



Department of Energy

Washington, DC 20585

February 19, 2003

MEMORANDUM FOR ROGER H. LIDDLE
TECHNICAL SERVICES
NATIONAL NUCLEAR SECURITY
ADMINISTRATION SERVICE CENTER

FROM:


JESSIE HILL ROBERSON
ASSISTANT SECRETARY FOR
ENVIRONMENTAL MANAGEMENT

SUBJECT:

Approval of Request for Temporary Exemption from
the 10 CFR 830.207(a) Submittal Date Requirement for
the Compliant Safety Basis for Waste Management
Facilities B693 and A612

Reference:

Memorandum from Camille Yuan Soo Hoo to
Jessie Hill Roberson, "Resubmittal of Request for Schedule
Exemption from 10 CFR 830.207(a) Submittal Date for Compliant
Documented Safety Analysis for Hazardous Waste Management
Facilities B693 and A612," dated January 29, 2003.

The purpose of this memorandum is to approve the request for a temporary exemption from Title 10 of the Code of Federal Regulations (CFR), Part 830, Subpart B, "Safety Basis Requirements" (Reference). According to 10 CFR 830.207(a), a contractor must submit for Department of Energy (DOE) approval a safety basis that meets the requirements of Subpart B by April 10, 2003. Lawrence Livermore National Laboratory (LLNL) requests approval to delay its submittal of a safety basis compliant with Subpart B for Hazardous Waste Management Facilities (HWMF), Building B693 and Area 612, until March 31, 2004.

The purpose of this request is to allow LLNL to support DOE programmatic priorities, deliver high quality safety basis documents that can be approved in a timely manner, and avoid additional cost associated with having to bring and train additional resources to submit the safety basis by April 10, 2003.

A technical review of the materials submitted with this exemption request and of the existing safety basis for these facilities has been completed. Based on this review, I find the request for approval of an exemption from the 10 CFR 830 submittal date for compliant safety basis for HWMF B693/A612 to be justified and I approve LLNL's request. The reference, this approval memorandum and its attachments are immediately part of the HWMF B693/A612 authorization basis.



I expect that the NNSA Livermore Site Office, formerly part of the Oakland Operations Office, will take the necessary actions during the development of the compliant safety basis to ensure that the contractor will deliver high quality documents that can be approved and implemented by August 31, 2004.

The technical review and the temporary exemption decision are attached.

Attachments

cc:

Sandra Johnson, EM-5

Michael Weis, EM-1

Mark Frei, EM-40

Stephen Sohinki, EH-10

Richard Black, EH-53

Docketing Clerk, EH-10

TECHNICAL REVIEW

Lawrence Livermore National Laboratory Temporary Exemption Request for Title 10 of the Code of Federal Regulation 830 (10 CFR 830)

Lawrence Livermore National Laboratory (LLNL) 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 Hazardous Waste Management Facilities (HWMF), Building B693 and Area A612, including Building 625. The date requested for this submittal is March 31, 2004.

The purpose of this request is to allow LLNL to support Department of Energy (DOE) programmatic priorities, deliver high quality safety basis documents that can be approved in a timely manner, and avoid additional cost associated with having to bring in and train additional resources to submit the safety basis by April 10, 2003.

Discussion

Background

The LLNL's HWMF include Building B693, Area A514, and Area A612. Building B625, presently storing the largest part of the HWMF radioactive inventory is located in A612. The radioactive material located in A514 has been removed and LLNL requested the NNSA Livermore Site Office (LSO) to recategorize this facility as below Hazard Category 3. Therefore, the LLNL exemption request is limited to B693/A612.

The HWMF are currently operating under a Hazard Category 3 safety basis. The Safety Analysis Report (SAR) and the corresponding Technical Safety Requirements (TSR) were approved by DOE in September 2000. Since that time, this safety basis has been continuously amended with additional analyses and controls.

In May 2000, DOE Oakland Operations Office (OAK) designated the HWMF as Hazard Category 2, consistent with the DOE-STD-1027 and with the categorization approach taken at other nuclear facilities operated by the LLNL Waste Management Division. No new hazards were identified and no interim compensatory measures were imposed. The rule-compliant safety bases will reflect this designation.

Request

10 CFR 830.207(a) requires submittal of a rule-compliant safety basis by April 10, 2003. LLNL requests approval to submit the compliant safety basis to DOE by March 31, 2004. DOE LSO estimates that the time for review, approval and implementation will be five months. This means that the HWMF will operate under the current safety basis until August 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 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 compensates for any detriment that may result from the granting 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.

Field Recommendation

OAK recommends approval of this temporary exemption.

Office of Environment, Safety and Health (EH) Comments

During the preparation of the exemption request package, EH-53 offered comments meant to improve it (emphasis in the adequacy of the existing safety basis). After reviewing the exemption package in its final form, EH-53 did not see any bases for rejecting this exemption request.

Conclusion

LLNL request meets the criteria of 10 CFR 820 for granting the needed temporary 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 EM facilities.

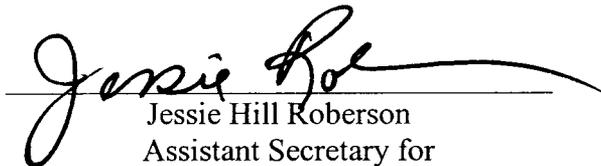
On October 16, 2002, Lawrence Livermore National Laboratory (LLNL) filed a request for temporary exemption from the 10 CFR 830.207(a) requirement for Hazardous Waste Management Facilities B693/A612. According to 10 CFR 830.207(a), a contractor must submit for DOE approval a safety basis that meets the requirements of 10 CFR 830, Subpart B by April 10, 2003. LLNL requests approval to delay its submittal of a rule-compliant safety basis until March 31, 2004.

The request states that 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 taking good faith action to achieve compliance. I concur with these determinations.

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 for LLNL. Based on a review of the supporting documentation, I find 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 programmatic priorities, would determine the contractor to generate an inadequate compliant safety basis, or would assume additional cost without an associated benefit derived to worker safety, the public or the environment.

On the basis of the foregoing, I hereby approve LLNL's 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 HWMF B693/A612 authorization basis.

2/19/03
Date



Jessie Hill Roberson
Assistant Secretary for
Environmental Management