



Hercules Incorporated
Hercules Plaza
1313 North Market Street
Wilmington, DE 19894-0001
(302) 594-5000
www.herc.com

RE: LICENSE NO. 24-03060-01
DOCKET NO. 030-05086

October 30, 2008

Materials Licensing Branch
U.S. NRC Region III
2443 Warrenville Road
Suite 210
Lisle, Illinois 60532-4352

Hercules Incorporated - Aqualon Division
Notification of Indirect Transfer of Control (Materials License No. 24-03060-01)

Pursuant to 10 C.F.R. § 30.34, this letter notifies the U.S. Nuclear Regulatory Commission of an indirect transfer of control over the sealed sources under Materials License No. 24-03060-01 from the current license holder, Hercules Incorporated (Hercules), to Hercules Incorporated, a subsidiary of Ashland Inc. (Ashland). Notification is given in connection with the acquisition of Hercules by Ashland. Hercules and Ashland request NRC consent to the transfer by October 31, 2008, to support a closing in mid-November.

This is an indirect transfer. The licensee will not change but it will become a subsidiary of Ashland. Because the change of control may be deemed to trigger license control transfer requirements of 30.34(b), Hercules is notifying the NRC of the merger and its terms.

Materials License No. 24-03060-01 permits Hercules to possess sealed sources of Cesium-137 for use in fixed gauges. Under the terms of the merger, Hercules will continue to operate the facility named in the license.

The information supporting this notification of indirect transfer of control of License No. 24-03060-01 is provided in Attachment 1. Hercules and Ashland request that you review this information and approve this radioactive materials license transfer.

There are no regulatory commitments contained within this letter.

If you have any questions regarding this submittal, please contact Minh Hoac at Phone (573) 754-6211 EXT 362.

Sincerely,

By: 
Hercules Incorporated
Name: Thomas H. Strang
Its: Vice President, SHERA

Attachments: 1) Information Supporting Transfer of Materials License No. 24-03060-01

cc: Loren J. Huter, NRC Region III

License No. 24-03060-01
Docket No. 030-05086

Attachment 1

Hercules Incorporated

Information Supporting Notification of Indirect Transfer of Control of Materials
License No. 24-03060-01

Information Supporting Indirect Transfer of Control (Materials License No. 24-03060-01)

NUREG-1556, Volume 4, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Fixed Gauge Licenses,"¹ Chapter 8, "Contents of an Application," of the NUREG provides direction on criteria to be considered in response to transfers of ownership for materials licenses. The guidance notes that when a change in indirect control occurs, "transfer of control may be the result of mergers, buyouts, or majority stock transfers. Although it is not NRC's intent to interfere with the business decisions of licensees, it is necessary for licensees to obtain prior NRC written consent before the transaction is finalized." Hercules Incorporated (Hercules) submits the following information to assure the Commission that subsequent to the merger:

- Radioactive materials are possessed, used, or controlled only by persons who have valid NRC licenses;
- Materials are properly handled and secured;
- Persons using these materials are competent and committed to implementing appropriate radiological controls;
- A clear chain of custody is established to identify who is responsible for disposition of records and licensed material; and
- Public health and safety are not compromised by the use of such materials.

The guidance was followed to develop the responses provided in Part I.

1. New Name of the Licensed Operation

The name of the licensed operation will remain the same. Hercules will do business as a subsidiary of Ashland Inc. (Ashland).

2. New Licensee Contact(s), Names and Telephone Numbers

The contacts, names, and telephone numbers are not changed.

3. Changes Of Personnel

The personnel named in the license, including the Radiation Safety Officer, will not change.

4. An indication of whether the transferor will remain in non-licensed business without the license.

¹ NUREG-1556, Volume 4, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Fixed Gauge Licenses, Final Report," October 1998.

As a result of the merger of an Ashland subsidiary with and into Hercules, Hercules will become an independent subsidiary of Ashland and will continue to do business using the licensed materials under the name "Hercules Incorporated." Its business function and name will not change, and it will continue to use the licensed materials as set forth in the license.

5. **A complete, clear description of the transaction, including any transfer of stocks or assets, mergers, etc., so that a legal determination might be made, when necessary, to differentiate between name changes and changes of ownership.**

Ashland and Hercules have entered into a definitive merger agreement under which a subsidiary of Ashland will merge with and into Hercules, resulting in Hercules becoming a wholly owned subsidiary of Ashland. Ashland will become the sole shareholder of Hercules. Hercules will continue to do business under its operating name as a subsidiary of Ashland. There will be no change in the operating name of the licensed facility or in the personnel obligated to ensure the safe use of the sealed sources that are the subject of this license. Hercules will notify NRC if a change in radiation protection staff occurs subsequent to the merger, in accordance with applicable NRC regulations.

Ashland is aware of all regulatory commitments and the current licensing basis for each license, and understands the programs, plans and procedures currently in effect. Hercules will continue to operate the licensed facility, and will continue to be fully responsible for compliance with regulatory commitments, programs, and procedures.

6. **A complete description of any planned changes in organization, location, facility, equipment, or procedures (i.e., changes in operating or emergency procedures).**

There are no expected changes to the operating organization or personnel with responsibilities under Materials License No. 24-03060-01.

7. **Description of Changes in Use, Possession, Location, or Storage of Licensed Materials**

The merger will not result in any changes in use, possession, location, or storage of licensed materials under Materials License No. 24-03060-01. Hercules will continue to be responsible for the licensed materials.

8. **Changes in organization, location, facility, equipment, procedures, or personnel that would require a license amendment even without the change of ownership.**

There are no changes that would require a license amendment. As a wholly owned subsidiary of Ashland, Hercules will continue its business operations using the licensed materials.

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.**

All surveillance items and records will be current at the time of the merger. Surveillance requirements and records are held at the Hercules facility identified in Materials License No. 24-03060-01.

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); such as public dose; 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.**

This information is not applicable to the sealed sources described in Materials License No. 24-03060-01.

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?**

Currently, the facility is not contaminated. Records of the most recent NRC Region III inspection are on record at the site.

12. **A description of any decontamination plans, including financial assurance arrangements of the transferee, as specified in 10 CFR 30.35(g), 40.36(f), 70.25(g), and 72.30(d). 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.**

This information is not applicable to the sealed sources described in Materials License No. 24-03060-01.

13. **Confirmation that the transferee agrees to abide by all commitments and representations previously made to the Department by the transferor. These include, but are not limited to: maintaining decommissioning records required by 10 CFR 35(g), implementing decontamination activities**

and decommissioning of the site, and completing corrective actions for open inspection items and enforcement actions.

Ashland is aware of the constraints, conditions, requirements, representations, and commitments identified in the current Materials license. Hercules will continue to be the licensee under the terms of the merger.

Hercules will abide by all constraints, conditions, requirements, representations, and commitments identified in Materials License No. 24-03060-01.

Materials License No. 24-03060-01 concerns sealed sources for use in fixed gauging devices manufactured by Ohmart/Vega Corp and Amersham (Kay Ray). A copy of the license is included as Attachment 2. The sealed sources are below the limits set forth in 10 CFR 35(g). Therefore, no commitments for decommissioning are necessary. Both Hercules and Ashland confirm that there is no contamination at the facility, and that there are no outstanding inspection items.

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.

Because Hercules will continue to do its business as a wholly owned subsidiary of Ashland, Hercules will continue to own and control the licensed material, and therefore, will continue to be the responsible party under the license.

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.

Hercules will continue to abide by all commitments and representations previously made by Hercules relating to Materials License No. 24-03060-01. Hercules accepts all responsibility for activities conducted under Materials License No. 24-03060-01 after the acquisition by Ashland is complete.

Ashland understands the commitments and representations made by Hercules relating to the Materials License No. 24-03060-01.

License No. 24-03060-01
Docket No. 030-05086

Attachment 2

Hercules Incorporated

Materials License No. 24-03060-01

(INC. 41-2)

CORPORATE DEED-TYPEWRITER

Printed and Sold by Wm. A. George Co., Stationers, 500 Tenth St., Wilmington, Del.

This Deed, Made this REC [112] PAGE 218

1903 3rd day of October in the year of

our LORD one thousand nine hundred and eighty

BETWEEN, E. I. du PONT de NEMOURS & COMPANY, a Delaware corporation, party of the first part,

AND

HERCULES INCORPORATED, a Delaware corporation, party of the second part,



WITNESSETH, That the said party of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grants and conveys unto the said party of the second part, its successors and assigns, in fee,

AND That certain lot, piece or parcel of land bounded by Orange Street, West 14th Street, North Market Street, and lands now or formerly of E. I. du Pont de Nemours & Company, City of Wilmington, New Castle County, Delaware, and known as 1313 North Market Street, on a certain Final Plat of record in the Office of the Recorder of Deeds in and for New Castle County, Delaware, and being more particularly described according to a recent survey and Plan by VanDemark & Lynch, Inc., Consulting Engineers and Surveyors, Wilmington, Delaware, dated May 23, 1980 as revised July 8, 1980 and August 6, 1980 (Project No. 15686, File No. 19863-L, Sheet 1 of 1), as follows, to-wit:

BEGINNING at a point on the northwesterly side of North Market Street (at 76 feet wide), said point being distant North 32°-00'-00" East, 87.58 feet from the point of intersection of the said northwesterly side of North Market Street with the northeasterly side of West 13th Street (at 60 feet wide); thence from said point of Beginning and by a new line parallel with said West 13th Street, North 57°-52'-35" West, 346.13 feet to the point of intersection with the southeasterly side of Orange Street (at 59 feet, 6 inches wide); thence along the said southeasterly side of Orange Street, North 32°-02'-25" East, 251.01 feet to the point of intersection with the southwesterly side of West 14th Street (at 60 feet wide); thence along the said southwesterly side of West 14th Street, South 57°-54'-20" East, 345.95 feet to the point of intersection with the said northwesterly side of North Market Street; thence along the said northwesterly side of North Market Street, South 32°-00'-00" West, 251.19 feet to the point and place of BEGINNING. CONTAINING within said described metes and bounds, 86,890 square feet (1.995⁺ acres) of land, be the same more or less.

BEING the same lands which were granted and conveyed in fee to E. I. du Pont de Nemours & Company by the following deeds:

- 1. Deed from Edward J. Gannon, dated June 2, 1967, and recorded in the Office of the Recorder of Deeds in and for New Castle County, Delaware at Deed Record Z, Volume 78, Page 433.

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2. Deed from Elizabeth H. Price, dated August 27, 1964, and recorded in the Office aforesaid at Deed Record O, Volume 73, Page 518.

3. Deed from William J. Wilson, dated May 1, 1964, and recorded in the Office aforesaid at Deed Record X, Volume 72, Page 685.

4. Deed from Louis J. Robino and Mary Vera Robino, dated May 15, 1962 and recorded in the Office aforesaid at Deed Record K, Volume 69, Page 528.

5. Deed from Edith P. Knotts, dated August 26, 1960, and recorded in the Office aforesaid at Deed Record Q, Volume 66, Page 126.

6. Deed from Caroline J. Ramsay, dated February 6, 1956, and recorded in the Office aforesaid at Deed Record G, Volume 57, Page 358.

7. Deed from Delaware Olds, Inc., dated February 27, 1956, and recorded in the Office aforesaid at Deed Record H, Volume 57, Page 433.

8. Deed from Delaware Properties, Inc., dated July 17, 1978, and recorded in the Office aforesaid at Deed Record A, Volume 102, Page 211.

9. Deed from Irene M. Ray, dated August 30, 1956, and recorded in the Office aforesaid at Deed Record K, Volume 58, Page 384.

10. Deed from Joseph McCahon, dated April 3, 1956, and recorded in the Office aforesaid at Deed Record N, Volume 57, Page 49.

AND BEING a portion of the same land which William Berl, Jr., Marie K. Berl, Helen B. Patterson, Marie W. Brodhead, Mary Stadelman Berl, Carolyn K. Brewster, Morris D. Brewster, Carolyn B. Potts, Joseph C. Potts, Eugene Enalls Berl, II, Floyd Josephine Berl Sabo and James Carl Sabo, did, by their Indenture, dated July 24, 1956 and recorded in the Office aforesaid at Deed Record Q, Volume 58, Page 182, grant and convey unto E. I. du Pont de Nemours & Company, in fee.

REC E112 PAGE 220

STATE OF DELAWARE
 REALTY TRANSFER TAX
 Serial Number _____
 Amount of City Tax \$ _____
 Date Recorded _____
 Canceled by _____

Grantees Address:
 910 Market Street
 Wilmington, Delaware
 CITY OF WILMINGTON
 REALTY TRANSFER TAX

Tax Parcel #:
 26-028.40-101

Validation Number _____
 Amount of City Tax \$ 29,286.35
 Canceled by ZAS

APPROVALS
<i>P. Berkoff</i> LEGAL DEPT.
INDUSTRIAL or LEASE DEPT. <i>[Signature]</i>
REAL ESTATE DIV. <i>[Signature]</i>
GENERAL SERVICES <i>[Signature]</i>
FINANCE DEPT. <i>[Signature]</i>

In Witness Whereof, The said E. I. du PONT de NEMOURS & COMPANY
 hath caused its name by its Vice President to be hereunto
 set, and the common and corporate seal of the said corporation to be hereunto affixed, duly attested
 by its Assistant Secretary, the day and year first above written.

Sealed and Delivered in the Presence of BY:
Paul M. Luskoff
 ATTEST:

C. E. Welch
 Vice President
[Signature]
 Assistant Secretary

State of Delaware,
 NEW CASTLE County, } ss.

31st day of October
 nine hundred and eighty
 personally come before me, RONALD W. EASTMAN
 a Notary Public for the State of Delaware. *C. E. Welch*

Vice President of E. I. du Pont de Nemours & Company
 a corporation existing under the laws of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his act and deed and the act and deed of said corporation, that the signature of the Vice President thereto is in his own proper handwriting and the seal affixed is the common and corporate seal of said corporation, and that his act of sealing, executing, acknowledging and delivering said Indenture was duly authorized by a resolution of the Board of Directors of said corporation.

GIVEN under my Hand and Seal of Office, the day and year first aforesaid.

STATE OF DELAWARE
 REALTY TRANSFER TAX
 Serial Number 37211-37212
 Amount of State Tax \$ 54,562.70
 Date Recorded _____
 Canceled by _____

Notary Public
 My Commission Expires Sept 19, 2008
 RONALD W. EASTMAN

PAID 200**2928135*d 0032A

REC'D FOR RECORD OCT 31 2008