

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
625 Broadway
Albany, New York 12233-1550

In the Matter

- of the -

PROPOSED AMENDMENTS OF
PART 380 OF
TITLE 6 OF THE OFFICIAL COMPILATION OF CODES,
RULES AND REGULATIONS OF THE STATE OF
NEW YORK.

HEARING REPORT

by

_____/s/_____
Molly T. McBride
July 10, 2017

PROCEEDINGS

The New York State Department of Environmental Conservation ("Department" or "DEC") scheduled a public comment hearing to provide an opportunity for comment on the proposed changes to Part 380 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Prevention and Control of Environmental Pollution by Radioactive Materials. These changes are intended to incorporate eight federal rule changes that have occurred from 1991 through 2008 and to clarify the existing regulation.

Under Environmental Conservation Law ("ECL") Article 8 (State Environmental Quality Review Act), the Department issued a negative declaration for the amended regulation, and no environmental impact statement was required.

A notice of proposed rulemaking, which included the scheduled public comment hearing, for amendments to Part 380 was published in the New York State Register and in the Department's Environmental Notice Bulletin, both on April 5, 2017.

The deadline for written comments, as stated in the notice of proposed rulemaking, was June 5, 2017.

The public comment hearing on the proposed amendments took place on May 25, 2017 at the DEC central office, 625 Broadway, Albany, New York, before Molly T. McBride, Administrative Law Judge ("ALJ"). Immediately prior to the public comment hearing, DEC staff held an information session regarding the proposed amendments. Approximately 8 persons attended the public comment hearing. In addition to the DEC Staff representative, one person spoke.

Sandra Hinkel, Chief of the Radiation Control Permit Section of the DEC Division of Environmental Remediation, summarized the amendments. Part 380 applies to all state regulated entities that dispose of or release radioactive material to the environment. Part 380 sets limits on radioactive releases and limits the potential radiation dose to the public that could result from those releases. She stated that the amended regulation would not change the general requirements for disposal of radioactive material, obtaining permits, or the requirement that exposures be kept as low as reasonably achievable. The proposed amendments would update several provisions that New York, as an agreement state, is required to adopt to maintain compatibility with federal

regulations issued by the U.S. Nuclear Regulatory Commission. Also, the proposed amendments would simplify and update language and add several needed provisions that have been absent from the regulation.

Summary of public comment

Barbara Warren from Citizens Environmental Coalition was the only public speaker. She first asked that the comment period be extended beyond the June 5, 2017 deadline. She thanked Sandra Hinkel for her assistance in explaining the regulations and noted that Ms. Hinkel has "gotten back to us a number of times." She found the proposed amendments confusing, noting there is a lack of clarity in what exactly the DEC is trying to do. Her group supports the DEC permitting such activity. However, she would like the language to be clearer regarding which State and local agency is responsible for, or overseeing the different areas. She noted her confusion with several areas. She also noted many changes or modifications her group would like to see made to Part 380. Some of the areas she noted include the following: (1) the terms licensing and permitting are used and DEC is not a licensing agency. There is confusion about the two licensing agencies, the State Department of Health and the New York City Department of Health and Mental Hygiene; (2) use of the term radioactive materials is not incorporated everywhere; (3) need clarity as to how and where the DEC is working with the State's radioactive licensees; (4) need clarity as to what materials are being regulated; and (5) the regulations are now regulating persons or entities and not facilities but her group would like the connection to regulating facilities to continue in some way. She also spoke about the nuclear power plants in the State and voiced concerns about them. Her group and the public are counting on DEC to be a watchdog who will prevent nuclear catastrophes in New York.

The hearing session concluded at 1:35 p.m.