

**From:** [Ullrich, Elizabeth](#)  
**To:** [david\\_bennett@agilent.com](mailto:david_bennett@agilent.com)  
**Subject:** your request for an exemption  
**Date:** Friday, May 1, 2020 1:59:00 PM  
**Attachments:** [4-7-2020-NMSS COVID-19 Response Letter to Licensees.pdf](#)

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David,

Your email was forwarded to Region I as a request for an exemption. At the time we discussed your issue (March 19), the NRC was not considering exemption requests. The attached letter dated April 7 is the first official document on the issue.

In order to complete your exemption request, I need you to:

- List the license condition that you are requesting an exemption from. List the condition number, and subpart if applicable. (As we discussed, if your sources are considered to be in storage, then you may not need an exemption from the leak test requirement, but you would have to leak test them prior to the next use if they are outside of the usual leak test period.)
- If you require an exemption from commitments made in a letter listed on your license, provide the commitment and the date of the letter.
- If you require an exemption from a regulation, cite the specific regulation
- Describe the actions you have taken to ensure that licensed materials are secured while you are restricted from access.

You may respond with this information directly to me by email. If you need to call me, best to send an email with a number where you can be reached. I am working from home.

Thanks,  
Betsy

Betsy Ullrich, Senior Health Physicist  
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**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**  
WASHINGTON, D.C. 20555-0001

April 7, 2020

All U.S. Nuclear Regulatory Commission Licensees  
Authorized to Possess Byproduct, Source and  
Special Nuclear Material to Include Nuclear  
Materials Users, Uranium Recovery,  
Decommissioning (Both Reactors and Materials),  
Fuel Cycle, and Spent Fuel Storage Facilities with  
The Exclusion of Operating Power Reactors and  
Research Test Reactors

**SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION METHODS FOR PROVIDING  
REGULATORY RELIEF DURING THE CORONAVIRUS DISEASE 2019 PUBLIC  
HEALTH EMERGENCY**

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). During a pandemic, the Nuclear Regulatory Commission (NRC) is interested in maintaining situational awareness of the status of its regulated activities. NRC Regulatory Issue Summary (RIS) 2010-04, "Monitoring the Status of Regulated Activities During a Pandemic," addresses the need for information on evolving pandemic situations at licensee sites and any requests for regulatory relief as a result of the pandemic. The RIS provides information that may be useful to licensees in addressing issues associated with the COVID-19 PHE.

The purpose of this letter is to outline the regulatory options for licensees (including byproduct material, uranium recovery, decommissioning (both materials and reactors), fuel facilities, and spent fuel storage facilities) to seek regulatory relief that may be necessary during the COVID-19 PHE. Although the mailroom will continue to process incoming mail at NRC Headquarters, please note that requests<sup>1</sup> should be submitted electronically due to NRC currently maximizing the use of telework for its employees. An email to the facility's NRC project manager or appropriate point of contact (Enclosure 1) from a senior level licensee manager with decision-making authority is an acceptable format for written requests.

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<sup>1</sup> This letter contains guidance for implementing the voluntary information collections related to requesting exemptions from requirements contained in 10 CFR Parts 30 - 37, 39, 40, 50, 70, and 72 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 3150-0017, -0007, -0010, -0158, -0214, -0130, -0020, -0011, -0009, and -0132, respectively. Send comments regarding these information collections 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, Office of Management and Budget, Washington, DC 20503.

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 OMB control number.

The NRC recognizes that during the current COVID-19 PHE, licensees may experience challenges in meeting certain regulatory requirements. The NRC has multiple methods of providing relief from regulatory requirements while continuing to maintain safety and security. These methods fall broadly into different categories, which include exemptions from regulatory requirements, amendments to license conditions or technical specifications, and enforcement discretion. Each method has specific requirements and is appropriate under certain circumstances. The methods available to licensees are described below. The NRC encourages licensees to contact their NRC project manager or appropriate point of contact upon identifying any potential compliance issues resulting from the COVID-19 PHE.

Methods of Providing Relief from Regulatory Requirements While Continuing to Maintain Safety and Security:

1. The NRC has authority to provide exemptions from its regulations and amendments to license conditions and technical specifications when applicable criteria are met. Licensees that anticipate that they will be unable to comply with a regulatory requirement or license condition should contact the NRC as soon as a potential issue is identified. The NRC will consider these requests for relief on a case-by-case basis. If the requirements for an exemption or amendment are met, the NRC will provide written approval for a specified period of time. The NRC may require compensatory measures, as appropriate.

In cases where multiple licensees in a specific class are experiencing the same challenges in meeting a certain regulatory requirement, the NRC would consider developing a streamlined process for pre-identified relief requests that are consistent with maintaining safety and security provided there is sufficient technical/regulatory justification. The staff would prepare the regulatory basis, including the specific constraints, for granting the relief and would provide a template that identifies the specific information required for staff evaluation of the requests.

It is critical for licensees to understand that compliance with the regulation or commitment from which relief is granted must be restored prior to the expiration of the exemption or amendment. Should additional time beyond the expiration of the exemption or amendment be needed to restore compliance due to the COVID-19 PHE condition, the NRC would consider an extension to the exemption or amendment based on a subsequent request that updates all the information in the initial request.

2. Consistent with the NRC's Enforcement Policy, the NRC may issue an enforcement guidance memorandum (EGM) authorizing inspectors to use discretion not to cite certain violations of requirements when specified criteria are met. The staff will evaluate the need for an EGM based on issues raised by licensees and industry groups. An EGM provides information to the NRC staff regarding temporary enforcement discretion for certain requirements, includes any conditions that must be met by the licensee for enforcement discretion to be granted, and specifies the period of time the EGM will be in effect. Based on the need for appropriate flexibility in responding to the changing events of the COVID-19 PHE, the NRC may develop an EGM, formatted with the use of attachments which can be iteratively developed, to allow for enforcement discretion for specific regulatory requirements.
3. In the rare instances where immediate relief is required, licensees may contact their project manager, the licensing point of contact or the cognizant branch chief during

normal working hours or the Headquarters Emergency Operations Center (telephone number 301-816-5100) in urgent cases to communicate specific needs for regulatory relief. This is only to address the unanticipated temporary situations of potential noncompliance; where the potential noncompliance is identified in advance, other options should be pursued. In appropriate circumstances, the NRC may exercise discretion not to cite certain violations of requirements.

If you have questions concerning the status of your license, your compliance with regulations, or the process by which you may make the NRC aware of and request alternatives to compliance with applicable regulatory requirements, please contact your facility's NRC project manager or an appropriate point of contact listed in the attachment to this letter.

Sincerely,

John W. Lubinski  
Office of Nuclear Material Safety  
and Safeguards

Enclosure: As stated

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION METHODS FOR PROVIDING  
REGULATORY RELIEF DURING THE CORONAVIRUS DISEASE 2019  
PUBLIC HEALTH EMERGENCY **Dated: April 7, 2020**

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HNieh, NRR

BHolian, NSIR

GWilson, OE

DLew, RI

LDudes, RII

DRoberts, RIII

SMorris, RIV

**ADAMS Accession No.: ML20094G166**

**\*via e-mail**

OFFICE	NMSS/DUWP	NMSS/DFM	NMSS/MSST	RI/DNMS	RII/DFFI
NAME	PHolahan*	AKock*	KWilliams for MLayton*	JTrapp*	LSuggs*
DATE	4/3/20	4/3/20	4/3/20	4/3/20	4/3/20
OFFICE	RIII/DNMS	RIV/DNMS	NSIR/DPCP	OGC*	OE*
NAME	CLipa for DPelton*	MMuessle*	BThomas*	PMoulding	GWilson
DATE	4/3/20	4/3/20	4/6/20	4/6/20	4/6/20
OFFICE	NMSS/TechEd	NMSS			
NAME	CGoode*	JLubinski*			
DATE	4/6/20	4/7/20			

**OFFICIAL RECORD COPY**

**Technical Contacts:**  
**Office of Nuclear Material Safety and Safeguards (NMSS)**  
**and**  
**U.S. Nuclear Regulatory Commission Regional Offices**

License Type	Technical Contact	Email Address
Fuel cycle facilities	Jacob Zimmerman, NMSS/Division of Fuel Management (DFM)	Jacob.Zimmerman@nrc.gov
	LaDonna Suggs, RII/Division of Fuel Facility Inspection	LaDonna.Suggs@nrc.gov
Spent fuel storage	John McKirgan, NMSS/DFM	John.McKirgan@nrc.gov
Decommissioning reactors	Bruce Watson, NMSS/Division of Decommissioning, Uranium Recovery, and Waste Programs (DUWP)	Bruce.Watson@nrc.gov
Uranium recovery Complex materials (decommissioning)	Bill von Till, NMSS/DUWP	Bill.VonTill@nrc.gov
Exempt distribution and sealed source devices, general licenses (non-uranium recovery)	David Alley, NMSS/Materials Safety, Security, State, and Tribal Programs	David.Alley@nrc.gov
Region I-originated materials licenses	James Trapp, RI/Division of Nuclear Materials Safety (DNMS)	James.Trapp@nrc.gov
Region III-originated materials licenses	David Pelton, RIII/DNMS	David.Pelton@nrc.gov
Region IV-originated materials licenses	Mary Muessle, RIV/DNMS	Mary.Muessle@nrc.gov

Enclosure