



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
1600 EAST LAMAR BOULEVARD
ARLINGTON, TEXAS 76011-4511

March 12, 2012

Chere D. Morgan, Director
Radiological Control
Idaho National Laboratory
2525 North Fremont Avenue
Idaho Falls, Idaho 83415

SUBJECT: DEPARTMENT OF ENERGY PRIME CONTRACTOR EXEMPTION
UNDER 10 CFR 30.12

Dear Ms. Morgan:

The U.S. Nuclear Regulatory Commission received a letter dated February 22, 2012, from you on behalf of the U.S. Department of Energy (DOE), Idaho National Laboratory (INL), to conduct training in Pasadena, Texas, from April 2-6, 2012, using sealed sources that are owned and controlled by INL. The training was described as joint training and field exercises between Sandia National Laboratory, the Federal Bureau of Investigation (FBI), the Houston Police Bomb Squad, the Harris County Bomb Squad, the Pasadena Police Department Bomb Squad, and other local law enforcement bomb squads.

The NRC regulations provide an exemption in 10 CFR 30.12 to any prime contractor of DOE at a government owned or controlled site, such as INL. However, if the prime contractor or subcontractor is performing work for DOE at another location which is not a government owned or controlled site, then the Commission needs to determine whether the exemption is authorized by law and whether, under the terms of the contract, there is adequate assurance that the work thereunder can be accomplished without undue risk to public health and safety.

In this particular case, DOE has requested to conduct work activities in an Agreement State. Under a Commission Policy Statement (46 FR 7540, January 23, 1981), Agreement States may issue case-by-case exemptions only upon a joint determination by the State and the NRC that the necessary findings have been made; hence the requirement in Texas' regulation that the determination of the grant of a specific exemption be made jointly with the NRC.

The NRC has reviewed the salient parts of Battelle's prime management and operating contract with DOE INL. The review determined that the exemption under 10 CFR 30.12 is authorized by law. Additionally, the procedures and commitments made by DOE INL for conducting work activities in the state of Texas were reviewed. Based on this review, the NRC and the State of Texas have determined that there is adequate assurance that the activity can be accomplished without undue risk to public health and safety. Therefore, the exemption under 10 CFR 30.12 is authorized by law.

Chere D. Morgan

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If there are any questions or comments concerning this review, please contact Roberto J. Torres, Senior Health Physicist, at 817-200-1189 or the undersigned at 817-200-1106.

Sincerely,

/RA/

Roy J. Caniano, Director
Division Nuclear Materials Safety

cc:

Richard A. Ratliff, P.E., L.M.P., Chief
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ADAMS	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> SUNSI Review Complete	Reviewer Initials: RJT	
	<input checked="" type="checkbox"/> Publicly Available		<input checked="" type="checkbox"/> Non-sensitive		
	<input type="checkbox"/> Non-publicly Available		<input type="checkbox"/> Sensitive		
RIV:NMSB-B	C:NMSB-B	D:DNMS			
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