

June 13, 2012

Mr. Thomas E. Magette
Senior Vice-President, Nuclear Regulatory Strategy
EnergySolutions
6350 Stevens Forest Road, Suite 200
Columbia, MD 21046

SUBJECT: REQUEST FOR NRC POSITION ON CONTROLS OF TYPE B PACKAGE
FABRICATION

Dear Mr. Magette:

By letter dated March 15, 2012, you requested the U.S. Nuclear Regulatory Commission's (NRC) opinion as to "whether a person can fabricate a Type B package based on NRC public documents associated with an NRC approved package without the involvement and authorization of the person possessing the NRC issued Certificate of Compliance (CoC) for the package." This letter sets forth the opinion of the NRC staff, and is not binding upon the Commission.

NRC certified packages can only be fabricated under a full-scope NRC-approved Part 71 Quality Assurance (QA) program. Approval of such a QA program is only granted to applicants or holders of a Part 71 CoC. The NRC no longer issues a Part 71 QA program approval to a fabrication facility unless that facility is also a CoC holder.

The CoC holder is responsible for ensuring that design and quality controls are maintained throughout the fabrication process of an NRC certified package. The CoC holder is the only entity capable of providing reasonable assurance of a package design and fabrication. Only a CoC holder is fully aware of all pertinent fabrication details or changes, considering the number of CoC revisions of a package, each with potential detailed design changes, new engineering drawings, new fabrication specifications, and calculation packages.

Therefore, a fabrication facility that does not possess a CoC may not, on its own initiative, fabricate and sell an NRC certified package. Furthermore, consistent with 10 CFR 71.85(c), a licensee must determine that a package has been fabricated in accordance with the design approved by the NRC. A licensee cannot make such a determination if the facility fabricating the package does not possess the appropriate CoC or has not been authorized to fabricate the package by the appropriate holder of the CoC. No licensee may use such a package for shipping or storing radioactive material.

T. E. Magette

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No generic communication on this issue will be developed at this time.

If you have any question on the above, please contact Pierre Saverot of my staff at 301-492-3408.

Sincerely,

/RA/

Doug Weaver, Deputy Director
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

Docket No: 71-9168
TAC No. L24549

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-2-

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| NAME: | PSaverot | | MDeBose | | CLipa | | CAraguas | | OGC | | DWeaver | |
| DATE: | 04/10/2012 | | 04/10/2012 | | 04/11/2012 | | 04/27/2012 | | 05/18/2012 | | 6/13/12 | |

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