



MARION MERRELL DOW INC.

150th

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February 10, 1993

U.S. Nuclear Regulatory Commission  
Region III  
799 Roosevelt Road  
Glen Ellyn, IL 60137

Reply to a Notice of Violation

This letter is in response to your Notice of Violation dated January 12, 1993 docket number 030-09415 and your Notice of Violation dated January 12, 1993 docket number 030-05696. The following discussion is our understanding of the events that resulted in these Notices of Violation.

Prior to relocation of the device discussed below, the Radiation Safety Officer ("RSO") in Cincinnati, Ohio for Marion Merrell Dow Inc. contacted the NRC Region III regarding relocating Hewlett Packard Model No 5890 gas chromatograph (the "device") containing generally licensed material (15 millicuries of Nickel-63) from the MMD research facility in Cincinnati, to the MMD research facility in Kansas City, MO. After discussing the requirements of 10 CFR 31.5, the inspector advised the MMD RSO that to relocate the above device it was necessary only to inform the Director of Nuclear materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC of the intended relocation. The inspector also requested that Region III be copied on the information of the relocation.

The inspector's direction and request were followed. Based upon these discussions, and our knowledge of the regulations, the device was relocated. We were convinced that MMD had performed all steps necessary to comply with the letter and spirit of 10 CFR 31.5 regarding this relocation. If any violation occurred, it was due to the above factors. However, we do not agree that the relocation was in violation of 10 CFR 31.5.

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Understanding the Commissions requirements to track generally licensed material and in light of the interpretation of the regulations communicated to us in your Notices of Violation, we have established the following procedures for relocating within the company, devices containing generally licensed material.

- The RSO, at the location where the device resides, shall notify the manufacturer of the device containing generally licensed material of the relocation. (In the event the manufacturer is no longer available, the RSO shall notify an appropriate holder of a specific license regarding the relocation.)
- The RSO shall request a representative of the manufacturer (or other specific license holder as set forth above) to pack and secure the device to be relocated, if in their opinion, such packing and securing is necessary.
- The RSO shall, within 30 days of the relocation, furnish the Director of Nuclear Material Safety and Safeguards a report containing the identification of the device, the name and address of the manufacturer or specific license holder, as set forth above, and the name and the address of the MMD employee accepting the relocated device.

We trust the above procedures satisfy all requirements of 10 CFR 31.5 and any other pertinent regulations regarding relocating generally licensed materials within MMD. Please contact either of us should you have any questions or concerns regarding this matter.

Sincerely,

Marion Merrell Dow Inc.

By: 

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By: 

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