



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 2, 1997

Department of Health and Human Services  
Food and Drug Administration  
ATTN: Henry D. Drew, Ph.D.  
Deputy Director, Chemistry II  
Division of Drug Analysis  
1114 Market Street, Room 1002  
St. Louis, MO 63101

Dear Dr. Drew:

I am responding to your November 20, 1996, letter requesting a waiver of the FY 1997 annual fee for License No. 24-09755-02 (Invoice No. AM0423-97).

The bases for your request are: 1) for the past decade you have maintained a specific license for three gas chromatographs containing Ni63 Electron Capture Detectors (ECD's); 2) you found out after the fiscal year began that the ECD's are generally licensed by Hewlett-Packard; 3) you have paid the annual fee for past years even though you now find out your NRC specific license was not necessary; 4) you received the invoice on October 20, 1996, after the FY 1997 fiscal year had started; and 5) you believe that review could be justified by your generosity over the past decade in securing and paying for an NRC license that was not necessary.

Although the Hewlett-Packard gas chromatographs could be possessed and used under a general license, they can also be specifically licensed. Specific License 24-09755-02 was issued at your request to authorize possession and use of the gas chromatographs.

Footnote 1 of 10 CFR 171.16 provides that the annual fee is waived when a license is terminated prior to October 1 of each fiscal year. The 1997 annual fee is waived for licensees and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage only licenses prior to October 1, 1996, and permanently ceased licensed activities by September 30, 1996. An amendment request filed after October 1 of each fiscal year to cancel a license does not cancel the annual fee invoice. Your November 8, 1996, termination request was not timely filed for purposes of avoiding the FY 1997 annual fee.

However, because the gas chromatographs could be generally licensed and you took action to terminate the specific license when this became known to you, the NRC: 1) grants an extension of time to file for termination to November 8, 1996, for purposes of avoiding the FY 1997 annual fee;

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2) acknowledges a specific license was not required for the ECD's and could have been terminated prior to September 30, 1996; and 3) acknowledges License No. 24-09755-02 was terminated November 21, 1996. Invoice No. AM0423-97 has been cancelled.

Sincerely,

Original signed by  
James M. Taylor

James M. Taylor  
Executive Director  
for Operations

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