



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
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LISLE, ILLINOIS 60532-4352

November 9, 2020

Maxwell Amurao, Ph.D., MBA
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SUBJECT: TEMPORARY EXEMPTION FROM U.S. NUCLEAR REGULATORY COMMISSION (NRC) REGULATION, TITLE 10 *CODE OF FEDERAL REGULATIONS* (CFR) SECTION 30.35(F) as specified in Appendix E to Part 30, FOR WASHINGTON UNIVERSITY IN ST. LOUIS, NRC LICENSE NOS. 24-00167-14 and 24-00167-11

Dear Dr. Amurao:

By letter dated September 28, 2020 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20274A015), in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 30.11(a), Washington University in St. Louis (the licensee) submitted to the U.S. Nuclear Regulatory Commission (NRC) Region III Office a request for a temporary exemption from the 10 CFR [30.35](#)(f)(2) requirements as specified in Appendix E to Part 30, "Criteria Relating to Use of Financial Tests and Self-Guarantee For Providing Reasonable Assurance of Funds For Decommissioning by Nonprofit Colleges, Universities, and Hospitals," regarding annual financial test audit and reporting requirements for NRC Materials License Nos. 24-00167-14 and 24-00167-11. The NRC's ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

10 CFR 30.35(f)(2) requires, in pertinent part, that, for nonprofit entities such as universities, a guarantee of funds by the licensee may be used if the guarantee and financial test are as contained in Appendix E of 10 CFR Part 30. Appendix E of 10 CFR Part 30, specifically Section II(C)(2), provides, in pertinent part, that the licensee must repeat passage of the financial test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

In its request, the licensee stated that the COVID-19 public health emergency (PHE) has delayed the administrative completion of the relevant documents related to the aforementioned requirements. As a result, the licensee requested a temporary exemption of 90 days to allow the satisfactory completion, compilation, and submission of the required documents.

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 such 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 regulation in 10 CFR [30.35\(f\)](#), as specified in Section II(C)(2) of Appendix E of Part 30, requires the licensee to provide annual updates to its financial situation, for which it has a valid self-guarantee on file with the NRC. Therefore, exemptions to the requirement in 10 CFR [30.35\(f\)](#), specified in Appendix E of Part 30, 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 a temporary exemption is 10 CFR [30.35\(f\)](#), to not provide documentation to NRC of a financial test required by Appendix E to Part 30 for licensees providing financial assurance via self-guarantee. Appendix E to Part 30 Section II(C)(2), from which the licensee is requesting a temporary exemption, is the requirement for the licensee to repeat the self-guarantee financial test and to provide documentation of the same within 90 days of the close of the fiscal year.

The regulations in 10 CFR [30.11\(a\)](#) authorize the granting of exemptions 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.

In its review, the NRC determined that a 90-day exemption, as requested by the licensee, was not justified because the submittal did not contain detailed information describing the impacts of the COVID-19 PHE. However, the NRC determined that a 30-day exemption to 10 CFR [30.35\(f\)](#) is a relatively short extension that does not endanger public health and safety, or the common defense and security and are otherwise in the public interest. The NRC staff notes that, absent the temporary exemption, additional coordination would be required between the licensee's staff and its financial institution, increasing the possibility of exposing the licensee's and financial institution's employees, contractors, or members of the general public to the COVID-19 virus. The licensee is a broad scope academic and medical licensee that selected to use a guarantee by the licensee as the means to provide the NRC with financial assurance to cover decommissioning costs for its program. The licensee has held its NRC license since May 22, 1968, has an active program, and is not expected to retire or otherwise terminate its licenses in the near future.

Based on the above findings, the NRC grants the following 30-day temporary exemption, which expires October 28, 2020, to the requirements in 10 CFR [30.35\(f\)](#):

For documentation of the licensee's passage of the financial test for the licensee's fiscal year ending June 30, 2020, showing continued eligibility to use the self-guarantee that, in accordance with Appendix E to 10 CFR Part 30, was due to be submitted by September 28, 2020. The licensee may extend the date by which it demonstrates its continued eligibility for the use of a self-guarantee for decommissioning financial assurance by 30 days. Notwithstanding the regulatory relief provided by this exemption, the licensee will obtain a verification from a certified public accountant documentation of continued eligibility to use a self-guarantee for decommissioning financial assurance as soon as is safely possible. The licensee requested to extend the required financial test passage documentation, required for the use of a self-guarantee for decommissioning financial assurance, during the emergency caused by the COVID-19 pandemic.

An environmental assessment for this action is not required, since this action is categorically excluded under Title 10 of the *Code of Federal Regulations* (CFR) Section 51.22(c)(25)(vi)(H).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from NRC's ADAMS.

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

Sincerely,

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

Docket No. 030-38167; 030-02271
License No. 24-00167-14; 24-00167-11

Mail Control No. 623236 and 623235

cc via email: Cassandra Frazier

Letter to Maxwell Amurao from Robert Orlikowski dated November 9, 2020.

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