

TRANSMISSION VERIFICATION REPORT

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NAME : USNRC REGION3 DNMS
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UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

TELEFAX TRANSMITTAL

DATE December 12, 2012

NUMBER OF PAGES 9

SEND TO Tim Stickler- Environmental Department *YO TARA EARY*

LOCATION New Energy

FAX NUMBER (574) ~~233-8643~~

VERIFY BY CALLING

284-2672

FROM: Bill Reichhold
(Sender)

TELEPHONE NUMBER (630) 829-9839

FAX NUMBER (630) 515-1078

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

MESSAGE See accompanying documents. Please call me at 630-829-9839 if you have any questions.

Bill Reichhold



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NOTICE

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 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.

As we discussed by telephone on December 10, 2012, we understand that New Energy Corporation has filed for bankruptcy. NRC requirements for licensees that are the subject of a bankruptcy filing can be found in 10 CFR (U.S. Code of Federal Regulations) 30.34(h). The purpose of the regulations is to ensure that public health and safety is adequately protected and that radioactive material is properly controlled. (Please see accompanying copy of 30.34 (h)).

Please provide the following additional information:

1. (a) Please identify what radionuclides and /or nuclear gauges are possessed by your company at this time.

(b) Please indicate if you plan to dispose of any of your radionuclides and /or nuclear gauges during bankruptcy proceedings.
2. For each of the radionuclides and /or nuclear gauge(s) identified above, please specify if the radionuclide(s) and or device(s) are in use or in secured storage at this time.
3. Please indicate if there has been in changes in the Radiation Safety Officer or authorized user(s) for the radionuclides and /or nuclear gauges.
4. Please submit a written notification of the bankruptcy to the NRC Region 3, Administrator, as required by 10 CFR 30.34:
Please provide the following:

Name of bankruptcy court where petition was filed.

Date bankruptcy petition was filed.

Please see attached form.
5. Please specify the type of bankruptcy filed, such as Chapter 11, 12, or 13.

6. Please describe any changes that are planned for the company operations and use/storage/disposition of the radionuclides and /or nuclear gauges during the bankruptcy proceedings.
7. Please indicate the anticipated date when the bankruptcy will end.
8. Please specify any other affiliated companies that may also have radionuclides and /or nuclear gauges that require an NRC license. If so what radionuclides and /or nuclear gauges do they possess and specify the license number and location of the company.
9. Please specify who will be the contact person and at what frequency will they update the NRC concerning any changes in the status of the radionuclides and /or nuclear gauge(s) or the bankruptcy proceedings. Please make sure you immediately contact the NRC of any change in status of use, security and/or storage of the radionuclides and /or nuclear gauges and any change in the individual(s) responsible for the radionuclides and /or nuclear gauge(s).
10. Please be reminded that you cannot change ownership without prior consent from the NRC as required by 10 CFR 30.34 (b). As we discussed by telephone on December 10, 2012, it is our understanding that you are planning to sell your company's assets in March 2013. Please be advised, change of ownership/control cannot be transferred without **prior written consent** from the NRC (10 CFR 30.34 (b)). A copy of this regulation may be found on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part030/part030-0034.html>. Also, please see NUREG-1556, Volume 15, "Consolidated Guidance About Materials Licenses - Program-Specific Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Material Licenses". A copy of this guidance may be found on the

NRC website at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v15/>.

11. Also as we discussed, please submit a copy of your current inventory of radionuclides and/or nuclear gauges.

Please send a facsimile (630) 515-1078 of your response to the above to William Reichhold as soon as possible. Please call me at (630) 829-9839 if you have any questions.

INFORMATION TO NOTIFY NRC OF BANKRUPTCY

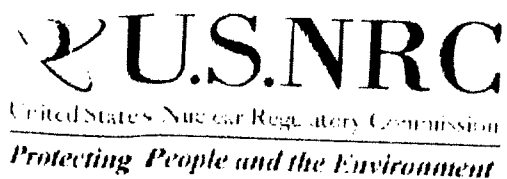
1. Name of bankruptcy court where petition was filed. _____
2. Date bankruptcy petition was filed. _____

Your assistance is requested in identifying any other entities that may have NRC or Agreement State licenses that may be affected by the bankruptcy.

Company Name

Address

Telephone Number



Home > NRC Library > Document Collections > NRC Regulations (10 CFR) > Part Index > § 30.34 Terms and conditions of licenses.

§ 30.34 Terms and conditions of licenses.

(a) Each license issued pursuant to the regulations in this part and the regulations in parts 31 through 36 and 39 of this chapter shall be subject to all the provisions of the Act, now or hereafter in effect, and to all valid rules, regulations and orders of the Commission.

➔(b) No license issued or granted pursuant to the regulations in this part and 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 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.

(c) Each person licensed by the Commission pursuant to the regulations in this part and parts 31 through 36 and 39 shall confine his possession and use of the byproduct material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the regulations in this part and parts 31 through 36 and 39 of this chapter shall carry with it the right to receive, acquire, own, and possess byproduct material. Preparation for shipment and transport of byproduct material shall be in accordance with the provisions of part 71 of this chapter.

(d) Each license issued pursuant to the regulations in this part and parts 31 through 36 and 39 shall be deemed to contain the provisions set forth in section 183b.- d., inclusive, of the Act, whether or not these provisions are expressly set forth in the license.

(e) The Commission may incorporate, in any license issued pursuant to the regulations in this part and parts 31 through 36 and 39, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:

1) Promote the common defense and security;

2) Protect health or to minimize danger to life or property;

3) Protect restricted data;

4) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

5) Licensees required to submit emergency plans by § 30.32(i) shall follow the emergency plan approved by the Commission. The licensee may change the approved without Commission approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the appropriate NRC Regional Office specified in § 30.6 and to affected offsite response organizations within six months after the change is made. Proposed changes that increase, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Commission.

(g) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generator rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with § 35.204 of this chapter. The licensee shall record the results of each test and retain each record for 3 years after the record is made.

➔ (h)(1) Each general licensee that is required to register by § 31.5(c)(13) of this chapter and each specific licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code by or against

(i) The licensee;

(ii) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the licensee as property of the estate; or

(iii) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(2) This notification must indicate:

(i) The bankruptcy court in which the petition for bankruptcy was filed; and

(ii) The date of the filing of the petition.

(i) Security requirements for portable gauges.

Each portable gauge licensee shall use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal, whenever portable gauges are not under the control and constant surveillance of the licensee.

(j)(1) Authorization under § 30.32(j) to produce Positron Emission Tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

(2) Each licensee authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

i) Satisfy the labeling requirements in § 32.72(a)(4) of this chapter for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium.

ii) Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in § 32.72(c) of this chapter.

) A licensee that is a pharmacy authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radioactive drugs shall be:

an authorized nuclear pharmacist that meets the requirements in § 32.72(b)(2) of this chapter, or

) an individual under the supervision of an authorized nuclear pharmacist as specified in § 35.27 of this chapter.

(4) A pharmacy, authorized under § 30.32(j) to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of § 32.72(b)(5) of this chapter.

(k) As required by the Additional Protocol, each specific licensee authorized to possess and use byproduct material shall file with the Commission location information described in § 75.11 of this chapter on DOC/NRC Forms AP-1 and associated forms. The licensee shall also permit verification of this information by the International Atomic Energy Agency (IAEA) and shall take other action as may be necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

(l) Each licensee shall ensure that Safeguards Information is protected against unauthorized disclosure in accordance with the requirements in §§ 73.21 and 73.23 of this chapter, as applicable.

[30 FR 8185, June 26, 1965, as amended at 38 FR 33969, Dec. 10, 1973; 43 FR 6922, Feb. 17, 1978; 48 FR 32328, July 15, 1983; 52 FR 1295, Jan. 12, 1987; 52 FR 8241, Mar. 17, 1987; 53 FR 19245, May 27, 1988; 53 FR 23383, June 22, 1988; 54 FR 14061, Apr. 7, 1989; 58 FR 7736, Feb. 9, 1993; 59 FR 61780, Dec. 2, 1994; 65 FR 79187, Dec. 18, 2000; 70 FR 2009, Jan. 12, 2005; 72 FR 55926, Oct. 1, 2007; 73 FR 78604, Dec. 23, 2008; 74 FR 7785, Feb. 20, 2009]

Page Last Reviewed/Updated Tuesday, July 05, 2011

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Change of Control Information

Control: Control of a license is in the hands of the person or persons who are empowered to decide when and how that license will be used. That control is to be found in the person or persons who, because of ownership or authority explicitly delegated by the owners, possess the power to determine corporate policy and thus the direction of the activities under the license.

Transferee: A transferee is an entity that proposes to purchase or otherwise gain control of an NRC-licensed operation.

Transferor: A transferor is an NRC licensee selling or otherwise giving up control of a licensed operation.

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

1. Provide a complete description of the transaction (transfer of stocks or assets, or merger). Indicate whether the name has changed and include the new name. Include the name and telephone number of a licensee contact who NRC may contact if more information is needed.
2. Describe any changes in personnel or duties that relate to the licensed program. Include training and experience for new personnel.
3. Describe any changes in the organization, location, facilities, equipment or procedures that relate to the licensed program.
4. Describe the status of the surveillance program (surveys, wipe tests, quality control) at the present time and the expected status at the time that control is to be transferred.
5. Confirm that all records concerning the safe and effective decommissioning of the facility will be transferred to the transferee or to NRC, as appropriate. These records include documentation of surveys of ambient radiation levels and fixed and/or removable contamination, including methods and sensitivity.
6. Confirm that the transferee will abide by all constraints, conditions, requirements and commitments of the transferor or that the transferee will submit a complete description of the proposed licensed program.
7. Provide 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.