

OCT 29 1985

Docket No. 99990001/85-09

Air Products and Chemicals, Inc.
ATTN: Mr. Eugene Handwerk
Coordinator, Toxicology and
Regulatory Compliance
P.O. Box 538
Allentown, Pennsylvania 18105

Gentlemen:

Subject: Inspection No. 99990001/85-09

This refers to the inspection conducted on December 13, 1984, and January 8, 1985, by a representative of the State of Washington, Department of Social and Health Services, of shipments of radioactive waste from your Greenville, Pennsylvania site to the U. S. Ecology burial site at Richland, Washington and to various discussions between Mr. Handwerk and Mr. J. Kinneman of my staff.

Areas examined during the inspection are described in the NRC Region I Inspection report enclosed with this letter, to which is attached the report issued by the State of Washington Department of Social and Health Services. The inspection consisted of a review of shipping papers, placarding, marking and labeling, radiation measurements, selective contamination surveys, and examination of the packages and the tractor-trailers of two waste shipments when they arrived at Richland, Washington. The background of this matter was reviewed by Mr. J. McFadden of this office during a visit to the Greenville site from June 18 to 20, 1984, and during subsequent telephone conversations.

Mr. Kinneman previously explained that the activities of Air Products at the Greenville site were exempt from NRC regulations. After a careful review of the facts of this matter, we no longer believe that this is the case and now believe that these activities were subject to NRC regulations, including the requirement for a specific NRC license. The change in our opinion is primarily based on the amount of source material which the shipment manifests list as sent to Richland, Washington. Our analysis of this matter is included in Section 3 of the attached Region I report. You should review this analysis carefully.

Based on the results of Mr. McFadden's inspection, it appears that certain of your activities were not conducted in full compliance with NRC requirements, as set forth in the Notice of Violation, enclosed herewith as Appendix A. Because Air Products was not aware that the scrap involved contained licensable quantities of source material, we have decided not to issue a violation for conducting licensable activities without an appropriate NRC license. However, significant enforcement action may be taken if such activities occur in the future. The packaging and shipment of radioactive waste materials generated by

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the activities at the Greenville site were subject to NRC regulations and resulted in apparent violations of NRC and Department of Transportation (DOT) regulations which we consider important. These violations are described in the attached Notice of Violation. These violations have been categorized by severity level in accordance with the revised NRC Enforcement Policy (10 CFR 2, Appendix C) published in the Federal Register Notice (49 FR 8583) dated March 8, 1984. You are required to respond to this letter and in preparing your response, you should follow the instructions in Appendix A.

Item A described in the enclosed Notice of Violation, involving improper packaging of licensed material, is classified as a Severity Level IV violation. As indicated in Supplement V of the NRC Enforcement Policy, significant violations of this type are normally classified as Severity Level III. However, after careful consideration of the factors involved in this specific instance, including the fact that the impact on the health and safety of the public was minimal and remote since exposure of persons to the radioactive material was unlikely, we have exercised our judgement under the NRC Enforcement Policy and have classified this violation as a Severity Level IV. Again, similar violations of this type in the future may result in additional enforcement action.

The violations described in the enclosed report have already been the subject of enforcement action by the State of Washington. On January 21, 1984, the State of Washington issued a written summary of violations identified during the inspections of December 13, 1984 and January 8, 1985, and terminated your authorization to use the Richland, Washington, commercial low-level waste burial site. This authorization has not been reinstated as of the date of this letter.

In accordance with Section 2.790 of the NRC's "Rules of Practice", Part 2, Title 10, Code of Federal Regulations, a copy of this letter, the enclosures and your reply will be placed in the NRC Public Document Room.

The responses directed by this letter and the accompanying Notice are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Your cooperation with us in this matter is appreciated.

Sincerely,

original signed by:

Thomas T. Martin, Director
Division of Radiation Safety
and Safeguards

OCT 29 1985

Enclosures:

1. Appendix A, Notice of Violation
2. NRC Region I Inspection Report No. 99990001/85-09
3. Confirmatory Radiological Survey of the Former Whittaker Metals Corporation Property, Greenville, Pennsylvania, November 1984.
4. Followup Survey Findings Former Whittaker Metals Corporation Property, Greenville, Pennsylvania, December 18, 1984.

cc w/encls:

Public Document Room (PDR)

Nuclear Safety Information Center (NSIC)

Commonwealth of Pennsylvania

State of Washington, Department of Social and Health Services

Whittaker Metals, Inc.

ATTN: Sol Spiller

Manager Capital Assets

10880 Wilshire Boulevard

Los Angeles, California 90024-9990

bcc w/encls:

Region I Docket Room (w/concurrences)

bcc w/o encls:

J. Kinneman, RI

E. Flack, IE

F. Costello, RI

J. Joyner, RI

T. Martin, RI

D. Holody, RI

B. Crow, NMSS

D. Cool, NMSS

RI:DRSS

McFadden/rw:djh

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RI:DRSS

Kinneman

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RI:DRSS

Joyner

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Holody

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RI:DRSS

Martin

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