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RECORD #137

TITLE: 10 CFR 31.5(C)(9): Aircraft at "Particular Location"

FICHE: 68591-341



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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

March 13, 1979

MEMORANDUM TO: Nathan Bassin  
Radioisotopes Licensing Branch  
Office of Nuclear Material Safety  
and Safeguards

FROM: James R. Wolf, Attorney  
Office of the Executive Legal Director

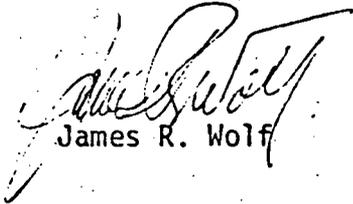
SUBJECT: 10 CFR § 31.5(c)(9): AIRCRAFT AS "PARTICULAR LOCATION"

This is in response to your note concerning transfers under 10 CFR § 31.5(c)(9)(i).

Transfers to general licensees are permitted under that provision only if "the device remains in use at a particular location." I believe that an acceptable interpretation of this language is that a specific airplane should be regarded as a "particular location."

The basis for my view is that the "particular location" requirement appears in the regulations "to achieve a workable system for identifying users under the general license," Statement of Considerations, 39 F.R. 43531, Dec. 16, 1974. Because of the documentation requirements applicable to aircraft, transfers between the manufacturing company and an airline, or between subsequent parties in possession should in no way impair the Commission's ability to identify the users. In addition, of course, a report to the Commission will be required under the second sentence of § 31.5(c)(9)(i).

I would recommend, however, that any comment you may pass on be coupled with the admonition that it is not an interpretation by the General Counsel under 10 CFR § 30.6

  
James R. Wolf