



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

February 17, 2016

Richard M. Pierson, CHP, PMP  
Radiation Protection Division Manager  
Pacific Northwest National Laboratory  
902 Battelle Boulevard  
P.O. Box 999, MSIN J2-40  
Richland, WA 99352

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

Dear Mr. Pierson:

The U.S. Nuclear Regulatory Commission (NRC) received a request dated January 21, 2016, from the U.S. Department of Energy (DOE), Pacific Northwest National Laboratory (PNNL), to conduct calibration and maintenance of radiation monitoring equipment throughout the southwestern part of the United States using sealed sources that are owned and controlled by PNNL during fiscal years 2016 and 2017. This type of maintenance activity will be provided with the assistance of Battelle Memorial Institute (Battelle), a prime contractor for DOE PNNL. Battelle's contract (DE-AC05-76RL01830) was provided by a link to the internet.

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 PNNL has requested to conduct work activities in California, Nevada, Arizona, New Mexico, and Texas, which are Agreement States. 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 from the respective Agreement State's regulation that the determination of the grant of a specific exemption be made jointly with the NRC.

The NRC has reviewed Battelle's submittal dated January 21, 2016. The review determined that the exemption under 10 CFR 30.12 is authorized by law. Additionally, the procedures and commitments made by DOE PNNL for conducting work activities in California, Nevada, Arizona, New Mexico, and Texas were reviewed. Based on this review, the NRC and these Agreement States have determined that there is adequate assurance that the activity can be accomplished without undue risk to public health and safety. Therefore, the NRC is issuing an exemption under 10 CFR 30.12, as it is authorized by law and this activity can proceed without the need to obtain a specific license.

If there are any questions or comments concerning this review, please contact the undersigned at 817-200-1189.

Sincerely,

**/RA/**

Roberto J. Torres, M.S., Senior Health Physicist  
Nuclear Materials Safety Branch B

cc:

Gonzalo Perez, Chief  
Radiological Health Branch  
Div. of Food, Drug & Radiation Safety  
CA Department of Health Services  
P.O. Box 997414, MS-7610  
Sacramento, CA 95899-7414

Karen Beckley, Manager  
Radiation Control Program  
Division of Public and Behavioral Health  
675 Fairview Drive, Suite 218  
Carson City, NV 89706

Aubrey V. Godwin, Director  
Arizona Radiation Regulatory Agency  
4814 South 40<sup>th</sup> Street  
Phoenix, AZ 85040

Santiago Rodriguez, Bureau Chief  
Radiation Control Bureau  
New Mexico Department of Environment  
P.O. Box 5469  
Santa Fe, NM 87502-5469

Richard A. Ratliff, P.E., L.M.P., Chief  
Radiation Safety Licensing Branch Manager  
Division for Regulatory Services  
TX Dept. of State Health Services  
P.O. Box 149347-Mail Code 2835  
Austin, TX 78714-9347

Internal distribution via E-mail:

J. Whitten, C:NMSB-B  
V. Dricks, PAO  
R. Erickson, SAO  
J. Cook, SAO