

July 31, 2003

Mr. Michael B. Gerrard
Arnold & Porter
399 Park Avenue
New York, NY 10022-4690

Dear Mr. Gerrard:

I am responding to your letter dated June 18, 2003, addressed to Chairman Diaz. It has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations. You requested that the Nuclear Regulatory Commission (NRC) use its authority to protect the common defense and security under the Atomic Energy Act of 1954 to close the Radiac facility. As the basis for your request, you stated that the radioactive waste storage operation adjoining a hazardous waste transfer and storage operation at the Radiac Research Corporation in Brooklyn, New York represented a significant risk.

Our petition review board has reviewed your submittal. The staff has concluded that your submittal does not meet the criteria for consideration under 10 CFR 2.206 because your request fails to provide sufficient facts to support NRC consideration under its common defense and security authority. Rather, your request raises potential public health and safety concerns. Since Radiac Research Corporation is a New York Department of Labor (NYDOL) licensee, your concerns should be reviewed by that agency. We note that you have requested such a review in a letter dated June 18, 2003 to the Honorable Linda Angello, Commissioner, NYDOL. We also note that NYDOL responded to your health and safety concerns in a letter to you from Anthony J. Germano, Acting Director, NYDOL, dated July 16, 2003.

Based on our review, the NRC plans no further action. I would like to express my appreciation for your effort in bringing these matters to the attention of the NRC.

Sincerely,

/RA/
Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

cc: Mr. Joseph Spektor, Radiac Research Corporation
Hon. Linda Angello, Commissioner, NY State Department of Labor

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Martin J. Virgilio, Director
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Hon. Linda Angello, Commissioner, NY State Department of Labor

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*See previous concurrence

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