

**HEARING STATEMENT FOR THE RECORD  
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UNITED STATES NUCLEAR REGULATORY COMMISSION**

**FOR THE  
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

**March 8, 2017**

**INTRODUCTION**

On behalf of the staff of the U.S. Nuclear Regulatory Commission (NRC), I appreciate the opportunity to provide written comments on the bill entitled the “Nuclear Energy Innovation and Modernization Act” (S. 512), and to offer some highlights of NRC activities regarding uranium recovery licensing.

**S. 512, THE “NUCLEAR ENERGY INNOVATION AND MODERNIZATION ACT”**

On April 21, 2016, I testified before the Clean Air and Nuclear Safety Subcommittee on a predecessor to the current bill, S. 2795, which was introduced in the last Congress. As I indicated at that time, my comments represented the NRC staff’s assessment of factual issues associated with the bill, consistent with my role as the NRC’s Executive Director for Operations. This characterization also applies to the comments on the current bill that I am providing today.

The current bill contains provisions on advanced nuclear reactors, NRC fees, uranium recovery, and several other matters. While there are many similarities between S. 512 and S. 2795, a number of modifications and clarifications have been made since I testified on the bill last year. The current bill incorporates “to the maximum extent practicable” or “where appropriate” language in a number of provisions, allows the NRC to waive the cap on annual fees for operating reactor licensees if the cap may compromise the NRC’s safety and security mission, and presents other changes that provide additional flexibilities not included in the prior bill.

The current bill continues to require the NRC to undertake a number of activities related to advanced reactors and to report on those activities to Congress. As I testified last year, the NRC currently has significant ongoing and planned activities in the areas of advanced reactor licensing infrastructure, technical preparation, and stakeholder outreach. There are many similarities between the requirements in S. 512 and the NRC’s ongoing activities, although the bill would require the NRC to undertake these activities on an accelerated schedule and would require development of additional reports to Congress. The fundamental requirements related to advanced reactors in the bill are complementary in concept to the NRC’s ongoing activities, but significant time and resources would be required over several years to implement the full range of additional activities on the schedules described in the bill, particularly with regard to rulemaking.

Another area addressed in both the earlier bill and the current bill is performance and reporting. S. 512 continues to require the NRC to develop performance metrics and milestone schedules for any activity requested by a licensee or applicant and to report certain delays to Congress. In particular, subsections 4(11) and 102(c) of the bill, when read together, could be read as potentially requiring the NRC to develop performance metrics and milestone schedules for many activities beyond those for which such metrics and milestones are currently prepared, including many routine interactions with licensees and applicants. We believe we currently have appropriate, challenging, and outcome-oriented performance metrics that are consistent with the NRC Strategic Plan, Congressional Budget Justification, and the GPRA Modernization Act of 2010. These measures recognize that schedule performance can be affected by applicant, licensee, or NRC performance, and that the NRC may need flexibility to account for emerging safety or security issues, changes in licensee plans, and other circumstances.

### **URANIUM RECOVERY**

In addition, the bill contains a requirement to submit a report to Congress describing the “safety and feasibility of extending the duration of uranium recovery licenses from 10 to 20 years, including any potential benefits of the extension.” The NRC staff is in the process of analyzing the possibility of changing the current 10-year licensing term to a longer period, such as 20 years. The staff is developing a paper with options and recommendations that will be submitted to the Commission by August 31, 2017.

The bill also includes a provision for a pilot for uranium recovery flat fees. As directed by the Commission, the NRC is undertaking a flat fee pilot program for uranium recovery licensees. As described in the staff paper SECY-16-0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,” this pilot will involve evaluation of data to collect a representative sample of the costs for various licensing reviews. While the agency has identified initial estimates of the current range of costs for major uranium recovery licensing actions on our public website, the NRC does not have sufficient data in a standardized form that would support completing the pilot by July 31, 2018. The agency is in the process of developing the new data recording structure and is scheduled to complete that activity this fiscal year. Subsequently, we will train our staff to record the data using the new data structure. After a period of recording data using the new data structure, the staff will analyze the data and develop recommendations. These recommendations will continue to address our requirements under the Omnibus Budget Reconciliation Act of 1990 (OBRA-90) to collect approximately 90 percent of the NRC’s annual budget through fees and under the Independent Offices Appropriation Act, 1952 (IOAA) to assess user fees that are fair and based on the costs to the government and certain other factors. We are scheduled to submit our recommendations to the Commission for approval in FY 2019, and implement the Commission’s direction in FY 2020.

In July, the NRC expects to receive Wyoming’s final application to become an Agreement State. The NRC staff has been working with Wyoming on its transition to Agreement State status since 2014. On August 3, 2016, the Commission approved the proposed approach for a “limited” Agreement, which would allow Wyoming to assume regulatory authority over the subcategory of source material involved in the extraction and concentration of uranium and thorium milling and the management and disposal of byproduct material as defined in section 11e.(2) of the Atomic Energy Act. Wyoming’s subsequent draft application differed from the Commission-approved subcategory

approach in that it proposes that the NRC retain regulatory authority for six Uranium Mill Tailings Radiation Control Act (UMTRCA) Title II sites (i.e., six uranium recovery sites in decommissioning). The NRC staff met with Wyoming staff in December 2016 to provide preliminary comments on the draft application and plans to complete its review of the draft application next month. Currently, the NRC staff is developing a paper for Commission review to address the handling of the six UMTRCA Title II sites.

The NRC staff continues to look for opportunities to improve our processes and engage further with stakeholders. The NRC staff sponsors and participates in workshops with industry and members of the public to enhance communication on topics such as licensing and acceptable approaches to meeting NRC requirements for radiation protection. These efforts are expected to increase the predictability of the licensing process and risk-inform our approaches by facilitating discussion on NRC expectations to meet regulatory requirements and focusing attention on issues commensurate with their importance to public health and safety.

To build on these accomplishments, the NRC staff is finalizing an assessment of current licensing processes and practices. Preliminary recommendations include further augmenting pre-application activities, developing or updating key guidance documents, improving coordination and reducing unnecessary duplication with State and other Federal agencies, and establishing additional internal processes for the oversight of the uranium recovery licensing activities.

### **CLOSING**

I appreciate the Committee's interest in enhancing the NRC's performance to accomplish our safety and security mission in an effective and efficient manner.