

**SAFETY EVALUATION REPORT
TRANSFER OF CONTROL FOR NRC BYPRODUCT MATERIALS LICENSE NUMBER -
47-25227-01, M&G POLYMERS USA, LLC**

DATE: May 9, 2018

DOCKET NO.: 03033015

LICENSE NO.: 47-25227-01

LICENSEE: M&G Polymers USA, LLC
27610 Huntington Rd., PO Box 8, Apple Grove, WV 25502

TECHNICAL REVIEWER: Leonardo Wardrobe

SUMMARY AND CONCLUSIONS

M&G Polymers USA, LLC holds a byproduct material license issued by the U.S. Nuclear Regulatory Commission (NRC). Under NRC Materials License 47-25227-01, M&G Polymers USA, LLC is authorized to possess and use byproduct material for the purposes of process control in manufacturing.

By letter received February 12, 2018, Agencywide Documents Access and Management System (ADAMS) Accession Number ML18061A129, M&G Polymers USA, LLC notified the NRC about the pending sale of M&G Polymers due to Chapter 11 bankruptcy proceedings, pursuant to an Asset Purchase Agreement dated January 30, 2018 (ML18079A262). M&G Polymers USA, LLC supplemented the request with the information provided in the letter dated April 18, 2018 (ML18128A063). M&G Polymers USA, LLC transferred all of its assets at Apple Grove, West Virginia, including all of the materials and activities requiring the materials license, to APG Polytech, LLC on March 1, 2018 (ML18124A022). Thus, this was effectively a post-hoc request for approval of the transfer of control of the license. APG Polytech, LLC and M&G Polymers USA, LLC, Inc. did not comply with NRC regulations as they did not receive the NRC's prior written approval for this transfer of control as required by 10 CFR 30.34(b) and Section 184 of the Atomic Energy Act of 1954, as amended.

The request was reviewed by NRC staff for a direct transfer of control of a 10 CFR Part 30 license using the guidance in NUREG-1556, Volume 15, Revision 1, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated June 2016. The NRC staff finds that the information submitted by APG Polytech, LLC sufficiently describes and documents the transaction and commitments made by M&G Polymers USA, LLC and APG Polytech, LLC.

Approval of the license transfer will require a license amendment to reflect the change in the licensee's name.

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954, as amended (the Act), NRC staff has reviewed the request and finds that the transfer of control is in accordance with the Act in all respects except that the transferor and transferee did not obtain the NRC's prior written approval. The staff finds that APG Polytech, LLC will be qualified to use byproduct material for the purpose requested, and will have the equipment, facilities, and

procedures needed to protect public health and safety, and promote the common defense and security.

SAFETY AND SECURITY REVIEW

According to the data obtained from the NRC's Web Based Licensing (WBL), M&G Polymers USA, LLC has been an NRC licensee since December 12, 1992. The NRC conducted a main office inspection of M&G Polymers USA, LLC on May 20, 2014, for NRC Materials License No. 47-25227-01 and one violation was identified during the inspection. The violation was issued for the licensee's failure to periodically (at least annually) review the radiation protection program content and implementation in accordance with 10 CFR 20.1101(c). M&G Polymers USA, LLC committed to placing a notification in the Outlook calendar for the Radiation Safety Officer (RSO) and assistant RSO along with placing the notification in the annual preventive maintenance program.

The commitments made by M&G Polymers USA, LLC and APG Polytech, LLC states that under the transaction they did not change:

- A. the radiation safety officer listed on the NRC license;
- B. the personnel involved in licensed activities;
- C. the locations, facilities, and equipment authorized in the NRC license; or
- D. the radiation safety program authorized in the NRC license.

The companies also stated that APG Polytech, LLC is aware of all current and historical inspection items and will abide by all constraints, conditions, requirements, representations, and commitments of M&G Polymers.

The license was transferred to APG Polytech, LLC and the name on the licensee will be APG Polytech, LLC. The change in ownership occurred on March 1, 2018. A pre-licensing visit was performed on March 8, 2018, because APG Polytech, LLC is not considered a known entity. The pre-licensing visit followed the guidance provided by the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the license," September 3, 2008, revision. The purpose of this aspect of the review is for the NRC to obtain reasonable assurance from new license applicants or NRC license transferees that the licensed material will be used for its intended purpose and not for malevolent use. Based on the pre-licensing visit the NRC has confirmed that there is reasonable assurance that APG Polytech, LLC will use the licensed material for its intended purpose and not for malevolent use.

M&G Polymers USA, LLC is not required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 47-25227-01.

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.

M&G Polymers USA, LLC NRC Materials License No. 47-25227-01, 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."

The licensee's request for consent to a direct transfer of ownership was posted for public comment on the NRC website for 30 days in accordance with 10 CFR Part 2 and following the guidance provided in the NRC's Regulatory Issue Summary 2014-08. No comments were received from members of the public.

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. M&G Polymers USA, LLC's submittal describes a direct transfer of control of the NRC license held by M&G Polymers USA, LLC, as a result of its sale to APG Polytech, LLC. Following the sale, APG Polytech, LLC obtained control over the licensed materials and activities, and, as such, the transfer requires the NRC's consent.

DESCRIPTION OF TRANSACTION

The transaction is described in the Asset Purchase Agreement (ML18079A262). After completion of the sale (ML18124A022), APG Polytech, LLC gained control of all licensed activities under NRC Materials License No. 47-25227-01. As discussed above, with the exception of the timing of the request, the NRC staff finds that the request adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided in section 5 of NUREG-1556, Volume 15, Revision 1.

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

The NRC staff finds that the information submitted by APG Polytech, LLC sufficiently describes and documents the commitments and is consistent with the guidance in NUREG-1556, Volume 15, Revision 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 submitted by M&G Polymers USA, LLC with regard to a direct transfer of control of NRC Materials License No. 47-25227-01 pursuant to 10 CFR 30.34(b), and consents to the direct transfer of control.

The submitted information sufficiently describes the transaction; documents the licensee's commitments, and demonstrates that 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 would 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.