



July 18, 2018

The Honorable Greg Walden
Chairman
House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

Streamlining Part 810 Authorizations

Dear Chairman Walden and Ranking Member Pallone:

Legislation such as H.R. 6351 is necessary to help remedy challenges that have arisen in the past two decades with the 10 CFR Part 810 nuclear export regulations. According to a recent analysis from the Nuclear Innovation Alliance report *Enabling Nuclear Innovation: Part 810 Reform*, the time it takes for the U.S. government to process applications for specific authorization under Part 810 has nearly tripled during that time period.¹ This has created an additional challenge for U.S. companies competing against foreign entities in a fierce international marketplace. These long processing times are a self-inflicted disadvantage that do not serve any U.S. interests.

That length of time for a response from the U.S. government, in combination with the uncertainty and wide variation in processing times, is impacting U.S. companies deciding where best to allocate resources and pursue business opportunities. Their state-owned competitors from rival countries are almost assuredly able to move through export control functions far quicker and with greater certainty. U.S. participation in international nuclear energy trade serves important national interests.²

We do not recommend reducing essential nonproliferation analysis in the processing of export applications under Part 810. Rather, we believe the NNSA Laboratories should still perform their assessments of each application for any delegated licensing actions or

¹ Enabling Nuclear Innovation: Part 810 Reform, Nuclear Innovation Alliance, 2017 available at: <https://www.nuclearinnovationalliance.org/part810reform>

² See, for example, "Restoring U.S. Leadership in Nuclear Energy, A National Security Imperative." Center for Strategic and International Studies, June 2013.

expedited procedures. Those analysis steps typically take on the order of weeks, however, rather than the many months or years which have been typical for recent Part 810 authorizations.

The NIA's assessment is that some of the Part 810 actions that are being sent to the Secretary of Energy are not a good use of his or her time, nor does the Secretary's review add much value. For instance, requiring the Secretary of Energy to look at applications for the hiring of foreign nationals ("deemed exports") by U.S. companies does not appear to be necessary. For each foreign national involved, the NNSA laboratories conduct intelligence background checks and more than half a dozen federal staff at DOE look at the applications. Moreover, the U.S. Department of State, the U.S. Department of Defense, the U.S. Nuclear Regulatory Commission, and the U.S. Department of Commerce all review these applications and provide their views. What more can a Secretary of Energy reasonably be expected to add to the application review?

Furthermore, a recent change by DOE in 2016 to require the Secretary of Energy's attention for amendments and renewals related to existing Part 810 authorization was an additional step backwards for regulatory efficiency. For most of these actions, it is hard to see what value the Secretary of Energy would add to the review.

H.R. 6351 would permit the Secretary of Energy to delegate export licensing actions not related to enrichment and reprocessing. This common sense measure would mirror what is done at other federal agencies. The U.S. Nuclear Regulatory Commission, for instance, does not send most of its export license applications under 10 CFR Part 110 to its Commissioners for their review.

The expedited procedures in H.R. 6351 would also help to shorten the review time for some classes of exports under Part 810 without sacrificing U.S. nonproliferation commitments. The existing fast track authorization for operational safety assistance in Part 810 provides a good example of how fast tracks can work in practice to efficiently process license applications.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley E. Finan', with a long horizontal flourish extending to the right.

Ashley E. Finan, Ph.D.
Executive Director
Nuclear Innovation Alliance