



**UNION CARBIDE CORPORATION**

**MEDICAL PRODUCTS DIVISION**

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December 2, 1980

William O. Miller, Chief  
License Fee Management Branch  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Miller:

Your November 5, 1980 letter notified us of your intent to consider our facility licensed under SNM-639 as a 1D versus 1G facility. We have received invoices 0227N and 0228N implementing that decision. For a number of reasons discussed below, we do not believe the fees are justified and respectfully ask that your request be withdrawn.

You correctly note that on March 26, 1979, Amendment 3 to License SNM-639 increased the total possession limit of U 235 from 4.6 kilograms to 13 kilograms. However, shortly prior to that time, we were issued on January 30, 1979, Material and Plant Protection Amendment MPP-3, which restricts the aggregate quantity of unirradiated U 235 possessed under the license for our Hot Laboratory (SNM-639) and our Reactor (R-81) to be less than 5 kilograms. This restriction has been a severe operating limitation, which does not allow the full range of operational flexibility of a Category 1D facility. Since we are not licensed for the full range of activities allowed under Category 1D, it is inconsistent that we be charged for activities not permitted by our license. Note that under the R-81 license, this fact is considered in that 10CFR 170.24 assesses a lesser fee for safeguards inspections of facilities limited to fuel of moderate strategic importance relative to facilities allowed to possess fuel of high strategic importance. In our case, the aggregate quantity of special nuclear material under the Hot Lab and Reactor license is limited to a quantity of moderate strategic importance.

A complication exists with your proposal of back charging, assuming it should remain your position that billing under Category 1D is fair and justified. The majority of the proposed back charge is for 1979; the books for that year have been closed. The portion for 1980 activity was not budgeted and is therefore not available. Furthermore, the proposed increase for our fiscal year 1981 was not anticipated in our budget which has been approved for next year. Since the oversight was not the result of any error on our part, we consider back charging to be unjustified.

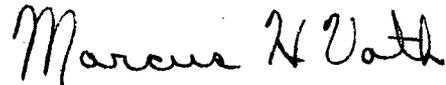
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An important factor we would like to impress on you is the impact of regulatory expenses on the operation of our facility. Regulators frequently assume that charges such as you propose are insignificant and go unseen in an organization as large as Union Carbide. On the contrary, the cost of regulation to the corporation is a significant amount. Our concern with the matter at hand is based on the divisional level. The Medical Products Division is a small operation, attempting to survive economically while providing radioisotopes to patients at a cost which is both reasonable and competitive with foreign producers. Regulatory fees charged by the NRC for operating our Reactor and Hot Laboratory under the proposed category total 10-20% of the total salary budget for the professional operating staff of the facility. Our main competitor in the production of reactor-produced medical radioisotopes is in Canada where no such cost penalties are known to exist. We consider it in the national interest to maintain this vital function, rather than regulate it out of the country, as has happened to numerous other components of the nuclear industry.

In summary, we ask that you reconsider your suggestion to change SNM-639 from a 1G to a 1D facility. We find that maintaining 1G status is within the scope of the existing fee schedule. It is the correct category since activities licensed under SNM-639 are limited in such a manner that the full range of activities allowed under 1D are specifically prohibited. We also ask that viability of U.S. industry, burdened by over-regulation, be considered in the face of foreign competition. We will place invoices 0227N and 0228N on hold, pending further communication from you.

Yours very truly,



Marcus H. Voth  
Manager, Nuclear Operations