



HENRY G. WILLIAMS
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-0001

FEB 11 1985

Dear Mr. Murley:

Thank you for your letter of August 31, 1984, which presented the Nuclear Regulatory Commission (NRC) evaluation of this Department's radiation control program. The NRC evaluation of our program has resulted in your withholding a determination of adequacy and compatibility for the Department of Environmental Conservation (DEC) radiation control program. In light of the fact that the previous administration of NYS almost totally eliminated the staff and funds to the Department radiation control program, I feel my efforts and those of my staff in reviving this dormant program are significant. In order to improve our radiation control program, we have requested additional resources. Governor Cuomo has recently submitted his proposed FY 85-86 budget to the State Legislature. In the proposed budget, the Governor has requested a \$500,000/year radiation control program increase for this Department which will result in six new staff positions. The FY 85-86 budget also will appropriate an additional \$1.1 million to the DEC radiation program in order to fund a low level radioactive waste siting study and disposal methodology assessment.

In order for the State to effectively implement the Agreement States Program over discharge and disposal of radioactive materials in New York State, a great amount of work will need to be accomplished. For example, the Department's previous attempts to delegate its air quality program to city and county level agencies, have resulted in the radiation control program's "slipping between the institutional cracks" - no permits for radioactive discharges pursuant to 6 NYCRR Part 380 have been issued in all of New York City, and several counties in the state. A recent inspection by our staff at the University of Rochester indicates that this facility has been operating without the necessary discharge permits for many discharge points. While Part 380 has exemption levels for discharges from certain activities by the University under lab hoods, many of their operations will require Departmental approval. In addition, their exemption from our licensing process for a radiological incinerator ceased to exist at the end of 1984 when their U.S. Department of Energy contract expired. The University of Rochester is studying their emission operations and has agreed to commence filing for the necessary permits.

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I used the University of Rochester permitting problems not to criticize the University, but to illustrate the problems endemic to our radiation control program. We need immediate help. Our 1.5 person staff level in the radiation control program is inadequate to handle the day-to-day permitting in this program. Yet we are faced with much greater problems, some of which we have already made significant progress on:

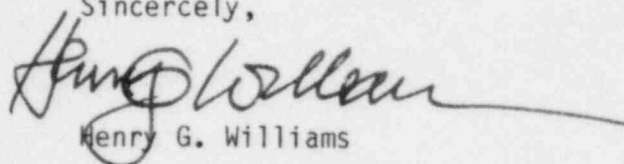
1. An inspection of one permittee on June 22, 1984 revealed that the current air discharge rate for Iodine-125 was sufficient to ultimately result in a violation of Part 380 Schedule 2 limits. The permittee subsequently agreed to install additional emission control equipment and the necessary purchase order was placed in December 1984. The new installation is scheduled to be operational by April 5, 1985.
2. No permits for radiological discharges have been issued in New York City and several counties. Yet the types of operations in these areas clearly indicate that they should be controlled. (A rough estimate is that we should have several times as many permits as presently are in effect.)
3. The EAD/Tonawanda Am-241 contamination problem has not been resolved. A legal enforcement proceeding, further reducing our staff time for other permits, is likely. It was the Department's radiation control staff which first uncovered this significant contamination problem - one which has resulted in your Commission amending its sewer discharge approach.
4. Our regulations are not up-to-date as you indicated in your evaluation. In addition, 10 CFR Part 61 has not been adopted into 6 NYCRR Part 380. Thus, the state will be unable to resolve its own low-level radioactive waste disposal problems until your Part 61 is adopted and corresponding regulations are prepared for any alternative methodology to shallow land burial which NYS may propose to use for disposal/storage.
5. Some of our permittees have very complex and controversial processes and discharge levels. Facilities such as Union Carbide, NRD, and Self-Powered Lighting require much more staff resources than we have been available to utilize in the past.
6. The West Valley low-level waste burial site is about to be studied in order for a permanent stabilization plan to be proposed by the site owner. Such a plan will need careful review and approval by this Department's radiation control program prior to being implemented.

While the Department has identified many critical problems in our radiation control program, we have also sought the necessary resources to assist us in effectively implementing our responsibilities under the Agreement States program. As noted previously, we have requested six new staff positions for the program in our FY85-86 budget. This infusion of much needed staff should significantly assist us in correcting existing problems and

preventing future ones from arising. Also we have established a Committee on Licensing comprised of the NYS agencies that are involved in the Agreement States program. However, we need the assistance of the U.S. Nuclear Regulatory Commission, at least on an interim basis, until the proposed staff increases actually take place and that staff is properly trained. Thus, I am requesting that the U.S. Nuclear Regulatory Commission provide us with at least one full-time professional on a continuous basis until our proposed new staff is properly functioning and trained. Also, the Commission should review our program needs and provide a grant to assist us in effectively implementing our part of the Agreement States Program.

Thank you for your assistance in this matter.

Sincerely,



Henry G. Williams

Mr. Thomas E. Murley
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