



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

May 15, 2020

Esmeralda Anaya, WPS Manager, Eastern Region
Agilent Technologies, Inc.
2850 Centerville Road
Wilmington, DE 19808

**SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS*
30.34, MAIL CONTROL NO. 618783**

Dear Ms. Anaya:

By letter dated May 1, 2020, and the email dated May 4, 2020, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20127H932), Agilent Technologies, Inc., the licensee, requested an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34, and License Conditions 14.A. (leak testing) and 17 (physical inventory).

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. This was already in place by March 19, 2020, when the licensee first requested relief, and will remain in effect until further notice.

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 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 regulation from which the licensee is requesting exemption authorizes the license conditions for which the licensee requires relief.

The license conditions from which the licensee is requesting exemption are:

- License Condition 14.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; and
- License Condition 17, which requires the licensee to perform a physical inventory every 6 months.

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 inventory time does not constitute a significant increase in risk to public health and safety, because the licensee suspended operations and secured the materials in an access-controlled area.

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 14.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 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.

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>.

E. Anaya

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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. 07-28762-01
Docket No. 030-32792
Mail Control No. 618783

cc: David S. Bennett, Radiation Safety Officer

TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY COMMISSION
REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS* 30.34, MAIL CONTROL NO.
618783 DATED MAY 15, 2020

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SUNSI Review Complete: Betsy Ullrich

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