



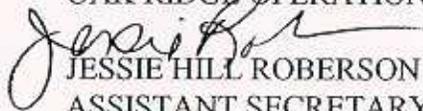
## Department of Energy

Washington, DC 20585

APR 10 2003

MEMORANDUM FOR GERALD BOYD  
ACTING MANAGER  
OAK RIDGE OPERATIONS OFFICE

FROM:

  
JESSIE HILL ROBERSON  
ASSISTANT SECRETARY FOR  
ENVIRONMENTAL MANAGEMENT

SUBJECT: Approval of Bechtel Jacobs Company's Request for  
Temporary Exemption from the 10 CFR  
830.207(a) Requirement for Less Than Hazard  
Category 3 Nuclear Facilities

- Reference 1: Memorandum from Gerald Boyd to Jessie Hill Roberson, A Request for Contingent Exemption from the Requirement to Submit a Subpart B Compliant DSA by April 10, 2003, for Less Than Hazard Category 3 Facilities, dated April 9, 2003.
- Reference 2: Memorandum from Robert Nelson to Jessie Hill Roberson, A Request for Contingent Exemption from the Requirement to Submit a Subpart B Compliant DSA by April 10, 2003, for Less Than Hazard Category 3 Facilities, dated March 21, 2003.
- Reference 3: Letter from Paul Clay to Gerald Boyd, A Revised List of Hazard Analysis Documents and Inactive Waste Sites for Contingent Exemption Considerations, dated March 21, 2003
- Reference 4: Memorandum from J. Hill Roberson to Distribution, A Hazard Categorization of EM Inactive Waste Sites as Less Than Hazard Category 3, dated September 17, 2002.

This letter is in response to your memorandum (Reference 1) forwarding the request for a temporary exemption from a provision of Title 10 of the Code of Federal Regulations (CFR), Part 830, Subpart B, Safety Basis Requirements. According to 10 CFR 830.207(a), for hazard category 2 or 3 nuclear facilities, a contractor must submit for DOE approval a safety basis that meets the



requirements of 10 CFR 830, Subpart B by April 10, 2003. The Bechtel Jacobs Company LLC (BJC) requests a temporary exemption from this provision. BJC requests approval to delay its submittal of the rule-compliant safety bases for the facilities listed in the exemption request, until August 1, 2003 (References 2 and 3). The purpose of this request is to allow BJC to generate compliant safety bases for these facilities (hazard analysis documents, inactive waste sites evaluations, or, in very limited cases, if any, documented safety analyses), without retracting resources needed to meet the April 10, 2003, date for other BJC facilities with higher risk.

A technical review of the materials submitted with this exemption request and of the general plan for generating various safety documents for BJC facilities at Oak Ridge and Paducah Gaseous Diffusion Plant has been completed. Based on this review, I find the request for approval of a temporary exemption from the 10 CFR 830.207(a) submittal date for the facilities included in Reference 1 to be justified and I approve the BJC request, provided that the following conditions are met:

- For facilities included in Group 1, for which a hazard analysis documents are in preparation, the conditions covered by the safety basis remain unchanged until the compliant safety basis are approved and implemented.
- For facilities in Group 2, for which inactive waste sites evaluations are in preparation, the activities carried are limited to surveillance and maintenance until the compliant safety bases are approved and implemented.
- For all facilities, compliance with 10 CFR 835, 10 CFR 830, Subpart A, and 48 CFR 970.5223-1 requirements is ensured.

The reference, this approval memorandum and its attachments are immediately part of the authorization basis for these facilities.

I expect that DOE Oak Ridge Operations Office will take the necessary actions during the development of the compliant safety bases for these facilities, to ensure that the BJC will deliver high quality documents that can be approved and implemented by November 30, 2003. I also expect that, 30 days after granting this exemption request, you will inform me if the contractor has to prepare a documented safety analysis for any of these facilities.

The technical review and the exemption decision are attached.

Attachments

cc: Paul Golan, EM-3  
Sandra Johnson, EM-5  
Mark Frei, EM-30  
Stephen Sohinki, EH-10  
Richard Black, EH-53  
Docketing Clerk, EH-10

## TECHNICAL REVIEW

### BJC Request for Temporary Exemption for Title 10 of the Code of Federal Regulation 830 (10 CFR 830)

The Bechtel Jacobs Company LLC (BJC) requests temporary exemption from the 10 CFR 830.207(a) submittal date of April 10, 2003, for a 10 CFR 830, Subpart B compliant safety basis, for facilities listed in the request. The new submittal date requested in this exemption is August 1, 2003. The purpose of this request is to allow BJC to generate compliant safety bases for these facilities (hazard analysis documents, inactive waste sites evaluations, or, in very limited cases, if any, documented safety analyses), without retracting resources needed to meet April 10, 2003, date for other BJC facilities of higher risk.

#### Background

The BJC requests this temporary exemption for facilities listed in the exemption request. These facilities are divided in two groups:

- Group 1 includes facilities for which hazard analysis documents (HADs) are in preparation to show that these facilities are less than hazard category 3 nuclear facilities. At these facilities, very limited activities dedicated to waste management (waste storage, sampling, characterization, container movement, packaging for disposal, and removal), remediation, spill cleanup, housekeeping and surveillance and maintenance are conducted.
- Group 2 includes facilities for which inactive waste sites (IWSs) evaluations are in preparation to recategorize them as less than hazard category 3 nuclear facilities based on the guidance provided by Environmental Management (EM) (Reference 4). These are remote inactive sites with no other activities besides surveillance and maintenance.

All these facilities are very low risk facilities, covered by existing safety bases and/or by the BJC's Environmental Safety and Health program to ensure that the associated hazards are controlled. At this time, many of these facilities are undergoing characterization of the waste streams, equipment, and piping or final

screening as IWSs. There is a small probability that some of these facilities could be categorized as hazard category 2 or 3 nuclear facilities, and therefore become subject to 10 CFR 835, Subpart B requirements. For them, a 10 CFR 830, Subpart B compliant documented safety analysis would be prepared.

#### Request

10 CFR 830.207(a) requires submittal of a rule-compliant safety basis by April 10, 2003, for hazard category 2 or 3 nuclear facilities. The BJC requests approval to submit the compliant safety bases for the listed facilities by August 1, 2003. DOE Oak Ridge Operations Office estimates that the time for review, approval and implementation of the compliant safety basis will be three months. This means that the listed facilities will remain covered by the existing, non-compliant safety bases until November 30, 2003.

#### Analysis

10 CFR 820, Procedural Rules for DOE Nuclear Activities, contains criteria for granting an exemption to a DOE Nuclear Safety Requirement. These are that the exemption:

- (a) would be authorized by law;
- (b) would not present an undue risk to public health and safety, the environment, or facility workers;
- (c) would be consistent with the safe operation of a DOE nuclear facility; and
- (d) involves special circumstances, including at least one of the following:
  - (1) application of the requirement in the particular circumstances conflicts with other requirements; or
  - (2) application of the requirement in the particular circumstances would not serve or is not necessary to achieve its underlying purpose, or would result in resource impacts which are not justified by the safety improvements; or
  - (3) application of the requirement would result in a situation significantly different from that contemplated when the requirement was adopted, or that is significantly different from that encountered by others similarly situated; or
  - (4) the exemption would result in benefit to human health and safety that compensate for any detriment that may result from the grant of the exemption; or
  - (5) circumstances exist which would justify temporary relief from application of the requirement while taking good faith action to achieve compliance; or

- (6) There is present any other material circumstance not considered when the requirement was adopted for which it would be in the public interest to grant an exemption.

These criteria are assessed as follows:

(a) The proposal of an exemption such as this is consistent with the intent of 10 CFR 830 and lawful. The preamble to the final 10 CFR 830 rule specifically states that exemptions can be requested under the provisions of Subpart E of 10 CFR 820.

(b) At these facilities, limited, low-risk activities are carried on. These activities are generally covered by DOE-approved safety bases. Adequate controls are in place. For those facilities, if any, for which a documented safety analysis will be required, BJC will declare a Potentially Inadequate Safety Analysis (PISA) and will put in place the necessary compensatory measures. To ensure that the requested exemption will not present an undue risk to public health and safety, the environment, or workers, two additional conditions must be met:

- For facilities included in Group 1, the conditions covered by the safety bases remain unchanged until the compliant safety bases are approved and implemented.
- For facilities in Group 2, the activities carried are limited to surveillance and maintenance until the compliant safety bases are approved and implemented.

(c) The following elements are in place to ensure safe operation of these facilities: they are managed according to DOE orders and standards and BJC's work smart standards; work execution follows controlled procedure; these facilities are under BJC's configuration control; and changes are reviewed for compliance with the approved safety bases documents. In granting this exemption, one additional element must be added: for all these facilities, the compliance with the requirements included in 10 CFR 835, Occupational Radiation Protection; 10 CFR 830, Subpart A, Quality Assurance Requirements; and 48 CFR 970.5223-1, Integration of Environment, safety and Health into Work Planning and Execution, must be ensured.

## Attachment 1

(d) The situation as described in the BJC exemption request meets the special circumstance d(5). The BJC works according to a very demanding schedule to prepare the safety documents (HADs and IWSs evaluations) for all facilities included in the list. The great majority of these documents will be delivered to DOE before April 10, 2003. For one facility, PISA was already declared and compensatory measures have been implemented and will remain in place until the DOE approved compliant safety basis is implemented. Therefore the circumstance d(5) listed above exist that justify granting this temporary exemption, while the contractor takes good faith action to achieve compliance.

### Field Recommendation

DOE Oak Ridge Operations Office (ORO) recommends approval of this exemption for the facilities attached in Reference 1. ORO considers that appropriate measures are in place to adequately control the safety of these facilities during the requested temporary extension period.

### Office of Environment, Safety and Health (EH) Comments

EH-53 reviewed the exemption request and agrees with EM granting this exemption.

### Conclusion

BJC request meets the criteria of 10 CFR 820, E for granting the needed exemption.

EXEMPTION DECISION

Pursuant to Title 10 of the Code of Federal Regulation (CFR), part 820.61 (10 CFR 820.61), the Assistant Secretary for Environmental Management (EM-1) is authorized to exercise authority on behalf of the Department of Energy (DOE) with respect to requests for exemptions for nuclear safety rules relating to nuclear safety management for Environmental Management (EM) facilities.

On February 7, 2003, the Bechtel Jacobs Company LLC (BJC) filed a request for temporary exemption from the 10 CFR 830.207(a) requirement for a number of low-risk facilities. On April 7, 2003, BJC provided a revised facility list. According to 10 CFR 830.207(a), for a hazard category 2 or 3 nuclear facility, a contractor must submit for DOE approval a safety basis that meets the requirements of 10 CFR 830, Subpart B by April 10, 2003. The BJC requests approval to delay its submittal of the rule-compliant safety bases until August 1, 2003. The purpose of this request is to allow BJC to generate compliant safety bases for these facilities (hazard analysis documents, inactive waste sites evaluations, or, in a very limited situations, if any, documented safety bases), without retracting resources needed to meet April 10, 2003, deadline for other BJC facilities of higher risk.

The request states that BJC has determined the exemption is not prohibited by law; will not present an undue risk to the public health and safety, the environment, or workers; and is consistent with the safe operation of a DOE nuclear facility. It further states that circumstances exist which justify temporary relief from application of the above requirement while the contractor is taking good faith action to achieve compliance. I concur with these determinations made by BJC.

Under the terms set forth in 10 CFR 820.61, I am the Secretarial Officer granted review and approval authority for exemption requests made with respect to 10 CFR 830 by the BJC. Based on a review of the supporting documentation, I find that the request set forth above has been justified for temporary relief from the requirements of 10 CFR 830.207(a). It is not DOE's intent to require the development of a rule-compliant safety bases by April 10, 2003, if such requirement would result in negative impact on meeting this requirement for other facilities operated by this contractor.

Attachment 2

On the basis of the foregoing, I hereby approve the BJC request for exemption from the 10 CFR 830.207(a), provided that the following conditions are met:

- For facilities included in Group 1, for which a hazard assessment documents are in preparation, the conditions covered by the safety basis
- Remain unchanged until the compliant safety basis are approved and implemented.
- For facilities in Group 2, for which inactive waste sites evaluations are in preparation, the activities carried are limited to surveillance and maintenance until the compliant safety bases are approved and implemented.
- For all facilities, the compliance with 10 CFR 835, 10 CFR 830, Subpart A, and 48 CFR 970.5223-1 requirements is ensured.

The reference, this approval memorandum and its attachments are immediately part of the authorization basis for these facilities.

4/10/03  
Date

  
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Jessie Hill Roberson  
Assistant Secretary for  
Environmental Management