

American Nuclear Society  
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May 14, 2015

Honorable John McCain  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510-6050

Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510-6050

Dear Senators McCain and Reed:

The American Nuclear Society (ANS) is aware of efforts to amend the Atomic Energy Act to require additional certifications and reporting procedures prior to approving civilian nuclear exports under 10 CFR 810 to countries with naval nuclear propulsion programs.

ANS is strongly opposed to the diversion of U.S. civilian nuclear technology to assist in the development of foreign naval nuclear propulsion systems. We also recognize that exports of nuclear goods and services serve as the primary lever of U.S. influence in guiding the safety, security and nonproliferation norms of other nations. As such, the best U.S. policy is one that provides an effective deterrent against diversion of sensitive technologies while avoiding unnecessary disruption to civil nuclear trade, the overwhelming majority of which has absolutely no relevance to naval propulsion programs.

Currently, before approving any export of technology that will result in the “development or production of special nuclear material” the Department of Energy must certify that the transaction is “not inimical to the interests of the United States.” As part of this process, DOE must conduct an interagency review which includes the Department of Defense, the National Nuclear Security Administration (which includes the Office of Naval Reactors), and the Nuclear Regulatory Commission. The interagency process provides an opportunity for any government agency to provide input on its concerns, including the risks of diversion to a naval propulsion program. There are separate Department of Defense, State, Commerce, and NRC controls to buttress the Part 810 controls and prevent diversion to naval propulsion programs.

Language included in the House version of the FY 16 NDAA (Section 3119) would require submittals from the Director of National Intelligence, the Chief of Naval Operations, and the Administrator for Nuclear Security in addition to the existing interagency review process. In addition, the language would require a 90 day “layover” period in Congress before DOE can approve each license.

There is no evidence that these additional layers of bureaucratic review would strengthen existing controls to prevent diversion. In contrast, there is ample evidence that U.S. exporters of commercial nuclear technology have been put at a competitive disadvantage to their foreign counterparts because of an overly lengthy and burdensome export license approval process. The House Energy and Commerce Committee and GAO have repeatedly expressed concerns about delays in the Part 810 authorization process.

DOE has recently completed a five-year effort to overhaul its part 810 licensing rules, and is currently conducting an overhaul of its licensing process. Changing the relevant portions of the Atomic Energy Act now would effectively throw DOE's efforts into chaos and create significant disruptions in proposed and existing U.S. nuclear engagements around the world. The resulting damage to the credibility of US suppliers will further degrade their ability to compete with competitors in other nations, including Russia and China. Over time, the resulting decline in "on-the-ground" U.S. commercial involvement with partner nations will negatively impact U.S. safety and nonproliferation objectives, lessening our understanding of the technological nuances of other nations' nuclear technologies; limiting the use of U.S. standards and certified components which improve safety margins; and, weakening our working relationships with the nuclear industry and regulatory authorities of our partner nations.

In short, we believe that if enacted, Section 3119 of the House bill would have serious, long-term negative consequences to U.S. international nuclear safety, security, and nonproliferation efforts while providing no demonstrated improvement to our current nuclear export control laws and procedures.

As such, we urge you to oppose any attempt to include this language in the Senate version of the FY 2016 National Defense Authorization Act.

Sincerely,



Craig H. Piercy  
Washington Representative

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Cc: Members of the Committee on Armed Services