



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

March 26, 2002

Docket No. 99990001

General Licensee

William J. Whalen, II  
Environmental, Health & Safety Manager  
The Martin Guitar Company  
C.F. Martin & Co., Inc.  
Nazareth, PA 18064-0329

SUBJECT: LOSS OF GENERALLY LICENSED RADIOACTIVE MATERIAL

Dear Mr. Whalen:

On February 13, 2002, you informed the NRC of the loss of a radioactive sealed source which had been contained in a generally licensed device. The device, an NRD, Inc. Ionizer Air Gun Model 2021, had been returned to the manufacturer without the Po-210 source. This device was originally shipped to Martin Guitar Company in August 2001 and contained a 10 millicurie source of Po-210. Currently the source contains approximately 3.9 millicuries as a result of decay. On March 12, 2002, we received a 30 day written report from you as required by 10 CFR 20.2201.

You informed the NRC that Martin Guitars had conducted a series of searches, provided training to the staff on handling the air guns, and procedures for replacement of the guns. In addition, you contacted two sanitation companies which haul waste from your facility. Neither of the sanitation companies was able to locate the source. Further, you informed the NRC that Martin Guitars leases 13 of these devices and they are all accounted for.

10 CFR 31.5(c)(8) requires, in part, that any person who acquires, receives, possess, uses or transfers byproduct material in a device pursuant to a general license shall, except as provided in 10 CFR 31.5(c)(9), transfer or dispose of the device containing byproduct material only by transfer to persons holding a specific license pursuant to 10 CFR Parts 30 and 32 or an Agreement State to receive the device.

Contrary to the above, between August 2001 and February 13, 2002, the Martin Guitar Company transferred/disposed of a sealed source containing approximately 3.9 millicuries of Po-210 which had been contained in an NRD, Inc., Model 2021, Ionizer Air Gun, and this transfer/disposal was not made to a person holding a specific license pursuant to 10 CFR 30 and 32 or an Agreement State to receive the device, and exceptions in 10 CFR 31.5(c)(9) did not apply.

W. Whalen  
The Martin Guitar Company

2

Although a violation of 10 CFR 31.5 was identified, since your actions were not willful, and because you identified and reported the violation to the NRC, and took appropriate corrective action to address the violation and prevent recurrence of similar problems, we are exercising enforcement discretion in accordance with the Interim Enforcement Policy for Generally Licensed Devices (May 1, 2000; 65 FR25368), and not issuing any enforcement action for this violation. However, any future violations of 10 CFR 31.5 may be considered for enforcement action.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room).

Thank you for your cooperation.

Sincerely,

***Original signed by John D. Kinneman***

John D. Kinneman, Chief  
Nuclear Materials Safety Branch 2  
Division of Nuclear Materials Safety

cc:  
Commonwealth of Pennsylvania

W. Whalen  
The Martin Guitar Company

3

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