

**SAFETY EVALUATION REPORT  
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE  
NUMBER 47-31035-01, MID-VOL COAL SALES, INC.**

**DATE:** January 17, 2020

**DOCKET NO.:** 030-36910

**LICENSE NO.:** 47-31035-01

**LICENSEE:** Mid-Vol Coal Sales, Inc.  
640 Clover Dew Dairy Road  
Princeton, WV 24740

**TECHNICAL REVIEWER:** Jonathan Pfingsten/Elizabeth Ullrich

**SUMMARY AND CONCLUSIONS**

Mid-Vol Coal Sales, Inc., is authorized by NRC License 47-31035-01 for the possession and use of byproduct material for purposes of performing analyses of bulk material utilizing fixed gauging devices at the authorized location of use. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed the August 21, 2019, request for consent to an indirect license transfer submitted by Mid-Vol Coal Sales, Inc. that resulted from a June 20, 2008, sale between Mr. Richard G. Preservati and Ritchie Equipment, Inc. as the sellers and ArcelorMittal Mid Vol Group, Inc. and ArcelorMittal Mining Equipment as the purchasers (ML19262F694). Mr. Preservati was the majority owner of the common stock of Mid-Vol Coal Sales, Inc. Ritchie Equipment, Inc. was the owner of all mining assets of Mid-Vol Coal Sales, Inc. Mid-Vol Coal Sales, Inc., upon the sale, became a wholly-owned subsidiary of both ArcelorMittal Mid Vol Group, Inc. who purchased all shares of Mid-Vol Coal Sales, Inc. common stock and ArcelorMittal Mining Equipment who purchased all mining assets of Mid-Vol Coal Sales, Inc. Subsequently, on September 30, 2008, ArcelorMittal Concept Holdings, LLC acquired ArcelorMittal Mid Vol Group, Inc. from its parent company, ArcelorMittal USA Inc (ML19317D975). Additionally, on September 30, 2008, ArcelorMittal Concept Holdings LLC changed its name to ArcelorMittal Coal Group USA LLC (ML19346D904). Finally, in an agreement dated December 22, 2014, which became effective January 1, 2015, ArcelorMittal Coal Group USA LLC merged with ArcelorMittal USA Holdings II LLC under the name ArcelorMittal USA Holdings II LLC (ML19317D976). The indirect transfer of control is described in Agency Documents Access and Management System (ADAMS) accession number ML19262F691, ML19262F694, ML19317D975, ML19346D904, and ML19317D976.

The request for consent was reviewed by NRC staff for an indirect change in 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 Mid-Vol Coal Sales, Inc. sufficiently describes and documents the transactions dated June 20, 2008, September 30, 2008, and December 22, 2014 and commitments made by ArcelorMittal USA Holdings II LLC and Mid-Vol Coal Sales, Inc dated August 21, 2019.

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 proposed change in control

is in accordance with the Act. The staff finds that, after the change of control, Mid-Vol Coal Sales, Inc. will remain qualified to use byproduct material for the purpose requested and will continue to have the equipment, facilities, and procedures needed to protect public health and safety, and promotes the security of licensed material.

## **SAFETY AND SECURITY REVIEW**

According to data obtained from the NRC's Web Based Licensing System (WBL), Mid-Vol Coal Sales, Inc. has been an NRC licensee since April 20, 2005. The NRC conducted a main office inspection of Mid-Vol Coal Sales, Inc. on June 9, 2016, and no violations were identified during this inspection. On April 26, 2019, Mid-Vol Coal Sales, Inc. submitted an application to renew its license (ML19148A735). During review of this renewal application, NRC staff identified changes of control of the license without prior written approval of the NRC (ML19192A261) as required by 10 CFR 30.34(b) and Section 184 of the Atomic Energy Act of 1954, as amended. This action was dispositioned separately under inspection report number 2019001 and its accompanying Notice of Violation.

Review of the transactions completed by all parties described above confirmed that Mid-Vol Coal Sales, Inc. (License No. 47-31035-01):

- A. did not change the radiation safety officer listed in the NRC license;
- B. did not change the personnel involved in licensed activities;
- C. did not change the locations, facilities, and equipment authorized in the NRC license;
- D. did not change the radiation safety program authorized in the NRC license;
- E. did not change the organization's name listed in the NRC license; and
- F. has kept regulatory required surveillance records and decommissioning records.

Given that the NRC was not informed of the transactions prior to 2019, no determination was made of the status as a known entity for ArcelorMittal Mid Vol Group, Inc.; ArcelorMittal Mining Equipment; ArcelorMittal Concept Holdings, LLC; ArcelorMittal USA Inc; ArcelorMittal Coal Group USA LLC; and ArcelorMittal USA Holdings II LLC. However, Mid-Vol Coal Sales, Inc. continued to operate in accordance with the license under these entities. ArcelorMittal USA Holdings II LLC, continues to allow Mid-Vol Coal Sales, Inc. to operate in accordance with their NRC license commitments. Therefore, for security purposes, ArcelorMittal USA Holdings II LLC is considered a known entity following the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) "Checklist to Provide a Basis for Confidence that Radioactive Materials Will be Used as Specified on the Application," January 29, 2019. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use.

Mid-Vol Coal Sales, Inc. is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 47-31035-01.

## **REGULATORY FRAMEWORK**

Mid-Vol Coal Sales, Inc.'s License No. 47-31035-01, 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 is based on guidance in NUREG-1556, Volume 15, Revision 1. The central issue is whether the authority over the license has changed. Mid-Vol Coal Sales, Inc.'s request for consent describes an indirect change of control resulting from a previously executed sale between Mr. Richard G. Preservati and Ritchie Equipment, Inc., with ArcelorMittal Mid Vol Group, Inc. and ArcelorMittal Mining Equipment, respectively; between ArcelorMittal Concept Holdings, LLC and ArcelorMittal USA Inc; between ArcelorMittal Concept Holdings LLC and ArcelorMittal Coal Group USA LLC; and the merger between ArcelorMittal Coal Group USA LLC and ArcelorMittal USA Holdings II LLC. Following the completion of the sale and merger, Mid-Vol Coal Sales, Inc. became a wholly-owned subsidiary of ArcelorMittal USA Holdings II LLC, and, as such, the transfer required NRC consent.

## **DESCRIPTION OF TRANSACTION**

The transaction is described in ADAMS accession number ML19262F691, ML19262F694, ML19317D975, ML19346D904, and ML19317D976. After completion of the merger, Mid-Vol Coal Sales, Inc. continued as the licensee and remained in control of all licensed activities under Materials License No. 47-31035-01. 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 Appendix F of NUREG-1556, Volume 15.

## **TRANSFEREE'S COMMITMENT TO ABIDE BY THE TRANSFEROR'S COMMITMENTS**

The NRC staff finds that the information submitted by Mid-Vol Coal Sales, Inc. sufficiently describes and documents the commitments made by ArcelorMittal USA Holdings, II, LLC and Mid-Vol Coal Sales, Inc., and is consistent with the guidance in NUREG-1556, Volume 15.

## **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 staff has reviewed the request for consent submitted by all parties with regard to an indirect change of control of byproduct materials license No. 47-31035-01 and approves the application pursuant to 10 CFR 30.34(b).

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

Therefore, the staff concludes that the proposed change in 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.