



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION III
2443 WARRENVILLE RD. SUITE 210
LISLE, IL 60532-4352

OCT 05 2016

Luiz Rodriguez
Corporate Environmental Engineer
ESSROC Cement Corporation
Highway 31
Speed, IN 47172

SUBJECT: REQUEST FOR CONSENT TO INDIRECT LICENSE TRANSFER

Dear Mr. Rodriguez:

By letter dated July 19, 2016, ESSROC Cement Corporation (ECC), submitted to the U. S. Nuclear Regulatory Commission (NRC) a Request for Consent to Indirect License Transfer of NRC Materials License No. 13-26609-01, which occurred on July 1, 2016. Based on the information you provided, we understand that as a result of the transaction between ESSROC's parent company, Italcementi S.p.A, and Heidelberg Cement AG, control of ECC has changed, transferring to the new parent holding company, Heidelberg Cement AG.

We further understand that this transfer did not result in any change to the licensed material, persons using the licensed material, location of use of licensed material, persons responsible for the licensee's radiation safety program, or the name of the licensee. Therefore, based on the information that you have provided we have determined that an amendment to the license is not necessary.

However, as we discussed during our telephone conversation we have not received documentation which verifies that both parties had agreed to the transaction. Even though the transaction has already occurred, we still need a letter signed by a representative of both parties stating that each agreed to the transaction. It is our understanding that you will obtain and submit this document as soon as possible.

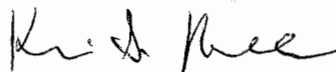
Based on the above and as more fully detailed in the enclosed NRC staff's Safety Evaluation Report which documents the NRC staff's review of the request, we have no objection to the transfer.

You will be periodically inspected by NRC. Failure to conduct your program in accordance with NRC regulations, license conditions, and representations made in your license application and supplemental correspondence with NRC will result in enforcement action against you. This could include issuance of a notice of violation, or imposition of a civil penalty, or an order suspending, modifying or revoking your license as specified in the General Statement of Policy and Procedure for NRC Enforcement Actions. Since serious consequences to employees and the public can result from failure to comply with NRC requirements, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary meticulous attention to detail and the high standard of compliance which NRC expects of its licensees.

The NRC's Safety Culture Policy Statement became effective in June 2011. While a policy statement and not a regulation, it sets forth the agency's *expectations* for individuals and organizations to establish and maintain a positive safety culture. You can access the policy statement and supporting material that may benefit your organization on NRC's safety culture Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html>. We strongly encourage you to review this material and adapt it to your particular needs in order to develop and maintain a positive safety culture as you engage in NRC-regulated activities.

In accordance with Title 10 of the *Code of Federal Regulations* Section 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin G. Null", written in a cursive style.

Kevin G. Null
Materials Licensing Branch

License No. 13-26609-01
Docket No. 030-33669

Enclosure: NRC Safety Evaluation Report (SER)

**SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE
NUMBER 13-32669-01, ESSROC Cement Corporation**

DATE: September 16, 2016

DOCKET NO.: 030-33669

LICENSE NO.: 13-32669-01

LICENSEE: ESSROC Cement Corporation
Highway 31
Speed, Indiana 47172

TECHNICAL REVIEWER: Kevin G. Null

SUMMARY AND CONCLUSIONS

ESSROC Cement Corporation (ECC) is authorized by NRC License 13-26609-01 for the possession and use of byproduct material in fixed gauges. The U. S. Nuclear Regulatory Commission (NRC) staff reviewed a request for consent to an indirect license transfer submitted by ECC that resulted from its parent corporation, Italcementi S.p.A., being purchased by HeidelbergCement AG. No changes to the licensee's name or staff who manage the radiation safety program has occurred as a result of the transaction. The transaction was finalized on July 1, 2016. The transfer of control is described in Agency Documents Access and Management System (ADAMS) accession number ML16208A559, with additional information provided in ML16181A400.

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, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated November 2000. The NRC staff finds that the information submitted by ECC sufficiently describes and documents the transaction and commitments made by ECC.

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, ECC remains 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 promote the security of licensed material.

SAFETY AND SECURITY REVIEW

According to data obtained from the NRC's Web-Based Licensing system (WBL), ECC has been an NRC licensee since October 20, 1994. The NRC conducted an unannounced, routine inspection of ECC on July 3, 2013, and no violations were identified during this inspection. The licensee stated that ECC, License No. 13-26609-01:

- A. will not change the Radiation Safety Officer listed in the NRC license;

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

As a result of the description of the transaction and commitments made in its July 1, 2016, letter for purposes of security, ECC is considered a known entity following the guidance provided by the NRC's Office of Federal and State Materials and Environmental Management Programs (FSME) 'Checklist to provide a basis for confidence that radioactive materials will be used as specified on the license', September 3, 2008 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.

ECC is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 13-26609-01.

REGULATORY FRAMEWORK

ECC's License No. 13-26609-01, 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, indirectly 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. As discussed in NUREG-1556, Volume 15, 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. ECC's request for consent describes an indirect change of control resulting from a change in ownership of ECC's parent company, which requires NRC consent.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS accession number ML16208A559, with additional information provided in ML16181A400. After the transaction was completed on July 1, 2016,

ECC continued as the licensee and remains in control of all licensed activities under Materials License No. 13-26609-01. 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 sufficiently describes and documents the commitments made by ECC, 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 with regard to an indirect change of control of Byproduct Materials License No. 13-26609-01 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.