

April 4, 2011

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

SUBJECT: U. S. DEPARTMENT OF ENERGY PRIME CONTRACTOR EXEMPTION  
UNDER TITLE 10 CODE OF THE FEDERAL REGULATIONS PART 30.12

Dear Mr. Thalgott:

The U.S. Nuclear Regulatory Commission (NRC) received electronic communications dated February 24, 2011, and March 2, 2011, from you on behalf of the Battelle Energy Alliance LLC (BEA), the prime contractor for the U.S. Department of Energy (DOE) - Idaho National Laboratory (INL), to conduct stabilization training in Chicago, Illinois on April 11 through April 15, 2011, using sealed sources that are owned and controlled by INL. The proposed training will involve joint training and field exercises between the Federal Bureau of Investigation (FBI) Chicago Field Office, Chicago Fire Department, Chicago Police Department, Cook County Sheriff's Office, DuPage County Sheriff's Office and the Waukegan Fire Department.

The NRC regulations provide an exemption in Title 10 Code of the Federal Regulations (CFR) Part 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 NRC 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 Illinois' regulations that the determination to grant a specific exemption be made jointly with the NRC.

The NRC has reviewed the relevant sections of BEA's prime management and operating contract with DOE INL and the Memorandum of Agreement between DOE, INL and the Chicago Police Department. The review of these documents 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 Illinois were reviewed. Based on this review, the NRC and the State of Illinois 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.

J. Thalgott

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If there are any questions or comments concerning this review, please contact Cassandra F. Frazier, Senior Health Physicist at 630-829-9830 or Kenneth Lambert, Acting Chief, Materials Licensing Branch at 630-829-9633.

Sincerely,

*/RA/*

Anne T. Boland, Director  
Division Nuclear Materials Safety

cc: C. Gibb Vinson

J. Thalgott

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If there are any questions or comments concerning this review, please contact Cassandra F. Frazier, Senior Health Physicist at 630-829-9830 or Kenneth Lambert, Acting Chief, Materials Licensing Branch at 630-829-9633.

Sincerely,

*/RA/*

Anne T. Boland, Director  
Division Nuclear Materials Safety

cc: C. Gibb Vinson

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