

POLICY ISSUE (Notation Vote)

August 15, 2003

SECY-03-0139

FOR: The Commissioners

FROM: Janice Dunn Lee, Director
Office of International Programs /RA/

SUBJECT: PROPOSED LICENSE TO EXPORT BYPRODUCT AND SOURCE
MATERIAL TO IRAQ FOR USE IN OIL WELL LOGGING
(APPLICATION NO. XB001300)

PURPOSE:

To request Commission approval of a license to Halliburton Energy Services (HES) and affiliated companies of HES' parent company, Halliburton Company (Halliburton), authorizing the export of radioactive byproduct and source material to Iraq for use in oil well logging. The HES application is being referred to the Commission in accordance with 10 CFR 110.40(b)(7). The applicant has requested expedited review of the application.

SUMMARY:

On July 1, 2003, HES applied for a specific license to export to Iraq certain byproduct and source materials, including americium-241, cesium-137, cobalt-57, and thorium-232 incorporated in neutron generators, densitometers and calibration devices for use in down hole oil well logging services at various locations in Iraq as described in Attachment 1, Exhibit A. The radioactive sources used for this purpose are double-encapsulated and are designed in such a way that they can be inserted into the logging instruments and lowered into the well. The sources emit radiation into well bore formations. The emitted radiation is measured in correlation with the decay rate to obtain measurement data used to evaluate the wells for age or damage. HES also uses radioactive byproduct materials as "calibration sources" for calibrating its logging tools.

The NRC license is being sought by HES pursuant to a United States (U.S.) Army Corps of Engineers contract awarded to Kellogg Brown & Root (KBR), another subsidiary of Halliburton, for fire suppression and rehabilitation of hydrocarbon and petrochemical facilities in Iraq (including but not limited to oil wells). The equipment will be authorized for export under a Department of Treasury license.

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In order to provide the contracted services in Iraq, HES proposes to export the byproduct and source material to their subsidiary and intermediate consignee in Kuwait, Halliburton Overseas Limited (HOL) which will be the staging location. These exports will be joined together with other material already exported to Saudi Arabia under NRC general license at 10 CFR 110.22 and 110.23, being brought to the staging area. The applicant notes that during staging in Kuwait and operations in Iraq, the NRC-controlled items will at all times be owned by Halliburton entities and under the possession, control and safekeeping of their employees.

DISCUSSION:

The review of this license application is governed by the sole export criterion at 10 CFR 110.42(c), that the proposed export is not inimical to the common defense and security. In response to NRC's request for views on the proposed export, the Executive Branch (EB), in a letter dated July 28, 2003 (Attachment 2), determined that the proposed export will not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended, in light of Presidential Determination No. 2003-23 of May 7, 2003, suspending the Iraq Sanctions Act of 1990 (P.L. 101-513). The EB also recommended that a license be approved with two conditions proposed by the NRC staff: 1) the exported materials remain in the control of Haliburton with no transfer of ownership without NRC authorization; and 2) the term of the license should be limited to September 30, 2004, to correspond with the expiration date of the Presidential Determination.

Policy Considerations

The export assists the implementation of U.S. policy supporting post war reconstruction activities in Iraq. That country is under the control of U.S. and coalition forces, currently responsible for all government activities there. The subject case concerns the export of byproduct and source material by contractors working under the auspices of a U.S. Government contract. International Atomic Energy Agency (IAEA) safeguards verification activities on nuclear materials in Iraq remain in effect. The staff has no international safeguards or physical protection concerns with this export, which is for non-nuclear end use.

Reporting

Americium exports must be reported to the NRC on a calendar year basis. This information is needed by the U.S. Government for reporting to the IAEA all exports of alternative nuclear materials. Hence, the proposed license should contain a third condition requiring the licensee to report the actual shipments of americium exports to the NRC as specified for the general license in 10 CFR 110.23(b).

Other Information

The staff has reviewed available U.S. Government and other information sources related to the subject application, and from that standpoint, has no objection to issuing the license subject to the three conditions noted above. Given future unforeseen circumstances, the license could be revoked, suspended, or modified as necessary under 10 CFR 110.52.

CONCLUSION:

The staff concurs with the EB judgment that issuing a license to HES would not be inimical to the common defense and security of the United States and is consistent with the provisions of the Atomic Energy Act of 1954, as amended, subject to the three conditions noted above.

The Office of the Executive Director for Operations concurs. The Office of General Counsel has no legal objection.

RECOMMENDATION:

That the Commission authorize the issuance of the requested license to HES with the following conditions:

1. The exported material must remain in the control of Halliburton with no transfer of ownership without NRC authorization.
2. The license will expire on September 30, 2004, to correspond with the expiration date of the Presidential Determination 2003-23, issued May 7, 2003.
3. The licensee must submit calendar year reports of americium exports under this license to the NRC Office of International Programs. The reports must contain the information specified in 10 CFR 110.23(b).

Janice Dunn Lee, Director
Office of International Programs

Attachments: 1. 7/01/03 Halliburton Energy Services Export License Application
2. 7/28/03 DOS Letter R.J.K. Stratford to J.D. Lee

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*See previous concurrence.

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