



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
2443 WARRENVILLE ROAD, SUITE 210
LISLE, ILLINOIS 60532-4352

May 20, 2020

Ms. Konstantinos S. Martzaklis
Acting Director, Safety and Mission
Assurance Directorate
National Aeronautics and Space Administration
John H. Glenn Research Center
Lewis Field
21000 Brookpark Road, Mailstop 6-4
Cleveland, OH 44135-3191

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

Dear Ms. Martzaklis:

By letter dated May 4, 2020, (Agencywide Documents Access and Management System [ADAMS] Accession No. ML20128J575 (non-public)), National Aeronautics and Space Administration (NASA), the licensee, requested temporary exemptions from the requirements to conduct sealed source leak testing as described in license condition 15.A., and a six month physical inventory to account for all sealed sources as described in license condition 17 of NRC license number 34-00507-16.

In its request, the licensee stated that, due to the COVID 19 public health emergency (PHE), on March 18, 2020, most employees were instructed to telework, with onsite access limited to those in mission-essential activities, none of which involved the use of licensed radioactive materials. A further restriction took effect on March 24 which limited activities to those associated with protecting life and critical infrastructure. No activities involving licensed radioactive materials have taken place since March 13, 2020. All licensed radioactive materials have been properly secured in designated storage locations with restricted access. Therefore, the licensee is unable to perform the following requirements as stated in NRC license number 34-00507-16:

1. License Condition 15.A.: Sealed sources shall be tested for leakage and/or contamination at intervals not to exceed the intervals specified in the certificate of registration issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or by an Agreement State. In the absence of a registration certificate, sealed sources shall be tested for leakage and/or contamination at intervals not to exceed six months, or at such intervals as specified.
2. License Condition 17: The licensee shall conduct a physical inventory every six months, or at other intervals approved by the U.S. Nuclear Regulatory Commission, to account for all sealed sources received and possessed under the license.

The licensee requested relief from the requirements described above during this PHE for a period no more than 90 days from the scheduled due date of June 11, 2020.

The exemption provision in Title 10 of the *Code of Federal Regulations* (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 conditions from which the licensee requested exemption were imposed upon the licensee by the U.S. Nuclear Regulatory Commission (NRC) per 10 CFR 30.34(e). The regulation in 10 CFR 30.34(c) requires that the licensee 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 a license 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 license conditions from which the licensee is requesting exemption include the sealed source leak testing requirement described in license condition 15.A., and the physical inventory requirement described in license condition 17.

The regulation in 10 CFR 30.11(a) authorizes granting of exemptions specific to Part 30. The NRC staff has determined that the granting of the requested exemptions 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 exemptions is authorized by law.

The NRC staff has also determined that the licensee has suspended all licensed activities; all licensed material is secure; the facilities are not accessible by unauthorized individuals; and the radiation levels in the unrestricted areas are within the NRC limit. In addition, the extension of the leak testing and physical inventory requirements does not constitute a significant increase in risk to public health and safety because the licensee suspended operations and licensed material was secure. The NRC also notes that, absent the requested exemptions, the licensee may be required to take actions that may be contrary to guidance on preventing the spread of the virus that causes COVID-19. Therefore, the NRC staff finds that the requested exemptions 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 exemptions for the specified period:

- Beginning on June 11, 2020, for a period of no more than 90 days, the licensee is temporarily exempt from the sealed source leak test requirement that is described in license condition number 15.A. of NRC license number 34-00507-16.
- Beginning on June 11, 2020, for a period of no more than 90 days, the licensee is temporarily exempt from the physical inventory requirement that is described in license condition 17. of NRC license number 34-00507-16.

An environmental assessment for this action is not required, because this action is categorically excluded under 10 CFR 51.22(c)(25)(vi)(C). In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC's ADAMS, accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>.

If you have questions, please contact Frank Tran at frank.tran@nrc.gov or 630-829-9623.

Sincerely,

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

License No. 34-00507-16
Docket No. 030-05626

Letter to Konstantinos Martzaklis from Robert Orlikowski dated May 20, 2020.

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