

December 18, 2003

Ms. Sarah M. Fields
P. O. Box 143
Moab, UT 84532

Dear Ms. Fields:

I am responding to your letter of October 17, 2003 sent to Dennis Sollenberger of my office. I am enclosing responses to your four specific questions. In general, States are not required to adhere to all of the same laws as the Federal government, such as the Freedom of Information Act and the National Environmental Policy Act. However, States may have similar or unique State laws that address comparable issues. I trust we have been responsive to your questions. If you have questions on our responses, please contact me at phl@nrc.gov or Terry Brock at tab2@nrc.gov.

Sincerely,

/RA/
Paul H. Lohaus, Director
Office of State and Tribal Programs

Enclosure:
As stated

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Questions from the October 17, 2003 Letter

Question 1. What is the OSTP policy regarding the necessity for Agreement States to establish and maintain document control systems?

Response: The Nuclear Regulatory Commission (NRC) does not require Agreement States to establish and maintain a specific type of document control system. However, Agreement State programs do have to follow their State laws and administrative procedures for records management and what information can be made publicly available.

Question 2. 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?

Response: The NRC does not require Agreement States to index their radioactive materials licensing documents and to make such indexes publicly available. Agreement State programs should follow their State laws and administrative procedures for records management and availability.

Question 3. What is the OSTP policy with respect to the public availability (including costs to the public) of Agreement State radioactive materials licensing documents?

Response: We believe the question is addressed, in part, by our responses to Questions 1 and 2. In addition, our *1995 Final Statement of Principles and Policy for the Agreement State Program*, pages 37-38, states, "Regulatory decisions and actions should be developed and implemented in an open and publicly credible manner and should be able to withstand scrutiny. Such scrutiny should be welcomed by the regulator." We suggest you contact the specific State for their procedures for making information publicly available and the associated fees.

In Utah, State Code 63-2-201, *Government Records Access and Management Act*, is the State law that governs the public availability of documents (http://www.le.state.ut.us/~code/TITLE63/htm/63_01009.htm). The Utah Department of Environmental Quality, Division of Radiation Control (DRC), has available on their web-site upcoming radioactive material licensing actions available for public comment (http://www.deq.state.ut.us/EQRAD/RULES/legal_notice2.htm#licensing). Historical Utah radioactive materials licensing actions can be accessed at the DRC office in Salt Lake City and can be photocopied at a nominal fee.

Question 4. 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?

Response: Management Directive 5.6 *Integrated Materials Performance Evaluation Program (IMPEP)* provides the performance-based criteria that both Agreement States and NRC Regional programs are evaluated against to ensure program compatibility and adequacy to protect public health and safety. An NRC prescribed license document control system is not included as an element of IMPEP.