

SAFETY EVALUATION REPORT
PROPOSED TRANSFER OF DIRECT CONTROL FOR NRC BYPRODUCT MATERIALS
LICENSE NUMBER 07-13441-02, E. I. DU PONT DE NEMOURS AND COMPANY, INC.

DATE: July 11, 2019

DOCKET NO.: 030-20681

LICENSE NO.: 07-13441-02

LICENSEE: E. I. du Pont de Nemours and Company, Inc.
Experimental Station
200 Powder Mill Road
Wilmington, DE

TECHNICAL REVIEWER: Betsy Ullrich

SUMMARY AND CONCLUSIONS

E. I. du Pont de Nemours and Company, Inc. (E. I. du Pont) holds a byproduct materials license issued by U.S. Nuclear Regulatory Commission (NRC). Under NRC Materials License 07-13441-02, E. I. du Pont is authorized to possess byproduct material at the Experimental Station, 200 Powder Mill Road, Wilmington, Delaware; and the Chestnut Run Plaza, 4417 Lancaster Pike, Wilmington, Delaware. The license authorizes E. I. du Pont to possess and use byproduct material for purposes of performing research and development under a Type A license of broad scope. E. I. DuPont is a wholly-owned subsidiary of DowDuPont, Inc.

In 2017, The Dow Chemical Company (Dow) and its consolidated subsidiaries and E. I. du Pont and its consolidated subsidiaries merged and created DowDupont Inc. (DowDupont). The merger resulted in Dow and E. I. du Pont becoming subsidiaries of the newly created DowDupont. E. I. du Pont did not request the NRC's consent to this indirect transfer. However, the NRC has reviewed this transaction after the fact and determined (1) the radiation safety officer listed on the license did not change, (2) the personnel involved in the licensed activities remained the same, (3) the location and equipment described in the license remained the same, (4) the radiation safety program did not change, (5) the maintenance of surveillance and decommissioning records did not change, (6) E. I. du Pont maintained financial assurance for decommissioning, and (7) both Dow and E.I. du Pont are known entities. For these reasons, the NRC finds this transaction is in accordance with the Atomic Energy Act of 1954, as amended (the Act).

By a letter dated January 25, 2019, [Agencywide Documents Access and Management System (ADAMS) Accession Number ML19035A729], E. I. du Pont and DuPont Specialty Products USA, LLC (a subsidiary of Performance Specialty Products NA, LLC), requested the NRC's consent to a transfer of control of the above license from E. I. du Pont to its re-structured organization under the name of DuPont Specialty Products USA, LLC. Note that, in a subsequent letter dated February 21, 2019 [ADAMS Accession No. ML19065A146], the name of DuPont Specialty Products was stated as "Specialty Products NA, LLC." Since that time, documents submitted in support of the financial assurance for decommissioning were issued to the current legal entity under the name of "DuPont Specialty Products USA, LLC."

The request for consent was reviewed by NRC staff for a direct 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 E. I. du Pont and DuPont Specialty Products USA, LLC sufficiently describes and documents the transaction, commitments by the transferee, and financial assurance for decommissioning made by DuPont Specialty Products USA, LLC as required by 10 CFR 30.34(b)(2).

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 application and finds that the transfer of control is in accordance with the Act. The staff finds that DuPont Specialty Products USA, LLC remains qualified and 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), the E. I. du Pont License No. 07-13441-02 was issued December 23, 1983. The NRC conducted a main office inspection of E. I. du Pont on September 6, 2016, for NRC Materials License No. 07-13441-02, and no violations were identified [ADAMS Accession No. ML16256A760]. The commitments made by E. I. du Pont and DuPont Specialty Products USA, LLC 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 locations and 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.

E. I. du Pont and DuPont Specialty Products USA, LLC did state that DuPont Specialty Products USA, LLC would be maintaining all required decommissioning and radiation safety records.

The transfer in ownership occurred on June 3, 2019, when the corporate realignments were completed. A pre-licensing visit was not required because DuPont Specialty Products USA, LLC is considered a known entity using 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 guidance and information provided by E. I. du Pont and DuPont Specialty Products USA, LLC, NRC has confirmed that there is reasonable assurance that E. I. du Pont and DuPont Specialty Products USA, LLC, will use the licensed material for its intended purpose and not for malevolent use.

E. I. du Pont is required to have decommissioning financial assurance based on the types and amount of material authorized in NRC Materials License No. 07-13441-02. DuPont Specialty Products USA, LLC obtained a financial assurance instrument, in the same amount as provided by E. I. DuPont, to meet the decommissioning financial assurance requirements upon transfer of the license.

REGULATORY FRAMEWORK

Section 184 of the Act 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.

E. I. du Pont's NRC Materials License No. 07-13441-02 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)(1) 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."

10 CFR 30.34(c) states, in part: "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."

10 CFR 30.38 states, in part: "Applications for amendment of a license must be filed in accordance with [10 CFR] 30.32 and must specify the respects in which the licensee desires its license to be amended and the grounds for the amendment."

As previously stated, 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 directly transferred is whether the authority over the license has changed. The E. I. du Pont and DuPont Specialty Products USA, LLC request for consent describes a direct transfer of control of the NRC license held by E. I. du Pont, resulting from corporate reorganization that results in the restructuring of E. I. du Pont under a new company name, DuPont Specialty Products USA, LLC. Following the corporate realignment, the activities authorized by License No. 07-13341-02 will continue under DuPont Specialty Products USA, LLC, and, as such, the transfer requires the NRC's consent.

DESCRIPTION OF TRANSACTION

As described by E.I. du Pont (ADAMS accession numbers ML19035A729 and ML19065A146), DowDupont reorganized its subsidiaries to create three new, independent companies. After completion of the corporate realignment, the remaining activities of E. I. du Pont, currently a wholly-owned subsidiary of DowDuPont, became the company DuPont Specialty Products USA, LLC. DuPont Specialty Products USA, LLC, a wholly-owned subsidiary of DuPont de Nemours,

Inc, formerly known as DowDuPont Inc. DuPont Specialty Products USA, LLC will continue the activities described under the license and will be in control of all licensed activities under NRC Materials License No. 07-13441-02. 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 E. I. du Pont and DuPont Specialty Products USA, LLC sufficiently describes the transaction; documents the transferee's commitments; and demonstrates that transferee 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 transferee 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 E. I. du Pont and DuPont Specialty Products USA, LLC with regard to a direct transfer of control of NRC Materials License No. 07-13441-02 pursuant to 10 CFR 30.34(b), and consents to the proposed direct transfer of control.

Consistent with the guidance in NUREG-1556, Volume 15, the submitted information sufficiently describes the transaction, documents the transferee's agreement to abide by the conditions and commitments of the license, 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 transferee will abide by all existing commitments in the license.

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.