



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 17, 2014

Dr. James M. Shuler, Manager
DOE Packaging Certification Program
U.S. Department of Energy
Office of Packaging and Transportation
EM-63, CLV-2047
1000 Independence Avenue, S.W.
Washington, DC 20585

SUBJECT: REQUIREMENTS FOR PRELIMINARY DETERMINATIONS PRIOR TO FIRST
USE FOR DUAL-CERTIFIED PACKAGES

Dear Dr. Shuler,

In your letter dated October 30, 2013, you posed questions on the requirements in Title 10 of the *Code of Federal Regulations*, 71.85 for packages that have dual certification from both the U.S. Nuclear Regulatory Commission (NRC) and U.S. Department of Energy (DOE). In particular, you requested clarification on what NRC would require from the applicant regarding the requirements in 10 CFR 71.85 for preliminary determinations as far as inspection, testing, and fabrication requirements, assuming the package has been used before by DOE. It appears that you are concerned that NRC would require the licensee to repeat the requirements in 10 CFR 71.85, as if the package had never been used.

If these tests were performed prior to first use of the DOE certificate of compliance, would satisfy the requirements of 10 CFR 71.85, and were performed under a quality assurance program that meets the requirements of Subpart H in 10 CFR Part 71, then the tests would not need to be repeated prior to first use of the NRC certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Sampson".

Michele Sampson, Chief
Licensing Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
and Safeguards

cc: L. F. Gelder, Savannah River Research Campus



Department of Energy
Washington, DC 20585

October 30, 2013

Attention: Document Control Desk
Michelle Sampson
Branch Chief
Licensing Branch
Division of Spent Fuel Storage and Transportation,
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Michelle Sampson:

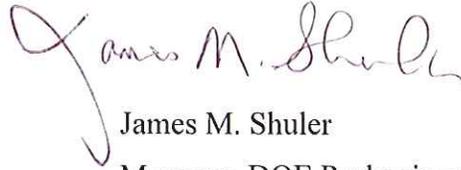
As you know, DOE Packaging Certification Program and NRC have issued Certificates of Compliance (CoC) on several of the same package Models, such as, the 10-160B (CoC# 9204), NAC-LWT (CoC# 9225), and ES-3100 (CoC# 9315), etc. DOE refers to these packages as dual-cert packages.

In order to comply with § 71.85 (c), a dual-cert package shipped under DOE CoC includes "(DOE)" in the Package Identification Number nameplate; for example, *USA/9225/B(U)F-96 (DOE)*. When the same package is shipped under NRC CoC, the Package Identification Number in the nameplate is *USA/9225/B(U)F-96*. This situation leads to several questions I have regarding NRC's interpretation of § 71.85 in the context of dual-cert packages.

When NRC issues a new CoC based on a DOE CoC, what would NRC require from the applicant regarding the "Before the first use of any packaging for the shipment of licensed material" as far as inspection, testing, and fabrication requirements of § 71.85 (a), (b), and (c) respectively, assuming the package has been used before by DOE? In other words, would NRC treat this package as new, never used, and require the applicant to repeat the § 71.85 (a), (b), and (c) requirements?

Since a dual-cert package had been used under the DOE CoC, would the applicant satisfy the requirements of § 71.85 by furnishing NRC the same documentation they used to demonstrate compliance with § 71.85 to DOE?

If you have any questions or need more details please call at 301-903-5513 or email at james.shuler@em.doe.gov.

A handwritten signature in black ink that reads "James M. Shuler". The signature is written in a cursive style with a large, looping initial "J".

James M. Shuler

Manager, DOE Packaging Certification Program
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