

**SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE
NUMBER 21-32097-01, TESTER CONSTRUCTION INSPECTION SERVICES INC.**

DATE: April 20, 2021

DOCKET NO.: 030-34748

LICENSE NO.: 21-32097-01

LICENSEE: Tester Construction Inspection Services Inc.
2023 West 5 Mile Rd.
Sault Ste. Marie, MI 49783

TECHNICAL REVIEWER: Laura B. Cender

SUMMARY AND CONCLUSIONS

Tester Construction Inspection Services Inc. is authorized by NRC License 21-32097-01 for the possession and use of byproduct material for purposes authorized under 10 CFR Part 30 in areas of exclusive Federal jurisdiction. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed a request for consent to a direct license transfer submitted by Tester Construction Inspection Services Inc. that will result from a sale between Tester Construction Inspection Services Inc. and TJC Construction Inspection. The direct transfer of control is described in Agency Documents and Access and Management Systems (ADAMS) ascension number ML21120A129.

The request for consent was reviewed by NRC staff for a direct 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." The NRC staff finds that the information submitted by Tester Construction Inspection Services Inc. sufficiently describes and documents the transaction and commitments made by Tester Construction Inspection Services Inc. and TJC Construction Inspection.

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, TJC Construction Inspection 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 security of licensed material.

SAFETY AND SECURITY REVIEW

According to data obtained from the NRC's Web Based Licensing System (WBL), Tester Construction Inspection Services Inc. has been an NRC licensee since July 9, 1998. The NRC conducted a main office inspection of Tester Construction Inspection Services Inc. on October 7, 2015 and one severity level four violation was identified for failure to provide DOT hazmat training to staff within a three year period in accordance with 10 CFR 71.5 and 10 CFR 49 Part 172. This violation has been closed by the NRC and was discussed with TJC Construction Inspection.

The commitments made by Tester Construction Inspection Services Inc. and TJC Construction Inspection state that TJC Construction Inspection:

- A. will change the radiation safety officer listed in the NRC license to Tyler Christensen;
- B. will change the personnel involved in licensed activities;
- C. will change the storage location and facilities authorized on the license;
- D. will not change equipment authorized in the NRC license;
- E. will not change the radiation safety program authorized in the NRC license;
- F. will change the organization's name listed in the NRC license to TJC Construction Inspection; and
- G. will keep regulatory required surveillance records and decommissioning records.

TJC Construction Inspection is a new organization, and as such, for security purposes is not considered as 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 license', January 29, 2019 revision. 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. The NRC has completed additional evaluation of TJC Construction Inspection, including a pre-licensing site visit completed on April 20, 2021. Through this additional evaluation the NRC has determined that TJC Construction Inspection will use licensed material for its intended purpose and not for malevolent use.

TJC Construction Inspection is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 21-32097-01.

REGULATORY FRAMEWORK

Tester Construction Inspection Services Inc.'s License No. 21-32097-01 was issued under 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. The Commission 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. As discussed in NUREG-1556, Volume 15, Revision 1, NRC is generally using the term “change of control” rather than the statutory term “transfer” to describe the variety of events that could require prior notification and written consent of the NRC. The central issue is whether the authority over the license has changed. Tester Construction Inspection Services Inc.’s request for consent describes a direct change of control resulting from a planned sale with TJC Construction Inspection and, as such, the transfer requires NRC consent.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS accession number ML21120A129. After completion of the sale, TJC Construction Inspection will be the licensee and will be responsible for control of all licensed activities under Materials License No. 21-32097-01. 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 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 Tester Construction Inspection Services Inc. sufficiently describes and documents the commitments made by Tester Construction Inspection Services Inc. and TJC Construction Inspection 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)(14)(xi).

CONCLUSION

The staff has reviewed the request for consent submitted by both parties with regard to a direct change of control of byproduct materials License No. 21-32097-01 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, Revision 1.

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.