



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

September 12, 2018

Victor Letourneaut, President
Up-Side Management Company
324 East Third Street
Jacksonville, FL 32206

SUBJECT: UP-SIDE MANAGEMENT COMPANY, REQUEST FOR ADDITIONAL
INFORMATION, MAIL CONTROL NO. 609627

Dear Mr. Letourneaut:

This is in reference to your letter and application dated August 6, 2018, requesting a new NRC License No. 09-35501-01. In order to continue our review, we need the following additional information:

1. The telephone numbers and email address provided appears to be your contact information. In addition, please provide Willie Bremer's email address and business telephone number.
2. In your letter, you requested a license of Type A broad scope, for the purpose of providing services in the areas of decontamination and decommissioning. The application also states that you request to perform radioactive waste management services. You also requested the use of byproduct material, source material, and special nuclear material. Please review the following information regarding the program codes and fee categories that are applicable to these activities. Please note that the application fee for each fee category can be found in 10 CFR 170.31 and the annual fee in 10 CFR 171.16. NRC regulations may be found at <https://www.nrc.gov/reading-rm/doc-collections/cfr/> . Your total fees will be the sum of all fee categories. If you believe you are eligible for the Small Entity fee, you need to submit NRC Form 526, which can be found at <https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf> . Additional information about small entity fees is located at <https://www.nrc.gov/about-nrc/regulatory/licensing/faq-small-entity.pdf>

Confirm if you wish to be authorized for the following activities and materials:

- a. Program code 03219 is for decontamination services, and falls into fee category 3.N. This program code applies only to byproduct material, so activities with source and special nuclear material will fall under separate program codes and fee categories.
- b. The source material you requested falls under program code 11300, source material, other, more than 150 kilograms. This is in fee category 2.F.
- c. The special nuclear material you requested could belong to several program codes: 22110, SNM-plutonium, unsealed, less than critical mass; 22111 SNM-uranium-235, unsealed, less than critical mass; 22120 SNM plutonium, sealed neutron sources less than 200 grams; SNM plutonium, sealed sources in devices; 22150 SNM

plutonium, sealed sources less than critical mass; and 22151 SNM uranium 235, sealed sources less than critical mass. These program codes are all in fee category 1.D and a single fee would be assessed.

- d. Broad scope Type A licenses would be program code 03610 in fee category 3.L. if research and development; or 03211 in fee category 3.A. if manufacturing and distribution. Your license does not clearly fall in either category. If you wish to pursue a broad scope license under Part 33, we will consult with our program office to determine which program code is most applicable. Please note that a broad scope license is not necessary in order to perform concurrent operations at temporary job sites. A broad scope license is typically requested by facilities which expect to have varied uses of material, and requires the submission of adequate procedures to demonstrate that the facility is capable of performing safety evaluations of new uses, new materials, and new users.
 - e. Radioactive waste management services include byproduct, source and special nuclear materials. These activities could also be in several program codes:
 - 03232, waste disposal service, prepackaged only in fee category 4.C.;
 - 03234 waste disposal service, processing and/or repackaging, in fee category 4.B;
 - 03233 waste disposal service, incineration and 03236 waste treatment service other than compaction, both in fee category 4.A.
3. You have requested for a Type A Broad Scope License under 10 CFR Part 33. Because NRC grants significant decision making authority to broad scope licensees through the license, a broad scope license is not normally issued to a new licensee. An applicant for a broad scope license typically has several years of experience operating under a limited scope license and a good regulatory performance history. Additionally, it is unusual for a service provider licensee to have a broad scope license. There are additional annual and application fees associated with a broad scope program as described above. The guidance associated with a broad scope program is located in NUREG-1556, Volume 11, Rev. 1, "Consolidated Guidance About Materials Licenses Program-Specific Guidance About Licenses of Broad Scope." Please answer the following questions associated with a broad scope program:
- a. It is our understanding that this company is being separated from another licensee which operated under the name of Up-Side Radiological Services, LLC. As stated in Section 1, an applicant for a broad scope license typically has several years of experience operating under a limited scope license and a good regulatory performance history. 10 CFR 33.13 states in part, that an application for a Type A specific license of broad scope will be approved if, the applicant has engaged in a reasonable number of activities involving the use of byproduct material. Please provide more information associated with Up-Side Management Company's personnel experience associated with overseeing a licensed program and the number of activities involving the use of byproduct material associated with the previous license. Please describe your specific experience with operating a broad scope A program.
 - b. In section 7 of the application, under "Management", you state that licensed material shall only be used by, or under the supervision of individuals designated in writing by

the Radiation Safety Officer (RSO). In section 7, Radiation Safety Committee (RSC), you state that one of the specific duties of the RSC is to evaluate new users and new uses of byproduct material. 10 CFR 33.17(b) states, in part, that a specific license condition will be that byproduct material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee. Thus the RSO may not approve personnel who may use, or provide the direct supervision of individuals who may use, licensed material possessed under the license. Please state that only the RSC will approve new users of byproduct materials.

- c. In section 7 of the application and in Section 3.5, "RSC Membership and Qualifications," of your Radiological Protection Program, you state that the RSC will include members from four areas of responsibility. It is unclear how many members will establish the RSC. You establish that a quorum shall include the Chairman and RSO but do not provide a minimum number of RSC members for quorum. Section 8.7.2 of NUREG-1556, Vol. 11, Rev. 1, states that the criteria for RSC members should to include what members and the number of members constituting a quorum. It is unclear what constitutes a quorum from your procedure. Please state the minimum number of RSC members by title, and the number of members and titles which will constitute a quorum.
- d. In Section 7 of the application, you state that the RSC duties include evaluation of new users and new uses; however, this section does not establish the criteria and procedure describing the approval process that the RSC will use for review and approval of new users and new uses. Section 8.7.2 of NUREG-1556, Vol. 11, Rev 1. states that you should provide the criteria and procedure describing the approval process used by the RSC and RSO for authorizing new users and new uses. Please provide the criteria and procedure describing the approval process used by the RSC and RSO for authorizing new users and new uses.
- e. In Section 7 of the application, you requested to make changes to procedures without notifying the NRC. Some of the elements as described in Section 8.7.2 of NUREG-1556, Volume 11, Rev. 1 were not included in your request. In order to allow you to make changes without notifying the NRC, please provide
 - (1) a description of the duties and responsibilities of the RSC which include:
 - review and approval of permitted program and procedural changes prior to implementation;
 - implementation of program and procedural changes;
 - audit of licensed operations to determine compliance; and
 - appropriate actions taken when noncompliance is identified, including analysis of the cause, corrective actions, and actions to prevent recurrence
 - (2) a description of the process for procedure and program review and approval, including documentation of the specific change. At a minimum, documentation should state the reason for the change and summarize the radiation safety matters that were considered prior to approval of the change

4. In Section 5 of your application, you requested large quantities of materials. Confirm if you need such large quantities. In particular, explain the need for 1 curie of sealed iodine-125 sources, 10 curies of iodine-131 sealed sources, 90 curies of strontium-90 sealed sources, and 1000 curies of thorium-232 optical coatings on lenses. Also, please note that Items G and J, as written, exceed the critical mass quantities and must be combined into a single limit less than critical mass.
5. You stated in section 3 of your application that you will possess calibration sources, reference standards, and radioactivity contaminated equipment. However, it did not appear that you requested any such radioactive material authorization in section 5. All items are marked as possession incident to performance of services or commercial waste services. NUREG-1556, Volume 18, Rev 1, "Consolidated Guidance About Materials Licenses Program-Specific Guidance About Service Provider Licenses," section 8.5.1 states that you should identify each radionuclide that will be possessed in each sealed source or device, and specify the maximum activity per source. Also, you should specify the maximum number of sources or the total activity for each radionuclide. Identify the manufacturer or distributor and model number of each type of sealed source and device requested, or provide the Sealed Source and Device (SSD) registration certificate number. Confirm that each sealed source, device, and source and device combination is registered as an approved sealed source or device by the NRC or an Agreement State. Confirm that the activity per source and maximum activity per device will not exceed the maximum activity listed on the approved certificate of registration issued by the NRC or by an Agreement State. Identify the special circumstances under which sealed sources and devices that are not registered by the NRC or an Agreement State may be possessed, used, or serviced.
6. In Section 5, "Radioactive Material" of your application, item A and item D. state the maximum quantity "per source". However, the material form is "Any" and there are no sources listed by radionuclide or model. Please confirm that the quantity limits for "any" form of material should be per radionuclide, rather than per source.
7. Please provide more specific information regarding the types of activities you expect to perform related to site characterization, decontamination and decommissioning of facilities. In particular,
 - a. specify if procedures will be limited to routine cleaning activities of indoor facilities and equipment, or if you expect to use aggressive methods that could include grinding, cutting, scabbling or other activities that could generate airborne radioactivity; chemical methods that could result in generation of mixed wastes; or other methods that could require use of protective clothing such as use of respirators.
 - b. Specify if the procedures you expect to perform in outdoor areas will be limited to surveys and limited soil sampling in the top 15 centimeters, or if you expect to perform activities such as core sampling, soil removal, sampling and remediation below 15 centimeters, ground water and surface water sampling, or other similar activities that may require additional radiation or other safety precautions.
8. It is unclear if you plan to be handling only wastes of those generated by the remediation activities you were performing for the customer. If that is the intention then please state, "We will limit waste handling activities to those wastes generate by remediation and

decommissioning services we provide. We will NOT take possession of waste generated by the customer as would a commercial waste service provider, or handle wastes we did not generate." Alternately, please describe what specific service you are providing associated with handling customer's waste. In particular, NUREG-1556, Volume 18, Rev 1 describes commercial waste management to include activities such as incineration, compaction, solidification, vitrification, packaging, repackaging, or transportation of waste for customers. Please describe the activities and provide procedures for each type of commercial waste management service you will perform at customer facilities. Please note that we are still in the process of determining if an environmental assessment will be required pursuant to 10 CFR Part 51 for commercial waste services.

9. Explain the activity you describe as transport in containers approved under the provision of 10 CFR Part 71, and if this is related to, or separate from, the activities of decommissioning services or commercial waste management services.
10. Explain the activities you expect to perform when you will use authorized materials in health physics training and instruction at temporary job sites. Describe if this training is related only to your remediation and decommissioning services, or if this training is for other purposes.
11. You also requested to perform environmental sample analysis. Confirm if this is an activity that you expect to perform at temporary job sites. If so, provide more detail as to the type of samples you expect to analyze and the equipment that you expect to use at the temporary job sites.
12. You have proposed that Mr. Willie Bremer be the Radiation Safety Officer (RSO) for the license. In NUREG-1556, Volume 18, Rev 1, section 8.7.1 it states to confirm that the RSO will be available for emergencies and can be on-site within 24–48 hours, if applicable. Please confirm that Mr. Bremer will be available for emergencies and can be on-site within 24–48 hours, when needed.
13. In section 8 of your application, you provided information associated with training. It appears that you do not distinguish between authorized users and users training, nor have you provided what training should consist for different groups of workers. NUREG-1556, Vol. 18, Rev. 1, section 8.7.2, 8.8, and Appendix D provide examples and what an application should provide. You provided the frequency of training, examples of topics and that the training will be evaluated by an exam. Please provide the additional information.
14. You have stated that personnel and their supervisors whose duties involve or may involve handling radioactive material will receive training commensurate with the radiological hazard in accordance with 10 CFR 19.12. Your work involves unsealed radioactive material in which workers should have some basic level of training or be escorted even if the expected dose is below 100 mrem. NUREG-1556, Vol. 18, Rev 1, Section 8.8 states to provide the following statement, "Before working in the vicinity of licensed materials, personnel will have successfully completed training commensurate with assigned duties." Please provide this statement.
15. You provided many training topics but it seems to not provide the following topics which are listed in NUREG-1556, Vol. 18, Rev 1, Appendix D: Fundamentals of Radiation Safety, Radiation Protection Equipment and Use, On the Job Training, and a Practical Exam.

Please confirm that training will include Fundamentals of Radiation Safety, Radiation Protection Equipment and Use, On the Job Training, and a Practical Exam.

16. You stated that refresher training would be given not to exceed 24 months. NUREG-1556, Vol. 18, Rev 1 gives guidance of performing annual refresher training. Please justify why refresher training is only needed every 24 months.
17. In section 3.3.3 of your Radiological Protection Program Manual, you state that RSOR/PRSO/AU at least annually with receive training as described in Appendix D. However, above you state refresher training not to exceed 24 months. Please fully explain the different requirements.
18. You did not provide the different groups of workers and what basic training is provided for all and what specific training is provided for specialty workers. Please provide groups of workers and what training is provided.
19. You have provided your Radiological Protection Program Manual which highlights many of your procedures. NUREG-1556, Vol. 18, Rev 1, section 8.10.1, states for high risk license operations like decommissioning and packaging a Type B container, should submit their operating and emergency procedures for radiological conditions that might be encountered as part of their license application. Please provide your operating and emergency procedures for high risk activities as described in NUREG-1556, Vol. 18, Rev. 1. Please refer to section 8.10.1 for types of procedures desired.
20. Based on your work activities, it is possible that you may be implementing an Access Authorization Program in accordance with 10 CFR 37 subpart B. Please inform us if you intend to implement an Access Authorization Program.
21. On page 13, Section 9, Equipment, you made a commitment to follow Appendix J in NUREG-1556, Vol. 18, Rev. 1 associated with instrument use. However, Appendix J is the Department of Transportation information. Please restate the paragraph using Appendix F.
22. Your application is not clear if you plan to perform leak tests under your license or have another authorized facility perform leak testing. NUREG-1556, Vol. 18, Rev. 1. Section 8.10.5 states to provide either "Leak tests sample collection and analysis will be performed by an organization authorized by NRC or an Agreement State to provide leak testing services to other licensees. Leak tests may be collected by the licensee using a leak test kit supplier's instructions. Such leak test kits will be supplied by an organization authorized by the NRC or an Agreement State to provide leak testing services." Or "Leak testing and analysis will be done by the applicant." Provide the information in Appendix G of this NUREG supporting a request to perform leak testing and sample analysis and either (1) state that the applicant will follow the model procedures in Appendix G of NUREG-1556, Volume 18, Revision 1 "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Service Provider Licenses," or (2) submit alternative procedures.
23. In section 10 of your application in the Personnel Dosimetry section, you state that you will provide dosimetry for who are likely to be exposed to levels greater than 10% of 10 CFR 20.1201. NUREG-1556, Vol. 18, Rev. 1. Section 8.10.6 states for those who are not likely to be exposed to levels greater than 10 CFR 20.1201, state: "We will maintain, for inspection by the NRC, documentation demonstrating that unmonitored individuals are not

likely to receive a radiation dose in excess of the limits in 10 CFR 20.1502," Please make this statement.

24. On page 17 of your application, you present Table 2 as acceptable surface contamination levels as presented in NUREG-1757, Volume 2. These are not presented in NUREG-1757, Volume 2, Rev 1, which discusses how facilities can demonstrate they meet 10 CFR Part 20, Subpart E criteria for release of facilities for unrestricted use. The values in your Table 2 do not meet the criteria for Subpart E for alpha emitters, and may not meet it for some beta and gamma emitters. However, your Table 2 is similar to Appendix L of NUREG-1556, Volume 11, Rev. 1 for acceptable contamination levels of items but not building surfaces.
- a. Please confirm your understanding that this table is to be used only for individual item release and not for release of facilities.
 - b. Confirm that your criteria for release of facilities will meet 10 CFR Part 20, Subpart E, "Radiological Criteria for License Termination", and that you will use the guidance in NUREG 1757, Volume 1, "Decommissioning Process for Materials Licensees," and Volume 2, "Characterization, Survey, and Determination of Radiological Criteria," to develop and implement appropriate release criteria, and site remediation and decommissioning activities.

We will continue our review upon receipt of this information. Please reply to my attention at:

Dennis Lawyer, Health Physicist
Mail Control No. 609627
USNRC, Region I
Division of Nuclear Materials Safety
2100 Renaissance Boulevard
King of Prussia, PA 19406

Alternatively, the letter may be scanned and submitted as a pdf document attached to an email; or it may be transmitted by facsimile to (610) 337-5269.

In order to continue prompt review of your application, we request that you submit your response to this letter within 30 calendar days from the date of this letter.

An electronic version of the NRC's regulations is available on the NRC Web Site at: www.nrc.gov. Additional information regarding use of radioactive materials may be obtained on the NRC Web Site at: <http://www.nrc.gov/materials/miau/mat-toolkits.html>. This site also provides the link to the toolbox for updated information on the revised regulations for naturally-occurring and accelerator-produced radioactive materials (NARM).

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 document system (ADAMS). ADAMS is accessible from the NRC Web Site at: <http://www.nrc.gov/reading-rm/adams.html>. Please be aware that you may request that certain portions of your submittal to NRC be withheld from public disclosure as proprietary information. To do this, you must execute an affidavit as specified in 10 CFR 2.390. You must list all portions that you wish to be held proprietary, along with your reasoning as to why that is appropriate. While it is allowable, please refrain from submitting proprietary information in support of a license unless necessary. Keep in mind that all NRC licenses are considered to be in the public domain, and therefore may be viewed by any member of the public who requests to see them.

If you have any questions regarding this request for additional information, please contact me at Dennis Lawyer or via electronic mail at dennis.lawyer@nrc.gov.

Thank you for your cooperation.

Sincerely,



Dennis Lawyer, Health Physicist
Commercial, Industrial, R&D
and Academic Branch

License No. 09-35501-01
Docket No. 03039124
Mail Control No. 609627

cc: Willie Bremer, Radiation Safety Officer

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If you have any questions regarding this request for additional information, please contact me at Dennis Lawyer or via electronic mail at dennis.lawyer@nrc.gov.

Thank you for your cooperation.

Sincerely,

Dennis Lawyer, Health Physicist
Commercial, Industrial, R&D
and Academic Branch

License No. 09-35501-01
Docket No. 03039124
Mail Control No. 609627

cc: Willie Bremer, Radiation Safety Officer

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