

July 10, 2018

The Honorable John McCain
Chairman
Senate Armed Services Committee
United States Senate
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Armed Services Committee
United States Senate
Washington, DC 20510

The Honorable Mac Thornberry
Chairman
House Armed Services Committee
United States House of Representatives
Washington, DC 20515

The Honorable Adam Smith
Ranking Member
House Armed Services Committee
United States House of Representatives
Washington, DC 20515

Dear Chairman McCain, Ranking Member Reed, Chairman Thornberry and
Ranking Member Smith:

The undersigned urge you to include a provision in the Fiscal Year 2019 National Defense Authorization Act (NDAA) that would permit the Secretary of Energy to delegate actions under the 10 CFR Part 810 regulations. We note that the Senate-passed version of the FY2019 NDAA contains language in Section 3113 for this purpose. Such authority would not only enhance our ability to promote U.S. nonproliferation interests but would also assist the U.S. Department of Energy's efforts to reform these regulations and their implementation in order to improve their efficiency and U.S. competitiveness.

A recent report by the Nuclear Innovation Alliance documented the rise in processing times for license applications under Part 810 over the past two decades. Other federal export control regimes, such as the U.S. Nuclear Regulatory Commission's 10 CFR Part 110 regulations, provide the authority to delegate licensing actions.

The United States is not the sole supplier of nuclear energy technologies. Many countries are capable of supplying nuclear reactor technologies, including those with state-backed entities, such as China and Russia. The fact that U.S. export control functions take substantially longer than other countries' regimes decreases

our international competitiveness and opens markets to other nuclear suppliers who have far less rigorous nonproliferation controls than the United States.

Some of us have taken part in licensing decisions under Part 810 during our previous roles at the U.S. Department of Energy. While we think certain functions under Part 810 should be reserved to the Secretary, we do not think it is a good use of the Secretary of Energy's time to require his or her signature for every action under Part 810. Requiring a Secretarial signature for all Part 810 actions adds substantial time to the license application process with disproportionately little benefit. Permitting delegation of actions under Part 810 would allow the Secretary of Energy to focus his or her time on higher priority issues, would be a better use of taxpayer resources, and would significantly reduce regulatory burden on the U.S. industry, without sacrificing national security interests. For example, an improved Part 810 process would help to facilitate the upcoming opportunity for the export of small modular reactors, a promising area of U.S. reactor development.

Sincerely,

Dr. Matthew Bunn, Professor of Practice, Harvard Kennedy School

Ms. Anne Harrington, former Deputy Administrator for Defense Nuclear Nonproliferation

Dr. Scott A. Jones, Nonresident Fellow, Stimson Center

Mr. Kenneth N. Luongo, former Senior Advisor to the Secretary of Energy for Non-Proliferation Policy and Director of the Department of Energy's Office of Arms Control and Non-Proliferation

Dr. Peter B. Lyons, former U.S. NRC Commissioner and Assistant Secretary for Nuclear Energy

Dr. William J. Madia, former Director, Oak Ridge and Pacific Northwest National Laboratories

Dr. Fred McGoldrick, former Director, Office of Nonproliferation and Export Policy at the U.S. Department of State

Dr. Richard Meserve, former Chairman, Nuclear Regulatory Commission

Dr. Warren (Pete) Miller, Jr, former Assistant Secretary for Nuclear Energy

Mr. Daniel B. Poneman, former Deputy Secretary of Energy

Dr. Victor H. Reis, former Assistant Secretary for Defense Programs at the U.S. Department of Energy and Director of DARPA