



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I**
2100 RENAISSANCE BOULEVARD, SUITE 100
KING OF PRUSSIA, PENNSYLVANIA 19406-2713

August 1, 2012

Docket No. 030-38536
EA-12-054

License No. 06-31472-01

Manish K. Gupta, Ph.D., P.E.
Vice President
GM2 Associates, Inc.
115 Glastonbury Boulevard
Glastonbury, CT 06033

**SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION:
GM2 ASSOCIATES, INC.**

Dear Dr. Gupta:

We are sending you this letter to document our discussions regarding your possession of portable nuclear density gauges containing byproduct material (radium-226), and to provide our conclusions regarding GM2 Associates, Inc.'s compliance with NRC regulations for these devices. No further action or response is necessary on your part.

During a telephone conversation on March 8, 2012, between you and Scott Wilson of my staff, we learned that GM2 Associates, Inc. (GM2) owns portable nuclear density gauges (gauges) containing radium-226 sealed sources. 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 August 7, 2009. Specifically, we indicated that, effective August 7, 2009, GM2 was required to have an NRC license for the gauges.

We also informed you that GM2 needed to apply for an NRC license, transfer the gauges to an authorized NRC licensee, or legally dispose of the gauges. You stated that you were previously unaware of the new regulation and that GM2 would: 1) immediately secure the gauges in compliance with 10 CFR 30.34(i); 2) maintain the gauges in storage until authorized by NRC license; 3) submit an NRC license application for the gauges 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 GM2 submitted an initial license application on April 4, 2012, (within 60 days), and the license was issued on April 13, 2012.

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 August 7, 2009, to April 13, 2012, GM2 Associates, Inc. possessed two Seaman Nuclear Corporation Model C-300 portable nuclear density gauges containing byproduct material (radium-226 sealed sources; 4.5 millicuries each) 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 GM2 Associates, Inc. was involved in after August 7, 2009, 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) GM2 Associates, Inc. was unaware of the requirement; and 5) GM2 Associates, Inc. submitted an initial license application within 60 days.

On July 10, 2012, Scott Wilson of my staff informed you of this conclusion by telephone.

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 from 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 can be made available to the Public without redaction.

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).

Please note that the office of the Region I Division of Nuclear Materials Safety has moved effective May 9, 2012. Our new address is:

U. S. Nuclear Regulatory Commission
Region I
2100 Renaissance Blvd, Suite 100
King of Prussia, PA 19406-2713

M. Gupta

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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:
State of Connecticut

M. Gupta

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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

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State of Connecticut

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