

ProtectTexas™

Texas Department of Health

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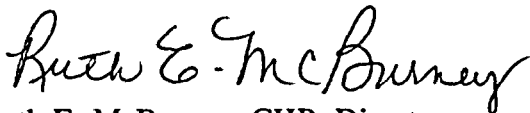
U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF STATE AND TRIBAL PROGRAMS
ATTN PAUL H LOHAUS DIRECTOR
MAIL STOP 0-3-C10
WASHINGTON DC 20555-0001

Dear Mr. Lohaus:

The Texas Department of Health is currently processing a request for recognition of a radioactive material licensee as being a U.S. Department of Energy (DOE) subcontractor under the provisions of Title 25 Texas Administrative Code (TAC) §289.201(c)(2)(D) [equivalent to 10 CFR §30.12]. The licensee is currently under contract with a prime contractor of DOE. Classification as a DOE subcontractor would exempt the licensee from having to comply with our regulations. Exemption in this particular case, and in the above regulations, is predicated on determination of DOE subcontractor status. However, it has come to our attention that DOE does not enter into subcontracts, so DOE would only be responsible for the regulation of its prime contractors, but not for regulation of individuals contracting with a DOE prime contractor. As such, we are asking the U.S. Nuclear Regulatory Commission to please provide an interpretation of 10 CFR §30.12 by providing a definition of "subcontractor" and clarifying the intent of this rule. Further, please explain how the rule is implemented by NRC and with regard to "subcontractors" of DOE.

As TDH has this action as pending, the licensee is awaiting our response. Please respond within thirty (30) days of the date of this letter so that we may expedite completion of this action.

Sincerely,



Ruth E. McBurney, CHP, Director
Division of Licensing, Registration
and Standards
Bureau of Radiation Control

RIDS: SP08

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