



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 18, 2020

Dr. J. David Robertson
Reactor Facility Director
University of Missouri-Columbia
Research Reactor Center
1513 Research Park Drive
Columbia, MO 65211

SUBJECT: THE UNIVERSITY OF MISSOURI AT COLUMBIA - EXEMPTION FROM SELECT REQUIREMENTS OF TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS* PART 20, "STANDARDS FOR PROTECTION AGAINST RADIATION" (EPID L-2020-LLL-0008 [COVID-19])

Dear Dr. Robertson:

The U.S. Nuclear Regulatory Commission (NRC) hereby approves the requested exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 20, "Standards for Protection Against Radiation," for the University of Missouri at Columbia Research Reactor (MURR). This action is in response to your application dated May 4, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20126G458), which cited the April 27, 2020, letter from Messrs. Ho Nieh and John Lubinski describing a process to request expedited review of certain exemptions from 10 CFR Part 20 during the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) (available at ADAMS Accession No. ML20099G757).

Exemption from fit-testing requirements

In your request for an exemption from fit-testing frequency requirements in 10 CFR 20.1703(c)(6), you provided the following information:

- a statement that you cannot meet the fit-testing requirements of 10 CFR 20.1703(c)(6) without workers taking actions that may be contrary to Centers for Disease Control and Prevention's (CDC) guidance for responding to the COVID-19 PHE, specifically that the University of Missouri Environmental Health and Safety office will not be performing fit-testing until further notice due to the PHE;
- a statement indicating that you will, for the duration of this exemption, apply MURR Policy POL-25 to manage the personnel with overdue respiratory protection fit-tests, while ensuring the safety of workers;
- the following estimate of the number of personnel (10) who will be covered by the exemption and their organizational positions, using generic position descriptions, that will be included in the licensee-specific process:

- Health Physicist, one individual
 - Health Physics Supervisor; one individual
 - Health Physics Technician; four individuals
 - Hot Cell Manager, one individual
 - Hot Cell Technician, three individuals
- the date and time when the exemption will be implemented, if approved, and when the licensee-specific process will take effect, specifically, August 1, 2020, through December 2020, or 90 days after the end of the PHE, whichever comes first.

Section 20.2301, “Applications for exemptions,” of 10 CFR, allows the NRC to grant exemptions from the requirements of 10 CFR Part 20. As discussed below, the NRC has determined that granting the licensee’s requested exemption is authorized by law and would not result in undue hazard to life or property.

A PHE requiring the use of social distancing and other practices intended to slow the spread of illness was not considered during the rulemaking that established the fit-testing frequency requirements. Consistent with the underlying purpose of this regulation, this exemption will allow for the continued use of individual respiratory protection equipment for the duration of the PHE. Further, the NRC staff has determined that exemption from the respirator fit-testing requirements is permissible under the Atomic Energy Act of 1954, as amended, and other regulatory requirements. Therefore, the NRC staff finds that the requested exemption is authorized by law.

Under the 10 CFR Part 20 regulations, ordinarily an individual respirator user is required to be fit-tested at a frequency not to exceed 1 year. This exemption ensures that actions necessary to comply with respiratory protection program requirements do not result in undue hazard to life or property. Compliance with the 10 CFR Part 20 fit-testing requirements could lead to a licensee requiring personnel to engage in activities that are contrary to the practices recommended by the CDC to limit the spread of COVID-19.¹ Further, this exemption will enable the licensee to continue assigning respiratory protection equipment to personnel in situations where a respiratory protection fit-test has not been completed within the prescribed frequency, but where sufficient conditions, outlined below, have been put in place to maintain an adequate level of worker safety.

To ensure that this exemption does not result in undue hazard to life or property, the following conditions apply for the duration of this exemption:

- (1) This exemption applies only to personnel who had a fit-test within the past year (plus a 90-day grace period).
- (2) Affected wearers will be assigned only respirators that match the make, model, and size of the respirator facepiece with which they last performed their fit-test.
- (3) The exemption does not apply when an individual has experienced the following situations:

¹ Centers for Disease Control. (Page last reviewed: April 13, 2020). Retrieved April 22, 2020. *How to Protect Yourself & Others* (ADAMS Accession No. ML20125A069).

- An obvious change in body weight;
 - Significant facial injury or scarring in the area of the tight-fitting respirator facepiece seal;
 - Significant dental changes (e.g., multiple extractions without prosthesis or acquisition of new dentures);
 - Reconstructive or cosmetic surgery in the area of the tight-fitting respirator-facepiece seal; or
 - Any other condition that might change the fit of the tight-fitting respirator.
- (4) All employees affected by this exemption will receive refresher training on donning their assigned respirator and will be informed of the rationale for respiratory fit-testing (e.g., information similar to that found in American National Standards Institute Z88.10-2001), the contents of this exemption, and the requirement that the licensees will return to compliance within 90 days of the end of the PHE or December 31, 2020, whichever is sooner.

MURR will implement the exemption subject to the above conditions to manage personnel with overdue respiratory protection fit-tests, pursuant to MURR Policy POL-25. The information provided in the licensee's request along with the conditions above provide reasonable assurance that the licensee can rely on the prior fit-test and that fit-test frequency extensions would not be granted in situations where a respirator wearer experienced a physical change that would impact respirator fit.

The NRC approval of this exemption request is categorically excluded (meaning the actions are in the category of actions that do not individually or cumulatively have a significant effect on the human environment) under 10 CFR 51.22(c)(25), and there are no extraordinary circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the proposed action would exempt the licensee from qualification requirements. The NRC staff has determined that approval of this exemption involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in its safety analyses or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the licensee's technical specifications or by the regulations in 10 CFR Part 20. There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material, nor the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because this exemption does not involve any changes to a construction permit. There is no significant increase in the potential for or consequences of radiological accidents because this exemption does not alter any of the assumptions or limits in the licensee's safety analysis. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption.

Therefore, the NRC staff finds that (1) the exemption is authorized by law and (2) the exemption will not result in undue hazard to life or property.

This exemption is effective upon issuance and remains in effect until 90 days after the end of the PHE or until December 31, 2020, whichever occurs first.

Sincerely,

/RA Brian W. Smith for/

John D. Monninger, Director
Division of Advanced Reactors and Non-Power
Production and Utilization Facilities
Office of Nuclear Reactor Regulation

Docket No. 50-186
License No. R-103

cc: See next page

University of Missouri at Columbia

Docket No. 50-186

cc:

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ADAMS Accession No.: ML20128J494 *via e-mail**NRR-048**

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