



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
612 EAST LAMAR BLVD, SUITE 400
ARLINGTON, TEXAS 76011-4125

May 26, 2009

Jim Gilman Excavating, Inc.
ATTN: Troy Colvin
3099 Grand Ave.
Butte, MT 59701

SUBJECT: NEW NRC LICENSE APPLICATION DATED MARCH 23, 2009

This letter refers to your NRC License application dated March 23, 2009. We have reviewed your license application and have identified deficiencies which require additional information to be submitted so that we may continue our review of your NRC License application. Please respond to the enclosed *Request for Additional Information*. Please respond within 20 days of the date of this letter, to the address in the letterhead. Your response should include the License No., Docket No. and Control No. located at the bottom of this letter.

The Energy Policy Act of 2005 authorized the NRC to regulate all "processed" naturally occurring radioactive materials and accelerator produced radioactive materials (NARM) that are used for commercial, medical or research activities. The implementation of the revised regulation is scheduled to become effective in different phases. The regulation became effective for the State of Montana on November 30, 2007. New applicants would subsequently have one (1) year to submit a new license application. However, they are required to be in compliance with applicable regulations, such as security and reporting requirements upon the effective date of the waiver termination. The NARM toolbox is available on the NRC website at: <http://nrc-stp.ornl.gov/narmtoolbox.html>. There are also Regulatory Issue Summaries and other pertinent information available on the website. For any required reporting requirements, such as lost or stolen gauges, please contact the NRC Operations Center at 301-816-5100 (24/7). Please note that the NRC Operations Center also accepts collect calls.

The security requirements in 10 CFR 30.34, *Terms and conditions of licenses*, was revised to enhance the security requirements for portable gauges containing byproduct material. The regulations in 10 CFR 30.34 requires that each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee. Guidance on these security procedures is provided in the errata sheet for Appendix H of NUREG-1556, Volume 1, Revision 1 which may be located at: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v1/r1/>. Please ensure that you are currently implementing these security requirements as described in the Errata to Appendix H, NUREG-1556, Volume 1, Revision 1.

I have enclosed a copy of NUREG-1556, Volume 1, Revision 1, *Program Specific Guidance about Portable Gauge Licenses*, for your review in responding to the enclosed deficiencies and to ensure that the security of the portable gauges is sufficient to meet the regulations. If there are any questions concerning this letter or enclosure, please contact me at 817-276-6552.

Jim Gilman Excavating, Inc.

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

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Rachel S. Browder". The signature is written in a cursive style with a large, sweeping flourish at the end.

Rachel S. Browder, Health Physicist
Nuclear Materials Safety Branch B

Docket: 030-38037
License: 25-29344-01
Control: 472231

Enclosure:

1. Request for Additional Information
2. NUREG-1556, Volume 1, Revision 1, *Program Specific Guidance about Portable Gauge Licenses*.

Request for Additional Information

1. Please provide an inventory of the portable gauges currently possessed by Jim Gilman Excavation, Inc. The inventory should indicate the radioactive material contained in each portable gauge, specifically whether the gauge contains Radium-226 or Cesium-137 and Americium-241.
2. Please provide a copy of the latest leak test result for each gauge in the inventory.
3. Please provide the maximum number of portable gauges by model number that you would anticipate to be authorized under the license. This number should include any gauges that may be rented during the high construction season.
4. Please resubmit your license application, referencing the current NUREG-1556, Volume 1, Revision 1, dated November 2001, in lieu of the older document dated May 1997. Please refer to Appendix B of the NUREG for a checklist that may be submitted for your license application or you may line/date/initial a copy of your current submittal to reflect the recent revision and date of the NUREG document.
5. Please provide the name of the manufacturer training course that Mr. Paul Thompson attended 20 years ago. If Mr. Thompson has the certificate for the course, please provide a copy of the certificate.
6. Please indicate if Mr. Thompson or other authorized users have worked under another NRC License or Agreement State license.
7. Please provide a copy of the company's registration certificate with the Secretary of State for Montana.
8. Please provide an organization chart of the management for Jim Gilman Excavation, Inc. The chart should identify the Radiation Safety Officer's position as it relates to management oversight and support of radioactive materials operations.
9. Describe the security of the proposed storage location for the portable gauges. Please include a diagram with dimensions of the storage facility. Please indicate if the storage location is a residence or a business location.
10. Please provide a copy of your Federal Tax Identification number.