

SAFETY EVALUATION REPORT
PROPOSED TRANSFER OF INDIRECT CONTROL FOR NRC BYPRODUCT
MATERIALS LICENSE NUMBER 37-23370-01, PRIME NDT SERVICES, INC.

DATE: April 3, 2019

DOCKET NO.: 030-20982

LICENSE NO.: 37-23370-01

LICENSEE: Prime NDT Services, Inc.
4345 Independence Dr.
Schnecksville, PA 18078

TECHNICAL REVIEWER: Dennis Lawyer

SUMMARY AND CONCLUSIONS

Prime NDT Services, Inc. (Prime) holds a byproduct materials license issued by U.S. Nuclear Regulatory Commission (NRC). Under NRC Materials License 37-23370-01, Prime NDT Services, Inc. is authorized to possess byproduct material at 9560 East Remus Road, Mt. Pleasant, Michigan, and possess and use byproduct material for purposes of performing industrial radiography at temporary job sites in the United States where the NRC maintains jurisdiction for regulating the use of licensed material.

By letter dated January 15, 2019, Agencywide Documents Access and Management System (ADAMS) Accession Number ML19022A210, and as supplemented by letter dated March 20, 2019, ADAMS Accession Number ML19088A017, Prime and RAE Group Holdings Inc. (RAE) requested the NRC's consent to an indirect transfer of control of the above license from private investors to RAE. The indirect transfer resulted from a May 3, 2018, transaction in which RAE purchased 100 percent of the shares of Prime; therefore, this was a request for post-hoc approval of an indirect license transfer that occurred on May 3, 2018, without receiving prior written consent from the Commission.

The request for consent was reviewed by NRC staff for an indirect transfer of control of a 10 CFR Part 30 licensee 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 Prime and RAE, sufficiently describes and documents the transaction and commitments made by Prime.

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act, as amended (the Act), NRC staff has reviewed the application and finds that the transfer of control is in accordance with the Act. The staff finds that Prime may continue to use byproduct material for the purpose requested and has 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), Prime has been an NRC licensee since May 31, 1984. The NRC conducted a main office inspection of Prime on April 26, 2018, for NRC Materials License No. 37-23370-01, and one violation was identified during the inspection. The commitments made by Prime state that under, the transaction, the following did not change:

- A. the radiation safety officer listed on the NRC license;
- B. the personnel involved in licensed activities;
- C. the equipment authorized in the NRC license;
- D. the radiation safety program authorized in the NRC license; or
- E. the maintenance of required surveillance and decommissioning records.

Prime did state that RAE would be maintaining the decommissioning records. However, Prime later clarified that is also maintaining all radiation safety records, which would include the decommissioning records.

The violation on the April 26, 2018, inspection concerns the proper placement of required shipping papers as stated in 49 CFR 177.817(e)(2). On September 13, 2018, the licensee submitted corrective and preventive actions.

The transfer in ownership occurred on May 3, 2018. A pre-licensing visit was not required because RAE is considered a known entity. The pre-licensing review followed the guidance provided by the NRC's Nuclear Material Safety and Safeguards (NMSS) "Checklist to Provide a Basis for Confidence that Radioactive Materials Will be Used as Specified on the Application," August 9, 2018, 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 inspection and the guidance, NRC has confirmed that there is reasonable assurance that Prime and RAE will use the licensed material for its intended purpose and not for malevolent use.

Prime is not required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 37-23370-01.

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.

Prime's NRC Materials License No. 37-23370-01, was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material." The NRC is required by

10 CFR 30.34 to determine if the change of control is in accordance with the provisions of the Act and give its consent in writing.

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 associated with the transfer of control is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue when determining whether a license is indirectly transferred is whether the authority over the license has changed. Prime and RAE's request for consent describes an indirect transfer of control of the NRC license held by Prime, resulting from ownership change of Prime from private investors to RAE. Following the sale, Prime continues the licensed activities but is owned by RAE, and, as such, the transfer requires the NRC's consent.

DESCRIPTION OF TRANSACTION

The transaction, which was completed on May 3, 2018, is described in ADAMS accession number ML19022A210 and ML19088A017. In the transaction, RAE purchased 100 percent of the shares of Prime. After completion of the sale, RAE owns Prime, it will continue the activities described under the license and is in control of all licensed activities under NRC Materials License No. 37-23370-01. 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 section 5 and Appendix E 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 Prime and RAE 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, Revision 1.

ENVIRONMENTAL REVIEW

An environmental assessment for transfer of control 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 Prime and RAE with regard to an indirect transfer of control of NRC Materials License No. 37-23370-01 pursuant to 10 CFR 30.34(b) and consents to the proposed indirect transfer of control.

The submitted information sufficiently describes the transaction, documents the understanding of the license and commitments of the transferee, and demonstrates that personnel have the experience and training to properly implement and maintain the license and that the licensee will maintain the existing records. The submitted information also demonstrates that the transferee 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 proposed 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.