

May 04, 2020

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555-0001

REFERENCE: Docket No. 50-186
University of Missouri – Columbia Research Reactor
Renewed Facility License Operating License No. R-103

SUBJECT: Written communication as specified by 10 C.F.R. 50.4(b)(1) requesting U.S. Nuclear Regulatory Commission approval for exemption from 10 CFR 20.1703(c)(6).

1. **Introduction**

The University of Missouri Research Reactor (MURR) is requesting an exemption from 10 CFR 20.1703(c)(6) per instructions outlined in a letter¹ dated April 27th, 2020 from Ho K. Nieh and John W. Lubinski. MURR implements a respiratory protection program through MURR Policy POL-25², pursuant to 10 CFR 20.1703, for planned maintenance work on the MURR Iodine-131 production facility. As part of MURR's mission to supply the United States with Iodine-131, MURR has routine and scheduled maintenance periods for the Iodine-131 facility during 2020. These maintenance periods will require the use of the MURR respiratory protection program and the requirements defined in 10 CFR 20.1703(c)(6).

2. **Fit-testing requirements of 10 CFR 20.1703(c)(6)**

MURR contracts out fit-testing pursuant to 10 CFR 20.1703(c)(6) through the University of Missouri Environmental Health and Safety (EHS) office. The University is following practices recommended by the Centers for Disease Control and Prevention (CDC) to limit the spread of COVID-19, and therefore will not be offering fit-testing until further notice. For this reason, MURR is requesting an exemption from the requirements to 10 CFR 20.1703(c)(6).

3. **Managing personnel during the exemption period**

MURR personnel included in the exemption request include only individuals that have had a fit-test within the last 12 months with the models of respirators implemented at MURR. New employees will not be included in the exemption request because there is no history of quantitative data suggesting the seal to their face is acceptable for respirator issuance. The ten (10) MURR employees who are exempted per Section 4 of this letter will be monitored, in accordance with MURR POL-25 section 8.4², for changes that

may inadvertently affect the seal of a respirator. If such conditions exist during the exemption period, those individuals will not be issued a respirator until such a time a new fit-test can be performed. All individuals in the MURR respiratory protection program have already received medical evaluations per 10 CFR 20.1703(c)(5), and therefore their continued use of a respirator during the exemption period has been approved by a medical professional. As part of the implementation of the MURR respiratory protection program, users perform negative pressure seal checks prior to commencing work. If an individual can not pass a negative pressure check, they are not permitted to commence work with the respirator.

4. Personnel requested for exemption

Personnel requested for exemption include ten (10) individuals. The number of individuals and their associated titles are:

- Health Physicist, one individual
- Health Physics Supervisor, one individual
- Health Physics Technician, four individuals
- Hot Cell Manager, one individual
- Hot Cell Technician, three individuals

5. Requested exemption period

MURR is requesting exemption from the requirements of 10 CFR 20.1703(c)(6) for the period outlined in a letter¹ dated April 27th, 2020 from Ho K. Nieh and John W. Lubinski. The letter states:

"Exemptions that are approved under this process would be in effect until 90 days after the end of the PHE, or until December 31, 2020, whichever is sooner. 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."

If the PHE exists past the exemption date or December 31, 2020 and MURR requires further exemption, a new application for an additional exemption from the applicable NRC requirements will be created.

All MURR staff listed in section 4 above have currently received fit testing that is valid through August 1st 2020. The exemption would be necessary for the period August 1st 2020 through December 31st, 2020, at the latest.

6. Summary

In summary, MURR implements a respiratory protection program for scheduled maintenance of the MURR Iodine-131 production facility. Through the use of MURR POL-25², annual fit-testing is completed through the University of Missouri EHS department. Due to CDC guidelines, EHS will not be administering fit-testing until allowed to do so via University Administration's return to work policy in compliance with the CDC recommendations. In order to fulfil the MURR mission of providing the United States Iodine-131,

routine maintenance incorporating the use of respirators is required. MURR is requesting exemption to 10 CFR 20.1703(c)(6) for individuals in the MURR respiratory program that have had a quantitative fit test within the past 12 months but whose fit test expiration date may be impacted by the unavailability of fit testing services provided by the University due to the COVID-19 pandemic. These individuals have already been cleared by a medical professional per 20.1703(c)(5), and will continue to be monitored for any physical changes that may affect the seal of the respirator to their face. As part of the MURR respirator program, individuals must pass a negative pressure seal test prior to commencing work, which will continue to confirm they have an effective seal during the exemption period. For the ten individuals listed in section 4, MURR is requesting exemption for the period defined in a letter¹ dated April 27th, 2020 from Ho K. Nieh and John W. Lubinski, and will re-apply for any additional exemption periods after the defined duration period has expired.

If there are any questions regarding this response, please contact me at (573) 882-5204 or danieldoenges@missouri.edu.

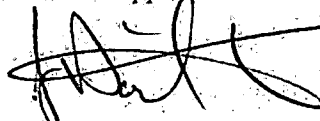
Sincerely,



Daniel Doenges, CHP
Health Physics and Safety Manager

ENDORSEMENT:

Reviewed and Approved



J. David Robertson, Ph.D.
Executive Director

Attachments:

1. Attachment 1 – Letter dated April 27th, 2020 from Ho K. Nieh and John W. Lubinski
2. Attachment 2 – MURR POL-25, Section 8.4



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

April 27, 2020

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED
TO THE RESPIRATORY PROTECTION REQUIREMENTS FOR ALL
LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH
EMERGENCY

Dear Dr. Uhle:

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. As discussed during a public meeting held on March 20, 2020, with nuclear industry representatives and members of the public, this is an unprecedented time for our country, the U.S. Nuclear Regulatory Commission (NRC), and its regulated entities. In all of 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 our principles, this letter provides information regarding the NRC's planned actions related to the requirements contained in Title 10 of the *Code of Federal Regulations* (CFR) Part 20 for respiratory protection during the COVID-19 PHE. This information is applicable to all NRC licensees.

Under the NRC's regulations in 10 CFR 20.2301, "Applications for exemptions," "The Commission may, upon application by a licensee or upon its own initiative, grant an exemption from the requirements of the regulations in this part if it determines the exemption is authorized by law and would not result in undue hazard to life or property." Consistent with this regulation and as described in this letter, the NRC is prepared to consider on an expedited basis requests for exemptions, upon request from individual licensees, from medical evaluation frequency and fit-testing frequency requirements that are specified in 10 CFR 20.1703(c)(5)(iii) and 10 CFR 20.1703(c)(6). These exemptions would, if granted, facilitate the licensee's implementation of these requirements in a manner that does not conflict with practices recommended by the Centers for Disease Control and Prevention (CDC) to limit the spread of COVID-19.¹ The NRC notes that the regulatory positions regarding respiratory protection-related medical evaluation and fit-testing frequencies in Regulatory Guide (RG) 8.15, Revision 1, "Acceptable Programs for Respiratory Protection" (Agencywide Documents Access and Management System Accession No. ML003739528) allow for the occasional application of 90-day grace periods from the due dates of these requirements. Licensees may take advantage of this flexibility without any additional action from the NRC. The exemption requests contemplated in this letter could, if

¹ <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

approved, allow licensees to go beyond the scope and duration of the grace periods contemplated in RG 8.15, Revision 1.

Requested Information

Medical Evaluations: To receive expedited review of exemption requests from 10 CFR 20.1703(c)(5)(iii), licensees should submit a request that contains the following information:

- a statement that the licensee cannot meet the medical evaluation requirements of 10 CFR 20.1703(c)(5)(iii) without workers taking actions that may be contrary to CDC's guidance for responding to the COVID-19 PHE;
- a statement indicating whether the licensee would, for the duration of any exemption approved by NRC, apply a licensee-specific process to manage personnel with overdue medical evaluations, while ensuring the safety of its workers;
- an estimate of the number of personnel who would be covered by the exemption and their organizational positions, using generic position descriptions, that will be included in the licensee-specific process;
- the date and time when the exemption would be implemented, if approved, and when the licensee-specific process would take effect;
- a statement indicating whether this exemption would only be used by personnel having known, stable medical histories as determined and documented by a licensed physician;
- a statement that, except for physical medical examinations at medical facilities, the licensee has completed, or will complete within the required frequency (plus a 90-day grace period), all applicable respiratory protection program medical evaluation requirements (e.g., medical history questionnaire); and
- a statement that a licensed physician has reviewed the medical history questionnaire prior to the expiration of the current medical evaluation (plus a 90-day grace period) and has determined and documented that an extension of the wearer's physical medical evaluation due date is acceptable such that the wearer remains qualified to use assigned respiratory protection equipment during the extension.

Fit-Testing Requirements: To receive expedited review of exemption requests from 10 CFR 20.1703(c)(6), licensees should submit a request that contains the following information:

- a statement that the licensee cannot meet the fit-testing requirements of 10 CFR 20.1703(c)(6) without workers taking actions that may be contrary to CDC guidance for responding to the COVID-19 PHE;
- a statement indicating whether the licensee would, for the duration of any exemption approved by the NRC, apply a licensee-specific process to manage personnel with overdue respiratory protection fit-tests, while ensuring the safety of its workers;
- an estimate of the number of personnel who would be covered by the exemption and their organizational positions, using generic position descriptions, that will be included in the licensee-specific process; and
- the date and time when the exemption would be implemented, if approved, and when the licensee-specific process would take effect.

In addition, the NRC can only ensure an expedited review of exemption requests from the medical evaluation and fit-testing requirements where the licensee-specific processes discussed above include a provision for informing workers of the general risks of wearing respiratory protection (e.g., information similar to that found in Appendix D of 29 CFR 1910.134), consistent

with the regulations in 10 CFR 20.1703(c). For fit-testing-related requests, the NRC would perform expedited reviews for those requests that do not include individuals with facial or other changes that could affect the fit of a respirator (e.g., information similar to that in RG 8.15, Section 5.3.5).

How to Submit Requests

Licensees should make every effort to submit timely exemption requests. Licensees should continue to follow 10 CFR 20.1007, "Communications," and 10 CFR 50.4, "Written communications," or for 10 CFR Part 30, Part 40, Part 70, or Part 72, licensees should follow 10 CFR 30.6, "Communications," 10 CFR 40.5, "Communications," 10 CFR 70.5, "Communications," or 10 CFR 72.4, "Communications," as appropriate. To ensure timely receipt and review of these exemption requests, licensees should also send an email with the request to their facility's NRC project manager, in addition to submitting the application as provided in NRC regulations.

Licensees should comply with the medical confidentiality provisions of the Americans with Disabilities Act and not include protected health information in any communication with the NRC.

Review Process

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. Based upon its review, the NRC staff may condition any exemption approval, as appropriate. 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 with a letter documenting the approval or denial of the request.

Duration of Exemptions

Exemptions that are approved under this process would be in effect until 90 days after the end of the PHE, or until December 31, 2020, whichever is sooner. 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.

Alternative Approaches

This letter does not preclude requests for exemptions that take a different approach or present different rationales. The NRC will review such requests on a case-by-case basis.

If you have any further questions about the contents of this letter, please contact your facility's NRC project manager.

Paperwork Reduction Act Statement

This letter contains voluntary guidance for implementing the voluntary information collections covered by 10 CFR Part 20 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 number 3150-0014. Estimated burden per response to

comply with this voluntary information collection request is 24 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, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0014) 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,

**Ho K.
Nieh**

Ho K. Nieh, Director
Office of Nuclear Reactor
Regulation

Digitally signed by
Ho K. Nieh
Date: 2020.04.27
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Sincerely,

**John W.
Lubinski**

John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards

Digitally signed by
John W. Lubinski
Date: 2020.04.27
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SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED
TO THE RESPIRATORY PROTECTION REQUIREMENTS FOR ALL
LICENSEES DURING THE CORONAVIRUS DISEASE 2019 PUBLIC HEALTH
EMERGENCY DATED APRIL 27, 2020

Identical letters sent to:

Dr. Jennifer L. Uhle
Vice President, Generation & Suppliers
Nuclear Energy Institute
1201 F Street, NW, Suite 1100
Washington, DC 20004

Mr. Chris Bakken
Executive Vice President
Nuclear Operations & Chief Nuclear Officer
Entergy Nuclear
1340 Echelon Parkway
Jackson, MS 39213

Mr. Don Moul
Executive Vice President, Nuclear
Division and Chief Nuclear Officer
Florida Power & Light Company
Mail Stop: NT3/JW
15430 Endeavor Drive
Jupiter, FL 33478

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

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION PLANNED ACTIONS RELATED
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EMERGENCY DATED APRIL 27, 2020

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RFelts, NRR/DRO
GSuber, NRR/DORL
MShams NRR/DORL
MO'Banion, NRR/DORL
DGarmon, NRR/DRA
KHsueh, NRR/DRA

ADAMS Accession No.: ML20099G757

*via email

| OFFICE | NSIR/DRA/ARCB* | NSIR/DRA/ARCB/BC* | NRR/DORL/D* | NRR/DRO/DD(A)* |
|--------|----------------|-------------------|-------------|----------------|
| NAME | DGarmon | KHsueh | CErlanger | MYoung |
| DATE | 4/16/2020 | 4/16/2020 | 4/16/2020 | 4/16/2020 |
| OFFICE | NRR/DRA/D* | OE/D* | OGC - NLO* | NMSS/D* |
| NAME | MFranovich | GWilson | TCampbell | JLubinski |
| DATE | 4/16/2020 | 4/16/2020 | 4/20/2020 | 4/27/2020 |
| OFFICE | NRR/D* | | | |
| NAME | HNieh | | | |
| DATE | 4/27/2020 | | | |

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7.0 AIR SAMPLING AND BIOASSAY

- 7.1 Air sampling data will be monitored prior to each entry into a potentially contaminated area where respiratory protection is intended to be used, and will be conducted in accordance with established MURR procedures.
- 7.2 Bioassay will be obtained after each use of a respirator in a potentially contaminated area and will be completed in accordance with MURR procedures.

8.0 RESPIRATOR FIT TEST

- 8.1 A Qualified Fit Testing Facility will conduct initial and subsequent fit tests in accordance with MURR procedures.
- 8.2 Each individual shall be fit tested with the applicable make, model and size of respirator before receiving a respirator for use during normal operations.
- 8.3 Fit testing will be conducted on an annual basis per OP-HP-233, "Respirator Fit Test" (Reference 15.7).
- 8.4 Retesting will be performed when an individual has a weight change of $\pm 10\%$ or more; significant facial injury or scarring in area of facial seal; significant dental changes; reconstructive or cosmetic facial surgery in area of facial seal; or any other condition that might affect the seal of the respirator.

9.0 MEDICAL EVALUATIONS

- 9.1 Physical exams will be performed on an annual basis. The physical exam shall be repeated if the individual reports signs and/or symptoms related to the ability to use a respirator, such as shortness of breath, dizziness, chest pains, or wheezing; the physician informs the Health Physics Manager that the individual requires re-evaluation; information from this program, including observations made during fit test and program evaluation, indicates a need for re-evaluation; or a change occurs in the workplace that may result in an increased physical burden on the individual.
- 9.2 Individuals required to wear a respirator must pass a physical exam before being permitted to wear a respirator. Any individual failing or refusing a physical exam will not be allowed or permitted to wear a respirator. Individuals must complete the Respirator Review and Medical Clearance Form (Reference 15.11), and the OSHA Respirator Medical Evaluation Questionnaire (Reference 15.12) prior to their physical exam.