[DISCUSSION DRAFT]

APRIL 8, 2016

114TH CONGRESS
2D SESSION

H. R. ______

To [to be supplied].

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To [to be supplied].

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

SECTION 1. SHORT TITLE.

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

SEC. 2. FAIR AND EQUITABLE NRC FUNDING.

Section 6101(c)(2) of the Omnibus Budget Reconcili-
ation Act of 1990 (42 U.S.C. 2214(c)(2)) is amended to
read as follows:
“(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charges collected from all licensees and certificate holders in a fiscal year shall equal an amount that approximates 100 percent of the budget authority of the Commission for the fiscal year, less—

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

“(B) amounts appropriated to the Commission from the Nuclear Waste Fund for the fiscal year;


“(D) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections; and
“(E) infrastructure and corporate support activity amounts appropriated to the Commission for the fiscal year for—

“(i) acquisitions;
“(ii) administrative services;
“(iii) financial management;
“(iv) human resource management;
“(v) information management;
“(vi) information technology;
“(vii) international activities;
“(viii) outreach;
“(ix) training; and
“(x) travel.”.

SEC. 3. STUDY ON ELIMINATION OF FOREIGN LICENSING RESTRICTIONS.

Not later than ________, the Comptroller General, in consultation with the Secretary of Energy, shall transmit to Congress a report containing the results of a study on the feasibility and implications of repealing restrictions under sections 103d. and 104d. of the Atomic Energy Act of 1954 on licensing of certain nuclear facility operations by foreign persons.
SEC. 4. ELIMINATION OF MANDATORY HEARING FOR UNCONTESTED LICENSING APPLICATIONS.

(a) Construction Permits and Operating Licenses.—Section 185 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2235(b)) is amended in the first sentence by striking "holding a public hearing" and inserting "any public hearing held".

(b) Hearing and Judicial Review.—Section 189 a.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)(A)) is amended—

(1) by striking the second sentence; and

(2) in the third sentence—

(A) by striking "In cases" and all that follows through "hearing, the" and inserting "The";

(B) by striking "therefor" and inserting "for a hearing"; and

(C) by striking "issue an operating license" and inserting "issue a construction permit, an operating license, ".

(e) Timeliness.—Section 189 a.(2)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)(A)) is amended in the second sentence by striking "required hearing" and inserting "hearing held by the Commission under this section".
SEC. 5. INFORMAL HEARING PROCEDURES.

(a) PROCEDURES.—Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended by adding at the end the following:

“(3) Any hearing under this section shall be conducted using informal adjudicatory procedures established under sections 553 and 555 of title 5, United States Code, unless the Commission determines that formal adjudicatory procedures are necessary—

“(A) to develop a sufficient record; or

“(B) to achieve fairness.”.

(b) HEARINGS ON LICENSING OF URANIUM ENRICHMENT FACILITIES.—Section 193 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2243(b)) is amended—

(1) in paragraph (1), by striking “on the record” and all that follows through “and 63” and inserting “if a person the interest of whom may be affected by the construction and operation of a uranium enrichment facility under sections 53 and 63 has requested a hearing regarding the licensing of the construction and operation of the facility”; and

(2) in paragraph (2), by striking “Such hearing” and inserting “If a hearing is held under paragraph (1), the hearing”.

April 8, 2016 (12:56 p.m.)
SEC. 6. INSPECTIONS, TESTS, ANALYSES, AND ACCEPTANCE CRITERIA.

(a) Prescribed Acceptance Criteria.—Section 185 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2235(b)) is amended—

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

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

(b) Procedures.—Section 189 a.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)(B)) is amended—

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

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

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

“(I) whether one or more of the acceptance criteria in the combined license have not been met or will not be met; and

“(II) whether the specific operational consequences of not meeting the acceptance criteria would be contrary to providing reasonable assurance
of adequate protection of the public health and safety.”;

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

(A) by inserting “at that time or expeditiously thereafter” after “shall”; and

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

(4) after the third sentence of clause (iii), by inserting “In determining under this clause whether there is a reasonable assurance of adequate protection, the Commission shall evaluate all relevant information, including whether petitioners have made a strong showing that they are likely to prevail on the merits and whether the asserted failure to meet acceptance criteria is likely to result in a significant safety or security concern during the period of interim operations, taking into consideration any mitigation or protective measures that the licensee will take during the period of interim operations. A claim that incomplete information prevents petitioners from making the necessary substantial evidence showing shall not provide a basis for granting a hearing request or disapproving interim operations.”; and

(5) in clause (iv)—
(A) by inserting “informal” after “appropriate”; and

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

SEC. 7. APPLICATION REVIEWS FOR NUCLEAR ENERGY PROJECTS.

Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by adding at the end the following:

“c. Application Reviews for Nuclear Energy Projects.—

“(1) Streamlining License Application Review.—With respect to an application that is docked seeking issuance or renewal of a construction permit, operating license, or combined construction permit and operating license for a production or utilization facility, the Commission shall include the following procedures:

“(A) Undertake an expedited environmental review process and issue any draft environmental impact statement within 12 months after the application is accepted for docketing.

“(B) Complete the technical review process and issue any safety evaluation report and any final environmental impact statement within 24
months after the application is accepted for
docketing.

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

“(2) Early Site Permit.—

“(A) Supplemental Environmental Im-
pact Statement.—In a proceeding for a com-
bined construction permit and operating license
for a site for which an early site permit has
been issued, any environmental impact state-
ment prepared by the Commission and cooper-
ating agencies shall be prepared as a supple-
ment to the environmental impact statement
prepared for the early site permit.

“(B) Incorporation by Reference.—
The supplemental environmental impact state-
ment shall—

“(i) incorporate by reference the anal-
ysis, findings, and conclusions from the en-
vironmental impact statement prepared for
the early site permit; and
“(ii) include additional discussion, analyses, findings, and conclusions on mat-
ters resolved in the early site permit pro-
ceeding only to the extent necessary to ad-
dress information that is new and signifi-
cant in that the information would materi-
ally change the prior findings or conclu-
sions.

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

“(4) HEARING ON EARLY SITE PERMIT, CON-
STRUCTION PERMIT, AND COMBINED CONSTRUCTION
PERMIT AND OPERATING LICENSE.—The Commiss-
ion shall issue and make immediately effective an
early site permit, construction permit, or combined
construction permit and operating license for a pro-
duction or utilization facility upon finding that the
application therefor satisfies the requirements of this Act, notwithstanding the pendency before the Commission of a request for a hearing. Following completion of any required hearing, the Commission shall take any appropriate action with respect to the early site permit, construction permit, or combined construction permit and operating license to the extent necessary to account for the hearing results.

“(5) REGULATIONS.—The Commission shall initiate a rulemaking, to be completed 1 year after the date of enactment of the Nuclear Utilization of Keynote Energy Policies Act, to amend the regulations of the Commission to implement this subsection.

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

SEC. 8. NUCLEAR REACTOR DECOMMISSIONING.

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

“SEC. 170J. DECOMMISSIONING NUCLEAR REACTOR RULEMAKING.—
“(a) RULEMAKING.—The Commission shall, not later than 90 days after the date of enactment of this section, initiate a rulemaking proceeding, including notice and opportunity for public comment, to be completed not later than 48 months after that date, to address the regulatory framework for decommissioning nuclear reactors licensed under section 103 or 104b.

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

“(1) the low radiological risk for nuclear reactors undergoing decommissioning;

“(2) the regulatory burden associated with requiring decommissioning nuclear reactors to meet the same emergency planning, safeguards and security, staffing and training, and insurance requirements as operating nuclear reactors; and

“(3) the potential to minimize the number of exemptions and license amendments necessary during the transition from an operating nuclear reactor to a decommissioning nuclear reactor.”.

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

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