

**[DISCUSSION DRAFT]**

APRIL 8, 2016

114TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To **[to be supplied]**.

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IN THE HOUSE OF REPRESENTATIVES

Mr. KINZINGER of Illinois introduced the following bill; which was referred to  
the Committee on \_\_\_\_\_

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**A BILL**

To **[to be supplied]**.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Utilization  
5 of Keynote Energy Policies Act”.

6 **SEC. 2. FAIR AND EQUITABLE NRC FUNDING.**

7 Section 6101(c)(2) of the Omnibus Budget Reconcili-  
8 ation Act of 1990 (42 U.S.C. 2214(c)(2)) is amended to  
9 read as follows:

1           “(2) AGGREGATE AMOUNT OF CHARGES.—The  
2           aggregate amount of the annual charges collected  
3           from all licensees and certificate holders in a fiscal  
4           year shall equal an amount that approximates 100  
5           percent of the budget authority of the Commission  
6           for the fiscal year, less—

7                   “(A) amounts collected under subsection  
8                   (b) during the fiscal year;

9                   “(B) amounts appropriated to the Com-  
10                  mission from the Nuclear Waste Fund for the  
11                  fiscal year;

12                  “(C) amounts appropriated to the Commis-  
13                  sion for the fiscal year for implementation of  
14                  section 3116 of the Ronald W. Reagan National  
15                  Defense Authorization Act for Fiscal Year  
16                  2005;

17                  “(D) amounts appropriated to the Com-  
18                  mission for homeland security activities of the  
19                  Commission for the fiscal year, except for the  
20                  costs of fingerprinting and background checks  
21                  required by section 149 of the Atomic Energy  
22                  Act of 1954 (42 U.S.C. 2169) and the costs of  
23                  conducting security inspections; and

1                   “(E) infrastructure and corporate support  
2                   activity amounts appropriated to the Commis-  
3                   sion for the fiscal year for—

4                   “(i) acquisitions;

5                   “(ii) administrative services;

6                   “(iii) financial management;

7                   “(iv) human resource management;

8                   “(v) information management;

9                   “(vi) information technology;

10                  “(vii) international activities;

11                  “(viii) outreach;

12                  “(ix) training; and

13                  “(x) travel.”.

14   **SEC. 3. STUDY ON ELIMINATION OF FOREIGN LICENSING**  
15                   **RESTRICTIONS.**

16                  Not later than \_\_\_\_\_, the Comptroller General,  
17                  in consultation with the Secretary of Energy, shall trans-  
18                  mit to Congress a report containing the results of a study  
19                  on the feasibility and implications of repealing restrictions  
20                  under sections 103d. and 104d. of the Atomic Energy Act  
21                  of 1954 on licensing of certain nuclear facility operations  
22                  by foreign persons.

1 **SEC. 4. ELIMINATION OF MANDATORY HEARING FOR**  
2 **UNCONTESTED LICENSING APPLICATIONS.**

3 (a) CONSTRUCTION PERMITS AND OPERATING LI-  
4 CENSES.—Section 185 b. of the Atomic Energy Act of  
5 1954 (42 U.S.C. 2235(b)) is amended in the first sentence  
6 by striking “holding a public hearing” and inserting “any  
7 public hearing held”.

8 (b) HEARING AND JUDICIAL REVIEW.—Section 189  
9 a.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C.  
10 2239(a)(1)(A)) is amended—

11 (1) by striking the second sentence; and

12 (2) in the third sentence—

13 (A) by striking “In cases” and all that fol-  
14 lows through “hearing, the” and inserting  
15 “The”;

16 (B) by striking “therefor” and inserting  
17 “for a hearing”; and

18 (C) by striking “issue an operating li-  
19 cense” and inserting “issue a construction per-  
20 mit, an operating license,”.

21 (c) TIMELINESS.—Section 189 a.(2)(A) of the Atom-  
22 ic Energy Act of 1954 (42 U.S.C. 2239(a)(2)(A)) is  
23 amended in the second sentence by striking “required  
24 hearing” and inserting “hearing held by the Commission  
25 under this section”.

1 **SEC. 5. INFORMAL HEARING PROCEDURES.**

2 (a) PROCEDURES.—Section 189 a. of the Atomic En-  
3 ergy Act of 1954 (42 U.S.C. 2239(a)) is amended by add-  
4 ing at the end the following:

5 “(3) Any hearing under this section shall be con-  
6 ducted using informal adjudicatory procedures established  
7 under sections 553 and 555 of title 5, United States Code,  
8 unless the Commission determines that formal adjudica-  
9 tory procedures are necessary—

10 (A) to develop a sufficient record; or

11 (B) to achieve fairness.”.

12 (b) HEARINGS ON LICENSING OF URANIUM ENRICH-  
13 MENT FACILITIES.—Section 193 b. of the Atomic Energy  
14 Act of 1954 (42 U.S.C. 2243(b)) is amended—

15 (1) in paragraph (1), by striking “on the  
16 record” and all that follows through “and 63” and  
17 inserting “if a person the interest of whom may be  
18 affected by the construction and operation of a ura-  
19 nium enrichment facility under sections 53 and 63  
20 has requested a hearing regarding the licensing of  
21 the construction and operation of the facility”; and

22 (2) in paragraph (2), by striking “Such hear-  
23 ing” and inserting “If a hearing is held under para-  
24 graph (1), the hearing”.

1 **SEC. 6. INSPECTIONS, TESTS, ANALYSES, AND ACCEPTANCE**

2 **CRITERIA.**

3 (a) **PRESCRIBED ACCEPTANCE CRITERIA.**—Section  
4 185 b. of the Atomic Energy Act of 1954 (42 U.S.C.  
5 2235(b)) is amended—

6 (1) in the third sentence, by striking “are met”  
7 and inserting “have been met”; and

8 (2) by inserting at the end the following: “Upon  
9 a finding that prescribed acceptance criteria have  
10 been met, no further demonstration of such criteria  
11 shall be required.”.

12 (b) **PROCEDURES.**—Section 189 a.(1)(B) of the  
13 Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)(B))  
14 is amended—

15 (1) in clause (i), by striking “60” and inserting  
16 “30”;

17 (2) by amending clause (ii) to read as follows:

18 “(ii) A request for hearing under clause (i) shall  
19 present substantial evidence that creates a genuine issue  
20 of material fact regarding—

21 “(I) whether one or more of the acceptance cri-  
22 teria in the combined license have not been met or  
23 will not be met; and

24 “(II) whether the specific operational con-  
25 sequences of not meeting the acceptance criteria  
26 would be contrary to providing reasonable assurance

1 of adequate protection of the public health and safe-  
2 ty.”;

3 (3) in the second sentence of clause (iii)—

4 (A) by inserting “at that time or expedi-  
5 tiously thereafter” after “shall”; and

6 (B) by striking “prima facie showing” and  
7 inserting “substantial evidence”;

8 (4) after the third sentence of clause (iii), by  
9 inserting “In determining under this clause whether  
10 there is a reasonable assurance of adequate protec-  
11 tion, the Commission shall evaluate all relevant in-  
12 formation, including whether petitioners have made  
13 a strong showing that they are likely to prevail on  
14 the merits and whether the asserted failure to meet  
15 acceptance criteria is likely to result in a significant  
16 safety or security concern during the period of in-  
17 terim operations, taking into consideration any miti-  
18 gation or protective measures that the licensee will  
19 take during the period of interim operations. A claim  
20 that incomplete information prevents petitioners  
21 from making the necessary substantial evidence  
22 showing shall not provide a basis for granting a  
23 hearing request or disapproving interim oper-  
24 ations.”; and

25 (5) in clause (iv)—

1 (A) by inserting “informal” after “appro-  
2 priate”; and

3 (B) by inserting “, whether informal or  
4 formal adjudicatory,” after “procedures”.

5 **SEC. 7. APPLICATION REVIEWS FOR NUCLEAR ENERGY**  
6 **PROJECTS.**

7 Section 185 of the Atomic Energy Act of 1954 (42  
8 U.S.C. 2235) is amended by adding at the end the fol-  
9 lowing:

10 “c. APPLICATION REVIEWS FOR NUCLEAR ENERGY  
11 PROJECTS.—

12 “(1) STREAMLINING LICENSE APPLICATION RE-  
13 VIEW.—With respect to an application that is dock-  
14 eted seeking issuance or renewal of a construction  
15 permit, operating license, or combined construction  
16 permit and operating license for a production or uti-  
17 lization facility, the Commission shall include the fol-  
18 lowing procedures:

19 “(A) Undertake an expedited environ-  
20 mental review process and issue any draft envi-  
21 ronmental impact statement within 12 months  
22 after the application is accepted for docketing.

23 “(B) Complete the technical review process  
24 and issue any safety evaluation report and any  
25 final environmental impact statement within 24



1 months after the application is accepted for  
2 docketing.

3 “(C) Complete any public licensing hear-  
4 ings and related processes within 30 months  
5 after the application is accepted for docketing.  
6 Such hearings on any environmental contention  
7 shall begin with the issuance of any draft envi-  
8 ronmental impact statement.

9 “(2) EARLY SITE PERMIT.—

10 “(A) SUPPLEMENTAL ENVIRONMENTAL IM-  
11 PACT STATEMENT.—In a proceeding for a com-  
12 bined construction permit and operating license  
13 for a site for which an early site permit has  
14 been issued, any environmental impact state-  
15 ment prepared by the Commission and cooper-  
16 ating agencies shall be prepared as a supple-  
17 ment to the environmental impact statement  
18 prepared for the early site permit.

19 “(B) INCORPORATION BY REFERENCE.—  
20 The supplemental environmental impact state-  
21 ment shall—

22 “(i) incorporate by reference the anal-  
23 ysis, findings, and conclusions from the en-  
24 vironmental impact statement prepared for  
25 the early site permit; and

1           “(ii) include additional discussion,  
2           analyses, findings, and conclusions on mat-  
3           ters resolved in the early site permit pro-  
4           ceeding only to the extent necessary to ad-  
5           dress information that is new and signifi-  
6           cant in that the information would materi-  
7           ally change the prior findings or conclu-  
8           sions.

9           “(3) PRODUCTION OR UTILIZATION FACILITY  
10          LOCATED AT AN EXISTING SITE.—In reviewing an  
11          application for an early site permit, construction  
12          permit, operating license, or combined construction  
13          permit and operating license for a production or uti-  
14          lization facility located at the site of a licensed pro-  
15          duction or utilization facility, the Commission shall,  
16          to the extent practicable, use information that was  
17          part of the licensing basis of the licensed production  
18          or utilization facility.

19          “(4) HEARING ON EARLY SITE PERMIT, CON-  
20          STRUCTION PERMIT, AND COMBINED CONSTRUCTION  
21          PERMIT AND OPERATING LICENSE.—The Commis-  
22          sion shall issue and make immediately effective an  
23          early site permit, construction permit, or combined  
24          construction permit and operating license for a pro-  
25          duction or utilization facility upon finding that the

1 application therefor satisfies the requirements of this  
2 Act, notwithstanding the pendency before the Com-  
3 mission of a request for a hearing. Following com-  
4 pletion of any required hearing, the Commission  
5 shall take any appropriate action with respect to the  
6 early site permit, construction permit, or combined  
7 construction permit and operating license to the ex-  
8 tent necessary to account for the hearing results.

9 “(5) REGULATIONS.—The Commission shall  
10 initiate a rulemaking, to be completed 1 year after  
11 the date of enactment of the Nuclear Utilization of  
12 Keynote Energy Policies Act, to amend the regula-  
13 tions of the Commission to implement this sub-  
14 section.

15 “(6) RELATIONSHIP TO OTHER LAW.—Nothing  
16 in this subsection exempts the Commission from any  
17 requirement for full compliance with section  
18 102(2)(C) of the National Environmental Policy Act  
19 of 1969 (42 U.S.C. 4332(2)(C)).”.

20 **SEC. 8. NUCLEAR REACTOR DECOMMISSIONING.**

21 (a) RULEMAKING.—Chapter 14 of the Atomic Energy  
22 Act of 1954 (42 U.S.C. 2201–2210i) is amended by add-  
23 ing at the end the following new section:

24 “SEC. 170J. DECOMMISSIONING NUCLEAR REACTOR  
25 RULEMAKING.—

1           “(a) RULEMAKING.—The Commission shall, not later  
2 than 90 days after the date of enactment of this section,  
3 initiate a rulemaking proceeding, including notice and op-  
4 portunity for public comment, to be completed not later  
5 than 48 months after that date, to address the regulatory  
6 framework for decommissioning nuclear reactors licensed  
7 under section 103 or 104b.

8           “(b) FACTORS.—When conducting its rulemaking  
9 under this section, the Commission shall consider, among  
10 other relevant factors—

11                   “(1) the low radiological risk for nuclear reac-  
12 tors undergoing decommissioning;

13                   “(2) the regulatory burden associated with re-  
14 quiring decommissioning nuclear reactors to meet  
15 the same emergency planning, safeguards and secu-  
16 rity, staffing and training, and insurance require-  
17 ments as operating nuclear reactors; and

18                   “(3) the potential to minimize the number of  
19 exemptions and license amendments necessary dur-  
20 ing the transition from an operating nuclear reactor  
21 to a decommissioning nuclear reactor.”.

22           (b) TABLE OF SECTIONS AMENDMENT.—The table of  
23 sections for chapter 14 of the Atomic Energy Act of 1954  
24 is amended by adding at the end the following new item:

“Sec. 170J. Decommissioning nuclear reactor rulemaking.”.