



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

November 29, 2010

James Thalgott  
Idaho National Laboratory  
MS 6134  
2525 Fremont Avenue  
Idaho Falls, ID 83415

SUBJECT: DOE PRIME CONTRACTOR EXEMPTION UNDER 10 CFR 30.12

Dear Mr. Thalgott,

The U.S. Nuclear Regulatory Commission received an electronic communication dated November 1, 2010, from you on behalf of the U.S. Department of Energy (DOE) - Idaho National Laboratory (INL), to conduct training in Utah on December 1 and 2, 2010, using sealed sources that are owned and controlled by INL. The training was described as joint training and field exercises between DOE Region 6 - Radiological Assistance Program (RAP), the Federal Bureau of Investigation (FBI), Salt Lake City, Utah Office, and the Utah Army National Guard 85<sup>th</sup> Civil Support Team, Weapons of Mass Destruction (CST/WMD).

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 Idaho National Laboratory. 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 that, under the terms of the contract there is adequate assurance that the work thereunder can be accomplished without undue risk to the 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 Utah's 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 Utah were reviewed. Based on this review, the NRC and the State of Utah 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.

While the NRC has found that there is adequate assurance that the activities conducted as part of the training and field exercises in Salt Lake City, Utah can be accomplished without undue risk to the public health and safety, the NRC remains concerned about the coordination and communication of this

exercise among the stakeholders. Please ensure that your public affairs organization informs those necessary, so as to avoid any unwarranted adverse public reaction to the scenario to be carried out in the EnergySolutions arena. The NRC public affairs officers are Victor Dricks, 817-860-8128 or [victor.dricks@nrc.gov](mailto:victor.dricks@nrc.gov), and Lara Uselding 817-276-6519 or [lara.uselding@nrc.gov](mailto:lara.uselding@nrc.gov), should the DOE public affairs operation need to contact ours.

If there are any questions or comments concerning this review, please contact Roberto J. Torres, Sr. Health Physicist at 817-860-8189 or the undersigned at 817-860-8186.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck L. Cain", followed by a large, stylized "for" written in a cursive script.

Chuck L. Cain, Deputy Director  
Division Nuclear Materials Safety

cc:

RJCaniano  
CLCain  
DBSpitzberg  
TReis  
DWhite  
JEWhitten  
VDricks  
LUselding  
RJTorres  
RSBrowder

Rusty Lundberg, Director  
Utah Division of Radiation Control  
168 North 1950 West  
Bldg. 2, Room 212  
Salt Lake City, UT 84116

J. Thalgott

-2-

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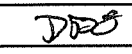


Chuck L. Cain, Deputy Director  
Division Nuclear Materials Safety

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| ADAMS                                                                               | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                 | <input checked="" type="checkbox"/> SUNSI Rev Complete | Reviewer Initials: | RSB |
| Publicly Avail                                                                      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                 | Sensitive Value:                                       |                    |     |
| DNMS                                                                                | DNMS:DD                                                                             |                                                        |                    |     |
| RSBrowder                                                                           | CLCain                                                                              |                                                        |                    |     |
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| 11/30/10                                                                            | 11/30/10                                                                            |                                                        |                    |     |