



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV

611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064
December 8, 1997

EA 97-401

Mr. Richard S. Miles
Radiation Safety Officer
SeaMark Systems, Limited
Ledger House, Forest Green Road
Fifield, Maidenhead
Berks SL6 2NR, England

SUBJECT: EXERCISE OF ENFORCEMENT DISCRETION

Dear Mr. Miles:

This is in reference to NRC's inspection of SeaMark Systems, Limited (SeaMark), specifically its use of portable nuclear gauges in the Gulf of Mexico in areas where the NRC maintains regulatory jurisdiction. This issue was discussed with John Hudson of your organization on December 2, 1997.

Based on our inspection of SeaMark's activities in NRC jurisdiction, conducted July 11, 1997, the NRC determined that SeaMark had used nuclear gauges in NRC jurisdiction without following the notification procedures outlined in 10 CFR 150.20, "Recognition of Agreement State Licenses." This regulation requires Agreement State licensees who wish to conduct licensable activities in offshore waters under a general license pursuant to 10 CFR 150.20 to comply with the above-referenced notification procedures. This is generally accomplished by filing an NRC Form 241 three days prior to planned activities, or as otherwise may be provided. The term "offshore waters" is defined in 10 CFR 150.3(f) as "that area of land and water, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf." The only exception to this requirement, as specified in 10 CFR 150.20(c), is for licensees of the state of Louisiana to notify the state in lieu of the NRC. NRC's review of this matter determined that SeaMark, although a licensee of the state of Louisiana, had not made notification to either the state or the NRC and, therefore, was conducting licensable activities in offshore waters without an NRC general license.

Normally, violations of this type are classified at Severity Level III and are considered for monetary civil penalties in accordance with the NRC's "General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy)," NUREG-1600, copy enclosed.

In this case, however, the NRC is exercising its enforcement discretion as provided for in Section VII.B.6 of the Enforcement Policy, based on the circumstances of this matter. Specifically, in light of the confusion surrounding the applicability of 10 CFR 150.20(c) to Agreement State licensees, it appears that SeaMark did not have adequate notice concerning the applicability of this regulation to certain of its activities. The NRC and the state of Louisiana are working together to eliminate any confusion that may exist. Therefore, after consultation with the Director, Office of Enforcement, I have been authorized to exercise enforcement

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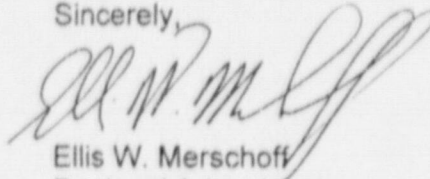
SeaMark Systems, Limited

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discretion and not issue an enforcement action for SeaMark's violation of these requirements. Nonetheless, SeaMark is on notice of the existence of these requirements and the NRC's enforcement policies, and enforcement action may be taken for such violations in the future committed by SeaMark.

No response to this letter is required. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, and your response, if you choose to submit one, will be placed in the NRC Public Document Room (PDR).

Sincerely,



Ellis W. Merschoff
Regional Administrator

Docket No. 150-00017
License No. LA-7638-L01

Enclosure: As stated

cc w/o Enclosure: State of Louisiana

bcc w/o Enclosure:

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