

October 17, 2003

Mr. Dennis Sollenberger  
Office of State and Tribal Programs  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001

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STP

RE: Agreement State Program Policy

Dear Mr. Sollenberger:

The purpose of this letter is inquire about the policy of the Nuclear Regulatory Commission's (NRC) Office of State and Tribal Programs (OSTP) with respect Agreement State programs. Specifically, I am interested in the policy of the OSTP with respect Agreement State license document management systems.

On May 28, 1992, the NRC published a final general statement of policy entitled "NRC Review of Agreement State Radiation Control Programs: Final General Statement of Policy" (57 Fed. Reg. 22495).

The 1992 policy statement, under "Office Equipment and Support Services" (page 22500, column 2), specifically lays out policy related to Agreement State license document management systems. The policy states:

States should have a license document management system that is capable of organizing the volume diversity of materials associated with licensing and inspection of radioactive materials.

On September 3, 1997, the NRC issued a new "Statement of Principles and Policy for the Agreement State Program; Policy Statement on Adequacy and Compatibility of Agreement State Programs" (57 Fed. Reg. 22495). This notice announced the rescission of the 1992 policy statement, quoted above. The 1992 policy was replaced by the new Statement of Principles and Policy and the NRC Integrated Materials Performance Evaluation Program (IMEP).

I have been unable to find any statement of policy in the 1997 policy statement or IMEP (Management Directive 5.6) that addresses the expectations of the OSTP with respect Agreement State license document management systems. For some reason, the 1992 policy either changed or was forgotten about.

As you are well aware, having a license document control system and making indexes and licensing documents available to NRC staff and the public has been, and continues to be, a very important element in the NRC's radioactive materials regulatory program.

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However, when a state takes over regulatory responsibility under the provisions of 42 U.S.C. Section 274, the public loses the ready access to licensing records and indexes to licensing records that it has known under the NRC's well established and extensive document control system.

Some (if not many) of the Agreement States do not even have a licensing document indexing system. Therefore, there is no way for a member of the public, let alone the regulatory agency staff, to identify the extent and availability of licensing documents. Thus, it is very difficult for a member of the public to readily identify and obtain specific Agreement State licensing records or to understand the licensing history of a specific licensee. If one is at a distance from the State agency office, it is impossible.

Since the public participation is an essential element of any NRC or Agreement State regulatory program, the basic right to informed participation is compromised when the public does not have reasonable access to regulatory records.

#### QUESTIONS:

- What is the OSTP policy regarding the necessity for Agreement States to establish and maintain document control systems?
- What is the OSTP policy regarding the necessity for an Agreement State to index its radioactive materials licensing documents and to make those indexes readily available to the public?
- What is the OSTP policy with respect to the public availability (including costs to the public) of Agreement State radioactive materials licensing documents?
- How can the Commission make a finding that a Agreement State's program "is compatible with the Commission's program for the regulation of radioactive materials and that the State program is adequate to protect public health and safety," if the State does not have a license document control system that includes indexing radioactive material licensing documents and making the indexes readily accessible to the public?

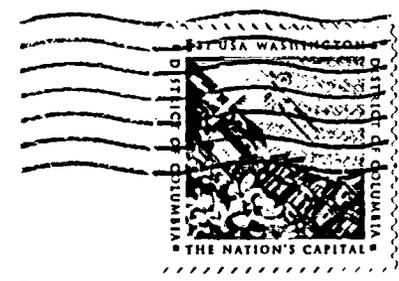
Thank you for your attention to this inquiry. If you have any questions, please feel free to contact me at 435-259-4734 or smfields@moci.net.

Sincerely,



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