

March 28, 2014

Michelle M. Hammond, M.Sc.
Health Physicist
Region IV-Division of Nuclear Materials Safety, Branch B
611 East Lamar Blvd.
Arlington, TX 76011-4125

Subject: Request to amend License No. 49-26846-01

PUBLIC

☐ Immediate Release
☒ Normal Release

NON-PUBLIC

☐ A.3 Sensitive-Security Related
☐ A.7 Sensitive Internal
☐ Other: _____

Reviewer: goc

Date: 4/21/14

Dear Ms. Hammond:

Energy Laboratories, Inc. (ELI) would like to follow your recommendation and provide you and your technical team with specific information to aid in the review of our request to amend our Materials License, No. 49-26846-01.

Therefore, please consider this letter an official request to amend our license accordingly:

1. ELI would like to remove from our license, the 14.1 pound depleted uranium (DU) disk that was added to our license some years ago. Documentation as to the current location of this DU disk is enclosed.
2. ELI would also like to amend our license by removing the 1,000 kilograms of source material as defined in 10 CFR 40.4. The authorized use was for radiochemical, inorganic and organic analysis to determine material characterization. ELI's justification for this request is as follows:

Background:

During an NRC inspection on August 23, 2010, ELI received a violation for possessing source material without source material authorization on the license. The material in question included approximately 1,500 pounds of dried and ground core samples and the justification for this finding was based on the existing definition of "unprocessed and unrefined" in 10 CFR 40.4.

Initially, ELI questioned why the core samples were not considered exempt source material under 10 CFR 40.13(b) but the NRC did not agree with our rationale. The NRC's argument was – "because the material did not meet the characterization of "unimportant quantities" under 10 CFR 40.13 and the quantity exceeded the 15-pound limit allowed under a general license in 10 CFR 40.22, in accordance with 10 CFR 40.3, the possession of more than 15-pounds of source material required a specific license." The NOV remained as cited and the three barrels in question have since been properly disposed.

As a result of the violation, on May 18, 2011, ELI requested an amendment (No. 10) to our license to include the possession of 1,000 kilograms of §40.4 source material for radiochemical, inorganic and organic analysis to determine material characterization.

B 508017

Old Regulations:

Prior to August 27, 2013, the 10 CFR 40.13(b) use of the definition of “unrefined and unprocessed ore” excluded ore samples that had been processed (prepped) by a laboratory for analysis if the source material content (uranium and/or thorium content or a combination thereof) exceeded one-twentieth of one percent (0.05%). Once processed, these types of samples were considered source material because they were removed from their natural form or place of deposit in nature. The possession limits of 10 CFR 40.22 *Small quantities of source material* were applied so laboratories possessing these samples in excess of the §40.22 limits had to have source material authorization on their license, hence the above stated NOV.

New Regulations:

On August 27, 2013, new regulations went into effect that redefined “unrefined and unprocessed ore” with respect to samples received by a laboratory.

On page 32319 of the Federal Register/Vol. 78, No. 103/Wednesday, May 29, 2013 Section A.8, *Revision of Definition of “Unrefined and unprocessed ore” as used in 40.13(b)* it mentions that based on comments received regarding the transfer of source material samples to the laboratories, the NRC has included a clarifying amendment to the definition of “unrefined and unprocessed ore” in § 40.4, “Definitions” (see below). The final rule, now indicates that laboratory activities related to sample preparation of unprocessed ore is no longer considered “processing” and as such, ore samples will remain exempt under §40.13(b).

10 CFR 40.4 - Unrefined and unprocessed ore means ore in its natural form prior to any processing, such as grinding, roasting or beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis. (Emphasis added)

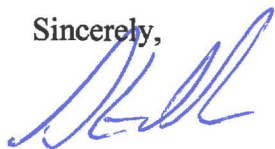
Based on the above information, it is ELI’s understanding that ore (cores) samples (irrespective of the uranium or thorium concentration) that are processed or prepared for analysis by the laboratory are now to be considered “*Unimportant quantities of source material*” and can be possessed beyond the quantity limits of §40.22, *Small quantities of source material*. The purpose of the amendment according to the NRC was to alleviate potential violations where the laboratory may unexpectedly identify source material in an unprocessed ore that would normally require a license but does not have a license for the source material. Consequently, the laboratory may now treat the processed sample as unprocessed ore under the 40.13(b) exemption.

If our interpretation of the revised regulations is correct then please amend our license accordingly. ELI is confident that we can remain under the small quantity limits of 15.4 pounds (7 kg) at any one time and not possess any more than 154 lb (70 kg) in any one calendar year. If we are incorrect in our view, we would appreciate a rule interpretation so we can reevaluate the request.

Please be advised that the two amendments noted above are not contingent upon each other, or in other words, regardless of the outcome of amendment No. 2, please remove the depleted uranium from the license.

ELI appreciates your consideration of this request to amend license No. 49-26846-01. If additional information is required, please do not hesitate to contact me at (888) 235.0515. We look forward hearing from you.

Sincerely,



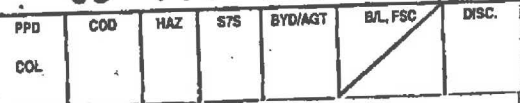
Steve Dobos
HSE/RSO

Enclosures



Domestic

DATE _____



CONSIGNEE (TO) Manufacturing Science Corporation		SHIPPER (FROM) ENERGY Laboratories, Inc.	
STREET 804 South Illinois Ave		STREET 2393 SALT CREEK Highway	
CITY, STATE Oak Ridge, TN	ZIP 37830	CITY, STATE Casper, Wyoming	ZIP 82601
SPECIAL INSTRUCTIONS ATTN: Tim Waddell			

NAME		STREET	
P.O. BOX	CITY	STATE	ZIP

[illegible]

Rate quote number if applicable:

Hazardous Material 24 HR Emergency Phone # ()

C.O.D. FEE	} {	SHIPPER	<input type="checkbox"/>
TO BE PAID BY		CONSIGNEE	<input type="checkbox"/>

C.O.D. \$
FEE:

NAME	STREET			TOTAL CHARGES: \$
CITY	STATE	ZIP	PHONE	
				FREIGHT CHARGES ARE

TOTAL CHARGES: \$

**FREIGHT CHARGES ARE
PREPAID UNLESS
MARKED COLLECT**

PREPAID BY SHIPPER	<input checked="" type="checkbox"/>	COLLECT FROM CONSIGNEE	<input type="checkbox"/>
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Subject to Section 7 of the conditions, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

North Park Transportation Co. liability, shipments valued at more than \$5.00 per pound per article are of extraordinary value. Carrier's maximum liability is \$5.00 per pound per article, subject to \$12,500.00 maximum total liability, unless the shipper declares excess value on the bill of lading and pays an additional charge. Other liability restrictions for specific conditions may apply as provided by contract or in NOPK 500 rules or in the current NMFC 100 series.

(Signature of Consignor)

RECEIVED, subject to individually determined rates and terms that have been agreed to in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications, and rules that have been established by the carrier and are available to the shipper on request, the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said company (the word company being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to

This is to certify that the above-named articles are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

its usual place of delivery at said destination, if on its own road or its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby entered to by the shipper and accepted for himself and his assigns.

DATE 11/11/11

Pieces _____
Pallets 100
Other _____
Total Units 100

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

Customer Service Center: 800.610.6500

PICK UP DATE: 3-25-14 DESTINATION: 432-1 RATE CODE: /A1 ITEM/TENDER NO.: YRC.557

P.O. NO./DEPT. NO.: NS ADV CACL CODE: 01 07 03

SHIPPER CODE: 2247 BEY CACL CODE: 079

SERVICE: EXCP.

CONS. CODE: 0704 079

ENERGY LABS
2393 SALT CREEK HWY
CASPER WY 82601

MANUFACTURING SCIENCES CO
TOM WADDELL
804 S ILLINOIS AVE
OAK RIDGE TN 37830

890-985986-X

PRO NO ORG

YRC TARIFFS LIMIT CARRIER'S LIABILITY. ALL FREIGHT RECEIVED IN GOOD ORDER AND SHRINKWRAP/BANDING INTACT UNLESS NOTED

RECEIVED BY - PRINTED NAME: MICHAEL A. PHILIPS DATE: 04/01/14 TIME: 1100

SIGNED: [Signature]

OR GBL NO.: NS

CLOSED ON FRIDAYS

890-985986-X

NO. H/U	PKG.	HM	DESCRIPTION OF ARTICLES	CODE	WEIGHT (LB.)	RATE	CHARGES
1	CRT	X	OBTAIN AN LOA FOR ACCESSORIES 200-610-6500 GOVERNMENT SOLUTIONS X UN2909, RADIOACTIVE MATERIAL, EXCEPTED PACKAGE-ARTICLES MANUFACTURED FROM DEPLETED URANIUM, 7. SHIPMENT DESCRIBED PER DOT NOT REGD- THIS IS EXCEPTED PACKAGE (RAM) NMFC=99999899 CLC100 CURRENT DISCOUNT	1100	200		

CONSIGNEE'S COPY

☐ LIFTGATE ☐ SORT/SEGREGATION ☐ LIMITED ACCESS
☐ INSIDE DELIVERY ☐ RESIDENTIAL DELIVERY ☐ OTHER

Customer Service Center: 800.610.6500

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SIGNED:

OR GBL NO.: NS

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NO. H/U	PKG.	HM	DESCRIPTION OF ARTICLES	CODE	WEIGHT (LB.)	RATE	CHARGES
1	TTL		100 LBS RIN CHRG 111.52 FEE 19.50 FSC 155.76- FSC 47.51 TTL NET 222.77 HEIGHT INSPECTION CHARGE HAZ MATERIAL SERVICE CHARGE GENERAL SURCHARGE (FUEL/FRT) CARRIER SCAD: RDMY SCAD: RDMY	REMY TTL CCDF	200		PPD 583617

☐ LIFTGATE ☐ SORT/SEGREGATION ☐ LIMITED ACCESS
☐ INSIDE DELIVERY ☐ RESIDENTIAL DELIVERY ☐ OTHER

BETWEEN:

Accounts Receivable/Payable
and
Regional Licensing Branches

[FOR ARPB USE]
INFORMATION FROM WBL

Program Code: 03225
Status Code: Pending Amendment
Fee Category: 1D 2F 3N
Exp. Date: 04/30/2013
Fee Comments: 10CFR40.4 FOR BYPRODUCT NOT SPI
Decom Fin Assur Req'd: N

License Fee Worksheet - License Fee Transmittal

A. REGION

1. APPLICATION ATTACHED

Applicant/Licensee: ENERGY LABORATORIES, INC.
Received Date: 04/04/2014
Docket Number: 3029502
Mail Control Number: 583617
License Number: 49-26846-01
Action Type: Amendment

2. FEE ATTACHED

Amount: _____

Check No.: _____

3. COMMENTS

Signed: _____

Date: _____

Colleen D. Munnahan
4-8-2014

B. LICENSE FEE MANAGEMENT BRANCH (Check when milestone 03 is entered / /)

1. Fee Category and Amount: _____

2. Correct Fee Paid. Application may be processed for:

Amendment: _____

Renewal: _____

License: _____

3. OTHER _____

Signed: _____

Date: _____



DATE

04/10/2014

NAME AND ADDRESS OF APPLICANT AND/OR LICENSEE

Energy Laboratories, Inc.
ATTN: Steve Dobos
Radiation Safety Officer
P.O. Box 3247
Casper, WY 82602-3258

LICENSE NUMBER

49-26846-01

MAIL CONTROL NUMBER

583617

LICENSING AND/OR TECHNICAL REVIEWER

cmurnahan

This is to acknowledge the receipt of your:

☒ LETTER and/or ☒ APPLICATION

DATED: 03/28/2014

The initial processing, which included an administrative review, has been performed.

☒ AMENDMENT ☐ TERMINATION ☐ NEW LICENSE ☐ RENEWAL

- ☒ There were no administrative omissions identified during our initial review.
- ☐ This is to acknowledge receipt of your application for renewal of the material(s) license identified above. Your application is deemed timely filed, and accordingly, the license will not expire until final action has been taken by this office.
- ☐ Your application for a new NRC license did not include your taxpayer identification number. Please fill out NRC Form 531, located at the following link:

<http://www.nrc.gov/reading-rm/doc-collections/forms/nrc531.pdf>

Send the completed NRC Form 531, by facsimile, to the following number: (301) 415-5387

A copy of your action has been emailed to our License Fee and Accounts Receivable Branch, in our Headquarters office in Rockville, MD. You will be contacted separately if there is a fee issue involved.

Your application has been assigned the above listed **MAIL CONTROL NUMBER**. When calling to inquire about this action, please refer to this control number. Your application has been forwarded to a technical reviewer. Please note that the technical review, which is normally completed within 180 days for a renewal application (90 days for all other requests), may identify additional omissions or require additional information. If you have any questions concerning the processing of your application, our contact information is listed below:

Region IV
U. S. Nuclear Regulatory Commission
DNMS/NMSB - B
1600 E. Lamar Blvd.
Arlington, TX 76011-4511
(817) 200-1103 or (817) 200-1140

*emailed to lic.
4-10-14*