



November 21, 2003

U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555

**RE: Reply to a Notice of Violation  
International Communication Materials, Inc.  
Docket No. 99990001  
Inspection No. 99990001/2003003  
General License 10 CFR 31.5**

Dear Sir or Madam:

International Communication Materials, Inc., a Nu-kote International company (collectively "Nu-kote/ICMI"), submits this letter in response to the Commission's above-referenced Notice of Violation, which is dated October 30, 2003.

Nu-kote/ICMI appears to have inadvertently violated two provisions of the Commission's general license governing gauging devices that utilize radioactive byproduct material when it allowed five such devices to be sold and removed from its former Derry, Pennsylvania facility in 1998. The five devices were all Kay-Ray Sensall Model 7062B gauges, each containing ten millicuries of cesium-137. Prior to the sale and removal, Nu-kote/ICMI used the five Kay-Ray Sensall Model 7062B gauges to monitor the flow of materials in its toner production mills. The devices were physically attached to the toner mills.

In 1998, Nu-kote/ICMI decided to sell its Derry facility. To that end, Nu-kote/ICMI hired a third party consultant to decommission and sell the equipment at the Derry facility prior to sale of the facility itself. The consultant decommissioned, sold and conveyed the toner mills, with the Kay-Ray devices attached, to two companies. Each of the purchasers was located at a different location. Three of the toner mills with the attached Kay-Ray devices (serial numbers S96F1209, S96F1213 and S96C0115) were transferred to Turbon International in York, Pennsylvania, and two of the toner mills with the attached Kay-Ray devices (serial numbers S96F1211 and S96F1212) were transferred to Color Imaging in Norcross, Georgia.

Nu-kote/ICMI acknowledges that it apparently has inadvertently violated two general license requirements applicable to such transfers. The first applicable requirement is that the transfer to another general licensee, such as Turbon International or Color Imaging, is permissible only if the devices remain in use at the same location and provided that the Commission has been given notice within 30 days after the transfer is accomplished. 10 CFR § 31.5(c)(9). The second requirement is that such a transfer be performed only by an entity specifically licensed to perform such activities. 10 CFR § 31.5(c)(3)(ii).

The failure of Nu-kote/ICMI to abide by these requirements during the transfer of the five devices was not intentional. The presence of the Kay-Ray devices and their special status was overlooked in the midst of the complex effort of selling and moving the toner production mills and all of the other equipment from the facility.

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Nu-kote/ICMI regrets the violation and has taken steps to correct the violation and to prevent any future violations of the general license.

(1) When the violations were brought to our attention, Nu-kote/ICMI promptly investigated and gave the Commission the names and locations of the companies who received the devices. Although it is not possible to undo the transfers, our prompt investigation and response to the Commission's inquiries enabled the Commission to locate the devices and confirm that they are secure.

(2) Nu-kote/ICMI also has taken the steps necessary to prevent further violations. After the transfer violations were brought to our attention, we promptly designated a Radiation Safety Officer to take personal responsibility for ensuring that Nu-kote/ICMI abides by the general license regulation and other regulatory requirements applicable to the Kay-Ray devices that Nu-kote/ICMI continues to possess at its Connellsville facility. Our Radiation Safety Officer makes sure that the devices are inspected on a regular basis and reviews the regulatory requirements to keep current with any modifications to the regulatory requirements. In this way, Nu-kote/ICMI is presently complying with all applicable requirements for its remaining Kay-Ray devices .

One of the Kay-Ray devices is nevertheless slated to be returned to the manufacturer during the first quarter of 2004. In response to the question in Mr. Kinneman's letter accompanying the Notice of Violation, we are planning to return the Kay-Ray device denominated with serial number S96F1210 to its manufacturer, Thermo Measure Tech. Nu-kote/ICMI has been assured that Thermo Measure Tech is an entity specially licensed to receive the device, and we will notify Mr. Kinneman of the transfer within 30 days of the event, all as required by the general license regulation. 10 CFR § 31.5(c)(8). Nu-kote/ICMI will make sure that the device is packed properly in compliance with applicable regulations prior to its transfer to Thermo Measure Tech. Contrary to the suggestion in Mr. Kinneman's letter, the device slated for transfer is not the one denominated with the serial number S96C0115. That device already has been transferred to Turbon International, as specified above.

Nu-kote/ICMI regrets that it inadvertently violated general license provisions regarding transfer when it sold its Kay-Ray devices as part of the decommissioning and sale of its Derry facility in 1998. Since then, we have cooperated with Commission to locate the devices and have taken measures to ensure that Nu-kote/ICMI complies with all applicable regulatory requirements for the Kay-Ray devices which Nu-kote/ICMI continues to own. In addition, we will make sure that the planned return of one of these devices to the manufacturer will be performed in compliance with all applicable requirements.

Please contact me if you have any questions regarding this matter.

Very truly yours,

  
G.J. Skivington, V.P./General Manager

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