



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION IV
1600 E LAMAR BLVD
ARLINGTON, TX 76011-4511

October 17, 2014

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

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

Dear Ms. Morgan:

The U.S. Nuclear Regulatory Commission (NRC) received a request from the U.S. Department of Energy (DOE), Idaho National Laboratory (INL), to conduct training in Baytown, TX, October 20-24, 2014, using sealed sources that are owned and controlled by INL. This training will be provided with the assistance of Battelle Energy Alliance, LLC (Battelle), a prime contractor for DOE INL. The training was described as joint training and field exercises between DOE INL, Sandia National Laboratory, the Federal Bureau of Investigation (FBI), and other local law enforcement bomb squads on package interrogation techniques.

The NRC regulations provide an exemption in Title 10 of the Code of Federal Regulations (CFR) 30.12 from the requirement to possess an NRC license to any prime contractor of DOE at a government owned or controlled site. 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 the public health and safety.

In this particular case, DOE INL has requested to conduct work activities in the State of Texas, which is 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.

C. Morgan

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If there are any questions or comments concerning this review, please contact Gerald A. Schlapper, Health Physicist, at 817-200-1273 or the undersigned at 817-200-1106.

Sincerely,

/RA/

Mark Shaffer, Director
Division Nuclear Materials Safety

cc: Mr. Richard A. Ratliff, P.E., LMP
Radiation Safety Licensing Branch Manager
Division for Regulatory Services
Texas Department of State Health Services
Mail Code 2835
P.O Box 149347
Austin, TX 78714-9347

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