

<b>NRC FORM 313</b> (3-2009) 10 CFR 30, 32, 33, 34, 35, 36, 39, and 40  <b>U.S. NUCLEAR REGULATORY COMMISSION</b>  <h2 style="text-align: center;">APPLICATION FOR MATERIALS LICENSE</h2>	<b>APPROVED BY OMB: NO. 3160-0120</b>  <b>EXPIRES: 3/31/2012</b>  Estimated burden per response to comply with this mandatory collection request: 4.3 hours. Submittal of the application is necessary to determine that the applicant is qualified and that adequate procedures exist to protect the public health and safety. Send comments regarding burden estimate to the Records and FOIA/Privacy Services Branch (T-5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to <a href="mailto:infocollects.resource@nrc.gov">infocollects.resource@nrc.gov</a> , and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0120), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.
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**INSTRUCTIONS: SEE THE APPROPRIATE LICENSE APPLICATION GUIDE FOR DETAILED INSTRUCTIONS FOR COMPLETING APPLICATION. SEND TWO COPIES OF THE ENTIRE COMPLETED APPLICATION TO THE NRC OFFICE SPECIFIED BELOW.**

<b>APPLICATION FOR DISTRIBUTION OF EXEMPT PRODUCTS FILE APPLICATIONS WITH:</b>  OFFICE OF FEDERAL & STATE MATERIALS AND ENVIRONMENTAL MANAGEMENT PROGRAMS DIVISION OF MATERIALS SAFETY AND STATE AGREEMENTS U.S. NUCLEAR REGULATORY COMMISSION WASHINGTON, DC 20555-0001  <b>ALL OTHER PERSONS FILE APPLICATIONS AS FOLLOWS:</b>  <b>IF YOU ARE LOCATED IN:</b>  ALABAMA, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, KENTUCKY, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, NORTH CAROLINA, PENNSYLVANIA, PUERTO RICO, RHODE ISLAND, SOUTH CAROLINA, TENNESSEE, VERMONT, VIRGINIA, VIRGIN ISLANDS, OR WEST VIRGINIA, SEND APPLICATIONS TO:  LICENSING ASSISTANCE TEAM DIVISION OF NUCLEAR MATERIALS SAFETY U.S. NUCLEAR REGULATORY COMMISSION, REGION I 475 ALLENDALE ROAD KING OF PRUSSIA, PA 19406-1415	<b>IF YOU ARE LOCATED IN:</b>  ILLINOIS, INDIANA, IOWA, MICHIGAN, MINNESOTA, MISSOURI, OHIO, OR WISCONSIN, SEND APPLICATIONS TO:  <div style="text-align: right; font-size: 2em;">P-2</div> MATERIALS LICENSING BRANCH U.S. NUCLEAR REGULATORY COMMISSION, REGION III 2443 WARRENVILLE ROAD, SUITE 210 LISLE, IL 60532-4352  ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, HAWAII, IDAHO, KANSAS, LOUISIANA, MISSISSIPPI, MONTANA, NEBRASKA, NEVADA, NEW MEXICO, NORTH DAKOTA, OKLAHOMA, OREGON, PACIFIC TRUST TERRITORIES, SOUTH DAKOTA, TEXAS, UTAH, WASHINGTON, OR WYOMING, SEND APPLICATIONS TO:  NUCLEAR MATERIALS LICENSING BRANCH U.S. NUCLEAR REGULATORY COMMISSION, REGION IV 612 E. LAMAR BOULEVARD, SUITE 400 ARLINGTON, TX 76011-4125
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PERSONS LOCATED IN AGREEMENT STATES SEND APPLICATIONS TO THE U.S. NUCLEAR REGULATORY COMMISSION ONLY IF THEY WISH TO POSSESS AND USE LICENSED MATERIAL IN STATES SUBJECT TO U.S. NUCLEAR REGULATORY COMMISSION JURISDICTIONS.

<b>1. THIS IS AN APPLICATION FOR (Check appropriate item)</b> <input type="checkbox"/> A. NEW LICENSE <input type="checkbox"/> B. AMENDMENT TO LICENSE NUMBER _____ <input checked="" type="checkbox"/> C. RENEWAL OF LICENSE NUMBER <u>47-25566-01</u>	<b>2. NAME AND MAILING ADDRESS OF APPLICANT (Include ZIP code)</b> Nicholas Energy Company P.O. Box 707 Summersville, WV. 26651-0707
<b>3. ADDRESS WHERE LICENSED MATERIAL WILL BE USED OR POSSESSED</b> Power Mountain Coal Co. #2 Jerry Fork Rd. St. Rte. 39 Drennan, WV 26651	<b>4. NAME OF PERSON TO BE CONTACTED ABOUT THIS APPLICATION</b> William G. Newsome  <b>TELEPHONE NUMBER</b> 304-872-5065 +newsome@ 606-831-1598 cell alphaxr.com

SUBMIT ITEMS 5 THROUGH 11 ON 8-1/2 X 11" PAPER. THE TYPE AND SCOPE OF INFORMATION TO BE PROVIDED IS DESCRIBED IN THE LICENSE APPLICATION GUIDE.

<b>5. RADIOACTIVE MATERIAL</b> a. Element and mass number; b. chemical and/or physical form; and c. maximum amount which will be possessed at any one time.	<b>6. PURPOSE(S) FOR WHICH LICENSED MATERIAL WILL BE USED.</b>			
<b>7. INDIVIDUAL(S) RESPONSIBLE FOR RADIATION SAFETY PROGRAM AND THEIR TRAINING EXPERIENCE.</b>	<b>8. TRAINING FOR INDIVIDUALS WORKING IN OR FREQUENTING RESTRICTED AREAS.</b>			
<b>9. FACILITIES AND EQUIPMENT.</b>	<b>10. RADIATION SAFETY PROGRAM.</b>			
<b>11. WASTE MANAGEMENT.</b>	<b>12. LICENSE FEES (See 10 CFR 170 and Section 170.31)</b> <table style="width:100%; border: none;"> <tr> <td style="border: none;">FEE CATEGORY</td> <td style="border: none;">AMOUNT ENCLOSED</td> <td style="border: none;">\$</td> </tr> </table>	FEE CATEGORY	AMOUNT ENCLOSED	\$
FEE CATEGORY	AMOUNT ENCLOSED	\$		

**13. CERTIFICATION. (Must be completed by applicant) THE APPLICANT UNDERSTANDS THAT ALL STATEMENTS AND REPRESENTATIONS MADE IN THIS APPLICATION ARE BINDING UPON THE APPLICANT.**

THE APPLICANT AND ANY OFFICIAL EXECUTING THIS CERTIFICATION ON BEHALF OF THE APPLICANT, NAMED IN ITEM 2, CERTIFY THAT THIS APPLICATION IS PREPARED IN CONFORMITY WITH TITLE 10, CODE OF FEDERAL REGULATIONS, PARTS 30, 32, 33, 34, 35, 36, 39, AND 40, AND THAT ALL INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF THEIR KNOWLEDGE AND BELIEF.

WARNING: 18 U.S.C. SECTION 1001 ACT OF JUNE 25, 1948 62 STAT. 749 MAKES IT A CRIMINAL OFFENSE TO MAKE A WILLFULLY FALSE STATEMENT OR REPRESENTATION TO ANY DEPARTMENT OR AGENCY OF THE UNITED STATES AS TO ANY MATTER WITHIN ITS JURISDICTION.

<b>CERTIFYING OFFICER - TYPE, PRINTED NAME AND TITLE</b> Jon C. Brown - VP	<b>SIGNATURE</b> 	<b>DATE</b> 9/22/11
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FOR NRC USE ONLY					
TYPE OF FEE	FEE LOG	FEE CATEGORY	AMOUNT RECEIVED	CHECK NUMBER	COMMENTS
			\$		
<b>APPROVED BY</b>				<b>DATE</b>	

APPENDIX B

**Suggested Format for Providing Information Requested in Items 5 Through 11 of NRC Form 313**

**Table B.1 Items 5 & 6: Materials To Be Possessed and Proposed Uses**

Yes	No	Radioisotope	Manufacturer or Distributor Model No.	Quantity	Use As Listed on SSD Certificate	Specify Other Uses Not Listed on SSD Certificate
	<input checked="" type="checkbox"/>	Cobalt-60	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes <input type="checkbox"/> Specific description of the gauge use: _____ _____ _____	<input type="checkbox"/> Not applicable  <input type="checkbox"/> Uses are:  (Submit safety analysis supporting safe use)
	<input checked="" type="checkbox"/>	Krypton-85	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes <input type="checkbox"/> Specific description of the gauge use: _____ _____ _____	<input type="checkbox"/> Not applicable  <input type="checkbox"/> Uses are:  (Submit safety analysis supporting safe use)
	<input checked="" type="checkbox"/>	Strontium-90	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes <input type="checkbox"/> Specific description of the gauge use: _____ _____ _____	<input type="checkbox"/> Not applicable  <input type="checkbox"/> Uses are:  (Submit safety analysis supporting safe use)
	<input checked="" type="checkbox"/>	Cesium-137	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes <input checked="" type="checkbox"/> Specific description of the gauge use: <u>Model CB-H1</u> <u>DNE Sampler</u> <u>LB7440-D-CR</u> <u>Six devices -&gt; Pipe S.G. application</u>	<input type="checkbox"/> Not applicable  <input type="checkbox"/> Uses are:  (Submit safety analysis supporting safe use)

Thermo Gamma Metrics CB-H1 Cross Stream Sampler  
 Berthold Technologies B-Six devices Pipe application  
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Yes	No	Radioisotope	Manufacturer or Distributor Model No.	Quantity	Use As Listed on SSD Certificate	Specify Other Uses Not Listed on SSD Certificate
	<input checked="" type="checkbox"/>	Americium-241	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes [ ] Specific description of the gauge use: _____ _____ _____	[ ] Not applicable [ ] Uses are: _____  (Submit safety analysis supporting safe use)
<input checked="" type="checkbox"/>		Other Isotope (Specify): CF 252  CB-HI Thermo Gamma Meters	Sealed source manufacturer or distributor and model number:  Device manufacturer or distributor and model number:	Not to exceed either the maximum activity per source or maximum activity per device as specified in Sealed Source and Device Registration Certificate	Yes [x] Specific description of the gauge use: _____ _____ _____	[ ] Not applicable [ ] Uses are: _____  (Submit safety analysis supporting safe use)
<b>Financial Assurance Required and Evidence of Financial Assurance Provided</b>						

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**Table B.2 Items 7 Through 11: Training and Experience, Facilities and Equipment, Radiation Safety Program, and Waste Disposal**

Item No. and Title	Suggested Response	Yes	Alternative Procedures Attached
<p>7. Individual(s) Responsible For Radiation Safety Program And Their Training And Experience</p> <p>7.1 Radiation Safety Officer</p> <p>Name: <u>William G. Newson</u></p>	<p>Before obtaining licensed materials, the proposed RSO will have successfully completed the training described in Criteria in the section entitled "Individual(s) Responsible for Radiation Safety Program and Their Training and Experience - Radiation Safety Officer" in NUREG-1556, Vol. 4, dated October 1998.</p> <p>AND</p> <p>Before being named as the RSO, future RSOs will have successfully completed the training described in Criteria in the section entitled "Individual(s) Responsible for Radiation Safety Program and Their Training and Experience - Radiation Safety Officer" in NUREG-1556, Vol. 4, dated October 1998. Within 30 days of naming a new RSO, we will submit the new RSO's name to NRC to include in our license.</p>	<p><input checked="" type="checkbox"/></p>	<p>[ ]</p>
<p>7. Individual(s) Responsible For Radiation Safety Program And Their Training And Experience</p> <p>7.2 Authorized Users</p>	<p><b>PROPOSED AUTHORIZED USERS:</b></p> <p>Before using licensed materials, authorized users will have successfully completed the training described in Criteria in the section entitled "Authorized Users" in NUREG-1556 Vol. 4, dated October 1998.</p>	<p><input checked="" type="checkbox"/></p>	<p>[ ]</p>
<p>8. Training for Individuals Who in the Course of Employment are Likely to Receive Occupational Doses of Radiation in Excess of 1 mSv (100 mrem) in a Year (Occupationally Exposed Workers) and Ancillary Personnel</p>	<p>The applicant is <i>not</i> required to, and should not, submit is training program, for individuals who in the course of employment are likely to receive occupational doses of radiation in excess of 1 mSv (100 mrem) in a year (occupationally exposed workers) and ancillary personnel, to the NRC for review during the licensing phase.</p>	<p>Need Not Be Submitted with Application</p>	
<p>9. Facilities and Equipment</p>	<p>We will ensure that the location of each fixed gauge meets the Criteria in the section entitled "Facilities and Equipment" in NUREG-1556, Vol. 4, dated August 1998.</p>	<p><input checked="" type="checkbox"/></p>	<p>[ ]</p>

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Item No. and Title	Suggested Response	Yes	Alternative Procedures Attached
10. Radiation Safety Program - Audit Program	The applicant is <i>not</i> required to, and should not, submit its audit program to the NRC for review during the licensing phase.		Need Not Be Submitted with Application
10. Radiation Safety Program - Survey Instruments	<p>Surveys pursuant to 10 CFR 20.1501 will be performed by a person specifically authorized by the NRC or an Agreement State to perform these surveys.</p> <p>OR</p> <p>We will use instruments that meet the Criteria in the section entitled "Radiation Safety Program - Instruments" in NUREG-1556, Vol. 4, dated August 1998, and one of the following:</p> <p>Each survey meter will be calibrated by the manufacturer or other person authorized by the NRC or an Agreement State to perform survey meter calibrations.</p> <p>OR</p> <p>We will implement the model survey instrument calibration program in Appendix T to NUREG-1556, Vol. 4, dated August 1998.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Radiation Safety Program - Material Receipt and Accountability	Physical inventories will be conducted at intervals not to exceed 6 months or at other intervals approved by the NRC, to account for all sealed sources and devices received and possessed under the license.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Radiation Safety Program - Occupational Dosimetry	We will perform a prospective evaluation demonstrating that unmonitored individuals are not likely to receive, in one year, a radiation dose in excess of 10% of the allowable limits in 10 CFR Part 20 or we will provide dosimetry that meets the Criteria in the section entitled "Radiation Safety Program - Occupational Dosimetry" in NUREG-1556, Vol. 4, dated August 1998.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Radiation Safety Program - Public Dose	The applicant is not required to submit a response to the public dose section during the licensing phase. However, during NRC inspections, licensees must be able to provide documentation demonstrating, by measurement or calculation, that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed operation does not exceed the annual limit for individual members of the public.		Need Not Be Submitted with Application

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Item No. and Title	Suggested Response	Yes	Alternative Procedures Attached
<p>10. Radiation Safety Program - Operating &amp; Emergency Procedures</p>	<p>If the gauge meets one or more of the safety conditions specified in "Discussion," in the section entitled "Radiation Safety Program-Operating Emergency Procedures," in NUREG 1556, Vol. 4, dated August 1998 state the following:</p> <p>Operating and emergency procedures will be developed, implemented, maintained, and distributed, and will meet the Criteria in the section entitled "Radiation Safety Program - Operating and Emergency Procedures," in NUREG-1556, Vol. 4, dated August 1998.</p> <p>For each gauge requested that does not meet one or more of the safety conditions specified in "Discussion," in the section entitled "Radiation Safety Program-Operating Emergency Procedures," in NUREG 1556, Vol. 4, dated August 1998 provide your operating, emergency and lock-out (if applicable) procedures to NRC for review.</p>	<p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Procedures Attached</p>	<p><input type="checkbox"/></p>
<p>10. Radiation Safety Program - Leak Test</p>	<p>Leak tests will be performed at intervals approved by the NRC or an Agreement State and specified in the Sealed Source and Device Registration Certificate.</p> <p>Leak tests will be performed by an organization authorized by NRC or an Agreement State to provide leak testing services for other licensees or using a leak test kit supplied by an organization authorized by NRC or an Agreement State to provide leak test kits to other licensees and according to the kit supplier's instructions.</p> <p>OR</p> <p>We will implement the model leak test program published in Appendix M to NUREG-1556, Vol. 4, dated August 1998.</p>	<p><input checked="" type="checkbox"/></p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>

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Item No. and Title	Suggested Response	Yes	Alternative Procedures Attached
<p>10. Radiation Safety Program - Maintenance</p>	<p><u>ROUTINE MAINTENANCE</u> We will implement and maintain procedures for routine maintenance of our fixed gauges according to each manufacturer's or distributor's written recommendations and instructions.</p> <p><u>NON-ROUTINE MAINTENANCE OPERATIONS</u> The gauge manufacturer, distributor or other person authorized by NRC or an Agreement State will perform non-routine operations such as installation, initial radiation survey, repair, and maintenance of components related to the radiological safety of the gauge, gauge relocation, replacement, and disposal of sealed sources, alignment, or removal of a gauge from service.</p>	<p><input checked="" type="checkbox"/></p>	<p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/> The information listed in Appendix N supporting a request to perform non-routing operations in-house is attached</p>
<p>10. Radiation Safety Program - Transportation</p>	<p>The applicant is <i>not</i> required to submit its response to transportation during the licensing process; this issue will be reviewed during inspection. However, the licensee should develop, implement, and maintain transportation procedures according to NRC and DOT regulations.</p>	<p>Need Not Be Submitted with Application</p>	
<p>10. Radiation Safety Program - Fixed Gauges Used at Temporary Job Sites</p>	<p>This is not applicable to our program. We will not use fixed gauges at temporary job sites.</p> <p style="text-align: center;">OR</p> <p>We will develop, implement, maintain and distribute procedures that meet the Criteria in the section entitled "Radiation Safety Program - Fixed Gauges Used at Temporary Job Sites" in NUREG-1556, Vol. 4, dated August 1998.</p>	<p><input checked="" type="checkbox"/> Not Applicable</p> <p><input type="checkbox"/></p>	<p><input type="checkbox"/></p>
<p>10. Radiation Safety Program - Minimization of Contamination</p>	<p>The applicant is not required to submit a response to minimization of contamination if the applicant's responses meet the criteria for the following sections: Radioactive Material - Sealed Sources and Devices, Facilities and Equipment, Radiation Safety Program - Operating and Emergency Procedures, Radiation Safety Program - Leak Testing, and Waste Management - Gauge Transfer and Disposal.</p>	<p>Need Not Be Submitted with Application</p>	

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Item No. and Title	Suggested Response	Yes	Alternative Procedures Attached
11. Waste Management - Gauge Disposal & Transfer	The applicant is not required to submit a response to waste management during the licensing process. However, the licensee should develop, implement, and maintain gauge transfer and disposal procedures in its radiation protection program.	Need Not Be Submitted with Application	