

STATEMENT SUBMITTED
BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
TO THE
SUBCOMMITTEE ON ENERGY AND AIR QUALITY
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING
THE ENERGY POLICY ACT OF 2005

PRESENTED BY
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EXECUTIVE DIRECTOR FOR OPERATIONS

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Introduction

Mr. Chairman and members of the Committee, it is a pleasure to appear before you to discuss the views of the United States Nuclear Regulatory Commission on the Energy Policy Act of 2005. My discussion will focus on those provisions that would directly affect the work of the Commission and the operations of its licensees.

The Commission is dedicated to ensuring adequate protection of public health and safety, the common defense and security, and the environment in the application of nuclear technology for civilian use. It is of the view that, overall, enactment of the nuclear-related provisions of H.R. 6, as reported by the conference committee, would be a significant step forward for the protection of public health and safety and the common defense and security. Indeed, it considers some of the provisions in the bill to be the most important nuclear security proposals relating to commercial nuclear activities that have been placed before the Congress. This legislation would also assist NRC in evaluating license applications for new nuclear facilities.

As your Committee is aware, the Commission has taken many actions since September 11, 2001, to improve security at NRC-regulated facilities. Major actions we have taken include:

- Ordering owners of nuclear power plants to increase physical security to defend against a more challenging adversarial threat;
- Requiring strict site access controls for personnel;
- Requiring utilities to conduct vehicle checks at greater stand-off distances;

- Improving liaison with Federal, State, and local agencies responsible for protection of the national critical infrastructure;
- Enhancing communication and liaison with the intelligence community;
- Improving communication between military surveillance authorities, NRC, and its licensees in the event of emergency;
- Ordering plant owners to improve their capability to respond to events involving large explosions or fires;
- Enhancing readiness of security organizations by strengthening training and qualification programs for plant security forces;
- Enhancing force-on-force exercises to provide a more realistic test of plant capabilities to defend against an adversarial force;
- Requiring security improvements for high-risk radioactive sources; and
- Reorganizing the NRC to better manage nuclear security and emergency response.

We have also worked with national experts to assess the consequences of terrorist attacks on nuclear facilities, including an attack from a large commercial aircraft. For the facilities analyzed, the results confirm that the likelihood of both damaging the reactor core and releasing

radioactivity that could affect the public health and safety is low. Even in the unlikely event of a radiological release in these circumstances, the studies indicate that there would be time to implement on-site and off-site mitigating actions. These results have also validated the off-site emergency planning basis. We continue to add realism to our analyses while ensuring adequate protection of the public.

Legislative Needs

Over the years, the Nuclear Regulatory Commission has repeatedly expressed its support of enactment of legislation needed to strengthen the security of facilities regulated by the Commission. H.R. 6, as approved by the conference committee – hereafter, I will simply refer to that version as “H.R. 6” or “the bill” – contains provisions that would provide the statutory authority for additional steps that should be taken to protect the country’s nuclear infrastructure from terrorist attack and other criminal activities, and to prevent malevolent use of radioactive material.

Most important, it contains a provision that would allow the Commission to authorize guards at NRC-regulated facilities and activities to receive and possess, and, in appropriate circumstances, to use more powerful weapons against violent attacks against a nuclear facility and to thwart attempts to steal nuclear material that could cause significant harm in the wrong hands. (Section 663 of the bill.) It would also expand the current requirement for fingerprinting, for criminal history checks, of individuals with unescorted access to a utilization facility or access to safeguards information, including in the provision other NRC licensees and their employees who either have access to radioactive material that could be used for malevolent purposes or access to safeguards information. (Section 662 of the bill.) It would criminalize the unauthorized introduction of dangerous weapons into nuclear facilities. (Section 664 of the bill.)

In addition, it would criminalize sabotage of construction of nuclear facilities and would cover a wider range of facilities and activities in the provision than are presently covered – for example, it would add primary and backup facilities from which radiological emergency preparedness alert and warning systems are activated. (Section 665 of the bill.)

Other provisions important to nuclear safety and enhancement of NRC's effectiveness and efficiency that are included in the bill are: (1) authorization for homeland security-related activities to be covered from the General Fund, with the exception of fingerprinting, criminal background checks, and security inspections (Section 668 of the bill); (2) clarification that NRC's jurisdiction extends to former licensees of production or utilization facilities to the extent that they own or control decommissioning funds (Section 626 of the bill); (3) clarification of the length of combined construction permits and operating licenses for new reactors (Section 621 of the bill); (4) authorization for NRC to charge Federal agencies fees for licensing and inspections (Section 623 of the bill); (5) elimination of NRC's antitrust review authority over power reactor licensee applications – such reviews duplicate the work of other Federal agencies, such as the Federal Energy Regulatory Commission and the Department of Justice, and would allow NRC's limited resources to be better used (Section 625 of the bill); and (6) human resources provisions that would contribute to maintaining the NRC's necessary regulatory expertise (Sections 622 and 624 of the bill). We were also pleased to see an extension of the Price-Anderson Act provisions applicable to NRC licensees in the bill (Section 602 of the bill).

Some provisions in H.R. 6 are not necessary to perform our mission, because the Commission has already addressed them, or is in the process of doing so, or because they do not necessarily improve security beyond what the NRC is already achieving through its activities,

and because implementing them would divert NRC's limited security resources from higher priority activities. One such provision is section 661 of the bill, requiring a study of nuclear facility threats that pose a risk to the security of various classes of NRC-licensed facilities. Section 661 would authorize revision of the Design Basis Threat by rulemaking, which raises important questions about protection of classified and safeguards information. The section would also require the Commission to establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities will be tested periodically through force-on-force exercises. The NRC has established such a program. Another such provision is section 666, which would require the NRC to establish a system to ensure that export and import of radioactive materials are accompanied by a manifest, and that each individual receiving or accompanying the transfer of the materials in the United States shall be subject to a security background check. We have already taken the appropriate actions to protect the public from high risk sources.

Summary

The Commission would welcome the prompt enactment of many H.R. 6 provisions that relate to commercial use of radioactive material since they would assist the NRC in its efforts to further ensure the adequate protection of the public health and safety and the common defense and security.

I appreciate the opportunity to appear before you today. The Commission would welcome the opportunity to work with your Committee, and the Committee's staff, on achieving the goal of

passing this important legislation.