

## COMMITTEE PRINT

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R.

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To amend the Atomic Energy Act of 1954 to improve the process by which the Secretary of Energy authorizes the transfer of civilian nuclear commerce technology and assistance, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of Ohio introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Atomic Energy Act of 1954 to improve the process by which the Secretary of Energy authorizes the transfer of civilian nuclear commerce technology and assistance, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Advancing U.S. Civil  
5        Nuclear Competitiveness and Jobs Act”.

6        **SEC. 2. FINDINGS AND PURPOSE.**

7        (a) FINDINGS.—Congress finds the following:

1           (1) Section 1 of the Atomic Energy Act of 1954  
2           (42 U.S.C. 2011)—

3           (A) states that atomic energy “is capable  
4           of application for peaceful” purposes; and

5           (B) declared to be the policy of the United  
6           States that—

7           (i) “the development, use, and control  
8           of atomic energy shall be directed so as to  
9           make the maximum contribution to the  
10          general welfare, subject at all times to the  
11          paramount objective of making the max-  
12          imum contribution to the common defense  
13          and security”; and

14          (ii) “the development, use, and control  
15          of atomic energy shall be directed so as to  
16          promote world peace, improve the general  
17          welfare, increase the standard of living,  
18          and strengthen free competition in private  
19          enterprise.”.

20          (2) A predictable and efficient regulatory ap-  
21          proval process for nuclear suppliers to participate in  
22          domestic and foreign civil nuclear commerce is bene-  
23          ficial to the interests of the United States.

1           (3) A robust civilian nuclear infrastructure ad-  
2 vances the economic and national security interests  
3 of the United States.

4           (b) PURPOSE.—The purpose of this Act is to—

5           (1) identify regulatory, legal, and other policies  
6 affecting civil nuclear commerce;

7           (2) improve the predictability and efficiency of  
8 the authorization for foreign nuclear commerce; and

9           (3) assess methodology to meet the retrospec-  
10 tive risk requirements of the Convention on Supple-  
11 mentary Compensation for Nuclear Damage as re-  
12 quired by section 934(e) of the Energy Independence  
13 and Security Act of 2007 (42 U.S.C. 17373(e)).

14 **SEC. 3. REVIEW OF CIVIL NUCLEAR COMMERCE.**

15           (a) REPORT.—Not later than 180 days after the date  
16 of enactment of this Act, the Secretary of Energy shall  
17 develop and submit to Congress a report on United States  
18 civil nuclear commerce.

19           (b) CONSULTATION.—In developing the report re-  
20 quired under subsection (a), the Secretary of Energy shall  
21 consult with—

22           (1) the Secretary of State;

23           (2) the Secretary of Commerce;

24           (3) the Administrator of the Environmental  
25 Protection Agency; and

1 (4) the Nuclear Regulatory Commission.

2 (c) CONTENTS.—The report required under sub-  
3 section (a) shall include—

4 (1) an assessment of—

5 (A) current legal, regulatory, policy, and  
6 commercial practices of the United States with  
7 respect to the civilian nuclear industry of the  
8 United States; and

9 (B) the impacts of such practices on such  
10 civilian nuclear industry in the United States  
11 and in international markets;

12 (2) a comparison of the practices of the United  
13 States described in paragraph (1) to practices of for-  
14 eign countries with respect to the civilian nuclear in-  
15 dustry of such countries;

16 (3) recommendations to improve the competi-  
17 tiveness of United States civil nuclear commerce;  
18 and

19 (4) options on how to apply section 170 of the  
20 Atomic Energy Act of 1954 (42 U.S.C. 2210) (com-  
21 monly known as the “Price-Anderson Act”) with re-  
22 spect to advanced nuclear technologies.

23 **SEC. 4. IMPROVEMENTS TO PART 810 PROCESS.**

24 (a) CLARIFICATION ON PROHIBITION OF DELEGA-  
25 TION.—Section 161 n. of the Atomic Energy Act of 1954

1 (42 U.S.C. 2201(n)) is amended by striking “57 b.” and  
2 inserting “57 b. (only with respect to enrichment and re-  
3 processing of special nuclear material)”.

4 (b) EXPEDITED PROCEDURES.—Section 57 of such  
5 Act (42 U.S.C. 2077(d)) is amended by adding at the end  
6 the following new subsection:

7 “(f) EXPEDITED PROCEDURES.—

8 “(1) ESTABLISHMENT.—In carrying out sub-  
9 section b.(2), the Secretary of Energy shall establish  
10 procedures for expedited consideration of requests  
11 for authorizations regarding the transfer of a tech-  
12 nology that involves a low-proliferation-risk reactor  
13 activity described in paragraph (2) to a foreign  
14 country described in paragraph (3).

15 “(2) ACTIVITIES.—A low-proliferation-risk reac-  
16 tor activity described in this paragraph is an activity  
17 that meets each of following criteria:

18 “(A) The activity is listed in section  
19 810.2(b) of title 10, Code of Federal Regula-  
20 tions, as in effect on March 25, 2015.

21 “(B) The activity is not an activity requir-  
22 ing a specific authorization pursuant to section  
23 810.7(c) of such title, as in effect on such date.

24 “(C) The Secretary determines that the  
25 transfer (or retransfer) of a technology that in-

1           volves the activity will not result in a significant  
2           increase of the risk of proliferation beyond such  
3           risk that exists at the time that the authoriza-  
4           tion is requested.

5           “(3) FOREIGN COUNTRIES.—A foreign country  
6           described in this paragraph is a foreign country—

7                   “(A) that is not a nuclear-weapon state, as  
8                   defined by Article IX(3) of the Treaty on the  
9                   Non-Proliferation of Nuclear Weapons, signed  
10                  at Washington, London, and Moscow on July 1,  
11                  1968, other than the United Kingdom or  
12                  France; and

13                   “(B) with respect to which the Secretary  
14                   determines under subsection b.(2) that a trans-  
15                   fer to the country of a technology that involves  
16                   a low-proliferation-risk reactor activity de-  
17                   scribed in paragraph (2) of this subsection will  
18                   not be inimical to the interest of the United  
19                   States.

20           “(4) CONCURRENCE AND CONSULTATION.—The  
21           Secretary of Energy shall establish the procedures  
22           under paragraph (1) with the concurrence of the De-  
23           partment of State and after consultation with the  
24           Nuclear Regulatory Commission, the Department of  
25           Commerce, and the Department of Defense.

1           “(5) TIMING AND AVAILABILITY.—The proce-  
2           dures established under paragraph (1) shall—

3                   “(A) ensure that each request is approved  
4                   or denied by not later than 30 days after the  
5                   date on which the foreign country transmits  
6                   any required assurances to the Department of  
7                   State; and

8                   “(B) be publicly available.”.

9           (c) ASSURANCES.—Section 57 b.(2) of such Act (42  
10           U.S.C. 2077(b)(2)) is amended by inserting after “mecha-  
11           nisms.” the following new sentence: “To the extent prac-  
12           ticable, the Secretary of Energy shall continue to process  
13           such requests during such interagency review in a manner  
14           that enables the Secretary to make such determination as  
15           soon as practicable after the receipt of assurances by a  
16           foreign country to the Department of State, if any such  
17           assurances are required.”.

18           (d) SENSE OF CONGRESS ON E810.—It is the sense  
19           of Congress that—

20                   (1) the Secretary of Energy should continue the  
21                   ongoing Process Improvement Plan for authoriza-  
22                   tions pursuant to section 57 b.(2) of the Atomic En-  
23                   ergy Act of 1954 (42 U.S.C. 2077(b)(2)); and

24                   (2) Congress is supportive of the progress made  
25                   by the Secretary in such process and is especially in-

1       terested in the continued work for the electronic sub-  
2       missions portal for such applications known as  
3       “e810”.

4       **SEC. 5. RISK POOLING PROGRAM.**

5       (a) REPORT.—Not later than 1 year after the date  
6 of enactment of this Act, the Comptroller General shall  
7 carry out a review of, and submit to the Committee on  
8 Energy and Commerce of the House of Representatives  
9 and the Committee on Environment and Public Works of  
10 the Senate a report on, the Secretary of Energy’s actions  
11 with respect to the program described in section 934(e)  
12 of the Energy Independence and Security Act of 2007 (42  
13 U.S.C. 17373(e)).

14       (b) CONTENTS.—The report described in subsection  
15 (a) shall include—

16               (1) an assessment of the Secretary of Energy’s  
17 actions to determine the risk-informed assessment  
18 formula under section 934(e)(2)(C) of the Energy  
19 Independence and Security Act of 2007;

20               (2) a review of the Secretary of Energy’s meth-  
21 odology to collect information to determine and im-  
22 plement the formula; and

23               (3) an evaluation of the program described in  
24 section 934(e) of the Energy Independence and Se-  
25 curity Act of 2007 (42 U.S.C. 17373(e)), including



1 the Secretary of Energy's actions with respect to  
2 such program.