



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

May 28, 2020

Maha Srinivasan
Radiation Safety Officer
Wayne State University
Office of Environmental Health & Safety
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) and 20.1906(c)

Dear Ms. Srinivasan:

By letter dated May 12, 2020, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20133K113 (non-public)), and follow-up email on May 21, 2020, ADAMS Accession No. ML20148M294 (non-public), Wayne State University (WSU), the licensee, requested temporary exemptions from license conditions identified in NRC License Number 21-00741-08, and from 10 CFR 21.1096(c). The exemption requests from license conditions included leak testing of sealed sources, monthly laboratory area surveys, annual survey meter calibration, frequency of dosimetry badge exchange, in-classroom basic radiation safety training, and physical inventory.

On May 19, 2020, the NRC granted the licensee an exemption from License Condition 12.A. which requires leak testing of sealed sources (reference ADAMS Accession No. ML20140A142 (public)). Also, in accordance with a conversation between you and Kevin Null of our staff on May 27, 2020 (reference ADAMS Accession No. ML20148M296 (public)), you withdrew your request for an exemption from the requirement to conduct initial in-classroom training. As discussed during that conversation, the NRC staff determined that an exemption is not necessary and that an amendment to your license would be required in order to conduct the initial training of radiation workers in an on-line format. The licensee also requested a temporary exemption from conducting a physical inventory of licensed material. However, after a review of WSU's NRC license it was determined that the license does not include a requirement to perform a physical inventory. Therefore, an exemption is not necessary.

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 activities as described in the application dated August 16, 2011, which is tied down in license condition 20.A. of NRC License Number 21-00741-08:

- a. Section 10.6 requires that surveys of laboratories where licensed material greater than 200 microcuries is used, will be surveyed as described in NUREG-1556, Volume 11, Appendix S (Table S.1).

- b. Section 7.8 requires that survey meters will be calibrated annually.
- c. Section 7.26 requires that personnel dosimetry will be exchanged quarterly, and in some cases, on a monthly basis.
- d. 10 CFR 20.1906(c) requires that the licensee perform the monitoring described in 20.1906(b) of certain packages containing radioactive material as soon as practical after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than 3 hours from the beginning of the next working day if it is received after working hours.

The licensee requested relief from the above requirements during this PHE for a period no more than 90 days from the date of May 28, 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 conditions from which the licensee requested exemptions 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 license condition from which the licensee is requesting exemptions is license condition number 20.A., specifically sections 10.6 (area surveys), 7.8 (instrument calibration), and 7.26 (frequency of dosimeter exchange) of the application dated August 16, 2011. The licensee also requested a temporary exemption from 10 CFR 20.1906(c).

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 exemptions 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 exemptions is authorized by law.

The NRC staff has also determined that the licensee has suspended all licensed activities; all licensed material is secure; and the facilities are not accessible by unauthorized individuals. The exemptions are relatively short compared to the required area survey, instrument calibration, dosimetry exchange, and package receipt monitoring intervals. Therefore, the exemptions do not constitute a significant increase in risk to public health and safety because the licensee suspended operations and licensed material was secure. The NRC also notes that, absent the requested exemptions, 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 exemptions will not endanger life or property or the common defense and security and are otherwise in the public interest.

Based on the above findings, the NRC grants the following exemptions for the specified period:

- Beginning on May 28, 2020, for a period of 90 days, the licensee is temporarily exempt from the requirement to conduct area surveys as described in Section 10.6 of application dated August 16, 2011, License Condition 20.A. The licensee must perform the required area surveys within 30 days of the expiration of this exemption.
- Beginning on May 28, 2020, for a period of 90 days, the licensee is temporarily exempt from the requirement of perform survey meter instrument calibration as described in Section 7.8 of application dated August 16, 2011, License Condition 20.A. The licensee must perform the required instrument calibration within 30 days of the expiration of this exemption.
- Beginning on May 28, 2020, for a period of 90 days, the licensee is temporarily exempt from dosimeter badge exchange frequency required by Section 7.26 of application dated August 16, 2011, License Condition 20.A. The licensee must perform the required dosimeter badge exchange within 30 days of the expiration of this exemption.
- Beginning on May 28, 2020, for a period of 90 days, the licensee is temporarily exempt from the requirement in 10 CFR 20.1906(c) to monitor packages within 3 hours. The licensee may extend the required time interval for package receipt surveys to not more than 24 hours following receipt. Notwithstanding the regulatory relief provided by this exemption, the licensee should attempt to perform package surveys as soon as safely possible.

An environmental assessment for this action is not required, because this action is categorically excluded under 10 CFR 51.22(c)(25)(vi)(C), (D), and (F). 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 28, 2020.

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

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