



Ellen C. Ginsberg
VICE PRESIDENT, GENERAL COUNSEL & SECRETARY

March 20, 2012

Mr. Daniel Cohen
Assistant General Counsel for Legislation and Regulatory Law
Office of the General Counsel
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-0121

Subject: Meeting Between the Department of Energy and the Nuclear Energy Institute Regarding
Proposed Revision of 10 CFR 810

Dear Mr. Cohen:

Pursuant to DOE's Guidance on Ex Parte Communications (74 Fed. Reg. 52,795; Oct. 14, 2009), this letter is to memorialize the meeting between the Department of Energy (DOE) and the Nuclear Energy Institute (NEI), held on March 13, 2012.

The participants in the meeting were: Anne Harrington and Alex Sunshine (DOE), Richard Myers and Carol Berrigan (NEI), Thomas Mundy (Exelon Nuclear Partners), Jeanne Lopatto (Westinghouse Electric Company), and Bud Piland (The Babcock and Wilcox Company).

The meeting related to the following concerns expressed by industry representatives:

- Specific authorizations made pursuant to 10 CFR Part 810 currently are not processed efficiently as a specific authorization typically requires more than a year to process. This results in a significant competitive disadvantage for U.S. suppliers who wish to participate in the global market.
- Suppliers and nuclear generating companies are disadvantaged by the current manner in which specific authorizations are handled, as it precludes hiring qualified foreign workers, and interferes with international cooperation on nuclear safety and operations.
- NNSA's current interpretation of the scope of controlled technologies under Part 810 exceeds its statutory authority under Section 57b of the Atomic Energy Act, and directly conflicts with the principles of the President's Export Control Reform Initiative.
- NNSA's current interpretation of the scope of Part 810 is overbroad, and will have the effect of restricting activities that do not pose a proliferation risk (i.e., the rule would only exclude from its scope information about nuclear technology that is "in the public domain"). This overly expansive

interpretation also significantly limits nuclear safety cooperation between U.S. utilities, foreign regulators and international nuclear operators.

- The list of countries requiring specific authorization under the current rule is out of date and contains several countries that have Section 123 Agreements in force. Rather than updating this list in the proposed rule to remove countries that no longer exist and countries with Section 123 Agreements, DOE proposes to reverse over 25 years of U.S. policy with a new approach that would require specific authorizations for 73 additional countries. DOE should continue to specify those countries requiring specific authorization but remove countries that have Section 123 Agreements in force.

Please feel free to contact me if you have any questions regarding this summary.

Cordially,

A handwritten signature in cursive script that reads "Ellen C. Ginsberg".

Ellen C. Ginsberg