



Ellen C. Ginsberg  
VICE PRESIDENT, GENERAL COUNSEL & SECRETARY

June 11, 2012

BY EMAIL & REGULAR MAIL

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 Department of Energy Contractor 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 memorandum is to memorialize the meeting between a Department of Energy contractor (contractor) and the Nuclear Energy Institute (NEI), held on May 17, 2012.

The participants in the meeting were: C.J. Milmoie (contractor), Carol Berrigan, Jim Colgary and Ted Jones (NEI). The delay in filing this notice was caused by confusion among all of the meeting participants with respect to the application of the guidance.

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. The cumulative effect of the proposed changes to the rule and consequent increase in the number of specific authorization requests will further exacerbate these delays.
- The manner in which specific authorizations are handled 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. 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- The list of countries requiring specific authorization under the current rule is out of date and contains several countries that have Section 123 Agreements in force.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.

Sincerely,



Ellen C. Ginsberg