



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 16, 2019

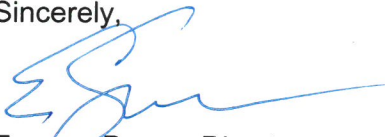
The Honorable Chris Van Hollen
United States Senate
Washington, DC 20510

Dear Senator Van Hollen:

The U.S. Nuclear Regulatory Commission (NRC) appeared before the Senate Committee on Environment and Public Works on April 2, 2019, for a general oversight hearing of the Nuclear Regulatory Commission. From that hearing, you requested additional information regarding the NRC's role in the authorization of the transfer of certain nuclear energy technology and information to Saudi Arabia. Enclosed please find responses to your request for information.

If I can be of further assistance, please do not hesitate to contact me at (301) 415-1776.

Sincerely,



Eugene Dacus, Director
Office of Congressional Affairs

Enclosure:
As stated

QUESTION 1: Did the Department of Energy consult with the Nuclear Regulatory Commission before issuing seven Part 810 authorizations to allow U.S. companies to transfer certain nuclear energy technology and information to Saudi Arabia, as required under Part 810 of Title 10, Code of Federal Regulations, which implements section 57 b.(2) of the Atomic Energy Act of 1954?

ANSWER:

Yes. The NRC is afforded a consultative role under 10 CFR Part 810, in which the Department of Energy (DOE), National Nuclear Security Administration (NNSA) affords the NRC the opportunity to review Part 810 authorization requests and provide views relevant to NRC equities, but the NRC does not have the authority to approve or disapprove such requests. Consistent with this consultative process, DOE requested NRC views on eight proposed DOE/NNSA recommendations regarding specific 10 CFR Part 810 authorizations.

QUESTION 2: Did the Department of Energy consult the Nuclear Regulatory Commission on the full contents of each Part 810 authorization? What was the nature of the consultation between the Department of Energy and the Nuclear Regulatory Commission?

ANSWER:

Consistent with past practice, DOE/NNSA sent letters to the NRC's Office of International Programs (OIP) providing background on the proposed Part 810 authorizations and its staff recommendation to approve the requests.

In these cases, the NRC reviewed and did not object to the DOE/NNSA *staff* recommendation that these authorization requests should be granted with conditions similar to previous Part 810 requests. The NRC/OIP response letters also stated that the "authorization should be approved with the concurrence of the U.S. Department of State and after receipt of peaceful use assurances and a non-disclosure agreement from the Kingdom of Saudi Arabia, pursuant to Part 810."

QUESTION 3: What were the specific contents of the Part 810 authorizations? What do the authorizations allow the U.S. to engage in?

ANSWER:

DOE/NNSA as the decision-maker is the Government agency that is responsible for interpreting scope and content of Part 810 authorizations. For this reason, we would respectfully ask that this question be directed to DOE/NNSA. We have forwarded this question to them.

QUESTION 4: Which U.S. companies received Part 810 authorizations to transfer certain nuclear energy technology and information to Saudi Arabia?

DOE/NNSA as the decision-maker is the Government agency that is responsible for interpreting scope and content of Part 810 authorizations. For this reason, we would respectfully ask that this question be directed to DOE/NNSA. We have forwarded this question to them.

QUESTION 5: Upon consultation of these Part 810 authorizations, did the Nuclear Regulatory Commission have any concerns that the nuclear energy technology and information under these authorizations require a Nuclear Regulatory Commission export license pursuant to sections 126, 127, and 128 of the Atomic Energy Act of 1954?

ANSWER:

The NRC did not have concerns that the proposed technology transfers would include any items or materials subject to its export licensing jurisdiction. Under U.S. law, including Sections 123, 126, 127, and 128 of the Atomic Energy Act of 1954, as amended (AEA), U.S. exports of production or utilization facilities and certain exports of source and special nuclear material to a foreign destination under NRC's licensing jurisdiction in 10 CFR Part 110, may only take place if an agreement for peaceful nuclear cooperation, in accordance with Section 123 of the AEA (123 agreement), is in force. Given that the U.S. does not have a 123 agreement in force with the Kingdom of Saudi Arabia, such U.S. civil nuclear exports are prohibited.

QUESTION 6: When did the Department of Energy consult with the Nuclear Regulatory Commission on each of the seven Part 810 authorizations? How soon before the Department of Energy issued each of the seven Part 810 authorizations was the Nuclear Regulatory Commission consulted?

ANSWER:

DOE consulted with the NRC on 8 proposed 810 authorizations to the Kingdom of Saudi Arabia between November 2017 and January 2019. Specifically, DOE sent requests to the NRC on:

- November 3, 2017
- January 5, 2018
- January 9, 2018
- February 12, 2018
- May 18, 2018
- June 20, 2018
- October 23, 2018
- January 22, 2019

DOE does not notify the NRC once an 810 authorization is signed by the Secretary of Energy.

QUESTION 7: With whom at the Nuclear Regulatory Commission did the Department of Energy consult regarding these Part 810 authorizations? What was the process within the Nuclear Regulatory Commission for reviewing these authorizations?

ANSWER:

DOE sends consultation requests for Part 810 authorization applications to the Director of NRC/OIP. OIP is responsible for coordinating NRC staff review of each proposed Part 810 authorization request by forwarding the request to the Office of Nuclear Material Safety and Safeguards, the Office of Nuclear Security and Incident Response, and the Office of the

General Counsel. If OIP's review concludes that there are no policy issues within the NRC's statutory role as a consulting agency, and the NRC technical and legal staff raise no objections, OIP prepares a response letter to DOE/NNSA indicating that the NRC has reviewed and does not object to the proposed Part 810 authorization. If OIP's review concludes that there are policy issues within the NRC's statutory role as a consulting agency, the matter would be raised to the NRC Commission. With respect to the DOE's 8 proposed 810 authorizations the staff did not identify any policy issues. The NRC followed these procedures for each of the 810 authorization applications proposing technology transfers to the Kingdom of Saudi Arabia.