



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

April 30, 2020

Jerry Hutchinson
Plant Manager
Cordero Mining, LLC
P.O. Box 1449
Gillette, WY 82717-1449

SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 *CODE OF FEDERAL
REGULATIONS* 30.34 AND 34.27.

Dear Mr. Hutchinson:

By letter dated April 22, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20115E394), Cordero Mining, LLC, the licensee, requested an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) 34.27(c)(1) and license conditions 13. A and B.

In its request, the licensee stated that due to the COVID 19 public health emergency (PHE) and associated social distancing and travel restrictions, its out-of-state third-party service contract company that performs the required leak tests would have difficulty performing the required leak tests in a timely manner.

The exemption provision in 10 CFR 30.11(a) 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.

The license condition from which the licensee requested exemption was 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 regulations from which the licensee is requesting exemption are 10 CFR 30.34(c) and 34.27(c)(1).

The regulation from which the licensee is requesting an exemption is the requirement in 10 CFR 34.27(c)(1) that the licensee test sealed sources for leakage at intervals not to exceed

6 months. The license condition from which the licensee is requesting exemption is License Condition 13.A and B, the requirement to perform leak testing every 6 months or at the frequency specified in the SSD and to perform leak testing every 3 months for sealed sources designed to primarily emit alpha particles.

The regulation in 10 CFR 30.11(a) authorizes granting of exemptions specific to Parts 30 and 34. 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 90-day extension provided by this exemption is relatively short compared to the required leak testing interval. Therefore, this exemption does not constitute a significant increase in risk to public health and safety.

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 temporarily exempt from the requirements in 10 CFR 34.27(c)(1) and License Condition 13.A to perform leak tests every 6 months and license condition 13.B to perform leak tests every 3 months for sealed sources designed to primarily emit alpha particles. The licensee shall perform the required leak tests within 30 days of 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 "Agency 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 ADAMS, accessible from the NRC Web site at <https://www.nrc.gov/reading-rm/adams.html>.

If you have questions, please contact Latischa Hanson at Latischa.Hanson@nrc.gov or (817) 200-1286.

Sincerely,



Heather J. Gepford, Ph.D., CHP, Chief
Materials Licensing and Decommissioning
Branch
Division of Nuclear Materials Safety

cc:
Wesley Howard, RSO

TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY COMMISSION
 REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS* 30.34 AND 34.27(c)(1)
 DATED – APRIL 30, 2020

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cc:

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ADAMS ACCESSION NUMBER: ML20120A617

<input checked="" type="checkbox"/> SUNSI Review By: LMH	ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Sensitive <input checked="" type="checkbox"/> Non-Sensitive	<input type="checkbox"/> Non-Publicly Available <input checked="" type="checkbox"/> Publicly Available	Keyword NRC-002
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