



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET SW SUITE 23T85  
ATLANTA, GEORGIA 30303-8931**

May 21, 2002

Duratek Federal Services  
ATTN: Glenn R. Marshall  
Senior Radiological Control Technician  
704 S. Illinois Avenue, Suite C203  
Oak Ridge, TN 37830

**SUBJECT: NRC LICENSE APPLICATION DATED MARCH 25, 2002 (MAIL CONTROL NO. 259975)**

We have completed our review of your NRC license application dated March 25, 2002, in which you requested a license to only use a portable moisture density gauge containing licensed materials on Department of Energy (DOE) property in Oak Ridge, Tennessee. Based upon this application and telephonic discussions with you, we understand that Duratek Federal Services (DFS) is a subcontractor to the DOE prime contractor at the work site.

10 CFR 30.12 states, in part, that any prime contractor or subcontractor of the DOE is exempt from the requirements for a license set forth in sections 81 and 82 of the Act and from the regulations in this part to the extent that such prime contractor or subcontractor manufactures, produces, transfers, receives, acquires, owns, possesses, or uses byproduct material under his prime contract or subcontract. This exemption applies when the Commission determines that the exemption is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.

We requested that the NRC's Office of General Counsel review your request for an NRC license and determine if your particular use would be exempt under 10 CFR 30.12. They determined that DFS does not require an NRC license to use a portable moisture density gauge for activities that are conducted only at the DOE site in Oak Ridge. The basis for their position was that through its contracts with its prime contractor, DOE has the authority (and responsibility) to exercise safety oversight; therefore, it is not necessary to exert additional control by also requiring DFS to become an NRC licensee.

In accordance with 10 CFR 2.790 of NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in NRC's Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

If you have any questions regarding this letter, please call me at 404 562-4731.

Sincerely,  
*/RA/*

Jay L. Henson, Chief  
Materials Licensing/Inspection Branch 2

OFFICE	RII:DNMS						
SIGNATURE							
NAME	J.Henson						
DATE	6/ /2002	6/ /2002	6/ /2002	6/ /2002	6/ /2002	6/ /2002	6/ /2002
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