



TELEFAX TRANSMITTAL

DATE: 12/30/04

NUMBER OF PAGES: 9
(including this page)

SEND TO: CHRISTOPHER HEAD

LOCATION: MICHIGAN PAVING AND MATERIALS

FAX NUMBER: 517-787-5690 VERIFY BY CALLING SENDER

FROM: (SENDER) COLLEEN CASEY

TELEPHONE NUMBER: 630-829-9874 FAX NUMBER: 630-829-9782

If you do not receive the complete fax transmittal, please contact the sender as soon as possible at the telephone number provided above.

MESSAGE

Please call me to discuss this upon receipt if you have questions. Please note the response due date to Jan. 5, 2005.

Thank you,
NOTICE *Colleen Cawl Casey*

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone and return the original to the above address, by U.S. Mail. Thank you.

**COLLEEN CAROL CASEY
MATERIALS LICENSING BRANCH
UNITED STATES NUCLEAR REGULATORY COMMISSION**

REGION III
2443 WARRENVILLE ROAD
LISLE, ILLINOIS 60532-4352
OFFICE: (630)-829-9841 FAX: (630) 829-9782 or (630) 515-1259

CONVERSATION RECORD	TIME	DATE
ACTUALLY FAXED? YES.		December 30, 2004

NAME OF PERSON(S) CONTACTED	ORGANIZATION	TELEPHONE NO.
Christopher Head, RSO for Michigan Paving and Materials / Cadillac Asphalt		517-787-4200 or 517-768-2962

SUBJECT	Control No.: 313795	<i>Faxed response received 1/3/05</i>
License No.: 21-26517-01		

SUMMARY
We have reviewed your letter received October 8, 2004, requesting an amendment to your byproduct materials license and find that we need additional information as follows:

1. *OK* I cannot release the facility at 422 East High Street, Jackson, MI until I have reviewed the most recent leak tests for the gauges used there. One of the leak tests submitted with your letter did not contain the date of testing for the gauge with serial number 23107. Please submit a complete copy of this leak test for my review.

2. *OK* It appears that your company is changing ownership. Please be reminded that you must obtain NRC's written consent before changing ownership or control of your licensed program, in order to comply with 10 CFR 30.34(b). A copy of Appendix C to NUREG 1556, Vol. 1, Rev. 1, is attached, which contains the types of requested information we will require to evaluate your request to change ownership/control.

Please prepare brief, concise, complete responses to each item in Appendix C. Please do not submit actual documents, such as Securities and Exchange Commission reports or other legal documents.

3. *✓* FYI- I tried to reach you by telephone this afternoon at 517-787-4200. Someone answered and told me you worked at a different number. So I tried to reach you at that number, 517-768-2962, but there was no answer at all at that number. Please advise me of the correct telephone number to reach you at, and fax number as well.

*517-795-0617
Ax 517-787-5690*

FYI only, no response required: Please note that on October 25, 2004, the NRC suspended public access to ADAMS, and initiated an additional security review of publicly available documents to ensure that potentially sensitive information is removed from the ADAMS database accessible through the NRC's web site. Interested members of the public may obtain

copies of the referenced documents for review and/or copying by contacting the Public Document Room pending resumption of public access to ADAMS.

The NRC Public Document Room is located at NRC Headquarters in Rockville, MD, and can be contacted at 800-397-4209 or 301-415-4737 or pdr@nrc.gov.

ACTION REQUIRED

Submit the requested information **within 5 calendar days (by close of business on January 5, 2005) by referencing control number 313795** to facilitate proper handling. If we do not receive an adequate response by this date, I will **VOID** the current action without attempting to contact you further. Upon receipt of your response we will resume our review. Address your written response to my attention at the above address.

PLEASE NOTE THAT A "VOID" IS AN ADMINISTRATIVE PROCEDURE THAT PUTS YOUR AMENDMENT REQUEST "ON HOLD" (TAKES IT OUT OF OUR ACTIVE CASEWORK DATABASE) UNTIL YOU REACTIVATE IT VIA A WRITTEN RESPONSE. IT "BUYS" YOU TIME TO PREPARE A QUALITY RESPONSE AND IS GENERALLY REGARDED AS A "GOOD THING."

PLEASE DIRECT ANY QUESTIONS YOU MAY HAVE TO ME AT 630-829-9841.

NAME OF PERSON DOCUMENTING CONVERSATION

SIGNATURE

DATE

Colleen Carol Casey



December 30, 2004

Licensees must provide full information and obtain NRC's prior written consent before transferring ownership or control of the license; some licensees refer to this as "transferring the license." Licensees must provide the following information concerning changes of ownership or control by the applicant (transferor and/or transferee, as appropriate). If any items are not applicable, licensees must so state.

1. The new name of the licensed organization. If there is no change, the licensee should so state. *Michigan Paving and Materials / Cadillac Asphalt*
2. The new licensee contact and telephone number(s) to facilitate communications. *Same*
3. Any change in personnel having control over licensed activities (e.g., officers of a corporation) and any change in personnel named in the license such as RSO, authorized users, or any other persons identified in previous license applications as responsible for radiation safety or use of licensed material. The licensee should include information concerning the qualifications, training, and responsibilities of new individuals. *None.*
4. An indication of whether the transferor will remain in non-licensed business without the license. *No.*
5. A complete, clear description of the transaction, including any transfer of stocks or assets, mergers, etc., so that legal counsel is able, when necessary, to differentiate between name changes and changes of ownership. *OK -*
6. A complete description of any planned changes in organization, location, facility, equipment, or procedures (i.e., changes in operating or emergency procedures). *OK \emptyset*
7. A detailed description of any changes in the use, possession, location, or storage of the licensed materials. *OK \emptyset*
8. Any changes in organization, location, facilities, equipment, procedures, or personnel that would require a license amendment even without the change of ownership. *Name change only.*
9. An indication of whether all surveillance items and records (e.g., calibrations, leak tests, surveys, inventories, and accountability requirements) will be current at the time of transfer. Provide a description of the status of all surveillance requirements and records. *OK.*
10. Confirmation that all records concerning the safe and effective decommissioning of the facility, pursuant to 10 CFR 30.35(g), 40.36(f), 70.25(g), and 72.30(d); public dose; and waste disposal by release to sewers, incineration, radioactive material spills, and on-site burials, have been transferred to the new licensee, if licensed activities will continue at the same location, or to NRC for license terminations. *\emptyset NA*
11. A description of the status of the facility. Specifically, the presence or absence of contamination should be documented. If contamination is present, will decontamination occur before transfer? If not, does the successor company agree to assume full liability for the decontamination of the facility or site? *OK -*

APPENDIX C

12. A description of any decontamination plans, including financial assurance arrangements of the transferee, as specified in 10 CFR 30.35, 40.36, and 70.25. Include information about how the transferee and transferor propose to divide the transferor's assets, and responsibility for any cleanup needed at the time of transfer. *NA*

OK 13. Confirmation that the transferee agrees to abide by all commitments and representations previously made to NRC by the transferor. These include, but are not limited to: maintaining decommissioning records required by 10 CFR 30.35(g), implementing decontamination activities and decommissioning of the site, and completing corrective actions for open inspection items and enforcement actions.

With regard to contamination of facilities and equipment, the transferee should confirm, in writing, that it accepts full liability for the site, and it should provide evidence of adequate resources to fund decommissioning; or the transferor should provide a commitment to decontaminate the facility before change of control or ownership.

With regard to open inspection items, etc., the transferee should confirm, in writing, that it accepts full responsibility for open inspection items and/or any resulting enforcement actions; or the transferee proposes alternative measures for meeting the requirements; or the transferor provides a commitment to close out all such actions with NRC before license transfer.

OK 14. Documentation that the transferor and transferee agree to the change in ownership or control of the licensed material and activity, and the conditions of transfer; and the transferee is made aware of all open inspection items and its responsibility for possible resulting enforcement actions. *None*

OK 15. A commitment by the transferee to abide by all constraints, conditions, requirements, representations, and commitments identified in the existing license. If not, the transferee must provide a description of its program, to ensure compliance with the license and regulations.

References: The information above is contained in IN-89-25, Revision 1, "Unauthorized Transfer of Ownership or Control of Licensed Activities." See the Notice of Availability (on the inside front cover of this report) to obtain copies.

COPY ATTACHED



U.S. Nuclear Regulatory Commission


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UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

December 7, 1994

NRC INFORMATION NOTICE 89-25, REV. 1: UNAUTHORIZED TRANSFER OF OWNERSHIP
OR CONTROL OF LICENSED ACTIVITIES

Addressees

All fuel cycle and material licensees.

Purpose

NRC is issuing this revised information notice to clarify previous guidance concerning the information to be submitted to NRC, prior to a change of ownership or control. The notice also incorporates recent information from NRC's Office of the General Counsel (OGC) concerning the transferee's liability for open inspection issues and potential enforcement actions from past violations; and responsibility for decontamination activities and decommissioning of the site. It is expected that recipients will review this notice, distribute it to responsible staff, and consider actions as appropriate, to ensure compliance with NRC requirements concerning the transfer of control of licensed activities. However, suggestions contained in this notice are not new NRC requirements; therefore, no written response is required.

Background

This information notice was originally issued to inform licensees of their responsibility to provide timely notification to NRC before the planned transfer of ownership or control of licensed activities and obtain prior written consent to such action from NRC, as specified in Title 10 of the Code of Federal Regulations, 10 CFR 30.34(b), 40.46, and 70.36. Specific guidance was also provided outlining the information to be submitted by licensees concerning changes of ownership or control resulting from mergers, buy-outs, or majority stock transfers.

Discussion

Section 30.34(b) states: "No license issued or granted pursuant to the regulations in this part, Parts 31 through 36, and 39, nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of

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control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing." Similar regulations are contained in 10 CFR 40.46 and 70.36. Thus, the regulations are very clear that control of licenses cannot be transferred without prior

written permission from the Commission.

Although it is not NRC's intent to interfere with the business decisions of licensees, it is necessary for licensees to provide timely notification to NRC whenever such decisions could involve changes in the corporate structure responsible for management oversight, control, or radiological safety of licensed materials. Full information on changes of ownership or control of licensed activities should be submitted to the appropriate NRC regional or Headquarters office, 90 days prior to the proposed action. The purpose of such notification is to allow NRC to assure that: (1) radioactive materials are possessed, used, owned, or controlled only by persons who have valid NRC licenses; (2) materials are properly handled and secured; (3) persons using such materials are capable, competent, and committed to implement appropriate radiological controls; (4) licensees provide adequate financial assurance for compliance with NRC requirements; and (5) public health and safety are not compromised by the use of such materials. Although the burden of notification is on the existing licensee, it may still be necessary for the transferee to provide supporting information or to independently coordinate the change in ownership or control with the appropriate NRC office.

NRC licensees planning to transfer ownership, to change the corporate status, or to change control of licensed activities are required to provide sufficient prior notice and full information about the change to NRC, and to obtain written consent from the Commission before the transfer. Failure to comply with this requirement may adversely affect the public health and safety and interfere with NRC's ability to inspect licensed activities. Cases where change of ownership or control has occurred without prior written consent from NRC will be treated as noncompliance with the provisions of 10 CFR 30.34 (or the similar provisions of 10 CFR 40.46, and 70.36), and will be referred to the inspection staff and/or Office of Investigations, as appropriate. The failure to receive required NRC approval prior to a change in ownership or control of licensed activities is considered to be a Severity Level III violation and may warrant escalated enforcement action, to include civil penalties and orders, .

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if indicated by the circumstances, against one or both of the parties involved. Willful failure to obtain prior NRC approval of the transfer may result in referrals to the Department of Justice for consideration of criminal prosecution.

Licensees should note that a license cannot be sold or transferred by itself to a transferee. In situations where a licensed company is purchased in its entirety, and the transferor will not continue in business as a separate entity, the purchase can be approved if the license is amended to reflect any name changes, compliance with financial assurance requirements, personnel changes, or any other change that would normally require an amendment. If there are no changes, an amendment may not be necessary and the transferee and transferor will be notified by letter that NRC has no objection to the sale, based on written statements from the transferee/transferor confirming that no changes in the licensed operation will occur as a result of the sale.

In cases where a licensed operation is purchased from a transferor, who continues in business as a separate entity (without the license), the transferee must submit an application for an amendment to the license to reflect the change in identity of the licensee, compliance with financial assurance requirements, and any other pertinent changes in the operation. The transferee can use the transferor's docketed documents as a basis for preparing the license amendment application. Usually a new license will not be issued. However, the transferee can always apply for a new license by providing a complete application. If a new license is issued, the transferor must request termination of its license as a separate action.

In order to maintain their availability, records important to the safe and effective decommissioning of the facility and all records concerning public dose and waste disposal need to be transferred to the new licensee or to NRC in cases of terminations. Therefore, no transfers or changes of ownership or license terminations will be authorized until all information or records concerning decommissioning of the facility, radiation doses to the public and waste disposal, such as releases to sewers, incineration, radioactive spills, and on-site burials, have been transferred to the new licensee, if licensed activities will continue at the same location, or to NRC for license terminations.

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Attachment 1 outlines the information needed by the NRC to approve changes of ownership or control. This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact the technical contact listed below or the appropriate regional office.

/s/'d by CJPaperiello

Carl J. Paperiello, Director
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Technical contact: Susan L. Greene, NMSS
(301) 415-7843

Attachments:

1. Information Needed for Change of Ownership

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INFORMATION NEEDED FOR CHANGE OF OWNERSHIP APPLICATION

The applicant should provide the following information concerning changes of ownership or control by the applicant (transferor and/or transferee, as appropriate):

1. The new name of the licensed organization. If there is no change, the licensee should so state.
2. The new licensee contact and telephone number(s) to facilitate communications.
3. Any changes in personnel having control over licensed activities (e.g., officers of a corporation) and any changes in personnel named in the license such as radiation safety officer, authorized users, or any other persons identified in previous license applications as responsible for radiation safety or use of licensed material. The licensee should include information concerning the qualifications, training, and responsibilities of new individuals.
4. An indication of whether the transferor will remain in non-licensed business without the license.
5. A complete, clear description of the transaction, including any transfer of stocks or assets, mergers, etc., so that legal counsel is able, when necessary, to differentiate between name changes and changes of ownership.
6. A complete description of any planned changes in organization, location, facility, equipment, or procedures (i.e., changes in operating or emergency procedures).
7. A detailed description of any changes in the use, possession, location or storage of the licensed materials.
8. Any changes in organization, location, facilities, equipment, procedures, or personnel that would require a license amendment even without the change of ownership.
9. An indication of whether all surveillance items and records (e.g., calibrations, leak tests, surveys, inventories, and accountability

requirements) will be current at the time of transfer. A description of the status of all surveillance requirements and records should also be provided.

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10. Confirmation that all records concerning the safe and effective decommissioning of the facility, pursuant to 10 CFR 30.35(g), 40.36(f), 70.25(g), and 72.30(d); public dose; and waste disposal by release to sewers, incineration, radioactive material spills, and on-site burials, have been transferred to the new licensee, if licensed activities will continue at the same location, or to the NRC for license terminations.
11. A description of the status of the facility. Specifically, the presence or absence of contamination should be documented. If contamination is present, will decontamination occur before transfer? If not, does the successor company agree to assume full liability for the decontamination of the facility or site?
12. A description of any decontamination plans, including financial assurance arrangements of the transferee, as specified in 10 CFR 30.35, 40.36, and 70.25. This should include information about how the transferee and transferor propose to divide the transferor's assets, and responsibility for any cleanup needed at the time of transfer.
13. Confirmation that the transferee agrees to abide by all commitments and representations previously made to NRC by the transferor. These include, but are not limited to: maintaining decommissioning records required by 10 CFR 30.35(g); implementing decontamination activities and decommissioning of the site; and completing corrective actions for open inspection items and enforcement actions.

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14. Documentation that the transferor and transferee agree to the change in ownership or control of the licensed material and activity, and the conditions of transfer; and the transferee is made aware of all open inspection items and its responsibility for possible resulting enforcement actions.

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15. A commitment by the transferee to abide by all constraints, conditions, requirements, representations, and commitments identified in the existing license. If not, the transferee must provide a description of its program, to ensure compliance with the license and regulations.

TRANSMISSION VERIFICATION REPORT

TIME : 12/30/2004 18:23
NAME : USNRC
FAX : 6308299782
TEL : 6308299782

DATE, TIME : 12/30 18:20
FAX NO./NAME : 85177875690
DURATION : 00:03:04
PAGE(S) : 09
RESULT : OK
MODE : STANDARD
ECM

(7-2002)



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
801 Warrenville Road, Suite 255
Liste, Illinois 60532-4351

TELEFAX TRANSMITTAL

DATE: 12/30/04 NUMBER OF PAGES: 9
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SEND TO: CHRISTOPHER HEAD

LOCATION: MICHIGAN PAVING AND MATERIALS

FAX NUMBER: 517-787-5690 VERIFY BY CALLING SENDER

FROM: COLLEEN CASEY
(SENDER)

TELEPHONE NUMBER: 630-829-98~~8~~⁴¹ FAX NUMBER: 630-829-9782

If you do not receive the complete fax transmittal, please contact the sender as soon as possible at the telephone number provided above.

MESSAGE

Please call me to discuss this upon receipt if you have questions.