

STATEMENT SUBMITTED
BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION

TO THE
SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE,
AND NUCLEAR SAFETY
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

FOR THE
OVERSIGHT HEARING

SUBMITTED BY
DR. NILS J. DIAZ
CHAIRMAN

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Introduction

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today with my fellow Commissioners to discuss the U.S. Nuclear Regulatory Commission's programs. We appreciate the past support that we have received from the Subcommittee and the Committee as a whole, and we look forward to working with you in the future. I request that my written testimony, on behalf of the Commission, be submitted for the record.

The NRC is dedicated to the mission mandated by Congress - - to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment - - in the application of nuclear technology for civilian use. We have taken an integrated approach to safety, security, and emergency preparedness in carrying out this mission. Many of the Commission's initiatives over the past several years have focused on enhancing safety, security and emergency preparedness, while improving the effectiveness, efficiency, and openness of our regulatory system. I will highlight our key ongoing oversight and licensing activities, including pertinent initiatives.

Reactor Oversight Programs

The Reactor Oversight Process has now been implemented for five years, with increasing effectiveness and maturity. We believe that this program is a significant improvement over the former inspection, enforcement, and assessment processes, and has brought a more disciplined and objective approach to oversight of nuclear power plants. Performance indicators and inspection findings for every power reactor can be found on NRC's

public web site, as well as our current assessment of each reactor's overall performance. We continue to strive to make further enhancements to the program, and specifically to improve the predictability of performance degradation with Performance Indicators.

As you know, the NRC staff has devoted significant resources over the past three years to oversight of the Davis-Besse nuclear power plant in Ohio. We took these actions following the discovery of significant degradation of a portion of the reactor vessel head. The NRC authorized the plant to restart in March 2004 only after an extensive plant recovery program and comprehensive corrective actions by the licensee, and considerable NRC inspection and assessment. With the restart decision, the NRC issued a Confirmatory Order requiring independent assessments and inspections at Davis-Besse to ensure that long-term corrective actions remain effective. Overall, the plant has been operating safely, and the NRC staff recently determined that plant performance warrants termination of the special panel that was created specifically for the oversight of Davis-Besse. However, the NRC is continuing increased regulatory oversight under the reactor oversight process, including continued oversight of the independent assessments required by the Confirmatory Order.

In April 2005, NRC proposed a \$5.45 million fine against the licensee, FirstEnergy for violations of NRC requirements associated with the significant reactor vessel head damage discovered in March 2002 at Davis-Besse. This is the largest single fine ever proposed by the NRC. This substantial fine emphasizes the high safety significance of FirstEnergy's failure to comply with NRC requirements, and the company's willful failure to provide the NRC with complete and accurate information. Matters related to Davis-Bessie have also been referred to the Department of Justice.

As previously reported, we have undertaken a critical review of our programmatic and oversight activities to evaluate our own actions associated with the reactor vessel head degradation at Davis-Besse. This review includes NRC's internal Davis-Besse Lessons Learned Task Force Report together with reports from NRC's Office of Inspector General and the Government Accountability Office. Our corrective actions and program improvement efforts resulted in 49 significant recommendations. Currently, staff has completed addressing 44 of the 49 recommendations. Four of the remaining items will be completed within the next few months. The one remaining action, which requires development of an engineering code, has a long lead time.

NRC recognizes that communication failures were an underlying cause for issues discovered at Davis-Besse. The corrective actions outlined in the lessons-learned task force action plans specifically address communications. There has been a significant improvement in the communications among NRC regional, headquarters, and site offices, resulting in improved oversight activities.

In response to the Commission directive issued in August 2004, the NRC staff is currently developing a list of safety culture attributes, indicators, and objective measures and identifying gaps relative to the evaluation of safety culture. The staff's activities will take into account the ongoing industry initiatives and the experience of foreign regulators. In October 2004, a guidance document outlining NRC's expectations for establishing and maintaining a safety conscious work environment, a key attribute of safety culture, was published for comment. The staff expects to issue the final document this summer. The next step is to modify the Reactor Oversight Process to more fully address the management of safety and

safety culture issues by licensees, and to develop better methods, tools, and training for the NRC's inspection staff.

Reactor Licensing Programs

The reactor licensing program, coupled with a strong oversight program, ensures that operating nuclear power plants maintain adequate protection of public health and safety throughout the plant's operating life. NRC licensing activities include using state-of-the-art science, engineering and risk assessment methods and information from operating experience to establish reactor safety standards, to promulgate the related rules, regulations, orders and generic communications as appropriate, and to review applications consistent with these requirements. In Fiscal Year (FY) 2004, NRC staff completed 1,741 licensing actions involving all 104 licensed reactors.

- **License Renewal**

One of the most significant types of licensing actions for existing reactors involves license renewals. These reviews are focused on plant aging issues, including a thorough determination of the plant's passive components. In 2004, seven reactors had their licenses renewed for an additional 20 years and two reactor licenses were renewed thus far in 2005. That brings the total number of renewed reactor licenses to thirty-two. In every instance, the staff has met its timeliness goals in carrying out the safety and environmental reviews required by our regulations. Sixteen additional license renewal applications are currently under review. The agency recently returned a license renewal application covering two reactors to a licensee because the staff's initial review determined that the application was not acceptable for

docketing. The Agency also held significant discussions with another licensee about the adequacy of its license renewal application. We expect that almost all of the 104 reactors licensed to operate will apply for renewal of their licenses, and the staff will continue to face a significant workload in this area for the next seven to ten years.

- **Power Uprates**

Another significant type of licensing action, called a power uprate, involves a request to raise the maximum power level at which a plant may operate. Improvement of instrument accuracy and plant hardware modifications, in addition to improvements in computational tools and engineering models enabling more accurate engineering analyses, have allowed licensees to propose power uprates from the level initially authorized while maintaining appropriate safety margins. The focus of our review of these applications has been and will continue to be on safety.

To date, the NRC has approved 105 power uprates which have safely added capacity equivalent to more than four large nuclear power plants. Currently, the NRC has 11 power uprate applications under review and expects to receive an additional 16 applications through calendar year 2006.

The NRC closely monitors operating experience at plants that have implemented power uprates. The NRC has observed cases of steam dryer cracking and flow-induced vibration damage affecting components and supports for the main steam and feedwater lines in Boiling Water Reactors with extended power uprates. We conducted inspections to identify the causes of several of these issues and evaluated many of the repairs performed by the licensees. We

continue to closely monitor the industry's response to these issues. We have factored this experience into our review of pending applications and plan to do the same for future applications.

- **New Reactor Licensing**

Improved safety and reliability performance have resulted in significant overall improvements in nuclear power plants, including electrical generation output and production costs. The strong performance, increased electrical demand, and inclusion of nuclear energy in our nation's energy mix appear to be conducive to industry interest in new construction of nuclear power plants.

The NRC is prepared to discharge its responsibilities if applications for new power plants are filed. We anticipate that applicants for new nuclear power plants will utilize the licensing processes promulgated in 10 CFR Part 52, which was developed to provide a more stable, timely and predictable licensing process. This process is designed to resolve safety and environmental issues, including emergency preparedness and security, prior to the physical construction of a new nuclear power plant. Under 10 CFR Part 52, the design certification process resolves the fundamental technical and safety issues related to the plant design, while the early site permit process resolves safety and environmental issues related to a specific potential site. Use of the design certification and early site permit processes can significantly increase regulatory certainty because the issues resolved through these two processes can be referenced in an application for a combined construction permit and operating license. This is referred to as a combined license. This license would specify inspections, tests, and analyses which the licensee must perform, and the acceptance criteria that will be used to verify

conformance with the regulations before the facility can commence operation. The NRC considers Part 52 to be a strong and viable approach for review of future reactor applications and is working to incorporate recent experience gained from design certification reviews, current early site permit reviews, discussions with nuclear industry representatives, and input from the public to further enhance this process.

The NRC has already certified three new reactor designs and codified them in the regulations, making them available for new plant orders. These designs include General Electric's Advanced Boiling Water Reactor and Westinghouse's AP600 and System 80+ designs. In addition, the NRC issued the Final Design Approval for the AP1000, and its proposed design certification rule was recently published for public comment. The NRC encourages early communication with potential applicants to identify unique design features or challenging licensing issues through the pre-application process. Currently, the NRC is engaged in conducting preliminary discussions on six additional reactor designs. These discussions indicate that we could receive several design certification applications in the near future.

The NRC received three early site permit applications in late 2003 for sites at which operating reactors already exist in Virginia, Illinois, and Mississippi. Schedules are in place to complete the safety reviews and environmental impact statements in approximately two years from the date of an application. In fact, the NRC staff has already issued draft safety evaluation reports and draft environmental impact statements on all three early site permit applications for public comment. The mandatory adjudicatory hearings associated with the early site permits are currently ongoing.

Finally, Part 52 provides for a combined construction/operating license process which allows applicants to seek, in a single application, a license authorizing both construction and operation prior to construction. This leads to combining adjudication of licensing issues in one hearing, instead of the two hearings utilized previously. Furthermore, the efficiency of NRC's safety-focused reviews would be substantially increased if applicants utilize an early site permit and certified design in their combined license applications. Although specific plans from the industry are not yet available, the NRC may receive up to five combined license applications beginning in 2007-2008.

The Commission is fully committed to ensuring that our agency is ready to meet the expected demand for new reactor licensing through maintaining a strong regulatory framework and adequate staffing and funds for handling multiple combined license applications. We will continue to work with stakeholders to address issues associated with implementation of our licensing process and Congress to ensure that our resource needs are identified.

Security

The Commission continues to impose new requirements, when appropriate, to enhance security of nuclear facilities and materials and communicate these requirements to our licensees. Our efforts also include close communication and coordination with the Department of Homeland Security (DHS) and other agencies in the intelligence and law enforcement communities.

- **Nuclear Power Plant Security**

On February 25, 2002, the NRC required additional protective measures and strategies by each power plant licensee to protect against land-based and waterborne attacks and to provide additional mitigative capabilities for large explosions or fires at nuclear power plants, including those that could be caused by aircraft attack. Furthermore, increased coordination with local, state and national authorities was implemented to strengthen both prevention and mitigation. NRC power plant licensees were required to implement responsive measures by August 29, 2002. The NRC conducted inspections of each facility, required action to address noted deficiencies, and is in the process of further confirming implementation of best practices across the industry.

Additional Orders were issued from January 2003 through April 2003. This set of Orders addressed access control, physical barriers, training and qualification programs--as well as work-hour limits--or security personnel, capabilities to defend against more challenging threats, and spent fuel storage and transportation. For the requirements relating to the supplemental threat characteristics, additional site-specific analyses were required. NRC licensees implemented these orders by October 29, 2004. Licensee measures to address supplemental threat characteristics were evaluated immediately upon submission, and implementation continues to be inspected by a variety of means.

The NRC is currently developing a proposed rule and supporting guidance to codify supplemental requirements related to the Design Basis Threat (DBT). The proposed rule, due to the Commission in June 2005, is expected to be issued later this year for public comment, and the final rule is scheduled for completion in 2006. Also, we have redefined our baseline inspection program for physical protection and are phasing in the new inspection program consistent with the new requirements at power reactors. As a complement to licensee security

measures, NRC is working with DHS and the Homeland Security Council, as well as other partners to enhance the integrated Federal, State, and local response planning for threats and attacks on nuclear facilities. We are also supporting DHS's comprehensive review of security and emergency preparedness of nuclear power plant sites under the National Infrastructure Protection Plan.

The NRC has completed a set of security assessments and identified mitigation strategies for NRC-licensed nuclear facilities. Thus far, the results of these assessments have validated the actions NRC has taken to enhance security as well as areas needing further improvements. These efforts have continued to affirm the robustness of these facilities, the effectiveness of redundant systems and defense-in-depth design principles, the value of existing programs for operator training in severe accident management strategies, and emergency preparedness. Assessments performed to date confirm the low likelihood of damaging the reactor core and releasing radioactivity that could affect public health and safety.

Further, these assessments confirm that even in the unlikely event of a radiological release due to terrorist activities, the NRC's emergency planning basis remains valid. These assessments also indicate that significant damage to a spent fuel pool is improbable, that it is highly unlikely that the impact on a dry spent fuel storage cask would cause a significant release of radioactivity, and that the impact of a large aircraft on a transportation cask would not likely result in a release of radioactive material. Thus, we believe that measures implemented with respect to nuclear power plant safety, security, and emergency planning programs continue to provide reasonable assurance of adequate protection of the public health and safety. We are continuing to perform detailed plant-specific studies to further enhance our understanding of appropriate mitigative capabilities and to ensure effective implementation of these capabilities.

We continue to implement the force-on-force exercise inspection program to evaluate licensees' defensive capabilities and identify areas for improvement. In late 2004, NRC began full implementation of a triennial force-on-force exercise program for power reactors following a pilot force-on-force exercise program. The triennial force-on-force exercise program applied lessons learned from the pilot program and additional enhancements including the use of Multiple Integrated Laser Enhancement System (MILES) equipment, Composite Adversary Force (CAF) standards, improved controller training, and other enhancements to improve the realism of the exercises while maintaining safety of both the plant and personnel.

We have reviewed the Wackenhut Corporation's program for the CAF for force-on-force exercises, including the hiring and training of new members in accordance with the CAF standard established by the NRC. The review found that the Wackenhut Corporation's program meets the NRC's CAF standard, confirmed that appropriate management and administrative controls were in place within the Wackenhut organization to provide adequate independence between the CAF and nuclear guard force, and that some CAF members are selected from sites where security is provided by Wackenhut's competitors. Experience with recent force-on-force exercises has proven the existing CAF to be a significant improvement in ensuring a uniform high quality for mock-terrorist attack exercises.

In relation to the study conducted by the National Academy of Sciences (NAS), the U.S. Congress directed the NRC to take the necessary steps to improve the analyses related to spent nuclear fuel storage at commercial reactor sites, including the preparation of site-specific models, and to ensure timely application of this information by the utilities to mitigate risks. The NRC has taken numerous actions to enhance the security of spent nuclear fuel. The results of security assessments completed to date show that storage of spent fuel continues to be safe

and secure. Nonetheless, the Commission agrees with the NAS recommendation that plant-specific analyses are needed and the NRC is conducting them and continuing to improve its analyses related to spent nuclear fuel.

- **Material Security**

Since September 11, 2001, the NRC has thoroughly reevaluated its safeguards and security programs. To date, has issued over 16 different categories of Orders and Confirmatory Action Letters covering hundreds of licensees and actions involving radioactive materials of greatest concern. The NRC continues to devote considerable effort to determining what additional actions should be used to enhance the security of these materials in use, in storage, or in transport. The emphasis of this effort is on preventing the use of radioactive materials that have the potential to pose a risk to public health and safety if used in a radiological dispersal device or a radiological exposure device (RDD/RED).

The Commission, in coordination with our Department of Energy (DOE) colleagues, has taken the following actions to improve the security of radioactive sources of greatest concern: 1) issued advisories to licensees to enhance security measures; 2) issued the DOE/NRC Interagency Working Group Report on RDD/REDs, which defined threshold quantities for radioactive materials that are the highest risk and have a potential for malevolent use; 3) worked with the Departments of Energy and State and the international community to reach agreement on which radioactive materials and sources are of the greatest concern, consistent with the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources; 4) approved a final rule amending its export and import regulations, in coordination with the Departments of State, Energy, and Homeland Security, to impose more

stringent controls over the Category I and Category II materials defined by the IAEA Code of Conduct; 5) is developing a National Source Tracking System to track radioactive materials of greatest concern specified in the IAEA Code of Conduct on a permanent basis; and 6) developed an interim database of Category I and II radioactive sources for both NRC and Agreement State licensees which will be maintained until the National Source Tracking System is complete.

Emergency Preparedness and Response

NRC recognizes the importance of the integration of safety, security, and emergency preparedness and response to fulfill the primary NRC mission of protecting public health and safety. Since September 11, 2001, the NRC has increased its focus on potential terrorist scenarios as initiating events. As part of the Orders issued in February 2002, the NRC required nuclear power plant operators to make enhancements in several areas of emergency preparedness, including emergency response facilities, emergency response organizations, classification of and response to credible threats, and evaluation of a broader range of hazards. Nuclear industry groups and Federal, State, and local government agencies have taken an active role in the prompt implementation of these measures and have participated in drills and exercises to test new planning and response elements.

The NRC conducted a formal evaluation of the emergency preparedness planning basis in view of the current threat environment and determined that emergency preparedness at nuclear power plants remains strong. Improvements have been made in the areas of communications, resource management, emergency exercise programs, and NRC guidance documents used by licensees. These improvements are reviewed and inspected. Recently, the

Commission directed the staff to issue a generic communication to licensees to further enhance emergency preparedness in the post 9/11 environment. The NRC intends to conduct outreach activities with external stakeholders, especially state and local government agencies, to describe the enhancements and solicit feedback on these changes and other emergency preparedness and response issues of mutual interest.

The NRC has also implemented the National Response Plan on schedule. Between October 2004 and January 2005, NRC staff briefed over 400 industry and government stakeholders in all four NRC regions on the implementation of the National Response Plan and the National Incident Management System.

Materials Program

The NRC, in partnership with the 33 Agreement States, conducts comprehensive programs to ensure the safe use of radiological materials in a variety of medical, industrial and research settings. As some of NRC's responsibilities, including inspection and licensing actions, have been assumed by Agreement States, our success depends in part on their success, and we closely coordinate our activities with the States.

The NRC is developing a web-based materials licensing system that is expected to provide a secure method for licensees to request licensing actions and to view the status of licensing actions. In addition, the NRC, with assistance from other Federal agencies and the States, is establishing a National Source Tracking System that will be used to monitor radioactive sources that warrant the greatest control. The implementation of the National

Source Tracking System continues to be a high-priority effort, and this project remains on schedule to be operational in 2007.

The Commission has also implemented a major rule change related to large fuel cycle facilities which requires licensees and applicants to perform an integrated safety analysis that applies risk-based insights to the regulation of their facilities. Major licensing reviews currently underway use the requirements of the new rule. These licensing reviews include two proposed commercial gas centrifuge uranium enrichment facilities.

The first of these proposed enrichment facilities would be located in New Mexico and the second in Ohio. Louisiana Energy Services submitted an application for its facility in Eunice, New Mexico, to the NRC in December 2003. USEC then submitted its application to the NRC for its site in Piketon, Ohio, in August 2004. The NRC staff expects to complete its review of the Louisiana Energy Services' application and issue both the Final Environmental Impact Statement and the Safety Evaluation Report next month. The NRC staff review of USEC's application is well underway, and the staff is working to meet the established thirty-month schedule.

In March 2005, NRC staff authorized construction of a mixed oxide (MOX) fuel fabrication facility at the Savannah River site in South Carolina as part of the DOE's program to dispose of excess weapons grade plutonium. At present, an adjudicatory proceeding concerning construction authorization for the facility is before the Commission's Atomic Safety and Licensing Board. The NRC staff is also providing support to its Russian counterparts regarding the licensing of a Russian MOX facility that will have a design similar to the U.S. facility.

In addition to the new facilities discussed above, the NRC regulates 7 fuel facilities in California, North Carolina, South Carolina, Tennessee, Virginia, and Washington. NRC's oversight of these facilities includes licensing actions, inspection, enforcement, and assessment of licensee performance.

NRC also authorized Duke Energy Corp. to use four MOX fuel assemblies, containing uranium and plutonium, as part of the nuclear fuel at its Catawba nuclear power plant in South Carolina. The MOX fuel assemblies designed for use in the Catawba reactor were produced by combining surplus plutonium from dismantled U.S. nuclear weapons with uranium into a form that can be used by commercial nuclear power plants. This usage of the MOX fuel assemblies at Catawba is the first use of MOX fuel in a commercial power reactor as part of the ongoing U.S.-Russian plutonium disposition program being implemented by the DOE.

Nuclear Waste Program

The NRC has made significant progress on activities related to protecting public health and safety in relation to disposal of nuclear waste. A major focus of these activities has been, and continues to be, ensuring that the agency is prepared to review a potential application by DOE to construct a deep, geologic, high-level radioactive waste repository at Yucca Mountain, Nevada. The Nuclear Waste Policy Act requires the NRC to complete its safety review of a license application, conduct a public hearing before an independent licensing board, and issue a decision on construction authorization in three years after submittal, with a possible extension to four years.

In July of 2004, the D.C. Circuit Court of Appeals vacated the 10,000 - year compliance period established by the Environmental Protection Agency (EPA) and incorporated in NRC's regulations for Yucca Mountain. As required by the Nuclear Waste Policy Act, the NRC stands ready to amend its regulations consistent with any forthcoming changes to the EPA standards for Yucca Mountain.

In anticipation of a DOE license application for Yucca Mountain, the NRC has prepared an electronic hearing system to conduct potential public hearings related to potential construction of a high-level radioactive waste repository at Yucca Mountain. An electronic information technology system database has been developed to catalogue and allow public access to the vast array of complex documents involved. A hearing facility has been constructed near Las Vegas, Nevada.

The NRC staff also has a substantial effort underway in the area of dry cask storage of spent reactor fuel. Storage and transport cask designs continue to be reviewed and certified. Independent Spent Fuel Storage Installations (ISFSIs) continue to be licensed and inspected. The proposed Private Fuel Storage ISFSI in Utah is the subject of an ongoing adjudicatory proceeding. Indeed, our workload related to ISFSIs and dry cask storage will require continued technical review and licensing and inspection resources as the number of licensed ISFSIs will increase from 34 currently to approximately 50 by 2008. The NRC also began development of the Package Performance Study to confirm the suitability of spent nuclear fuel transportation casks. The study will involve testing the integrity of a full-scale transportation rail cask. In addition, NRC is supporting a study by the National Academies' Board on Radioactive Waste Management that is examining radioactive material transportation, with a primary focus on the technical and societal risk of spent fuel transportation.

NRC staff is also continuing to make significant progress in ensuring the safe decommissioning of contaminated sites. During FY 2004, the staff identified several policy issues requiring Commission direction that will help expedite safe decommissioning under NRC's License Termination Rule. The Commission has provided the necessary guidance to the staff for regulatory actions to be taken during FY 2005-2007 under the staff's Integrated Decommissioning Improvement Plan. These regulatory improvements will facilitate decommissioning at existing sites and should reduce problems at future decommissioning sites. Program management changes will also be completed this year that will improve the efficiency and effectiveness of the program. Finally, we are completing the oversight of the decommissioning of a number of reactor and complex materials sites this year.

International Program

The NRC also carries out an active international program of cooperation and assistance involving thirty-eight countries with which it exchanges nuclear safety information. This program provides health and safety information and assistance to other countries to develop and improve regulatory organizations and overall nuclear safety and security worldwide. The NRC continues to strongly support multilateral programs for enhancing the level of nuclear safety worldwide, and serves in leadership roles on the technical committees that develop and monitor best practices, and in implementing certain treaties and conventions that encourage the wider adoption of basic standards and practices. It is worth noting that we just released the Export and Import Rulemaking, which will enable the U.S. to meet its goal with the G-8 to implement the export-import provisions of the IAEA Code of Conduct by December 2005.

Human Capital

As you know, the NRC is very dependent on a highly skilled and experienced work force for the effective execution of its activities. The Commission has developed and implemented a strategic workforce planning system to identify and monitor its human capital assets and potential critical skills shortages, and to promote employee development, succession planning, and retention. The agency has also implemented two leadership competency development programs to select high-performing individuals and train them for future mid-level and senior-level leadership positions. In addition, the agency has continued to support a fellowship and scholarship program and identify a significant number of diverse, highly qualified entry-level candidates through participation in recruitment events and career fairs.

NRC has developed an agency wide set of strategic human capital management strategies to mitigate and close gaps between available staffing resources and anticipated staffing needs. NRC is utilizing a variety of recruitment and retention incentives and offers a wide range of technical and professional training to attract and retain staff to remain competitive with the private sector.

Additionally, planning for and developing the agency's future leaders is a critical part of our approach for managing human capital. The NRC's strategic long-range human capital planning includes: succession planning (both managerial and technical); partnerships/cooperative ventures with other stakeholders (e.g., academia, other agencies, national laboratories, private groups) to develop talent supply; continuous improvements to recruitment and training processes, such as the NRC legislative proposals submitted to the Congress on March 30, 2005; a robust Knowledge Management Program; and organizational

infrastructure improvements that include the rental of office space, workstation configuration and equipment, security clearances, and associated information system needs.

The Commission is very much encouraged by S.858, the bill recently introduced in the Senate which contains the provisions that would help the NRC to expand the pool of prospective employees who have the skills to carry out the agency's tasks, employ former Federal employees who have the skills that are critical to the performance of the Commission's duties, and encourage institutions of higher education to train their students in the skills needed to carry out NRC's work. We believe these provisions would significantly contribute to assuring the necessary regulatory expertise required by the NRC to accomplish its regulatory mission. We strongly urge the Congress to enact the human capital provisions in S.858 into legislation.

Budget

The NRC proposed a FY 2006 budget of \$702 million, which is a budget increase of approximately 5 percent (\$32 million) over the FY 2005 budget for essential activities. This budget proposal will allow the NRC to continue to protect the public health and safety, promote the common defense and security, and protect the environment, while providing sufficient resources to address increasing personnel costs and new work. Approximately 55 percent (\$17.7 million) of the increase is for the nuclear reactor safety program to strengthen reactor inspection activities and keep pace with licensing needs of existing nuclear reactor facilities. An increase of \$2.5 million supports our responsibilities for oversight of certain DOE waste-incident-to-reprocessing, as required by Section 3116 of the Ronald W. Reagan National Defense Authorization Act of FY 2005. The remaining increase is to fund Federal pay raises and other non-discretionary compensation and benefit increase.

The NRC's FY 2006 budget includes approximately \$69.1 million to support high-level waste activities. These activities include license application review, hearings, and inspection and performance confirmation oversight activities, reflecting DOE's anticipated license application for the Yucca Mountain waste repository in December 2005. The Package Performance Study, to confirm the suitability of spent nuclear fuel transportation casks, is also included.

The NRC's proposed FY 2006 budget request includes \$37 million for the NRC's continuing work on new reactor licensing, including review of the three early site permit applications, review of two standard design certification applications, and development and updating of the agency's regulatory structure to accommodate new, advanced reactor designs. The demand for new reactor licensing is now expected to grow more rapidly than previously anticipated and budgeted. As stated previously, the NRC may be faced with a significant increase in its workload for new reactor licensing, including receipt of up to five combined license applications beginning in 2007-2008, which creates additional demands on the NRC. The Commission notes that the House Appropriations Committee provided an increase of \$21 million over the agency's budget request to address the increased security workload.

On March 17, 2005, the NRC submitted proposed legislation which would authorize appropriations for FY 2006. The proposed legislation included two provisions related to financing the budget. One would make permanent the NRC's 90 percent fee recovery requirement beginning in FY 2006. Absent this legislation the NRC would only be authorized to collect 33 percent of its budget authority in fees after FY 2005. Another provision would permit the NRC to assess and collect fees from other Federal agencies for licensing and inspection

services rather than recovering those costs through annual fees assessed to private sector licensees. We are pleased that both are incorporated in the provisions of S. 858.

Legislative Needs

The NRC urges the enactment of key legislative provisions needed to augment its oversight of such facilities and materials, and to enhance NRC's effectiveness and efficiency. As indicated earlier, the Commission strongly supports legislation that would contribute to the maintenance of the regulatory expertise required by the NRC to accomplish its regulatory mission. Most of the provisions in question have already been incorporated into legislation introduced in the Senate this year.

Several provisions contained in S. 864, the Nuclear Safety and Security Act of 2005, are particularly important to further enhance the nuclear safety and security of facilities and materials that are regulated by the NRC. They are: (1) authorization of the Commission to allow security personnel engaged in the protection of designated nuclear facilities, radioactive material, and other property owned or possessed by an NRC licensee or certificate holder to possess and use more robust weapons for carrying out their official responsibilities, (2) amendment of the Atomic Energy Act to expand the requirements for fingerprinting, for criminal history record checks, (3) making unauthorized introduction of weapons into NRC-regulated facilities a Federal crime, and (4) making it a Federal crime to sabotage commercial nuclear facilities, fuel, or Commission-designated material or property not previously covered by the sabotage section of the Atomic Energy Act (section 236), and extending coverage to the construction period of all facilities addressed by that section.

In addition, the Commission believes that public health and safety and the promotion of the common defense and security would be enhanced by NRC regulatory jurisdiction over accelerator-produced and certain other radioactive material. Such a provision was included in an omnibus bill that the Commission submitted to the Congress at the end of March of this year, but it has not been incorporated into any of the bills whose provisions are discussed here.

Various provisions that would enhance NRC effectiveness and efficiency are contained in Title II of S. 858, the Nuclear Fees Reauthorization Act of 2005. These include the following: (1) clarification of the period of the license in the case of a combined construction and operating license for a nuclear power plant, (2) elimination of NRC's antitrust review authority with respect to pending or future applications for a license to construct or operate a commercial utilization or production facility, (3) permanent extension of NRC's authority to collect approximately 90 percent of its budget authority in fees, as noted earlier, (4) authorization of NRC to assess and collect fees from other Federal agencies for services provided to them, as noted earlier, and (5) clarification that the existence of an organizational conflict of interest does not bar NRC from entering into a contract or other arrangement for work to be performed at a DOE laboratory, if the Commission determines that the conflict of interest cannot be mitigated and that adequate justification exists to proceed with the arrangement. The NRC strongly supports these provisions.

Key provisions relating to maintaining and improving the NRC's regulatory expertise are contained in Title III of S. 858, as noted earlier. Prominent among these are provisions that would help the NRC to expand the pool of prospective employees who have the skills to carry out the agency's tasks, by enabling the agency to employ former Federal employees who have skills that are critical to the performance of the Commission's responsibilities, and encouraging

institutions of higher education to train their students in the skills needed to carry out NRC's work. The Commission strongly supports all the provisions of Title III of S. 858.

S. 858 also contains provisions that would enhance NRC's ability to recruit appropriate individuals for NRC employment. These provisions would permit NRC to purchase promotional items of nominal value; provide transportation, lodging, and subsistence allowances to student interns hired by the NRC; and establish a scholarship and fellowship program to enable undergraduate and graduate students, respectively, to pursue education in science, engineering, or another field of study that the Commission determines to be critical to the NRC's regulatory mission. The Commission also supports the enactment of these provisions.

In addition, the Commission supports the enactment of S. 865, extending the Price-Anderson Act as it applies to NRC licensees.

Conclusion

The Commission continues to be committed to ensuring the adequate protection of public health and safety, promoting common defense and security, and protecting the environment in the application of nuclear technology for civilian use. We will continue to address existing and emergency activities within our mandate from Congress in a pro-active and thorough manner.