



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE RD. SUITE 210  
LISLE, IL 60532-4352

May 8, 2020

Brandon Comer, P.E.  
Radiation Safety Officer  
T&M Associates  
201 N. Illinois St., 16<sup>th</sup> Floor – South Tower  
Indianapolis, IN 46204

Dear Mr. Comer:

This refers to the letter dated March 12, 2020, signed by Timothy C. Kinsella, CPG / Senior Vice President, received in our offices attached to an email on March 16, 2020. The letter requested a new NRC byproduct materials license. Attached to the letter was an NRC Form 313, "Application for Materials License," dated March 12, 2020, also signed by Mr. Kinsella, as well as attachments to support the new license application. We will refer to your submittal, the letter and NRC Form 313 and attachments, as "the letter" in this request for additional information (RFAI).

We are unable to complete our review because the information in the letter is insufficient to support your request. We will need additional information. The NRC's guidance document for your proposed type of license, which we will be referring to below as "the guidance", is NUREG-1556, Volume 1, Rev. 2, dated June 2016, "Consolidated Guidance About Materials Licenses, Program – Specific Guidance About Portable Gauge Licenses." This guidance is available on the NRC Web site at: <https://www.nrc.gov/docs/ML1617/ML16175A375.pdf>

1. Section 8.3 of the guidance and Item 3 on the NRC Form 313 require that you specify the address where licensed materials will be used or possessed. For portable gauge applicants, it is common for "temporary job sites" to be included in the request.

Item 6 of your letter provides an address for the use and possession of licensed material and states that gauges will be used "on construction sites in the state of Indiana." But it does not state that you intend to use portable gauging devices at temporary job sites.

Please clearly state if you intend to use and possess licensed material at temporary job sites, in addition to the address of use provided.

2. Your letter requests authorization for three Troxler Electronic Laboratories "Model 3400" portable gauging devices. There is no such model gauging device listed in the Sealed Source & Device Registry (SSDR).

There are several different models listed in the SSDR in the Troxler Electronic Laboratories Model "3400 Series."

Please respond by specifying which Troxler Electronic Laboratories Model 3400 Series gauges you want authorization for.

3. Your letter failed to specify the manufacturer's name and model numbers for the sealed sources in the gauges you seek authorization for.

Please specify the manufacturer's name and model numbers for each of the sealed sources in the gauges you seek authorization for.

4. Your letter states that the cesium-137 sealed source requested will have an activity of "<10MCi," which is "less than 10 megacuries," because the "M" is capitalized.

In addition, if you intended to request an activity of "less than 10 millicuries (mCi)," that would not be possible because it is a greater activity than what is permitted in the SSDR for the Troxler Electronic Laboratories, Inc. gauges.

Please specify a finite, nominal activity for the cesium-137 sealed sources requested for your proposed gauging devices that aligns with the activity allowed in the SSDR.

5. Your letter states that the americium-241 sealed source requested will have an activity of "<50MCi," which is "less than 50 megacuries," because the "M" is capitalized.

In addition, if you intended to request an activity of "less than 50 millicuries (mCi)," that would not be possible because it is a greater activity than what is permitted in the SSDR for the Troxler Electronic Laboratories, Inc. gauges.

Please specify a finite, nominal activity for the americium-241 sealed sources requested for your proposed gauging devices that aligns with the activity allowed in the SSDR.

6. Section 8.7 Item 7 in the guidance describes the typical duties and responsibilities of Radiation Safety Officers (RSOs). Normally only one RSO is appointed for a byproduct materials license.

However, your letter states that Bradley Hartz, PE is to be your "Deputy Safety Officer (Midwest)."

The "Delegation of Authority" attached to the letter states that "Brandon Comer and Bradley Hartz have been appointed Radiation Safety Officer...."

Several training certificates are also attached to the letter for Brandon Comer and Bradley Hartz.

Please explain your request for Mr. Hartz to be appointed "Deputy Safety Officer" and what this term means. RSO is the term we expect and "Deputy Safety Officer" has no meaning for us.

If it is your intention to appoint Mr. Hartz in a specific capacity as a "Site RSO" or "Alternate RSO," please so state and stipulate that Mr. Hartz will only serve as RSO in the physical absence of the RSO.

7. Section 8.8 of the guidance states that Initial and recurrent (every 3 years) U.S. Department of Transportation hazardous material (HAZMAT) training is required for all authorized users that transport gauges (see Section 8.10.9, "Transportation").

However, the Hazmat Certification for Brandon Comer dated January 3, 2018, attached to the letter, was not signed by the training provider, Troxler Electronic Laboratories, Inc.

Please explain why this certificate was included with the letter as it appears that this training was not completed because the training provider's signature is missing.

Please state whether Mr. Comer has had the required training and provide complete documentation supporting this training.

8. Section 8.8.1 of the guidance states that authorized users of portable gauging devices must have adequate training and experience in their use. In addition, Title 10 Code of Federal Regulations (10 CFR) §30.33(a)(3), specifies that an application for a specific license will be approved if the applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property.

Item 8 of your license application states that "T&M employees will not work with the gauges in a restricted area." This is not an acceptable response.

10 CFR 20.1003, "Definitions," defines "Restricted area" as ... "an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area. This can be found on our website at:

<https://www.nrc.gov/reading-rm/doc-collections/cfr/part020/part020-1003.html>

Please describe the minimum training and experience requirements for individuals to be authorized to independently use portable gauging devices. Typically, these individuals are referred to as authorized users (or authorized gauge users). Appendix C in the guidance, as well as Section 8.8.1, should be useful in preparing your response.

9. Item 8.9 Item 9 in the guidance describes the regulations and criteria for facilities and equipment.

The "Response from Applicant" in this section states:

"Provide a facility diagram for each permanent portable gauge storage location. Include on the diagram the use of adjacent areas (including above and below), and information

Your letter failed to include a facility diagram for each permanent portable gauge storage location.

Please submit a facility diagram for your permanent portable gauge storage location. Include on the diagram the functional use of all adjacent areas (including above and below) and information relevant to public dose and security, as discussed in Sections 8.10.5, "Public Dose," and 8.10.6, "Operating, Emergency, and Security Procedures," respectively, in the guidance.

Please do not submit blueprints or copies of blueprints. Simple, hand – drawn diagrams are best. Please include the direction of north and facility dimensions (or scale). Appendix G in the guidance document should also be useful in preparing your response.

Please be reminded that Figure 8-4, “Storing Gauges,” in Section 8.10.5 of the guidance specifies that gauges should be stored away from occupied areas. 10 CFR 30.34(i) requires that portable gauges must be secured against unauthorized removal.

10. Section 8.10.7 in the guidance describes acceptable commitments for the testing of gauge sealed sources for removable contamination, i.e., “leak tests.” Sample responses from applicants are also included in this section.

Item 10 of your letter stated a very abbreviated form of a sample response from applicant, as it appears in the guidance. Your commitment is unacceptable.

Please review section 8.10.7 in the guidance and provide a complete commitment for the performance of leak tests for the gauges.

11. Section 8.10.8 in the guidance, “Maintenance,” describes maintenance options for the portable gauging devices, including “routine maintenance” and “non-routine maintenance.”

Your application was silent in this matter and made no commitments for either “routine maintenance” and/or “non-routine maintenance.”

Please review section 8.10.8 in the guidance and provide complete commitments for maintenance of the gauges. Note that if you request authorization for “non-routine maintenance,” we will require, at a minimum, that the information in Appendix F in the guidance is also provided.

This refers to the several emails that you have sent to us concerning the completion of our review of your new license application. Although you did not actually use the word “expedite,” in essence, that is what your emails to us were trying to accomplish.

The following information may serve to help you understand our process.

We have noted that many licensees often add the word “expedite” or similar wording to their incoming correspondence, some almost routinely, thus creating an expectation that we will automatically interrupt work on cases already in queue to begin work on the cases requesting non-specific, unjustified and unsupported “expedites.”

This is disruptive to our process and often such cases contain no other information to justify and support the “expedite” request, nor a date when it is needed by. In addition, these cases are often of poor quality and require more time to review than should be expected.

Therefore, to assist us in serving you better, and in order to serve all of our applicants and licensees fairly, please contact us by telephone ((630) 829-9887, or a specific reviewer, if known) if an emergent medical situation or compelling business situation arises after you have submitted an amendment request to your license or new license application and if you can justify and support the need for that particular amendment/new license to be moved up in our normal reviewing queue.

Having this information enables our management to best decide how to handle your expedite request.

Please note that we normally process all licensing actions, including amendment requests, new license applications and renewals, in the order in which they are received, i.e., “first come, first served.” We have conducted business in this manner for more than 27 years, as of 2020.

As stated in our acknowledgment card, sent to all who submit licensing applications for our review, the initial review for amendments and new license applications is normally completed within 90 days of receipt, as an internal goal only.

The initial review for renewals is normally completed within 180 days of receipt, again as an internal goal only.

The technical quality of your submission is a primary factor that only you can control in order to enable us to help you more promptly and minimize delays in the reviewing process.

Preparing your new license and amendment requests carefully and in accordance with NRC’s regulatory requirements and guidance, especially the documents in the NUREG 1556 series, as well as other information on our website at <http://www.nrc.gov>, will help ensure that your correspondence is complete and accurate in all material respects, as 10 CFR 30.9 (a) requires it to be.

If you know of a truly emergent situation that is unforeseen and beyond the circumstances of your control or a compelling business situation impacting your license and you need a licensing action completed by a certain specific date (not “stat” or “as soon as possible,” etc.), please advise us of the particulars of the situation, the specific date when the new license or amendment is needed and the specific justification and support for it, which should be briefly summarized.

Calling us directly is quickest, (630) 829-9500; depending on the situation, email may be useful.

Faxing your application/ request to us at 630-515-1078 is usually the most quick and reliable method of transmission. Only send one, complete, signed and dated application/ request.

Do not submit more than one copy or other copies by different means of transmission, as doing so introduces errors in processing, delays and confusion.

In addition, please briefly explain why your new license or amendment was not completed and submitted to us at least 90 days prior to the date when you needed it by.

As the volume of non-specific “expedite” requests we receive is quite large, this information is important to determine whether a reasonable effort was, could or should have been made on your part to prepare and submit the request in a sufficiently timely manner to permit our review without passing over the licensing requests of others who made their submissions earlier.

NRC expects the first vetting of all incoming licensing requests to be performed by the requesting licensee/applicant to ensure that the application is complete and accurate in all

material respects, which will enable us to more readily assess whether to “expedite” it and act upon it more quickly, with less interference and impact to the cases in queue ahead of it.

In addition, you attached two different Agreement State licenses to your letter, which also authorize gauges that you have requested in your new NRC license.

In your emails, you’ve told us that you need your new license more quickly to “rent a nuclear density gauge towards the middle of May.”

We are unable to guarantee that your new license will be completed within this timeframe.

Since your company has two other Agreement State licenses for these gauges, you should consider using the provisions in 10 CFR 150.20, “Recognition of Agreement State licenses.”

If you are unable to use 10 CFR 150.20 to meet your need to rent a gauge in mid-May, please explain why.

Within 20 days of the date of this letter (by close of business on May 27, 2020) please provide only one response to the items below. Contact me if an alternate response timeframe is required.

Please only send us one complete, written, currently dated and legibly, physically signed (by an appropriate senior management official) or digitally signed correspondence document, such as either an NRC Form 313 or a business-style letter containing the same information as an NRC Form 313a.

Please ensure that only one correspondence letter is used that shows both the date and the signature of the senior management official, in contrast to the two separate, incomplete correspondence letters initiating this request.

Please ensure that the requested information is answered completely and accurately.

Please do not send multiple copies of responses and please do not submit any information that is identical to what you have already sent us unless we direct you to do so. If you resubmit such information for the sake of adding context and other details to enhance its meaning, that is acceptable.

Normally we would ask that you not email a PDF document to us, and transmit a faxed version, and/or send a hard copy by mail. Only one copy transmitted in only one of these ways is usually most appropriate to prevent administrative processing errors.

However, since NRC is currently under mandatory telework, you should fax a complete response to us and also email a PDF version to us at [jason.kelly@nrc.gov](mailto:jason.kelly@nrc.gov) and [colleen.casey@nrc.gov](mailto:colleen.casey@nrc.gov).

Please address your written response to my attention as “additional information to control number 618328,” to facilitate proper handling in our offices.

Please also schedule a telephone call with me and my colleague, Colleen Casey, to discuss our requests for additional information ("RFAI") above. It is best that you not submit a written response until we discuss the items in this RFAI letter first.

Arranging the call by email in advance is preferable. My email address is [Jason.Kelly@nrc.gov](mailto:Jason.Kelly@nrc.gov) and Ms. Casey's email address is [Colleen.Casey@nrc.gov](mailto:Colleen.Casey@nrc.gov).

My telephone number is (630) 829-9737 and Ms. Casey's telephone number is (630) 829-9841.

A telephone discussion of these items is expected to serve to clarify the information required by our regulations so that your response will be complete and accurate.

In addition, please be reminded that 10 CFR 30.9(a) requires: "(a) Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects."

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

Colleen Carol Casey  
Health Physicist  
Materials Licensing Branch

License No. 13-35589-01  
Docket No. 030-39222  
Control No. 618328