

**SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE
NUMBER 13-35634-01, MODULAR DEVICES INC.**

DATE: July 20, 2022
DOCKET NO.: 030-39269
LICENSE NO.: 13-35634-01
LICENSEE: Modular Devices, Inc.
TECHNICAL REVIEWER: Erin J. Kennedy

SUMMARY AND CONCLUSIONS

Modular Devices, Inc., wholly owned by Mr. Greg Mink, is authorized by NRC License No. 13-35634-01 for the possession and use of byproduct material for purposes permitted by 10 CFR Part 30. The U.S. Nuclear Regulatory Commission (NRC) staff reviewed a request for consent to an indirect license transfer submitted by Modular Devices, Inc., wherein Modular Devices Acquisition, LLC dba Modular Devices acquired Modular Devices, Inc. Two privately owned companies, O2 Investments, LLC, and Black Bear Investment Holdings, Inc., purchased Modular Devices Acquisition, LLC dba Modular Devices. This indirect transfer of control is described in Agency Documents Access and Management System (ADAMS) accession number ML22081A361.

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." The NRC staff finds that the information submitted by Modular Devices, Inc., sufficiently describes and documents the merger and commitments made by the licensee.

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 change in control is in accordance with the Act. The staff finds that, Modular Devices Acquisition, LLC dba Modular Devices, remains qualified to use byproduct material for the purpose requested, and continues 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), Modular Devices, Inc., has been an NRC licensee since July 20, 2021, and the company was established in 1987. The commitments made by Modular Devices, Inc., state:

- A. There was no change to the radiation safety officer listed in the NRC license as a result of the reorganization;
- B. There was no change to the personnel involved in licensed activities;

- C. There was no change to the locations, facilities, and equipment authorized in the NRC license;
- D. There was no change to the radiation safety program authorized in the NRC license;
- E. The licensee will change the organization's name listed in the NRC license to Modular Devices Acquisition, LLC dba Modular Devices and
- F. The licensee will keep regulatory required surveillance records and decommissioning records.

The assets of Modular Devices, Inc., were purchased and transferred to a new entity called Modular Devices Acquisition, LLC dba Modular Devices. The new entity is owned by O2, Investments, LLC, and Black Bear Investment Holdings, Inc., which are both privately owned companies. Modular Devices, Inc., was renamed Black Bear Investment Holdings, Inc., and remains 100% owned by Greg S. Mink. Mr. Mink is the President and CEO of Modular Devices Acquisition, LLC dba Modular Devices. Therefore, for security purposes, Modular Devices Acquisition, LLC dba Modular Devices 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 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.

Modular Devices, Inc., is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 13-35634-01.

REGULATORY FRAMEWORK

Modular Devices, Inc., License No. 13-35634-01, 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. Modular Devices, Inc.'s request for consent describes an indirect change of control which resulted from the sale of the assets of Modular Devices, Inc. to Modular Devices Acquisition, LLC dba Modular Devices. As a result of this sale,

Modular Devices, Inc. became a part of Modular Devices Acquisition, LLC dba Modular Devices, and Greg Mink remains President and CEO of the controlling entity.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS accession numbers ML22081A361. After completion of the merger, Modular Devices Acquisition, LLC dba Modular Devices has continued as the licensee and has remained in control of all licensed activities under Materials License No. 13-35634-01. 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 Modular Devices, Inc. sufficiently describes and documents the commitments made by the licensee 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 Modular Devices, Inc. with regard to an indirect change of control of byproduct Materials License No. 13-35634-01 and approves the application pursuant to 10 CFR 30.(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.