

December 6, 2013

The Honorable Edward J. Markey  
United States Senate  
Washington, DC 20510

Dear Senator Markey:

I write on behalf of the U.S. Nuclear Regulatory Commission in response to the November 21, 2013, letter we received from you and nine Senate colleagues regarding our recent revisions to Chapter VI of the Internal Commission Procedures.

We recognize that Congress has broad authority to oversee the work of our agency and must be fully and currently informed. I assure you that we have every intention of following our well-established and long held commitment to information-sharing and transparency and to honoring the important oversight role carried out by Congress, its oversight committees, and its members.

Our agency has a proud tradition of close and transparent communication with our oversight committees and with individual members of Congress, particularly those members whose states or districts host nuclear facilities we regulate. Our commitment to keep Congress fully and currently informed is driven by our obligation under law, our agency values, and the importance we place on being a trusted regulator. We are therefore deeply concerned with any impression that we will not be fully forthcoming in providing information to Congress.

The driver for the change to our Internal Commission Procedures is the desire to minimize the legal risk that could arise from providing some types of sensitive information directly to individual members of Congress. Providing certain types of documents could constitute a waiver of the agency's right to withhold sensitive information under the Freedom of Information Act (FOIA). Categories of particularly sensitive documents include security-related information and pre-decisional and other information protected by privilege under applicable law. Our revised procedures reflect our responsibility to communicate effectively and in a timely manner with Congress, and to exercise due diligence to ensure that any information sensitivities are understood and that proper protections are maintained.

We will continue our practice of providing prompt comprehensive briefings, updates, and non-sensitive, publicly available information to individual members of Congress, which allows free and full communication between our agency and interested members, while minimizing the potential for unintended waiver of the agency's privileges under FOIA. Individual members seeking sensitive documents may still work through the Chairman or Ranking Member of an NRC oversight committee or subcommittee. Further, we have made no changes to our long-standing practice of responding to a member of Congress's needs if there is an event or accident in her or his state or district. As stated in the introduction to the revised Chapter VI, the Commission fully recognizes the need for case-by-case consideration of Congressional

information requests when special circumstances arise. Finally, these changes are broadly consistent with the practices of other federal agencies and Department of Justice guidance. That guidance is reflected in the Congressional Oversight Manual issued by the Congressional Research Service.

In closing, I again emphasize that the Commission remains committed to providing individual members of Congress with the information you need to perform your duties. If you have any questions or would like to discuss this further, please contact me or Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

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Allison M. Macfarlane

Identical letters sent to:

The Honorable Edward J. Markey  
United States Senate  
Washington, DC 20510

The Honorable Robert Menendez  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
United States Senate  
Washington, DC 20510

The Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

The Honorable Bernard Sanders  
United States Senate  
Washington, DC 20510

The Honorable Elizabeth Warren  
United States Senate  
Washington, DC 20510

The Honorable Kirsten E. Gillibrand  
United States Senate  
Washington, DC 20510

The Honorable Richard Blumenthal  
United States Senate  
Washington, DC 20510

The Honorable Tammy Baldwin  
United States Senate  
Washington, DC 20510

The Honorable Sheldon Whitehouse  
United States Senate  
Washington, DC 20510