



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

JUN 16 1994

Docket No. 030-16055
(10 CFR § 2.206)

William B. Schatz
General Counsel
Northeast Ohio Regional Sewer District
3826 Euclid Avenue
Cleveland, Ohio 44115-2504

Dear Mr. Schatz:

This letter is in response to your Petition, dated August 2, 1993, on behalf of the Northeast Ohio Regional Sewer District. The Petition requested that the U.S. Nuclear Regulatory Commission take action with respect to Advanced Medical Systems, Inc., (AMS) to modify the AMS license to require, *inter alia*, that AMS provide adequate financial assurance to cover public liability pursuant to section 170 of the Atomic Energy Act of 1954, as amended.

Your request was referred to the staff for consideration pursuant to 10 CFR § 2.206 of the Commission's regulations. For the reasons stated in the enclosed "Director's Decision Under 10 CFR § 2.206," the Petition has been denied.

Three items of interest should be noted. First, the revision of 10 CFR Part 20 no longer permits non-biological, dispersible material, such as the cobalt-60 used at AMS, to be disposed into the sanitary sewer. In connection with this revision, the NRC has published an advance notice of proposed rulemaking requesting comment and/or information as to whether an amendment to the new regulations in effect is needed. Second, the Commission has expressed its view that the Atomic Energy Act of 1954 does not prohibit actions by state or local authority on bases other than protection of public health and safety from radiological hazards. This is explained in a letter dated 11/9/93 from M. G. Malsch, NRC, to M. J. Fitzgerald, GAO, and a letter dated 11/9/93 from M. G. Malsch, NRC, to H. B. McFadden, Laramie, Wyoming, City Attorney, both of which are enclosed with this letter and referenced in the enclosed Director's Decision. Third, in a Staff Requirement Memorandum dated June 28, 1993, the Commission has requested the NRC staff to address the issue of rulemaking on the subject of financial assurance for cleanup of an accident for material licensees with a potential for significant contamination.

With regards to the petition dated March 3, 1993, you filed pursuant to 10 CFR § 2.206, we intend to consider your consultant's report on the cobalt-60 characterization at the Southerly Treatment Center, which is currently expected to be completed in June, 1994, before issuing our decision on that Petition. Please forward a copy to me within two weeks after your

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William B. Schatz

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consultant submits it to you. Accordingly, we will make a decision on your March 3, 1993, Petition within a reasonable time after receiving your consultant's report.

A copy of the Decision will be filed with the Secretary of the Commission for its review in accordance with 10 CFR § 2.206 of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time.

A copy of the Notice which is being filed with the Office of the Federal Register for publication is enclosed.

Sincerely,



Robert M. Bernero, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Director's Decision DD-94-06
2. Federal Register Notice
3. Ltr dtd 11/9/93 from
M. Malsch, NRC, to
M. Fitzgerald, GAO
4. Ltr dtd 11/9/93 from
M. Malsch, NRC, to
H. McFadden, Laramie, WY

cc: Advanced Medical Systems, Inc.
ATTN: Ms. Sherry Stein, Dir.
of Regulatory Affairs
1020 London Road
Cleveland, Ohio 44110

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Original signed by
Robert M. Bernero

Robert M. Bernero, Director
Office of Nuclear Material Safety
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ATTN: Ms. Sherry Stein, Dir.
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JTaylor HLThompson

*See previous concurrence

OFC	IMOB*	E	IMOB*	IMOB*	RIII*	OGC*
NAME	JDeCicco:jed		CJones	FCombs	WAxelson	RWeisman
DATE	5/4/94		5/4/94	5/4/94	5/13/94	5/31/94

OFC	OGC*	IMNS/DD*	IMNS*	NMSS	NMSS
NAME	JGoldberg	WBrach	CPaperiello	GArlotto	RPernero
DATE	5/31/94	/ /94	6/3/94	/ /94	6/6/94

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