



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-4005**

September 8, 2005

Mr. Dane Finerfrock, Director
State of Utah
Division of Radiation Control
Department of Environmental Quality
168 North 1950 West
P.O. Box 144850
Salt Lake City, UT 84114-4850

Dear Mr. Finerfrock:

A periodic meeting with Utah was held on August 10, 2005. The purpose of this meeting was to review and discuss the status of Utah's Agreement State Program. In addition, an orientation meeting was held. The purpose of the second meeting was to discuss the implementation of Utah's 2004 amended Agreement, adding the oversight of uranium recovery operations. This review was to exchange information and to identify areas of concern during the initial implementation of this portion of your Agreement State program.

At the meeting, the NRC was represented by Leonard Wert and myself from NRC's Region IV office, and Dennis Sollenberger and Jennifer Tobin from the Office of State and Tribal Programs. I have completed and enclosed general meeting summaries for both reviews, including any specific actions that will be taken as a result of the meeting.

If you feel that our conclusions do not accurately summarize the meeting discussion, or have any additional remarks about the meeting in general, please contact me at (817) 860-8116 or e-mail MLM1@NRC.GOV to discuss your concerns.

Sincerely,

/RA/

Linda McLean
Regional State Agreements Officer
Region IV

Enclosures:
As stated

cc: (w/enclosure)
Paul Lohaus, Director,
Office of State and Tribal Programs

bcc: (via ADAMS e-mail distribution):

- LWert
- DRathbun, STP
- CCain
- VCampbell
- JZabko, STP
- AMcCraw, STP
- DSollenberger, STP
- JTobin, STP

SISP Review Completed: ADAMS: **Yes** No Initials: _mlm_____

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MLMcLean				
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ENCLOSURE

Utah Periodic Meeting
August 10, 2005

ATTENDEES:

State of Utah

Dane Finerfrock, Director, Division of Radiation Control	Loren Morton, Environmental Program Manager I
Craig Jones, Environmental Manager II	John Hulquist, Environmental Program Manager I
David Hogge, Health Physicist	Gwyn Galloway, Health Physicist
Julie Felice, Health Physicist	
Phillip Griffin, Health Physicist	

NRC

Leonard Wert, Director, Division of Nuclear Materials Safety, Region IV
Linda McLean, Regional State Agreements Officer, Region IV
Dennis Sollenberger, Agreement State Project Officer, Office of State and Tribal Programs (STP)
Jennifer Tobin, Health Physicist, STP

Discussion

The Utah Agreement State program is administered by the Division of Radiation Control (the Division) located in the Department of Environmental Quality (the Department). The Utah program regulates approximately 185 specific licenses authorizing agreement materials and a low-level radioactive waste site.

Additionally, Utah's Agreement was amended in 2004, adding the oversight of uranium recovery operations in the State; therefore, this meeting also included a review of that program. The review served as a forum to exchange information and to identify areas of concern during the initial implementation of this portion of the Agreement State program

The last IMPEP Review was the week of June 23-2, 2003. At that time, the review team found Utah's performance to be satisfactory for all performance indicators. The review team recommended that the State program to be found adequate and compatible with NRC's program, and that the next full review should be in approximately four years.

1. Status of State's actions to address all open previous IMPEP review findings and/or open recommendations.

Recommendation: The review team recommended that LLRW inspectors receive annual supervisory accompaniments in a systematic fashion, and that accompaniments be appropriately documented.

Current Status: All accompaniments were performed in 2004 in the radioactive materials program. However, due to the State taking over the uranium recovery

program in 2004, no inspector accompaniments were completed in the uranium mills and low-level-waste programs, and none have been completed in 2005. The Utah staff stated that they would be completed by the end of the calendar year. There is a standard form has been developed in the past year to document the accompaniments.

2. Strengths and/or weaknesses of the State program as identified by the State or NRC including identification of actions that could diminish weaknesses.

A major strength of the program is the stability and experience of the staff. Most of the staff have greater than 10 years with the Division. Another strength is the good communications between the Division staff and management. In addition, the public and legislature interest in the department's activities has provided the Division with sufficient funds for the program.

3. Feedback on NRC's program as identified by the State and including identification of any action that should be considered by NRC. Several topics were discussed including the following issues:

The State questioned why NRC's "decay in storage" policy is a policy rather than a regulation. The Radiation Control Board's policy is to do rulemaking whenever possible rather than by policy.

The Division inquired about the status of the GL rule. The State has signed the OAS petition, and they are looking forward to talking about this issue at the OAS meeting in October.

The Division incorporated Part 35 by reference; however, they stated that they would like a better definition of the term "physically present."

The Division requested that the NRC look into what role the Division may have by concurring with the DOE prepared, and the NRC approved long term surveillance plan (LTSP) for the Rio Algom mill.

The Division has concerns over the Envirocare site procedures for handling intermodals and other conveyances inside restricted areas. Although they are decontaminated, many of these conveyances may remain in the restricted areas for days or weeks before returned to service. Upon exiting (empty), DOT radiation levels are not exceeded, but there have been two cases in which upon arrival to other State locations, the intermodals have set off the portal monitors. The licensee states that the intermodals are considered "in transit" during the entire time on their site; therefore DOT contamination levels apply. The state requested NRC clarification regarding the designation of regulatory authority regarding this process and how the licensee may address future "false alarms" from other State's portals.

4. Status of State Program including:

a. Staffing and training:

i) *Number of staff in the program and status of their training and qualifications:* The Division is completely and adequately staffed. One new position (Records Manager) has been approved. This individual will be responsible for constructing and maintaining the electronic database system.

ii) *Program vacancies:* The Division has recently hired three new staff members to work in the uranium mill program. Currently there are no vacancies.

iii) *Staff turnover:* There has been little staff turnover. Most of the staff have greater than 10 years with the Division.

iv) *Adequacy of FTEs for the program:* Staffing is adequate for the current program activities. A uranium mill in southern Utah plans to apply for a license to begin operating. When this occurs, the Division may need to hire additional staff. However, state management is aware of this possibility and is prepared to create a position in the program should the need arise.

b. Materials Inspection Program:

Discuss the status of the inspection program including if an inspection backlog exists and the steps being taken to work off backlog. The Division stated that no inspections are overdue. The State's database is used extensively for tracking of all inspection and licensing activities, and provides the status of these activities. A copy of the inspection tracking report was provided.

c. Regulations and Legislative changes:

The Division is up-to-date on the regulations. Utah's State Regulations Status (SRS) data sheet needs to be updated to add effective dates for three of the amendments.

d. Program reorganizations:

With the addition of the uranium mill program to the Agreement, an organizational change took place in 2004. The change added a third section and section manager. The Program will also be adding the position of Records Manager to the staff. (Attached: Division Organizational Chart)

5. Event Reporting, including follow-up and closure information in NMED.

No problems were identified with event reporting. The Division has done an excellent job of completing and closing all events in NMED.

6. Response to Incidents and Allegations: No allegations were referred to the Division during this period.
7. Large, complicated or unusual authorizations for use of radioactive materials, including, (e.g., major decommissioning and license termination actions). An uranium mill that has been closed for about 25 years, is planning on applying for a license to start operations again in the near future.
8. Schedule for the next IMPEP review: FY 2007