



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

January 9, 2017

Chéré 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 letter dated December 15, 2016, from you on behalf of Battelle Energy Alliance, LLC (Battelle), a prime contractor with the U.S. Department of Energy (DOE), Idaho National Laboratory (INL), requesting an exemption pursuant to Title 10 *Code of Federal Regulations* (CFR) 30.12 from NRC licensing requirements to allow Battelle to conduct training using sealed sources that are owned and controlled by DOE INL. The training was described as joint training between Sandia National Laboratory and U.S. Navy personnel to be conducted in Utah during January 2017.

The NRC regulations provide an exemption in 10 CFR 30.12 to any prime or subcontractor of DOE using NRC regulated materials at a U.S. Government owned or controlled site from the requirement to possess an NRC license. However, Battelle has requested to conduct work activities in a location that is not government owned or controlled in Utah, an Agreement State. The Commission Policy Statement on Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement (46 FR 7540, January 23, 1981) states, in part, that an exemption from NRC licensing requirements to DOE prime contractors or subcontractors may be provided only when the Agreement State and the NRC jointly makes a determination to grant an exemption.

The NRC has reviewed Battelle's prime management and operating contract with DOE that was submitted as part of this request to confirm that the contractor satisfies the requirements for the exemption as discussed in 10 CFR 30.12. Additionally, the NRC and the State of Utah reviewed the procedures and commitments made by Battelle for conducting work activities in Utah. 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. The NRC has also determined that an exemption under 10 CFR 30.12 is authorized by law. Therefore, this activity can proceed without the need to obtain a specific NRC license.

An environmental assessment for this action is generally not required since this action is categorically excluded under 10 CFR 51.22(c)(14)(v).

C. Morgan

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If there are any questions or comments concerning this review, please contact Roberto J. Torres of my staff at 817-200-1189.

Sincerely,

/RA by Vivian H. Campbell Acting for/

Mark R. Shaffer, Director
Division of Nuclear Materials Safety

cc:

Scott T. Anderson, Director
Division of Radiation Control
Dept. of Environmental Quality
195 North 1950 West
P.O. Box 144880
Salt Lake City, UT 84114-4880

C. Morgan

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ADAMS ACCESSION NUMBER: ML17003A432

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| <input checked="" type="checkbox"/> SUNSI Review By:RJT | ADAMS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Sensitive <input checked="" type="checkbox"/> Non-Sensitive | <input type="checkbox"/> Non-Publicly Available <input checked="" type="checkbox"/> Publicly Available | Keyword NRC-002 |
| OFFICE | SHP:DNMS/B | C:DNMS/B | D:DNMS | |
| NAME | RJTorres | VHCampbell | MRShaffer | |
| SIGNATURE | <i>/RA/</i> | <i>/RA/</i> | <i>/RA by VHCampbell Acting For</i> | |
| DATE | 12/23/16 | 1/5/17 | 1/9/17 | |

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