

June 20, 2012

Mr. Donald R. Krause
Manager, Regulatory Compliance and EHS
GE Hitachi Nuclear Energy
Vallecitos Nuclear Center
6705 Vallecitos Rd.
Sunol, CA 94586

SUBJECT: APPLICATION FOR LIMITED CONTINUED USE OF THE MODEL NO.
1500 PACKAGE, CERTIFICATE OF COMPLIANCE NO. 5939

Dear Mr. Krause:

The purpose of this letter is to provide feedback on your request, dated December 5, 2011, for limited continued use until December 31, 2012, of the Model No. 1500 Type B package, Docket No. 71-5939, for which the Certificate of Compliance (CoC) expired on October 1, 2008.

As a background to your request, on January 26, 2004, NRC published a final rule in the *Federal Register* (69 FR 3698), amending its Part 71 regulations to make them compatible with the International Atomic Energy Agency regulations. This rulemaking, coordinated with the Department of Transportation (DOT), implemented a planned four-year phase-out, through grandfathering provisions, of some Type B and fissile material transportation packages. The phase-out was to be completed by October 1, 2008.

On August 14, 2008, the NRC issued Regulatory Issue Summary (RIS) 2008-18, "Information on Requests for Extending Use of Expiring Transport Packages," to clarify a regulatory method for extending the phase-out plans for limited circumstances. The RIS lists specific information that should be received, including (1) package information, (2) identification of shipments, (3) reasons for requesting extended use, (4) safety justification for continued use and proposed compensatory measures, and (5) a plan and schedule to acquire replacement packages. The RIS also provides criteria for demonstrating the need for a request for extension, including, *"(a) there are no alternative domestically approved package available, (b) the contents cannot be reconfigured such that transport can be conducted in accordance with the regulations, and (c) the transport schedule cannot be adjusted so as to be conducted in accordance with the regulations."*

In our letter dated May 19, 2009, staff reminded you that the authorization you received on January 16, 2009, for continued limited shipments was a "temporary measure," intended only to bridge the gap between the expiration of older packages and the availability of a new replacement package. J.L. Shepherd & Associates (JLS) was also granted the use of the Model No. 1500 package on July 23, 2010, and GE Hitachi Nuclear Energy (GEH) received another extension on February 23, 2011. In its

applications, GEH indicated that the Alpha-Omega Services, Inc. (AOS) package, being reviewed at the time by staff, was designated as the replacement package for the Model No.1500 package. On February 28, 2012, the staff issued CoC No. 71-9316 to AOS for the Model Nos. AOS-025A, AOS-050A, AOS-100A, AOS-100B, and AOS-100A-S packages.

By letter dated January 20, 2012, staff advised you that any request for authorizing the extension of an expired package beyond June 30, 2012, will be considered as a separate application, on a case by case basis, and only for critical shipment needs. Staff also requested that you explain, in a public meeting, critical shipment needs and schedules, and the good faith efforts undertaken since 2004 to acquire a replacement package. A public meeting was then held on May 21, 2012, between GEH, JLS representatives, and NRC staff.

At the May 21, 2012, public meeting, GEH representatives explained that JLS would be the primary user of the Model No. 1500 package for shipments to and from the JLS San Fernando, CA, facility. JLS and GEH requested eight (8) shipments of ⁶⁰Co sources to be conducted by June 30, 2013. The June 30, 2013, date was premised on the development and certification of a new JLS package, designated as the Model No. BU650B, which has not yet been submitted to NRC for review.

Although GEH acknowledged that the Model No. AOS-100 package had been identified, since January 16, 2009, as their replacement package for the Model No. 1500 package, and will be ready to be deployed this Fall, JLS stated that the Model No. AOS-100 package did not meet its needs.

It is not the intent of the staff to make, restrict, or influence business decisions, pertaining to the acquisition and use of existing or new packages, for any shipper, user, and or material licensees. However, more than 8 years have passed to obtain a replacement package and complete a phase-out of the Model No. 1500 package, which cannot be recertified under current regulations.

The staff will evaluate any request of extended use of the Model No. 1500 package until December 2012, because (i) staff believes that there is now an "alternative domestically approved package available" consistent with paragraph 3(a) of the RIS, and (ii) staff has reasons to believe that ⁶⁰Co contents can be "reconfigured to conduct shipments in accordance with current Part 71 regulations" consistent with paragraph 3(b) of the RIS. Other domestic or foreign-approved packages may be available as well. Staff will consider, in part, the interest of material licensees to obtain ⁶⁰Co sources with respect to National Security, medical therapies, source recovery, and other important needs during this specific time frame of July 1, 2012 through December 31, 2012.

In connection with the staff's detailed review of your request, we need the information identified in the enclosure to this letter. The staff requests the information specified by RIS 2008-18 in paragraphs 3(a), 3(b), and 3(c) reiterated above, to be provided under oath and affirmation. Recipient material licensees should also justify in separate correspondence the need for each shipment that is needed between July 1 and December 31, 2012.

Staff will consider this information in its review of an application to extend the use of the Model No. 1500 package for limited shipments until December 31, 2012. No further authorization will be granted after December 31, 2012.

If you have any questions regarding this matter, please contact Pierre Saverot at (301) 492-3408.

Sincerely,

/RA/

Michael D. Waters, Chief
Licensing Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

Docket No. 71-5939

TAC No. L24654

Enclosure: Request for Additional Information

cc: R. Boyle, Department of Transportation
Bill Brown, J. L. Shepherd & Associates
State of California Department of Public Health
Dennis Russel, Boeing Radiation Effects Laboratory
Catherine Ribaud, National Institute of Health
Richard Stafford, Sanaria Inc.
Terrence F. Deaton, Aeroflex RAD, Inc.
Josephine S. Esteban-Trexler, USAMRIID
Edward Craig, Raytheon SAS
Steve McClure, Jet Propulsion Laboratory
Dennis Collins, Honeywell International
Leo Bobek, Si-REL, LLC
Alex Ossipov, STAAR Surgical
Ted Schantz, Defense Microelectronics Field Activity

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C=Without attachment/enclosure E=With attachment/enclosure N=No copy

OFC	SFST	E	SFST		SFST	
NAME	Psaverot		MDeBose		MWaters	
DATE	06/07/2012		6/20/2012		6/20/2012	

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Request for Additional Information
Regarding an Extension to the Authorization
for Limited Continued Use of the Model No. 1500 Package

By letter dated December 5, 2011, GE Hitachi Nuclear Energy requested an extension to the Authorization for limited continued use of the Model No. 1500 package from December 30, 2011, to December 30, 2012.

This Request for Additional Information (RAI) identifies information needed by the staff in connection with its review of your request.

- RAI 1: Provide the information specified by RIS 2008-18 related to (1) package information, (2) identification of shipments, (3) reasons for requesting extended use, (4) safety justification for continued use and proposed compensatory measures, and (5) a plan and schedule to acquire replacement packages.
- RAI 2: Provide under oath and affirmation the information requested for the three criteria that must be demonstrated in any planned request for extension, i.e., that “(a) there are no alternative domestically approved package available, (b) the contents cannot be reconfigured such that transport can be conducted in accordance with the regulations, (c) the transport schedule cannot be adjusted so as to be conducted in accordance with the regulations.”
- RAI 3: For each specific shipment request, clarify which shipment is critical between now and December 2012 to ensure public health and safety, maintain national security interests, provide medical therapies, provide recovery of sources, and/or other crucial needs to material licensees.
- RAI 4: Provide letters of confirmation from the end-users, i.e., recipient material licensees, of the Model No. 1500 package to support the justification of any shipment needed by December 31, 2012. The letter should also further explain the specific impacts of not receiving a planned shipment before December 31, 2012.