

United States Senate

WASHINGTON, DC 20510

November 21, 2013

The Honorable Allison M. Macfarlane
Chairman
Nuclear Regulatory Commission
Rockville, MD 20852

Dear Chairman Macfarlane:

We write to convey our grave concerns regarding the Nuclear Regulatory Commission's (NRC's) recently adopted policy that provides for the transmittal of sensitive documents to Congress. This new policy¹ greatly restricts Congress's ability to conduct oversight through obtaining the types of documents and other materials that were previously readily provided by the Commission.

The Commission's procedures are governed by Chapter VI of its Internal Commission Procedures. According to NRC's 2011 procedures², "The Commission's general practice is to provide sensitive documents requested by Members of its Congressional oversight committees. It will also provide sensitive documents to other Members of Congress when the documents address matters pertaining to his or her State or District." Over the years, numerous Congressional oversight requests for security-sensitive, proprietary, draft, pre-decisional or other sensitive non-public documents have been granted to Congressional offices whose legislative and oversight responsibilities depend on their availability.

The Commission recently altered its procedures, and described these changes in a document dated September 24 2013: "Sensitive documents may be provided only upon written request by a Chairperson or Ranking Member of one of NRC's Congressional oversight committees or subcommittees, acting in his or her capacity as Chairperson or Ranking Member.... Individual members of Congress who request sensitive information should be provided publicly available information that is responsive to their requests and offered briefings. The Commission's expectation is that requests for sensitive information will come from the Chairperson or Ranking Member of an NRC oversight committee or subcommittee."

The NRC's previous policy properly reflected Congress's prerogative to receive information necessary to carry out its legislative and oversight responsibilities. This new policy precludes individual Senators or Members of Congress from directly receiving such information, even when it relates to the Senator or Member's responsibilities on an NRC oversight committee

¹ <http://www.nrc.gov/about-nrc/policy-making/icp-chapter-6-2013.pdf>

² <http://www.nrc.gov/about-nrc/policy-making/icp-chapter-6-2011.pdf>

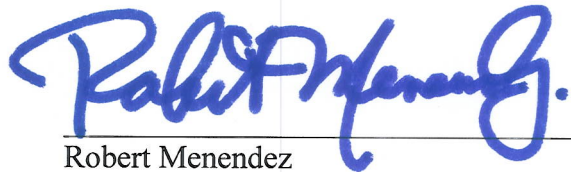
or subcommittee or to the Senator or Member's responsibilities regarding nuclear facilities located in their own States and districts. Moreover, even when Chairpersons or Ranking Members submit written requests for information they require, the NRC's new policy presumes that there will be delays and potentially even denial of these requests. This is inconsistent with the authority of Congress to conduct oversight and receive information pursuant to that authority.

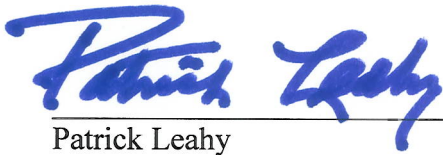
When you were recently confirmed, you stated that you would "remain committed to transparency³." This change in policy is clearly inconsistent with your stated commitment, is contrary to principles of government accountability, and in conflict with Congress's constitutionally-authorized oversight authorities. We therefore demand that the Commission immediately reverse its decision to promulgate such an ill-considered policy.

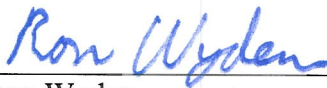
We request a response to our request by December 5, 2013.

Sincerely,

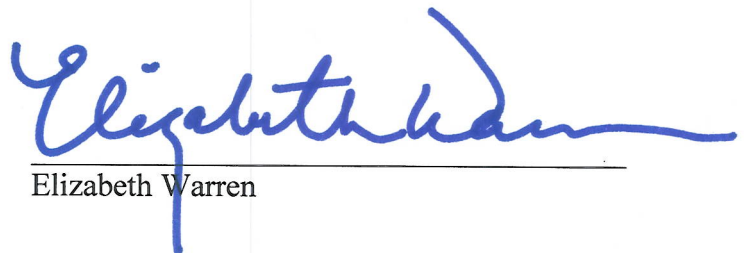

Edward J. Markey


Robert Menendez


Patrick Leahy


Ron Wyden


Bernard Sanders


Elizabeth Warren

³ <http://public-blog.nrc-gateway.gov/2013/06/>

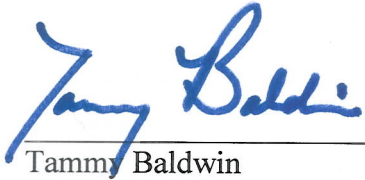
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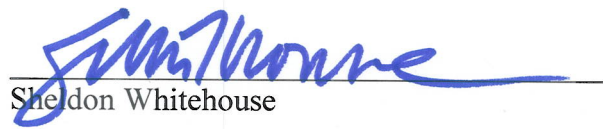
Kirsten E. Gillibrand



Richard Blumenthal



Tammy Baldwin



Sheldon Whitehouse