



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

August 12, 2016

Ms. Debra G. Shults, Director
Tennessee Department of Environment
and Conservation
Division of Radiological Health
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243

Dear Ms. Shults:

By letter dated June 2, 2016, the State of Tennessee Department of Environment and Conservation requested a regulatory position on the following situation:

“EnergySolutions Services, Inc. is a licensee of the State of Tennessee holding two radioactive material licenses for the receipt, possession, and processing of any US Department of Transportation acceptable radioactive material. Both of these licenses allow storage and possession of radioactive material at a shared address where their shared processing facilities are located. In view of this, the Division of Radiological Health has limited the combined possession limit of special nuclear material of both licenses to the maximum that we are authorized by law to license. EnergySolutions Services seeks to obtain authorization to exceed that quantity of special nuclear material in accordance with provided information previously discussed with Mr. Stephen Poy of U.S. Nuclear Regulatory Commission (NRC) by requesting that each license issued by the Division allow the possession of the maximum allowed quantity. Presently, we (the State of Tennessee) have not authorized the requested quantity. Therefore, we (the Division of Radiological Health) are asking for advice on the acceptability of this increase in quantity in accordance with the authority of NRC’s jurisdiction over special nuclear material possession.”

EnergySolutions has proposed to the State of Tennessee that they would like to implement a new waste tracking system that has the ability to electronically track their waste inventory, including special nuclear material, in real time. Using this software, EnergySolutions asserts that the location of all waste containers, including containers holding special nuclear material, can be tracked from receipt, through storage and processing, and finally upon packaging and shipment for disposal. EnergySolutions has proposed that this waste tracking software will provide them the ability to monitor the location of special nuclear material such that their special nuclear material limits should be license-specific versus the current one special nuclear material limit for the entire facility. Such a change would essentially double EnergySolutions’ current special nuclear material limit.

D. Shults

-2-

Based on the provided information, NRC staff does not believe that the approach presented by EnergySolutions Services to obtain authorization to exceed the current storage and possession limits in their current material licenses complies with NRC or Tennessee requirements, or the NRC's agreement with the State of Tennessee. The applicable limits are specified in Title 10, *Code of Federal Regulations* (10 CFR) Part 150.11. The Tennessee Agreement clearly states that Tennessee only has the regulatory authority with respect to special nuclear material in quantities not sufficient to form a critical mass. EnergySolutions Services is seeking authorization to exceed that limit by requesting the possession and storage of up to a critical mass of material under each license at the facility. If EnergySolutions Services wishes to possess material in excess of critical mass as defined in 10 CFR 150.11, they must submit an application to the NRC for a 10 CFR Part 70 (Domestic Licensing of Special Nuclear Material) license or submit a request to the NRC for an exemption from the applicable regulatory requirements.

If you have any additional questions regarding EnergySolution's request, please contact Stephen Poy of my staff at (301) 415-7135 or by e-mail at Stephen.Poy@nrc.gov.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Material Safety, States, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Based on the provided information, NRC staff does not believe that the approach presented by EnergySolutions Services to obtain authorization to exceed the current storage and possession limits in their current material licenses complies with NRC or Tennessee requirements, or the NRC's agreement with the State of Tennessee. The applicable limits are specified in Title 10, *Code of Federal Regulations* (10 CFR) Part 150.11. The Tennessee Agreement clearly states that Tennessee only has the regulatory authority with respect to special nuclear material in quantities not sufficient to form a critical mass. EnergySolutions Services is seeking authorization to exceed that limit by requesting the possession and storage of up to a critical mass of material under each license at the facility. If EnergySolutions Services wishes to possess material in excess of critical mass as defined in 10 CFR 150.11, they must submit an application to the NRC for a 10 CFR Part 70 (Domestic Licensing of Special Nuclear Material) license or submit a request to the NRC for an exemption from the applicable regulatory requirements.

If you have any additional questions regarding EnergySolution's request, please contact Stephen Poy of my staff at (301) 415-7135 or by e-mail at Stephen.Poy@nrc.gov.

Sincerely,

/RA/

Daniel S. Collins, Director
Division of Material Safety, States, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

DISTRIBUTION:

SPoy, MSTR
DJanda, RI

ML16203A064

OFFICE	MSTR:PM	DUWP:PM	DUWP:BC	OGC
NAME	SPoy	HFelsher	PMichalak	Via e-mail OMikula
DATE	7/25/16	8/02/16	8/09/16	7/19/16
OFFICE	MSTR:BC	MSTR:D		
NAME	SDembeck for GSuber	DCollins		
DATE	8/11/16	8/12/16		

OFFICIAL RECORD COPY