

From: Walter Levich [walter.levich@ezag.com]
Sent: Tuesday, December 21, 2010 2:58 PM
To: Struckmeyer, Richard
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Struckmeyer,

Thank you for your reply and clarification of Section 32.19. I will revise the letter to include removal of the VZ-3433-001 Co-60 source from our application and will forward it to you shortly.

Regards
Walter Levich

Eckert & Ziegler Analytics
Atlanta, GA

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From: Struckmeyer, Richard [mailto:Richard.Struckmeyer@nrc.gov]
Sent: Tuesday, December 21, 2010 1:37 PM
To: Walter Levich
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Levich:

Thank you providing your letter and the additional information about the VZ-3433-001 Co-60 source.

I should have asked you to delay the letter until getting this additional information, because I now see that it is not possible to include this product on an exempt-distribution license.

10 CFR 32, Section 32.19 "Same: Conditions of licenses" states that "Each license issued under Section 32.18 is subject to the following conditions:

- ...
- (b) **Each quantity of byproduct material set forth in Section 30.71, Schedule B of this chapter shall be separately and individually packaged.** No more than 10 such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to Section 30.18 of this chapter. The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem per hour.
 - (c) **The immediate container of each quantity or separately packaged fractional quantity of byproduct material shall bear a durable, legible label which (1) identifies the radioisotope and the quantity of radioactivity, and (2) bears the words "Radioactive Material."** (emphasis added)

Contrary to the above requirements, the VZ-3433-001 Co-60 source(s) are not separately and individually packaged, and do not individually bear a label with the words "Radioactive Material."

You noted that these sources are used by oil-well logging customers. Such customers would by necessity have a specific license issued in accordance with 10 CFR Part 39—"Licenses and Radiation Safety Requirements for Well Logging," and therefore would be able to possess and use this product within the conditions of their licenses. You would be able to transfer such sources to them without being subject to the requirement of 10 CFR 32, Section 32.19(b) cited above.

In view of the above, unless there are other circumstances that you feel have not been considered, I find that I must ask you either to modify and resubmit your letter of December 20, 2010, or to submit an additional letter requesting the removal of the VZ-3433-001 Co-60 source from your application. In either case, your letter should clearly state that you are requesting the removal of the VZ-3433-001 Co-60 source from your application.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
301-415-5477

From: Walter Levich [mailto:walter.levich@ezag.com]
Sent: Monday, December 20, 2010 11:38 AM
To: Struckmeyer, Richard
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Dear Mr. Struckmeyer,

Thank you for your reply. At your suggestion, I have attached a letter as a PDF file outlining the condition we would like to have added to our license.

With regards to VZ-3433-001 (Co-60 Source), the sources are purchased by customers as a set of five (5) 1 microcurie sources. The sources are sealed between 3 layers of polyamide (plastic) material that makes up the holder. The sources are removed from the plastic (polyamide) holder by cutting the plastic in strips along the width of the plastic holder such that each source that is removed is still encased in the plastic with the activity and nuclide identified. The sources are used by oil-well logging customers. One (1) microcurie source is placed in the thread of the drilling pipe and is used as a marker for positioning explosives in the drilling hole.

Please let me know if you need further clarification.

Regards

Walter Levich
Plant Manager / RSO

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From: Struckmeyer, Richard [<mailto:Richard.Struckmeyer@nrc.gov>]
Sent: Tuesday, December 14, 2010 10:37 AM
To: Walter Levich
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Levich:

I will start the process of requesting a review by our Office of General Counsel (OGC) regarding the problematic items.

It is my understanding that you would like to be issued an exempt-distribution license for the products in your application with the exception of the items I listed in my email of 12/02/2010 (the list of specific items is repeated below, with the exception of the "VZ-3433-001 – Co-60 Source").

In order to accomplish this, a "condition" would have to be added to the license as described below. If our OGC finds that some or all of these items can be included on the license, it would be necessary for you to apply for an amendment to your license to include those items.

My suggestion is that you write a brief letter and send it either by regular mail or as an attachment (e.g., a PDF file) to an email, with wording something like the following:

"With regard to our application for an exempt-distribution license dated September 6, 2010, as modified by our October 30, 2010, response to the NRC's request for additional information (RAI), Eckert & Ziegler Analytics understands that, at this time, the following items cannot be included among the products authorized for distribution. Eckert & Ziegler Analytics will apply for an amendment to our license to include these items if they are found to be licensable

E-XXX-GAS – Glass Sphere

E-XXX-GAS – Gas Cylinder
E-XXX-SIM – Glass Sphere

VZ-1614-001 – Alpha Beta Reference Source
VZ-1684-001 – Alpha Beta Reference Source
VZ-269-001 – Gamma Check Source
VZ-542-001 – Gamma Source
VZ-543-001 – Gamma Source
VZ-2733 – Cs-137 Gamma Source

VZ-2936-001 – Gamma Source
VZ-130/2 – Cs-137 Gamma Source
VZ-1145 – Cs-137 Gamma Source
VZ-623-002 – Dust Monitor Source
ES-3686-001 – C-14 Source
VZ-3549-002 – Na-22 Check Source
VZ-1240-001 – Gamma Reference Source
VZ-477-002 – Gamma Reference Source

. . . (any other information you deem appropriate).”

However, before proceeding with the issuance of a license, I would appreciate a clarification of the “VZ-3433-001 – Co-60 Source” regarding the quantity of Co-60. The drawing shows five (5) 1 microcurie sources (for a total of 5 microcuries), whereas the exempt quantity limit in 10CFR30.71 is 1 microcurie.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
301-415-5477

From: Walter Levich [<mailto:walter.levich@ezag.com>]
Sent: Friday, December 10, 2010 6:20 PM
To: Struckmeyer, Richard
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Hi Richard,

Thank you for your response. Yes, your suggestion sounds very reasonable to me. We can provide you with more details about the problematic items you have listed below. I will await your specific questions about the problematic items.

Look forward to hearing from you.

Regards

Walter Levich

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From: Struckmeyer, Richard [<mailto:Richard.Struckmeyer@nrc.gov>]
Sent: Thursday, December 02, 2010 4:16 PM
To: Walter Levich
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Levich:

I have discussed this matter with another experienced license reviewer, and together we came to the conclusion that it might make sense to move forward on issuing a license for exempt distribution of most of the products in your application and subsequently to explore the issues involved with those products that appear to be in the form of a "manufactured or assembled commodity, product, or device intended for commercial distribution."

Please let me know at your earliest convenience whether you might be interested in this approach. The alternative is to delay issuing a license until a decision is reached on all the items. (Note: I will again be away from my office for a week, returning on Monday, 12/13/10.)

Based on the additional information you provided in your letter of October 30, 2010, we were able to reduce the list of problematic items to the following:

E-XXX-GAS – Glass Sphere
E-XXX-GAS – Gas Cylinder
E-XXX-SIM – Glass Sphere

VZ-1614-001 – Alpha Beta Reference Source
VZ-1684-001 – Alpha Beta Reference Source
VZ-269-001 – Gamma Check Source
VZ-542-001 – Gamma Source
VZ-543-001 – Gamma Source
VZ-2733 – Cs-137 Gamma Source

VZ-3433-001 – Co-60 Source

With regard to this item, the issue is not the configuration, but the quantity of Co-60. The drawing shows five (5) 1 microcurie sources (for a total of 1 microcuries), whereas the exempt quantity limit in 10CFR30.71 is 1 microcurie.

The following additional items do not appear to be problematic, but could still run into objections from our Office of General Counsel:

VZ-2936-001 – Gamma Source
VZ-130/2 – Cs-137 Gamma Source
VZ-1145 – Cs-137 Gamma Source
VZ-623-002 – Dust Monitor Source
ES-3686-001 – C-14 Source
VZ-3549-002 – Na-22 Check Source
VZ-1240-001 – Gamma Reference Source
VZ-477-002 – Gamma Reference Source

I would like to obtain more details about all of these items. It was my intention to be specific about the kinds of details, but I do not want to delay this email any longer. I hope to go into more depth when I return.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
301-415-5477

From: Walter Levich [<mailto:walter.levich@ezag.com>]
Sent: Monday, November 08, 2010 1:46 PM
To: Struckmeyer, Richard
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Struckmeyer,

Sorry for the confusion.

The products (model numbers) listed in Attachment 1 have indeed been removed from our application and have not been included as additions anywhere else in our application. At least that was not my intent. The only additions (new) are listed in Attachment 2.

Just to clarify, the only model number that was completely or fully removed from our application was E-XXX-PLT (there are no products on our current application that fall under this model number/product category). The products removed from our application were isotope specific so the drawings reflect the remaining model numbers from each product category that have been left on the application.

The drawings that I submitted were not intended to replace the set previously submitted. They are the same drawings as previously submitted with the exception of the three new additions to our application (E-XXX-VZ1214, E-XXX-VZ1634, E-XXX-VZ2029).

Please let me know if you need further clarification.

Regards
Walter Levich

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From: Struckmeyer, Richard [<mailto:Richard.Struckmeyer@nrc.gov>]
Sent: Thursday, November 04, 2010 3:53 PM
To: Walter Levich
Subject: RE: Docket No. 030-38320, Mail Control No. 573162, Request for additional information

Mr. Levich:

I looked through the information you provided in your email, and, to a lesser extent, at the hard copies you provided by express delivery. Due to the large quantity of information, as well as my work on other projects, I haven't yet been able to absorb everything. However, two questions have come to mind that may help in conducting my review.

1. It appears that most of the products you listed in Attachment 1 as being removed from your application were included as additions, in one form or another, via the subsequent attachments. (I am basing this on the "generic" drawing numbers such as E-XXX-BUT, E-XXX-CAR, et al.) Have I misunderstood? If my understanding is correct, can you briefly explain your intent?
2. You provided a set of drawings in the express delivery package. Are these intended to completely replace the set you provided in your earlier transmittal?

It is very likely that I will have more questions, but I wanted to keep this moving to some extent because I will be away from my office beginning tomorrow (Friday), 11/4/10, and returning on Monday, 11/15/10. I will try to check my email while I am away.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
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