



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

May 15, 2020

Part 30 & 34 Licensees
Master Materials Licensees,
Agreement State Radiation Control
Program Directors, and
State Liaison Officers

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED
TO CERTAIN REQUIREMENTS FOR PARTS 30 & 34 DURING THE
CORONAVIRUS DISEASE 2019 PUBLIC HEALTH EMERGENCY

As you know, on January 31, 2020¹, the U.S. Department of Health and Human Services declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the Coronavirus Disease 2019 (COVID-19). On March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization. The U.S. Nuclear Regulatory Commission (NRC) is aware that during this COVID-19 PHE, each licensee may experience regulatory challenges for which they may seek relief. By letter dated April 7, 2020 (Agencywide Documents Access and Management System Accession No. ML20094G166), *U.S. Nuclear Regulatory Commission Methods for Providing Regulatory Relief During the Coronavirus Disease 2019 Public Health Emergency*, the Director of the Office of Nuclear Material Safety and Safeguards outlined potential regulatory options for licensees (including byproduct material, uranium recovery, decommissioning (both materials and reactors), fuel facilities, and spent fuel storage facilities) to seek regulatory relief that may be necessary during the COVID-19 PHE.

In all of our actions, the staff of the NRC, continues its commitment to following the NRC's Principles of Good Regulation (independence, openness, efficiency, clarity, and reliability) while performing our mission. In keeping with these principles, this letter provides information regarding requests for temporary exemptions from certain requirements in Parts 30 and 34 of Title 10 of the *Code of Federal Regulations* (10 CFR) during the COVID-19 PHE, and the process that the NRC plans to use when reviewing such requests. The NRC plans to issue separate information regarding licensee requests for 10 CFR Part 37 temporary exemptions.

Under the NRC's regulation in 10 CFR 30.11, "Specific exemptions," the NRC may grant exemptions from the requirements of the regulations in Parts 30, 31 through 36, and 39 if the NRC determines that the exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Consistent with these regulations, this letter contains information that may inform licensee requests for temporary exemptions from certain requirements in 10 CFR Parts 30 and 34. As described below, the NRC is prepared to review, expeditiously, temporary exemption requests submitted by individual licensees. This expedited review process is intended to facilitate the

¹ Although the initial PHE was for 90 days, the Secretary of HHS extended it on April 21, 2020.

processing of licensee requests for temporary exemptions from certain regulatory requirements during the COVID-19 PHE.

When a licensee expects that it will not be able to comply with one or more of the requirements authorized by its materials license, the licensee should, as soon as practicable, notify the NRC and may, in writing, request a temporary exemption from the specific subsection(s) of the regulations or from specific license conditions. To aid the NRC in its expedited review, any such request should, at a minimum, include the following information:

- a statement that the licensee expects that it will no longer be able to comply with the requirements of the specific subsection(s) of 10 CFR Part 30 or 34 or specific license conditions.
- the site-specific reason that the COVID-19 PHE prevents the licensee from being able to meet the specific requirements from which it is seeking an exemption, e.g., personnel shortages, contractor unavailability, or travel restrictions.

Provision of all the requested information will facilitate the NRC's expedited review of licensee exemption requests.

10 CFR Parts 30 and 34 Requirements for Which the NRC May Consider Expedited Requests for Temporary Exemption

The NRC staff has received several requests from 10 CFR Parts 30 and 34 licensees for regulatory relief due to the COVID-19 PHE. On April 23, 2020, the NRC staff held a public meeting to hear from Part 30 and 34 licensees about the types of exemptions they think they might need during the PHE. The attached tables (see Enclosures 1 and 2) contain lists of requirements, the exemption from which may be suitable for expedited review.

How to Submit Requests

Licensees should make every effort to submit timely exemption requests in accordance with 10 CFR 30.6, "Communications." To ensure the timely receipt and review of these exemption requests, licensees that plan to request an expedited review should contact their facility's NRC project manager or Regional office for assistance before submitting the request. An e-mail to the facility's NRC project manager or Regional Office from a senior-level licensing manager with decision-making authority with a copy to the NRC Document Control Desk is an acceptable format for the written exemption request. In addition, exemption requests may be submitted online. To submit requests for exemptions, see the nuclear materials relief request form at: <https://www.nrc.gov/about-nrc/covid-19/materials/>.

Review Process

The NRC will consider exemption requests on a case-by-case basis and, if the requirements for an exemption are met, will provide a written decision. If sufficient time is not available for the NRC to provide a prior written decision for the exemption, then the NRC may provide a verbal decision that will be followed promptly by a written evaluation documenting the approval or a letter documenting the denial of the request.

Duration of Exemption

Licensees generally have been required to come back into compliance with Parts 30 and 34 regulations within 7 to 90 days following the end of an approved exemption or apply for and receive approval for an additional exemption period from the NRC. Licensees may request any duration of temporary exemption that they deem appropriate; however, the NRC will be able to evaluate requests consistent with the general duration period of those previously approved more quickly than those that exceed these time frames. As with the initial approval, subsequent approvals would be granted in writing or verbally, depending on the timing of the licensee's request.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales or proposed time frames. The NRC cannot guarantee expedited consideration of such requests.

Further Questions

If you have any further questions about this matter, please contact David Alley (David.Alley@nrc.gov) of my staff for assistance.

Paperwork Reduction Act

This letter contains guidance for implementing of the voluntary information collections related to requesting exemptions from requirements contained in 10 CFR Parts 30 and 34 that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.). These information collections were approved by the Office of Management and Budget (OMB) under control numbers 3150-0017 and 3150-0007, respectively. Send comments regarding these information collections to the Information Services Branch (T6-A10M), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by e-mail to Infocollects.Resource@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0017 and 3150-0007), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

Sincerely,

Kevin Williams, Acting Director
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Material Licensee Temporary Exemptions During the COVID-19 Public Health Emergency
2. Industrial Radiography Licensee Temporary Exemptions During the COVID-19 Public Health Emergency

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DATED: MAY 15, 2020

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***via email**

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