please contact Steven Courtemanche at 610-337-5075 if you have any questions regarding this matter.

S. Martin

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Thank you for your cooperation.

Sincerely,

*/RA/*

Raymond K. Lorson, Director  
Division of Nuclear Materials Safety

cc:  
State of Connecticut  
Michael Coon, Radiation Safety Officer  
Thomas Stilley, Project Director  
John Brisbin, Radiation Safety Officer, DuPont

S. Martin

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Thank you for your cooperation.

Sincerely,

*/RA/*

Raymond K. Lorson, Director  
Division of Nuclear Materials Safety

cc:  
State of Connecticut  
Michael Coon, Radiation Safety Officer  
Thomas Stilley, Project Director  
John Brisbin, Radiation Safety Officer

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**SUNSI Review Complete: SCourtemanche**

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DATE	01/27/12				

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