

# 10 CFR 71.95 REPORT EVALUATION FORM

**Docket No.:** 71-9168  
**Package Model No.:** 8-120B  
**Report Submitted By:** Studsvik, Southern Nuclear Co., First Energy Nuclear, DTE Electric, Exelon Generation, STP Nuclear Operating Co., Florida Power & Light Co., PPL Susquehanna, Entergy Operations, XCel Energy, Entergy Nuclear Operations, Duke Energy, PSEG Nuclear LLC, NextEra Energy Point Beach, NextEra Energy Duane Arnold, Dominion Nuclear Ct. Inc.  
**Report Date:** August 14, 2013-October 24, 2013  
**Report ADAMS Accession Nos.:** ML13291A007; ML13288A141; ML13288A178; ML13284A016; ML13284A014; ML13295A328; ML13277A608; ML13274A634; ML13282A148; ML13273A355; ML13267A185; ML13268A454; ML13269A014; ML13243A102, ML13253A098; ML13246A177; ML13273A691; ML13247A036; ML13247A179

Review the incoming report to determine if additional Commission or staff action is warranted. The review should consider whether the report identifies a generic defect or problem with the package design and the safety significance of the issue. Note that a high safety significance represents a potential for significant radiation exposure, medium safety significance represents a potential for some moderate radiation exposure, and low safety significance represents little or no potential for radiation exposure.

## 1. The report identifies:

- ☐ Significant reduction in the effectiveness of a package during use;
- ☐ Defect with a safety significance;
- ☒ Shipment in which conditions of the approval were not observed.

**2. What is the safety significance?**      ☐ High      ☐ Medium      ☒ Low

## 3. Summary of the report:

A condition of the certificate of compliance (CoC) was not observed due to a discrepancy between an air pressure drop test procedure (TR-TP-002), which described a 20-minute hold-time for the pre-shipment leak test of the vent port of the package, and the application - referenced in the CoC - which specified a 60-minute hold-time. Over the last 12 years, about 1,400 shipments were performed by approximately 88 users. However, the number of shipments, in which this CoC condition was not observed, cannot be known with any certainty because a given package is used by different utilities and pre-shipment leak testing of the vent port is required only when the vent or drain port had been opened since the preceding vent port leak test. Thus, if the previous user did not remove the vent or drain port, the test was not required by the CoC. Revision 19 of the CoC now includes a new lid design and prohibits the packages to be used with the old seals.

## 4. Corrective actions taken by the licensee:

The air pressure drop test procedure, TR-TP-002, has been revised and reissued to incorporate the required 60 minute vent port leak test. A complete review of the potential for similar discrepancies associated with package operations and the SAR was completed. A QA procedure governing the lifecycle control of engineering, licensing, and operations activities to assure a proper "flow down" between CoC requirements and SAR commitments was issued.

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## 5. Staff comments:

The pre-shipment leakage rate test is performed using a pressure drop test on the primary lid, secondary lid, and vent port seals. To determine the required hold time for the pressure drop test, a maximum test volume is calculated. In September 2013, staff verified that this calculation was performed for the lid seal only, and that the maximum hold time, determined to be 60 minutes, was conservatively used for the smaller pressure drop test volumes of the secondary lid and vent port pre-shipment leakage rate tests. Based on equation B.14 in ANSI N14.5, "American National Standard for Radioactive Materials – Leakage Tests on Packages for Shipment," the pressure drop test hold time is proportional to the pressure drop test total volume. Staff performed a calculation that showed that the pressure drop test total of the test vent port volume and the test manifold volume was less than one third (20 minutes / 60 minutes) of the pressure drop test total of the primary containment seal test chamber volume and the test manifold volume. Therefore, the 20 minute hold time was still adequate for the vent port pressure drop test, by providing enough margin, and there is no safety significance associated with this condition.

Given the widescale nature of this non-safety significant issue, and the number of licensees who could have potentially made, or not made, shipments with the Model No. 8-120B package without performing the vent port pre-shipment leak test for the required 60-minute duration, staff believes that the administrative burden to process enforcement action is not warranted. On September 17, 2013, staff contacted the Office of Enforcement (OE) and suggested "enforcement discretion" through the issuance of an Enforcement Guidance Memorandum (EGM) to direct the Regions to apply enforcement discretion for those licensees who have identified and reported potential violations and adopted the corrective actions proposed by EnergySolutions.

However, staff is concerned that the official timeline, i.e., (1) Event "*discovered by a user in late May 2013*"; (2) June 13, 2013, notification by ES to all its customers of a new procedure: "*the change to TR-TP-002 was communicated to all EnergySolutions registered cask users on June 13, 2013*"; and (3) a July 2, 2013, notice to registered cask users to "clarify the issue," is not consistently nor adequately reported in the 71.95 reports filed by licensees. Some licensees did not mention any date in their 71.95 reports, some mentioned a July 2, August 11 or 14, notification date...to stay within the required 60 day reporting timeline, but none shows a June 13 notification date!

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Staff is also concerned that EnergySolutions requested that the licensees let them, the certificate holder, make the 10 CFR 71.95 report to NRC with a "*stated understanding by NRC of that plan,*" while 10 CFR 71.95 clearly states that it is the responsibility of the licensee to submit a written report to the Commission and that the certificate holder is not the party which submits those reports. EnergySolutions e-mailed its "own report" on August 14, 2013, 60 days after its initial June 13 correspondence to the package users, and some licensees, which were notified on June 13, then used this August 14 notification date for their own reports "*since it was considered the most up-to-date and official version.*"

Staff understands that the CoC holder's list of users "points of contact information" needs to be updated because some licensees have been contacted via outdated contact information.

## 6. Staff conclusion:

- ☒ The report does NOT identify generic design or license/certificate issues that warrant additional Commission or staff action. This report is considered closed.
- ☐ There is a need to take additional action. Provide a summary of the bases and recommended actions:

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M. Ferdas, RI                      M. Sykes, II                      R. Orlikowski, III                      B. Spitzberg, IV  
D. Arroyo                      E. Benner                      R. Temps  
R. Boyle and M. Conroy, Department of Transportation

**G:\SFST\Part 71\71.95 reports\71.95 Report Evaluations\71-9168 December 2013.**

**ADAMS P8 Accession No.: ML14013A044**

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