

Amy Snyder

From: Eric Benner
Sent: Tuesday, August 05, 2008 1:11 PM
To: Nancy Osgood; Meraj Rahimi; Amy Snyder; David Pstrak; Frank Gee; Andrew Pessin
Subject: RE: Summary of August 5, 2008 Meeting on Transfer of Control and CoC

Thanks!

From: Nancy Osgood
Sent: Tuesday, August 05, 2008 1:03 PM
To: Meraj Rahimi; Eric Benner; Amy Snyder; David Pstrak; Frank Gee; Andrew Pessin
Subject: RE: Summary of August 5, 2008 Meeting on Transfer of Control and CoC

Amy: With respect to Action Item 2:

2. Andy Pessin requested the following information by August 25, 2008:

- a. Does BWXT hold a general or specific Part 71 License. (action for Amy with Eric's help as needed).
BWXT holds Part 71 Certificates of Compliance, and they transport under the General License in Part 71.
(They are a Part 70 licensee).
- b. Does BWXT hold a general or specific Part 72 License. (action for Amy with Eric's help as needed).
BWXT does not hold any Part 72 Certificates of Compliance, nor are they a General Licensee or a Specific Licensee under Part 72.
- c. Does BWXT fabricate casks. If so, do they solely use the casks that they fabricate. If they solely use the casks that they fabricate, could they act as a vendor and sell the casks for someone else to use?(Action for Amy) BWXT has, in the past, fabricated certified transportation packages (for example, I believe they fabricated the Model 5x22 packagings that they use). They may also have sold or leased some of their transportation packagings in the past, although I am not positive about that.

From: Meraj Rahimi
Sent: Tuesday, August 05, 2008 12:26 PM
To: Eric Benner; Amy Snyder; David Pstrak; Frank Gee; John Hull; Andrew Pessin; Peter Habighorst
Cc: Nancy Osgood; Merritt Baker; Merritt Baker
Subject: RE: Summary of August 5, 2008 Meeting on Transfer of Control and CoC

With regard to Action Item 2, any current licensing actions on any of the BWXt casks should not hold up the transfer of the certificates to the new entity. Response to an RAI should not hold up the license transfer.

thanks,

From: Eric Benner
Sent: Tuesday, August 05, 2008 11:46 AM
To: Amy Snyder; David Pstrak; Frank Gee; John Hull; Andrew Pessin; Peter Habighorst
Cc: Nancy Osgood; Merritt Baker; Merritt Baker; Meraj Rahimi
Subject: RE: Summary of August 5, 2008 Meeting on Transfer of Control and CoC

The answer to Action Item 1 is that they are all Part 71 CoCs.

Maraj & Nancy, can you provide Andy & Amy the information Andy requested for Action Item 2? Hopefully we can put this to rest soon.

Dave/Frank - for Action Item 4, Jim Pierson had identified additional potential certificates, but didn't identify numbers. Can one of you check with Jim as to what additional potential certificates he meant? We weren't able to replicate his numbers.

Amy, at the Monday morning NMSS standup, FCSS mentioned that they were continuing to review a pending Part 70 license transfer of NFS to BWXT. Is that included in our action or is that separate?

Thanks,
Eric

From: Amy Snyder
Sent: Tuesday, August 05, 2008 11:26 AM
To: David Pstrak; Frank Gee; John Hull; Andrew Pessin; Peter Habighorst; Eric Benner
Cc: Nancy Osgood; Merritt Baker; Merritt Baker
Subject: Summary of August 5, 2008 Meeting on Transfer of Control and CoC

Thanks for a good meeting today.
Below is a summary of the meeting with action items:

Time: 9:00 to 10:00am
Place: EBB 1- 113
Attendees: Eric Benner, Frank Gee (representing David Pstrak, John Hull, Andy Pessin, Amy Snyder)

Background: In the March 19th NRC letter accepting the Transfer of Control application and the April 24th RAI, NRC stated that all licensing actions must occur in parallel for transfer of control. RAI number 7 addresses COCs held by BWXT (9 which they are the primary holders and 19 which they are the secondary holder as stated in the RAI).

Issues Discussed:

1. SFST past practices regarding transfer of control and CoCs: Historically, SFST has ensured that the quality assurance programs are in order and updated with the new licensee's name. With CoC, there is no licensing action nor is there an actual "certificate" that is given to the holder. The Quality Assurance Program Description is a critical document.
2. Open Technical Issues: At least one CoC is temporarily on-hold because BWXT is not able at this time to provide to the NRC the performance data that the NRC staff requested in an RAI. There are technical or non-quality assurance issues that remain open. Knowing this, the question asked to the group was - will this impact the completed schedule of the Transfer of Control of the Part 70 License? Is the completion of the such issues assumed by the new entity? BWXT has submitted in its application, on behalf of the new entity, a statement that the B&W NOG (the new entity) will abide by all license requirements and conditions of the license.
3. Type of CoCs: SFST was not able at this meeting to determine what type of CoC BWXT holds (Part 71 vs. Part 72 or some combination). This information was important for OGC to understand the issue. For discussion sake, we assumed that they were all Part 71 CoCs.
4. Past Concerns Raised by SFST that support all licensing actions to occur in parallel: In Feb - March 2008 time frame, Dave Pstrak felt that the CoC must be addressed in parallel with the Transfer of Control licensing action. He used the rationale that if something like a leak or accident occurs and the CoC action is not current, then NRC may be in an awkward position or worse- one in which we may not be able to have regulatory authority over the holder of the CoC. FCSS assumed that the SFST licensing branch agreed with this position because both Dave Pstrak and Bob Nelson concurred on the March 19th and April 24th NRC letters to BWXT stating that all licensing actions (to include CoC transfer) must occur in parallel. This position appears to be

inconsistent with SFST's statement made at the July 21 Meeting on this same subject. At the July 21 meeting, SFST stated that historically SFST must ensure that the QA program is in order and updated for transfer of control and that any technical issues with CoC reviews may be addressed at a later date.

5. On first blush, Andy Pessin thinks that if BWXT does not hold a specific Part 71 or Part 72 license (as applicable to the type of packages or casks we are dealing with) then he thinks that the technical or nonquality assurance issues can be addressed after the transfer of control. If not- then the technical issues -he thinks- would need to be addressed in parallel. Andy will need more information to make a determination.

Action Items to be completed by August 25, 2008:

1. Eric Benner to confirm the type of CoCs in question (Part 71 vs. Part 72).
2. Andy Pessin requested the following information by August 25, 2008:
 - a. Does BWXT hold a general or specific Part 71 License. (action for Amy with Eric's help as needed)
 - b. Does BWXT hold a general or specific Part 72 License. (action for Amy with Eric's help as needed)
 - c. Does BWXT fabricate casks. If so, do they solely use the casks that they fabricate. If they solely use the casks that they fabricate, could they act as a vendor and sell the casks for someone else to use?(Action for Amy)
 - d. What do the terms primary and secondary user mean and where do they come from. (Action for SFST- Eric and Dave decide you gets this action, please.)
3. Andy Pessin to provide a written OGC position on this issue to FCSS by September 10th, provided he receives all the information requested in Action Item 2 above by August 25, 2008.

NOTE: (Action Item 4 was **not directly** discussed at the August 5 meeting)

4. From the July 21 Meeting- three action items have not been completed and I request that they be completed as soon as possible- but no later than August 25th:

Action Items from July 21st Meeting:

- SFST to address internally whether any concerns remain regarding the number of CoC that BWXT is responsible for. (Not Accomplished- Eric and Dave to work out internally who is responsible for this action item)
- SFST will ensure that non classified portions of the BWXT May 30, 2008 submittal will be posted in ADAMS. (Not Accomplished yet- I understand that Frank Gee asked BWXT to re fax information which he placed in ADAMS, however the May 30th submittal is not yet in ADAMS.)
- FCSS will coordinate a meeting with OGC. Attendees to invite are: Andy Pessin and John Hull of OGC and Eric Benner, Meraj Rahimi, Frank Gee, and Nancy Osgood of SFST, and Peter Habighorst and Amy Snyder of FCSS. The purpose of the meeting will be to inform OGC of the path forward (QA program and name change only for CoC for Transfer of Control of Part 70 license) and see if OGC has any concerns, insights or objections to this approach. Any SFST technical issues will be addressed through the SFST licensing process after the effect date of the Transfer of Control). Done- August 5, 2008 Meeting
- FCSS to provide an email to SFST requesting SER input (for the Part 70 licensing action- stating that CoC QA has been addressed) by mid August 08. (The email was sent July 21 (see attached) however, I did not receive a response back from SFST. Eric and Dave need to decide you gets this action).

Sincerely,

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