

SAFETY EVALUATION REPORT
TRANSFER OF CONTROL FOR NRC BYPRODUCT MATERIALS LICENSE NUMBER
47-24837-01, CLEARON CORP.

DATE: February 27, 2017

DOCKET NO.: 030-29170

LICENSE NO.: 47-24837-01

LICENSEE: Clearon Corp.
95 MacCorkle Avenue, S.W., South Charleston, West Virginia

TECHNICAL REVIEWER: Dennis Lawyer

SUMMARY AND CONCLUSIONS

Clearon Corp. holds a byproduct material license issued by the U.S. Nuclear Regulatory Commission (NRC). Under NRC Materials License 47-24837-01, Clearon Corp. is authorized to possess and use byproduct material for use in a fixed gauging device for controlling industrial processes at their facility located at G Street, off of 95 MacCorkle Avenue, South Charleston, West Virginia.

During an inspection on November 2, 2016, the inspector was informed of what appeared to be an indirect transfer of control by the licensee. The inspector requested additional information that was submitted by the licensee in a letter dated December 2, 2016, Agencywide Documents Access and Management System (ADAMS) Accession Number ML16350A388. In the letter Clearon Corp. notified the NRC of an indirect transfer of control of the above license. On March 1, 2016, all of the Clearon Corporation's stock was transferred from Israel Chemical Ltd. to Hui Yu Xin American Corporation (Dalian Group). By letter dated January 20, 2017, ADAMS Accession Number ML17040A322, Hui Yu Xin American Corporation agreed to continue to abide by all the constraints, license conditions, requirements, representations, and commitments made by Clearon Corp.

The notification was reviewed by NRC staff for an indirect transfer of control of a 10 CFR Part 30 license using the guidance in NUREG-1556, Volume 15, Rev. 1, "Consolidated Guidance About Materials License - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials License," dated June 2016. The NRC staff finds that the information submitted by Clearon Corp. and Hui Yu Xin American Corporation sufficiently describes and documents the transaction and commitments made by Clearon Corp. and Hui Yu Xin American Corporation.

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), the licensee was required to request and receive NRC review and approval of a proposed indirect transfer *prior* to executing the transfer. The licensee did not do so in this case. The indirect transfer occurred on March 1, 2016. The NRC was first informed of the transfer on November 2, 2016. A Notice of Violation was issued to Clearon Corp. on January 6, 2017, ADAMS Accession Number ML17031A128 for this violation.

NRC staff has reviewed the application and finds that the transfer in control is in accordance with the Act. The staff finds that Clearon Corp. remains qualified to use byproduct material for the purpose requested, and continues to have the equipment, facilities, and procedures needed to protect public health and safety, and promote the security of licensed material.

SAFETY AND SECURITY REVIEW

An inspection of the Clearon Corporation was performed on November 2, 2016, with continuing in-office review through January 19, 2017, which determined that an indirect transfer of control occurred without notification (ML17031A128). The inspection reviewed the impact of the transfer of indirect control. The purpose of this aspect of the review is for the NRC to obtain reasonable assurance from NRC license transferees that the licensed material will be used for its intended purpose and not for malevolent use. Through onsite inspection and review of the radiation safety program it was determined that as a result of the transfer of ownership there had been little or no adverse impact on radiological or programmatic activities, or on the NRC's ability to inspect licensed activities. The inspector noted that the new owner's reorganization of staff responsibilities appeared to have resulted in improved review of the radiation safety program. The inspector observed that the material is being used in a fixed gauging devices for controlling industrial processes at their facility located at G Street, off of 95 MacCorkle Avenue, South Charleston, West Virginia. Based on the inspection, the NRC has confirmed that there is reasonable assurance that Clearon Corp. will use the licensed material for its intended purpose and not for malevolent use.

Clearon Corp. is not required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 47-24837-01.

According to the NRC's Web Based Licensing system (WBL), Clearon Corp. has been an NRC licensee since May 9, 1986. The NRC conducted a main office inspection of Clearon Corp. on November 2, 2016, with continuing in-office review through January 19, 2017, for NRC Materials License No. 47-24837-01 and one violation was identified during the inspection due to the unreported and unapproved transfer of indirect control. Clearon Corp. in the December 2, 2016, letter, stated that after the transaction there were no changes to:

- A. the radiation safety officer listed in the NRC license;
- B. the personnel involved in licensed activities;
- C. the locations, facilities, and equipment authorized in the NRC license;
- D. the radiation safety program authorized in the NRC license;
- E. the organization's name listed in the NRC license; or
- F. the maintenance of required surveillance records and decommissioning records.

Clearon Corp. committed to abide by all the constraints, license conditions, requirements, representations, and commitments identified in and attributed to the existing license. In the letter dated January 20, 2017, Hui Yu Xin American Corporation agreed to continue to abide by

all the constraints, license conditions, requirements, representations, and commitments identified in the existing license.

REGULATORY FRAMEWORK

Section 184 of the Atomic Energy Act of 1954, as amended, prohibits the transfer of control of any license unless the Commission finds that the transfer is in accordance with the Act and consents to the transfer in writing.

Clearon Corp.'s NRC Materials License No. 47-24837-01, was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

10 CFR 30.34(b) states: "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."

As previously indicated, the staff evaluation is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue when determining whether a license is transferred is whether the authority over the license has changed. Clearon Corp.'s notification of indirect transfer of control of the NRC license held by Clearon Corp., resulting of sale of stock from Israel Chemical Ltd to Hui Yu Xin American Corporation (Dalian Group). As such, the transfer required the NRC's consent.

DESCRIPTION OF TRANSACTION

The transaction is described in the transfer application at ADAMS accession numbers ML16350A388 and ML16350A388. After completion of the merger, Clearon Corp. will continue as the licensee and remain in control of all licensed activities under NRC Materials License No. 47-24837-01. As discussed above, the NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided in Appendix E of NUREG-1556, Volume 15, Revision 1, notwithstanding the fact that the transfer of the license occurred contrary to § 184 of the AEA and 10 CFR 30.34.

TRANSFeree'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS

The submitted information sufficiently describes the transaction; documents the licensee's commitments; and demonstrates that licensee personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records. The submitted information also demonstrates that the licensee will abide by all existing commitments in the license.

The NRC staff finds that the information submitted by Clearon Corp. sufficiently describes and documents the statements and commitments made by Clearon Corp., and is consistent with the guidance in NUREG-1556, Volume 15, Rev 1.

ENVIRONMENTAL REVIEW

An environmental assessment for this action is not required since this action is categorically excluded under 10 CFR 51.22(c)(21).

CONCLUSION

The NRC staff has reviewed the request for consent submitted by Clearon Corp. with regard to an indirect transfer of control of NRC Materials License No. 47-24837-01 pursuant to 10 CFR 30.34(b), consents to the indirect transfer of control.

The submitted information sufficiently describes the transaction; documents the licensee's commitments, and demonstrates that licensee personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records. The submitted information also demonstrates that the licensee will abide by all existing commitments in the license, consistent with the guidance in NUREG-1556, Volume 15, Rev 1.

Therefore, the staff concludes that the transfer of control does not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.