



U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND
COMMERCE

June 19, 2018

TO: Members, Subcommittee on Energy

FROM: Committee Majority Staff

RE: Subcommittee Markup

I. INTRODUCTION

The Subcommittee on Energy will meet in open markup session on Thursday, June 21, 2018, in 2123 Rayburn House Office Building at 10:00 a.m. to consider the following:

- H.R. 1320, Nuclear Utilization of Keynote Energy Act;
- H.R. 6140, Advanced Nuclear Fuel Availability Act;
- H.R. _____, Advancing U.S. Civil Nuclear Competitiveness and Jobs Act; and
- H.R. 6141, to require the Secretary of Energy to develop a report on a pilot program to site, construct, and operate micro-reactors at critical national security locations, and for other purposes.

In keeping with Chairman Walden's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to peter.kielty@mail.house.gov. Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

II. EXPLANATION OF LEGISLATION

A. H.R. 1320, Nuclear Utilization of Keynote Energy Act

H.R. 1320 revises the Nuclear Regulatory Commission's (NRC or Commission) assessment and collection of user fees and annual charges, provides for certain reports on requirements under the Atomic Energy Act, as amended, (AEA) and revises certain procedures and processes relating to the NRC's regulatory requirements.

The legislation exempts funding provided for the development of a regulatory infrastructure for advanced nuclear reactor technologies from the existing fee-recovery

requirements. The legislation sunsets existing fee-recovery requirements and makes new fees and charges established by section 3 effective on October 1, 2019.

Section 3 requires the Commission to identify funding for requested activities in the NRC's annual budget justification and limits corporate support costs in the budget justification to 30 percent of the total budget in Fiscal Years (FY) 2020 and 2021, 29 percent in FY 2022 and 2023, and 28 percent for FY 2024 and thereafter. The section requires the Commission assess and collect fees and charges equal to the Commission's total budget authority in a fiscal year minus defined excluded activities. Excluded activities include any fee-relief activity identified by the Commission; amounts appropriated from the Nuclear Waste Fund; and funding provided for (1) implementation of section 3116 of the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005, (2) homeland security activities, (3) the Inspector General of the Defense Nuclear Facilities Safety Board, (4) the integrated university program, (5) the scholarship and fellowship programs under section 243 of the AEA, and (6) costs of developing a regulatory infrastructure for advanced nuclear reactor technologies. The section requires that the Commission assess and collect fees from any person who receives a service or thing of value from the Commission. The Commission also is required to charge licensees and certificate holders an amount based on the cost of providing regulatory services and the allocation of the Commission's resources among licensees or certificate holders. The section requires the Commission to ensure appropriate review and approval of invoices and has processes in place to audit and efficiently dispute or review invoices.

Sections 4 and 5 of H.R. 1320 require the Comptroller General to study and report on the impact of eliminating the prohibition on foreign ownership, control, or domination of certain NRC licensed facilities and to study the impact of eliminating the requirement of a hearing on licenses issued under section 103 or 104 b of the AEA when a hearing is not requested. Section 6 allows the Commission to use informal adjudicatory procedures and revises the requirement for hearings on enrichment facilities.

Section 7 amends the Commission's procedures to require the issuance of a draft environmental impact statement within 24 months of docketing an application and to complete and issue any safety evaluation report within 42 months of docketing an application. H.R. 1320 requires information in an early site permit to be incorporated into a combined construction permit and operating license. If a site has an operating facility and is seeking an early site permit for an additional facility co-located at that location, the basis of the licensed facility shall be used to the extent practicable.

Section 8 requires the Commission to initiate a rulemaking on decommissioning of nuclear power plants within 18 months of enactment.

The Amendment in the Nature of a Substitute (AINS) to H.R. 1320 modifies the date the revised fee and charges provisions is effective from October 1, 2019 to October 1, 2020, extends the dates relating to the payment of corporate support costs, and clarifies the process by which the NRC determines fees and assesses and collects annual charges. The AINS clarifies the content of the reports required of the Comptroller General in section 4 and section 5, revises section 6 to clarify the use of informal adjudicatory procedures and replaces section 8 with a

Sense of Congress to complete a decommissioning rulemaking within 18 months of enactment of the section.

B. H.R. 6140, Advanced Nuclear Fuel Availability Act

H.R. 6140 requires the Secretary of Energy to establish a program to make high-assay low enriched uranium, or HA-LEU, available for domestic commercial use. The program directs the Secretary, acting through the Office of Nuclear Energy, to provide financial assistance to develop and license transportation package designs for the shipment of HA-LEU, have those designs submitted to the Commission by September 30, 2021, and certified by the Commission by September 30, 2023.

The legislation requires the Secretary to submit a report to Congress by January 1, 2020, on the Department's uranium inventory, which may be processed into HA-LEU. The Secretary also must conduct periodic surveys to assess the quantity of HA-LEU necessary for domestic commercial use and assess options to acquire HA-LEU for domestic commercial use with cost and time requirements for each option. The Secretary may establish a consortium of entities in the nuclear fuel cycle for the HA-LEU program and to purchase the material. The legislation also requires the Secretary to develop criticality benchmark data to inform the requirements established by regulation for category 2 fuel cycle facilities and HA-LEU transportation packages. HA-LEU made available to members of the consortium shall not be subject to the Secretarial determination required by the USEC Privatization Act. Financial assistance made available to develop and license transportation package designs require a 20 percent cost share and \$1,500,000 is authorized for each of fiscal years 2019 through 2021 for such financial assistance agreements.

H.R. 6140 requires the Nuclear Regulatory Commission to submit a report not later than 12 months after the date of enactment that includes a list of regulations, certifications, and other regulatory policies necessary for HA-LEU to be commercially available and include a description and timeline to complete such updates.

C. H.R. ____, Advancing U.S. Civil Nuclear Competitiveness and Jobs Act

H.R. ____, the Advancing U.S. Civil Nuclear Competitiveness and Jobs Act, addresses issues relating to the competitiveness of civilian nuclear commerce. The legislation requires the Secretary of Energy, in consultation with the Secretary of State, NRC, Secretary of Commerce, and Administrator of the Environmental Protection Agency, to identify regulatory, policy, legal, and commercial practices impacting civil nuclear commerce, compare those practices to foreign governments, and make recommendations to improve the competitiveness of the U.S. civil nuclear industry.

Section 4 amends section 57b of the AEA, which governs the transfer of certain nuclear technologies to foreign countries. The legislation amends the AEA requirement restricting the Secretary from delegating the authorization of export authorizations, with the exception of uranium and reprocessing technologies. The legislation directs the Secretary of Energy to

establish procedures for authorizations of low-proliferation risk reactor activities. The procedures only apply to activities that (1) are described in section 810.2 of title 10, Code of Federal Regulations, except activities that require a specific authorization; and (2) that the Secretary determines the transfer or retransfer will not result in a significant increase of proliferation risk. The procedures may not apply to authorizations to transfer technology to China or Russia. The procedures must be developed with the concurrence of the Department of State, and in consultation with the Department of Defense (DOD), Department of Commerce, and NRC.

The legislation also requires the Comptroller General to study the Secretary's development of a retrospective risk formula to meet the requirements under the Convention on Supplementary Compensation for Nuclear Damage as required by the Energy Independence and Security Act of 2007.

D. H.R. _____, to require the Secretary of Energy to develop a report on a pilot program to site, construct, and operate micro-reactors at critical national security locations, and for other purposes.

H.R. _____ requires the Secretary of Energy to submit a report within 12 months of enactment describing the requirements for, and components of, a pilot program to provide energy resilience for critical national security infrastructure at DOD and DOE facilities by contracting with a commercial entity to site, construct, and operate at least one licensed micro-reactor at a facility by December 31, 2027. The report must be developed in consultation with the Secretary of Defense, the NRC, and the Administrator of the General Services Administration. The report must identify potential DOD or DOE locations to site a micro-reactor that contain critical national security infrastructure. The report additionally requires assessments of different nuclear technologies, a survey of commercial stakeholders to contract for the pilot program, and an assessment of options to enter into long-term contracting for purchase and operations. The cost estimates and milestone schedules of a pilot program shall be included with an analysis and recommendations of DOD, DOE, and NRC authorities to enable the siting, construction, and operation of a licensed micro-reactor.

III. STAFF CONTACTS

If you have any questions regarding this markup, please contact Mary Martin, Andy Zach, or Peter Spencer of the Committee staff at (202) 225-2927.