



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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

June 30, 2020

Mr. Robert Sieffert, M.S.
Radiation Safety Officer
Bronson Battle Creek Hospital
300 North Avenue
Battle Creek, MI 49016

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

Dear Mr. Sieffert:

By emails dated May 28, 2020 and June 29, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20153A742 and ML 20182A651), Bronson Battle Creek Hospital, the licensee, requested an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) 30.34(c) and license condition 16.A. requirements regarding Radiation Safety Committee (RSC) meeting frequency for U.S. Nuclear Regulatory Commission (NRC) Materials License No. 21-01354-04. The NRC's ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>.

In its request, Bronson Battle Creek Hospital stated that due to the COVID 19 public health emergency (PHE), the available resources while adhering to social-distancing requirements, the lack of conference call resource availability, and the backlog of such meetings that will need to be completed once resources become available and social distancing requirements are relaxed, RSC meetings cannot be timely completed as required by license condition 16.A. In its request, the licensee also indicated that it may be unable to timely complete "inservice" training. Upon follow-up from the licensee dated June 26, 2020 (ML20181A392), it was determined that the licensee no longer requires an exemption from the annual training requirements specified in 10 CFR Sections 35.310, 35.410, and 35.610. Accordingly, the licensee withdrew this part of its request.

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 condition from which the licensee requested exemption was imposed upon the licensee by the NRC per 10 CFR 30.34(e). The regulation in 10 CFR 30.34(c) requires the licensee to 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 the license may be granted pursuant to 10 CFR 30.11.

The U.S. Nuclear Regulatory Commission (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 is 10 CFR 30.34(c) to not meet a condition required by its license. License condition 16.A. from which the licensee is requesting exemption is the requirement to hold Radiation Safety Committee (RSC) meetings on a quarterly basis.

The regulation in 10 CFR 30.11(a) authorizes granting of exemptions specific to Part 35. 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 90-day extension provided by the exemption is a relatively short delay that does not constitute a significant increase in risk to public health and safety. The licensee is a limited scope medical licensee that voluntarily committed in its renewal application to having its RSC to hold quarterly meetings in the implementation of its oversight of its program.

The licensee met during the first quarter of 2020 and will meet again within the first 30 days of the third quarter of 2020. In addition, the RSO has had continual oversight and contact with each department. Further, Authorized Users are communicating with each other as necessary concerning the licensee's implementation of ALARA and regarding any incidents, generic communications, changes to authorized users, changes to byproduct material uses, safety evaluations, audits, and medical events. The short extension of the RSC meeting frequency does not constitute a significant increase in risk to public health and safety. The NRC staff notes that, absent the proposed exemption, additional staff would be required to come into the medical facilities increasing the possibility of exposing licensee's employees, contractors, patients, or members of the general public to the COVID-19 virus. A virtual meeting isn't possible because, during the initial months of the COVID-19 PHE during April and May of 2020, members of the RSC, including its Radiation Safety Officer (RSO), accumulated a substantial backlog of radiation safety related and other tasks to be completed as access to the facility began to resume in June 2020. Accordingly, due to the high workload and continuing safety precautions taken due to COVID-19, the RSO and other staff have extremely limited abilities to accommodate even a virtual RSC meeting. Therefore, the NRC staff finds that the proposed 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:

For RSC meetings that, in accordance with the requirement in license condition 16.A., are due to be held between the date of this letter and 30 days after issuance, Bronson Battle Creek Hospital is temporarily exempt from the quarterly meeting frequency required by license condition 16.A. The licensee may instead extend the RSC meeting frequency interval by 90 days. Notwithstanding the regulatory relief provided by this exemption, the licensee's RSC will meet as soon as is safely possible. Bronson Battle Creek Hospital requested to extend the required RSC meeting frequency interval during the emergency caused by the COVID-19 pandemic.

An environmental assessment for this action is not required, because this action is categorically excluded under 10 CFR 51.22(c)(25)(vi)(G). In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC's Public Document Room or from the NRC's ADAMS.

If you have questions, please contact Sara Forster at sara.forster@nrc.gov or 630-829-9892.

Sincerely,

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

cc: Katherine Tapp
Lisa Dimmick

License No. 21-01354-04
Docket No. 030-13899
Mail Control No. 621057

Letter to Robert Sieffert from Robert Orlikowski dated June 30, 2020.

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ADAMS Accession Number: ML2018A456

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