



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

January 9, 2012

Docket No. 03038501
EA-11-279

License No. 06-31458-01

Doron Dagan, President
DeCarlo & Doll, Inc.
89 Colony Street
Meriden, Connecticut 06451

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION: DECARLO & DOLL, INC.

Dear Mr. Dagan:

We are sending you this letter to document our discussions regarding your possession of a portable nuclear density gauge (gauge) containing byproduct material (radium-226), and to provide our conclusions regarding DeCarlo & Doll, Inc.'s compliance with NRC regulations for these devices. No further action or response is necessary on your part.

During a telephone conversation on August 10, 2011, between you and Scott Wilson of my staff, we learned that DeCarlo & Doll, Inc. owned a portable gauge containing a single radium-226 sealed source. We informed you that this material is considered byproduct material, and required an NRC license to possess. We discussed the change to NRC regulations that 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. Specifically, we indicated that, effective November 30, 2007, you were required to have an NRC license for the gauge.

We also informed you that DeCarlo & Doll, Inc. needed to apply for an NRC license, transfer the gauge to an authorized for use by an NRC licensee, or legally dispose of the gauge. You stated that you were previously unaware of the new regulation and that DeCarlo & Doll, Inc. would: 1) immediately secure the gauge in compliance with 10 CFR 30.34(i); 2) maintain the gauge in storage until authorized by NRC license; 3) submit an NRC license application for the gauge within 60 days; and 4) ensure compliance with the public dose limits in 10 CFR 20.1301, "Dose limits for individual members of the public." We noted that DeCarlo & Doll, Inc. submitted an application for a license, and NRC License No. 06-31458-01 was issued on November 21, 2011.

Based on the above information, the NRC has determined that a violation of NRC requirements occurred. The violation involved the possession and use 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 21, 2011, DeCarlo & Doll, Inc. possessed one Seaman Nuclear Model C-300 portable nuclear density gauge containing byproduct material (radium-226 sealed source; 4.5 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 DeCarlo & Doll, Inc. 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) DeCarlo & Doll, Inc. were unaware of the requirement; and 5) DeCarlo & Doll, Inc. agreed to submit an initial license application within 60 days.

On December 16, 2011, Scott Wilson of my staff informed you of this conclusion by telephone.

In the future, should DeCarlo & Doll, Inc. require authorization for byproduct material that is not authorized on your license or by the general license provisions in 10 CFR Part 30, DeCarlo & Doll, Inc., must submit a license amendment request to the NRC and receive authorization, prior to acquiring the subject byproduct material.

Current NRC regulations and guidance are included on the NRC's website at www.nrc.gov; select **Nuclear Materials; Med, Ind, & Academic Uses**; then **Regulations, Guidance and Communications**. The current Enforcement Policy is included on the NRC's website at www.nrc.gov; select **About NRC, Organization & 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).

D. Dagan

3

Please contact Scott Wilson at 610-337-5136 if you have any questions regarding this matter.

Sincerely,

/RA/

Raymond Lorson, Director
Division of Nuclear Materials Safety

cc:
Kenneth Rekrut, RSO
State of Connecticut

D. Dagan

3

Please contact Scott Wilson at 610-337-5136 if you have any questions regarding this matter.

Sincerely,

/RA/

Raymond Lorson, Director
Division of Nuclear Materials Safety

cc:
Kenneth Rekrut, RSO
State of Connecticut

Distribution:

ADAMS
SECY
CA
OEMail
RIEnforcement
KFarrar
BWellington
SVillar
RIOEfiles
CODaniell

DOCUMENT NAME: G:\WordDocs\Current\Misc Letter\L 06-31458-01 Excercise of Enforcement Discretion DeCarlo and Doll Inc.doc

ML120090348

SUNSI Review Complete: SWilson

After declaring this document "An Official Agency Record" it **will** be released to the Public.

To receive a copy of this document, indicate in the box: "C" = Copy w/o attach/encl "E" = Copy w/ attach/encl "N" = No copy

OFFICE	DNMS/RI	N	DNMS/RI	N	DNMS/RI	N	ORA/RI	N
NAME	SWilson/SLW		BWellington/BDW		RLorson/RKL		MMcLaughlin/ MMM	
DATE	12/28/2011		1/4/2012		1/4/12		1/6/12	
OFFICE	DNMS/RI	N						
NAME	RLorson/rkl							
DATE	01/09/12							

OFFICAL AGENCY RECORD