



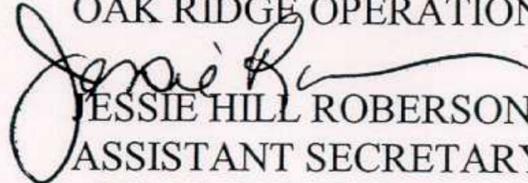
Department of Energy

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 Tower Shielding Facility at Oak Ridge
National Laboratory

Reference: Memorandum from Gerald Boyd to Jessie Hill Roberson,
"Request for Exemption from the Requirement to Submit
a Subpart B Compliant DSA by April 10, 2003 for
Tower Shielding Facility," dated April 10, 2003.

This letter is in response to your memorandum (Reference) 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 and requests approval to delay its submittal of a rule-compliant safety basis for the 7700 Tower Shielding Facility (TSF), until April 10, 2004. The purpose of this request is to allow BJC to develop a compliant safety basis for this facility, reflective of the facility mission.

A technical review of the materials submitted with this exemption request and a partial review of the existing safety basis has been completed. Based on this review, I find the request for approval of a temporary exemption from the 10 CFR 830 submittal date for compliant safety basis for this facility to be justified and I approve the BJC request.

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



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I expect that the DOE Oak Ridge Operations Office will take the necessary actions during the development of the TSF compliant safety basis, to ensure that the BJC will deliver high quality documents that can be approved and implemented by July 31, 2004.

The technical review and the exemption decision are attached.

Further in order to assure appropriate planning and execution of defueling activities, I expect you will have BJC develop a defueling plan to include controls, procedures, personnel training, etc. I also expect that the DOE Oak Ridge Operations Office will closely monitor the TSF defueling.

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 the 7700 Tower Shielding Facility (TSF) at Oak Ridge National Laboratory (ORNL). The new submittal date requested in this exemption is April 10, 2004. The purpose of this request is to allow BJC to generate a compliant safety basis reflective of the facility mission.

Background

The ORNL TSF is a Category B, lower power reactor designed and built in 1954 to provide a neutron source that would permit shielding measurements free of radiation scattering. Since 1992, the TSF reactor has been maintained in a standby condition. Activities carried on at this facility include routine subcritical reactor testing and surveillance and maintenance, according to the existing DOE-approved safety basis.

The TSF current mission is to safety store reactor fuel and other sources, pending defueling, source removal and demolition. Recently, EM directed the Oak Ridge Operations Office (ORO) to defuel the reactor by September 30, 2003, and prepare a revised safety basis corresponding to the defueled status of the facility. The FY 2003 defueling will reduce the facility risk and the surveillance and maintenance activities.

Request

10 CFR 830.207(a) requires submittal of a rule-compliant safety basis by April 10, 2003, for hazard category 1, 2 or 3 nuclear facilities. The BJC requests approval to submit to DOE the TSF compliant safety basis for the defueled status of the facility by April 1, 2004. DOE Oak Ridge Operations Office estimates that the time for review, approval and implementation of the compliant safety basis by July 31, 2004. This means that BJC will operate TSF under the existing non-compliant safety basis until July 31, 2004.

Analysis

10 CFR 820, Procedural Rules for DOE Nuclear Activities, contains criteria for granting an exemption to a DOE Nuclear Safety Requirement. These criteria 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) The TSF reactor was operated the last eleven years without a safety basis prepared to the standards of 10 CFR 830. ORO considers that the current safety basis is adequate to support the present mission. The BJC will review this safety basis to confirm its adequacy for defueling. The defueling will be accomplished under an appropriate Unreviewed Safety Question Determination (USQD) process, using elements of the existing safety basis documentation. Extending by one year the time BJC will use the current safety basis will not represent an undue risk.
- (c) The TSF will continue to operate in accordance with its existing safety basis. The defueling will be conducted under USQD process and will be closely monitored by DOE. This is consistent with the general expectation for safe operation of a DOE nuclear facility.
- (d) The situation as described in the BJC exemption request meets multiple definitions of special circumstance.
- Subcriterion #2 applies when “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.” Using significant resources at this time to develop a fully compliant documented safety analysis (DSA) and technical safety requirements (TSR) for overall facility operations is unwarranted because part of those operations (subcritical testing and defueling) will cease to exist in the next six months.
 - Subcriterion #5 applies when “circumstances exist which would justify temporary relief from application of the requirement while taking good faith action to achieve compliance.” The contractor committed to a schedule for the 10 CFR 830, Subpart B compliant safety basis for the activities to be conducted in the defueled facility. It is not prudent to rush into preparation of the DSA/TSR until the scope and the boundaries of those activities have been fully defined.

Field Recommendation

DOE Oak Ridge Operations Office (ORO) recommends approval of this exemption. ORO considers that appropriate measures are in place to adequately control the safety of this facility 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

The BJC's request meets the criteria of 10 CFR 820, E for granting the needed exemption. The TSF is covered by an existing safety basis that ORO has deemed adequate for the present activities. The USQD process will be followed for defueling that will be conducted in the next six months. It would be a waste of resources to prepare a new safety basis that would be in effect for a single year. The request for a single year extension is reasonable given the need to reflect the new defueled status of this facility.

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 EM facilities.

On April 8, 2003, the Bechtel Jacobs Company LLC (BJC) filed a request for temporary exemption from the 10 CFR 830.207(a) requirement for the Tower Shielding Facility (TSF) at Oak ridge National Laboratory. According to 10 CFR 830.207(a), for a hazard category 1, 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 TSP compliant safety basis until April 10, 2004. The purpose of this request is to allow BJC to generate a compliant safety basis reflective of the defueled status of this facility.

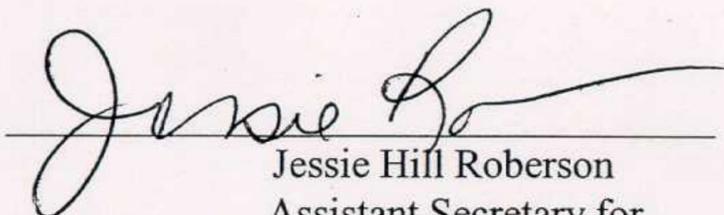
The request states that BJC has determined the exemption is not prohibited by law; will not present an undue risk to the public health and safety, the environment, or workers; and is consistent with the safe operation of a DOE nuclear facility. It further states that circumstances exist which justify 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. I also found that the compliance with the 10 CFR 830.207(a) requirement would result in resource impacts that are not justified by safety improvements. Those resources will be used instead to reduce the facility risk.

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).

On the basis of the foregoing, I hereby approve the BJC request for temporary exemption from the stated section of 10 CFR 830.

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

4/10/03
Date



Jessie Hill Roberson
Assistant Secretary for
Environmental Management