



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

May 19, 2020

Ms. Maha Srinivasan
Health Physicist & Radiation Safety Officer
Wayne State University
5425 Woodward Avenue, Suite 300
Detroit, MI 48202

SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY
COMMISSION REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS*
(10 CFR) 30.34(c)

Dear Ms. Srinivasan:

By letter dated May 12, 2020, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20133K113 (non-public)), Wayne State University (WSU), the licensee, requested several exemptions, including a temporary exemption from the requirement to conduct sealed source leak testing as described in license condition 12.A of license number 21-00741-08. This letter provides a temporary exemption from license condition 12.A. The other exemption requests are still under NRC review.

In its request, the licensee stated that, due to the COVID-19 public health emergency (PHE), State of Michigan Governor Whitmer extended the Stay Home Stay Safe Executive Order 2020-59 until May 28, 2020, and WSU's radiation safety staff were instructed to telework. The licensee stated that researchers suspended use of licensed radioactive materials following the State of Michigan, Stay Home Stay Safe Executive Order. The licensee stated that all licensed radioactive materials have been properly secured in designated storage locations with restricted access. Therefore, the licensee is unable to perform the following requirement as stated in NRC license number 21-00741-08:

License Condition 12.A.: Sealed sources and detector cells shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. In the absence of a registration certificate, sealed sources shall be tested for leakage and/or contamination at intervals not to exceed six months, or at such other intervals as specified.

The licensee requested relief from the requirement described above during this PHE for a period no more than 90 days from the scheduled due date of May 19, 2020.

The exemption provision in Title 10 of the *Code of Federal Regulations* (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 an 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 license condition from which the licensee is requesting an exemption is the sealed source leak testing requirement described in license condition 12.A.

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 licensee has suspended all licensed activities; all licensed material is secure; the facilities are not accessible by unauthorized individuals. In addition, the extension of the leak testing requirement is relatively short compared to the required 6-month interval and does not constitute a significant increase in risk to public health and safety because the licensee suspended its use of licensed material and licensed material is secure. 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:

- Beginning on May 19, 2020, for a period of 90 days, the licensee is temporarily exempt from the sealed source leak test requirement that is described in license condition number 12.A. of NRC license number 21-00741-08. The licensee must 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 "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 website at <https://www.nrc.gov/reading-rm/adams.html>.

If you have questions, please contact Zahid Sulaiman at zahid.sulaiman@nrc.gov or 630-829-9752.

Sincerely,

Robert J. Orlikowski, Chief
Materials Licensing Branch
Division of Nuclear Materials Safety

License No. 21-00741-08
Docket No. 030-01995

Letter to Maha Srinivasan from Robert Orlikowski dated May 19, 2020.

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