



State of Utah

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DIVISION OF WASTE MANAGEMENT  
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Paul Michalak, Chief  
Agreement State Programs Branch  
Division of Material Safety, State, Tribal  
and Rulemaking Programs  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

RE: Follow-up/Periodic IMPEP Review – December 12-13, 2017  
Utah Response to the Draft IMPEP Report

Dear Mr. Michalak:

The Division of Waste Management and Radiation Control appreciates the opportunity to review the draft report for the recent IMPEP follow-up/periodic review held December 12 to 13, 2017. We also express our appreciation to each member of the IMPEP team for their time and effort in making this review beneficial to our radioactive materials program. We have the following comments for your consideration in preparing the report for the Management Review Board (MRB).

GENERAL COMMENT

We agree with the team's preliminary results and recommendations for the MRB's consideration. We note the thoroughness of the team's narrative in describing our radioactive materials program as well as underscoring our success in the actions taken to address the final recommendations of the full IMPEP review of July 2015. In our opinion, all matters identified in the 2015 IMPEP have been fully addressed and concur that the next periodic IMPEP review should be conducted in July 2019.

SPECIFIC COMMENT

In Section 4.1 b., Utah recommends revising the second paragraph of page 7 of the draft report as noted below.

Comment #3 from the NRC's March 18, 2015, letter, pertaining to S.B. 244, specified that "Utah needs to indicate that the State provision will limit the inspection authority to exclude inspections

of facilities under the regulatory jurisdiction of the NRC or other Agreement States.” In a letter dated October 21, 2015, Utah provided an initial response to this comment. However, in its November 25, 2015, letter, the NRC stated that “Utah needs to provide an Attorney General opinion specifically stating whether the legislation limits the inspection authority to exclude inspections of facilities under the regulatory jurisdiction of the NRC or other Agreement States.” As of December 13, 2017, Utah had not submitted the Attorney General opinion to the NRC. During the followup review, Utah indicated that it would submit an Attorney General opinion to the NRC in order to resolve this issue. On January 12, 2018, Utah submitted the letter from the Attorney General's Office providing the requested opinion regarding the inspection authority under existing Utah law. In short, the letter affirms that the statutory provision in question (i.e., Utah Code § 19-6-109) does not grant “the legal authority to conduct inspections of facilities that fall under the regulatory jurisdiction of the NRC or other Agreement State.” Consequently, the letter addresses the NRC’s remaining comment of the March 18, 2015 letter.

Thank you again for the opportunity to review and comment on the draft report. We appreciate your consideration of our recommended revision.

If you have any questions, please contact Rusty Lundberg by phone at (801) 536-4257 or by email at [rlundberg@utah.gov](mailto:rlundberg@utah.gov).

Sincerely,



Scott T. Anderson, Director  
Division of Waste Management and Radiation Control

STA/RL/al

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