

From: [Poy, Stephen](#)
To: [Beardsley, Michelle](#)
Subject: FW: RE: NRC Concerns with WY's Data Collection Trespass Law
Date: Monday, March 06, 2017 1:48:48 PM

From: Olmstead, Joan
Sent: Monday, March 06, 2017 1:16 PM
To: Poy, Stephen <Stephen.Poy@nrc.gov>
Subject: FW: RE: NRC Concerns with WY's Data Collection Trespass Law

Steve,

This is the email I sent to Eva after our meeting in December. Joan

Joan Olmstead
Attorney
Reactors & Materials Rulemaking Division
U.S. Nuclear Regulatory Commission
Mail Stop: O-15 D21
Email: Joan.Olmstead@nrc.gov
Ph: 301-287-9106

This message may contain Predecisional, Attorney Work Product and/or Attorney-Client Privileged Material. Please do not release without prior consent from the Commission.

NOTE: REQUESTS FOR OGC REVIEW OF DOCUMENTS **MUST** BE SENT TO THE OGC MAILROOM USING THE FOLLOWING EMAIL ADDRESS: RIDSOGMAILCENTER.RESOURCE@NRC.GOV. FAILURE TO SEND TO THE OGC MAILROOM MAY MEAN REVIEW OF YOUR DOCUMENT WILL BE DELAYED.

From: Olmstead, Joan
Sent: Wednesday, December 21, 2016 11:11 AM
To: 'eva.la@wyo.gov' <eva.la@wyo.gov>
Cc: Marsh, Molly <Molly.Marsh@nrc.gov>
Subject: RE: NRC Concerns with WY's Data Collection Trespass Law

Eva,

Here is the write-up of the NRC's regarding WY's Data Collection Trespass Law that I mentioned I would be send you last week during our meeting.

NRC Concerns with WY's Data Collection Trespass Law

The Wyoming law W.S. 1977 §6-3-414 “Trespassing to Unlawfully Collect Resource Data; Unlawful Collection of Resource Data” (Data Collection Trespass Law) raised questions on the State’s ability to have an adequate and compatible Agreement State program. In particular, it is unclear how the State will be able to use information obtained by someone that trespassed on property because the plain language of the law appears to prohibit the state from using information gathered by a trespasser to investigate allegations, take enforcement actions or other administrative proceedings. To address NRC’s concerns so we can evaluate this further, at a minimum, we need a written explanation from the Wyoming Attorney General’s office that addresses our concerns, as outlined in our Oct. 17, 2016 letter.

The a detailed written response from the Attorney General’s office should include: 1) a discussion of the state’s authority to enter a licensee’s (or non-licensee’s) property in response to information gathered by a trespasser (e.g., eye-witness report, pictures, physical samples); 2) describe how the law applies to different the types of information (eye-witness report, pictures or physical evidence); 3) whether the trespasser’s information can be used to obtain a warrant, in subsequent enforcement actions or other administrative proceedings; 4) whether the information provided by the trespasser will be handled differently than other allegation information (e.g., would it be stored for the same amount of time?) If so, how? and 5) when would the state would be required to “expunge” the trespasser’s information from its files?

To help us better understand Wyoming’s position with respect to the trespass law, please have the Attorney General’s office provide a detailed written description of what would happen in the following scenarios:

1. A person trespasses on a licensee’s land and contacts the state to make allegations based on information (e.g. eye-witness report, pictures or samples), they collected while trespassing.
2. A person trespasses on property that is not a licensee’s land, collects information (e.g. eye-witness report, pictures or samples) related to a licensee and contacts the state to make allegations based on information they collected while trespassing.
3. A person trespasses on property that is not a licensee’s land and contacts the state to make allegations concerning a non-licensee based on information (e.g. eye-witness report, pictures or samples) they collected while trespassing.
4. A licensee’s employee goes to a section of the facility where they are not authorized to go and contacts the State to make allegations concerning the license based on information (e.g. eye-witness report, pictures or samples), they collected while there were in the unauthorized area.
5. An employee of a licensed facility trespasses on property that is not part of the licensee’s land and contacts the State to make allegations concerning the licensee based on information (e.g. eye-witness report, pictures or samples), they collected while trespassing.

I will be on vacation until January 4th, but you can contact Molly Marsh if you have any follow up questions while I am out of the office. I enjoyed meeting you last week and hope you have a Happy Holiday. Joan

Joan Olmstead

Attorney
Reactors & Materials Rulemaking Division
U.S. Nuclear Regulatory Commission
Mail Stop: O-15 D21
Email: Joan.Olmstead@nrc.gov
Ph: 301-287-9106

This message may contain Predecisional, Attorney Work Product and/or Attorney-Client Privileged Material. Please do not release without prior consent from the Commission.

NOTE: REQUESTS FOR OGC REVIEW OF DOCUMENTS **MUST** BE SENT TO THE OGC MAILROOM USING THE FOLLOWING EMAIL ADDRESS: RIDSOGCMAILCENTER.RESOURCE@NRC.GOV. FAILURE TO SEND TO THE OGC MAILROOM MAY MEAN REVIEW OF YOUR DOCUMENT WILL BE DELAYED.