



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

April 30, 2020

Mr. Clive Townsend  
Chair, National Organization of Test,  
Research, and Training Reactors  
1611 Lionheart Lane  
West Lafayette, IN 47906

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED  
TO THE REQUIREMENTS FOR MATERIAL CONTROL AND ACCOUNTING OF  
SPECIAL NUCLEAR MATERIAL DURING THE CORONAVIRUS DISEASE 2019  
PUBLIC HEALTH EMERGENCY

Dear Mr. Townsend:

As you know, on January 31, 2020, 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. On March 19, 2020, the U.S. Department of Homeland Security issued "Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response," which identified workers needed for safe and secure operations at nuclear generation and pharmaceutical manufacture (e.g., medical isotope production) facilities as essential critical infrastructure workforce. This letter applies to research and test reactors licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," that are in extended shutdown due to COVID-19.

This is an unprecedented time for our country, the U.S. Nuclear Regulatory Commission (NRC), and its regulated entities. In all our actions, we are committed 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 the NRC's planned actions related to 10 CFR Part 74 requirements for material control and accounting (MCA) of special nuclear material (SNM) during the COVID-19 PHE. While NRC is providing guidance for seeking expedited review of requests for exemptions from and extensions of due dates for certain MC&A requirements, the NRC considers a reliable MC&A program to be essential for securing and protecting SNM from any loss, theft, diversion, or misuse.

Under the NRC's regulations in 10 CFR 74.7, "Specific exemptions," "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest." This letter contains criteria to inform expedited consideration of requests for exemptions from the requirements in 10 CFR Part 74 related to the performance of the physical inventory of SNM at the 12-month frequency. Conducting the physical inventory requires personnel that may not otherwise be

designated as “essential” to report on-site and make physical contact with common surfaces. These exemptions would, if granted, facilitate the licensee's implementation of the requirement for the annual physical inventory of SNM in a manner that does not conflict with practices recommended by the Centers for Disease Control and Prevention to limit the spread of the coronavirus (<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>).

In 10 CFR 74.13, “Material status reports,” paragraph (a), the NRC requires licensees to submit Material Balance Reports and Physical Inventory Listing Reports on pre-defined schedules. The NRC recognizes that during the current COVID-19 PHE, licensees may experience challenges in submitting those reports. Under 10 CFR 74.13(a), the Commission may permit licensees to submit the reports at other times for good cause. This letter describes an expedited review process for case-by-case requests for extensions due to the COVID-19 PHE.

### Special Nuclear Material Physical Inventory Schedule Exemptions

Licensees described in 10 CFR 74.19, “Recordkeeping,” paragraph (c) are required to conduct a physical inventory of all SNM at intervals not to exceed 12 months; the results of these physical inventories need not be reported to the Commission, but the licensee must retain the records. MC&A, along with the physical security program, are two complementary measures taken by the licensee to ensure that nuclear material is not lost, stolen, or diverted. The physical security program for licensees is required to be continuously maintained, including for licensees in extended shutdown, and includes such elements as access control, access authorization, intrusion detection, assessment, delay, and response capabilities.

### Expedited Process for Exemptions

Exemption requests for facility licensees from the “not to exceed 12 months” requirement that meet the criteria in this letter will be reviewed using an expedited process. Exemption requests that do not provide the information specified in this letter will be processed using the NRC’s normal review process. Therefore, if a facility licensee’s normal schedule would require the annual physical inventory to occur during the COVID-19 PHE, then the facility licensee may request expedited consideration of an exemption from that schedule. A facility licensee that intends to request an exemption under this expedited process should notify the NRC as soon as practicable. So that the NRC may consider such requests expeditiously, the incoming request should include the following:

1. A request for exemption from the “not to exceed 12 months” requirement to conduct the physical inventory of all SNM in its possession;
2. a statement of when the last physical inventory of all SNM was conducted; and
3. an indication of whether the licensee is willing to resolve within 30 calendar days of notification to the NRC any discrepancies in the results identified when conducting the physical inventory following the end of the PHE.

The NRC will consider these 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 safeguards evaluation documenting the approval, or a letter documenting the denial of the request.

### Duration of Exemptions

Exemptions that are approved under this process generally will be in effect until 30 days after the PHE is ended or until December 31, 2020, whichever occurs first. Licensees must come back into compliance with the regulations or receive approval for an additional exemption period from the NRC before the end of each exemption period. As with the initial approval, subsequent approvals would be granted in writing or verbally, depending on the timing of the licensee's request.

### Expedited Process For Material Status Reports Due Date Extensions

Licensees needing a COVID-19 PHE related extension of time to submit the reports under 10 CFR 74.13(a) should request an extension to a new date and, pursuant to 10 CFR 74.13(a), specify why there is good cause to submit the reports at a later date. The NRC will consider these requests on a case-by-case basis and provide a written decision. If sufficient time is not available for the NRC to provide a prior written decision on the requested extension, then the NRC may provide a verbal decision that will be followed promptly by a written decision.

### How to Submit Requests For Exemptions or Extensions

Licensees should make every effort to submit timely exemption or extension requests. Facility licensees should continue to follow 10 CFR 74.6 "Communications." To ensure the timely receipt and review of these requests, facility licensees that wish to receive an expedited review of their exemption or extension request should contact their facility's NRC project manager for assistance before submitting the request.

### **Paperwork Reduction Act**

This letter contains voluntary guidance for implementing the voluntary information collections covered by 10 CFR Part 74, NRC Form 742, and NRC Form 742C 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 under control numbers 3150-0123, 3150-0004, and 3150-0058, respectively. Estimated burden per response to comply with this voluntary information collection request is 30 hours. Send comments regarding this information collection 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](mailto:Infocollects.Resource@nrc.gov), and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0123, 3150-0004, and 3150-0058) 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 Office of Management and Budget control number.

Sincerely,

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Ho K. Nieh, Director  
Office of Nuclear Reactor Regulation

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