



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713

April 29, 2020

J. Scott Adams, Deputy Chief of Staff,
Laboratory Operations
Department of the Army
Army Research Laboratory
ATTN: RDRL-LO
2800 Powder Mill Road
Adelphi, MD 20783-1138

SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS*
30.34(c), MAIL CONTROL NO. 618657

Dear Mr. Adams:

By letter dated April 20, 2020, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20112F057, and email dated April 21, 2020, (ADAMS Accession No. ML20114E052) sent in response to an NRC Request for Additional Information, the Department of the Army, Army Research Laboratory, the licensee, requested an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(c), and License Conditions 15.A. (leak testing), 17 (physical inventory) and 20 (other commitments).¹

In its request, the licensee stated that due to the COVID 19 public health emergency (PHE), access to all works sites was restricted to mission essential personnel only, which does not include authorized users of radioactive materials. Therefore, the Army Research Laboratory suspended all work that would involve active handling of licensed material effective April 7, 2020. This restriction will remain in effect until further notice.

The exemption provision in 10 CFR 30.11(a)² states:

The Commission may, upon application of any interested person or upon its own initiative, grant exemptions from the requirements of the regulations in this part and parts 31 through 36 and 39 of this chapter as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

¹ The Army Research Laboratory requested an exemption from 10 CFR 20.1501; however, the licensee needs an exemption from the survey requirements in License Condition 20, not 10 CFR 20.1501. The licensee also requested an exemption from 10 CFR 39.35, but this provision is not applicable to its licensed activities.

² The Army Research Laboratory requested exemptions pursuant to 10 CFR 50.12, but this provision is not applicable to its licensed activities.

The license conditions from which the licensee requested exemption were imposed upon the licensee by the U.S. Nuclear Regulatory Commission (NRC) per 10 CFR 30.34(e). The regulation in 10 CFR 30.34(c) requires that the licensee confine its use of the byproduct material to the locations and purposes authorized in the license. Therefore, exemptions to the requirement in 10 CFR 30.34(c) to comply with the terms of a license may be granted pursuant to 10 CFR 30.11.

The NRC staff reviewed the request in accordance with 10 CFR 30.11(a) and finds that the criteria contained therein are met. The license conditions from which the licensee is requesting exemption are:

- License Condition 15.A., which requires the licensee to perform leak testing every 6 months or at the frequency specified in the Sealed Source and Device (SSD) Registry;
- License Condition 17, which requires the licensee to perform a physical inventory every 6 months and License Condition 20, specifically the letter dated October 1, 2014, which contains a commitment to perform a semi-annual physical inventory; and
- License Condition 20, specifically the letter dated October 1, 2014, which contains a commitment to perform surveys of laboratories at the frequency described in NUREG-1556, Volume 11, and the letter dated December 9, 2016, which contains the commitment to perform monthly surveys of areas where a neutron generator is used.

The regulation in 10 CFR 30.11(a) authorizes granting of exemptions specific to Part 30. The NRC staff has determined that the granting of the requested exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. The NRC staff, therefore, finds that the granting of the requested exemption is authorized by law.

The NRC staff has also determined that

- The extension of the leak test time does not constitute a significant increase in risk to public health and safety, because the licensee suspended operations and is not using these sources;
- The extension of the physical inventory time does not constitute a significant increase in risk to public health and safety, because the licensee suspended operations and is not using the licensed materials; and
- The extension of the survey time does not constitute a significant increase in risk to public health and safety, because the licensee suspended operations and is not using the licensed materials.

The NRC also notes that, absent the requested exemption, the licensee may be required to take actions that may be contrary to guidance on preventing the spread of the virus that causes COVID-19. Therefore, the NRC staff finds that the requested exemption will not endanger life or property or the common defense and security and is otherwise in the public interest.

Based on the above findings, the NRC grants the following exemption for the specified period of time:

From the date of issuance of this letter for a period of 90 days, the licensee is exempt from the requirement in License Condition 15.A. to perform leak tests every 6 months or at the frequency specified in the SSD Registry. The licensee shall perform the required leak tests within 30 days following the expiration of this exemption.

From the date of issuance of this letter for a period of 90 days, the licensee is exempt from the requirement in License Conditions 17 and 20 to perform a physical inventory of licensed material every 6 months. The licensee shall perform the required physical inventory within 30 days following the expiration of this exemption.

From the date of issuance of this letter for a period of 90 days, the licensee is exempt from the survey time interval required by License Condition 20. The licensee shall perform the required surveys within 30 days following the expiration of this exemption.

An environmental assessment for this action is not required, because this action is categorically excluded under 10 CFR 51.22(c)(25)(vi)(C). In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>.

If you have questions, please contact Betsy Ullrich at Elizabeth.ullrich@nrc.gov or (610) 337-5040.

Sincerely,

Christopher Cahill, Chief
Commercial, Industrial, R&D
and Academic Branch
Division of Nuclear Materials Safety
Region I

License No. 19-12056-02
Docket No. 030-04555
Mail Control No. 618657

cc: Daniel S. Hamilton, Radiation Safety Officer
Michael Borisky, ARL Health Physicist

TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY COMMISSION
REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS* 30.34, MAIL CONTROL NO.
618657 DATED April 29, 2020

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SUNSI Review Complete: Betsy Ullrich

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