

Nuclear Regulatory Commission Policy and Governance Oversight

Witnesses:

Allison Macfarlane

Chairman, Nuclear Regulatory Commission

Kristine Svinicki

Commissioner, Nuclear Regulatory Commission

William Magwood

Commissioner, Nuclear Regulatory Commission

William Ostendorff

Commissioner, Nuclear Regulatory Commission

Members Present:

John Shimkus (R-IL), Environment and the Economy Subcommittee Chair

Gene Green (D-TX), Environment and the Economy Subcommittee Ranking Member

Edward Whitfield (R-KY), Energy and Power Subcommittee Chair

Bobby Rush (D-IL), Energy and Power Subcommittee Ranking Member

Fred Upton (R-MI), Energy and Commerce Full Committee Chair

Henry Waxman (D-CA), Energy and Commerce Full Committee Ranking Member

Bob Latta (R-OH)

John Barrow (D-GA)

Lois Capps (D-CA)

Lee Terry (R-NE)

Bill Cassidy (R-LA)

Doris Matsui (D-CA)

Joe Barton (R-TX)

Tim Murphy (R-PA)

Kathy Castor (D-FL)

Cathy McMorris Rodgers (R-WA)

G.K. Butterfield (D-NC)

John Dingell (D-MI)

Joe Pitts (R-PA)

Greg Walden (R-OR)

Charles Bass (R-NH)

John Sarbanes (D-MD)

Steve Scalise (R-LA)

Edward Markey (D-MA)

Diana DeGette (D-CO)

Eliot Engel (D-NY)

David McKinley (R-WV)

Michael Burgess (R-TX)

Morgan Griffith (R-VA)

Greg Walden (R-OR)

Cory Gardner (R-CO)

On July 24, the House Committee on Energy and Commerce Subcommittee on Environment and the Economy and Subcommittee on Energy and Power held a joint oversight hearing evaluating Nuclear Regulatory Commission (NRC) policy and governance. Four of the five commissioners of the NRC testified before the committees. This was the first congressional hearing with recently appointed NRC chairman, Allison Macfarlane, who was confirmed on July 9 to replace former chairman Gregory Jaczko. Jaczko resigned from his position amid accusations of mismanagement from members on the commission and employees. Commissioners

Kristine Svinicki, William Magwood, and William Ostendorff testified as well.

Subcommittee on Environment and the Economy Chair John Shimkus (R-IL) gave his opening statement recounting the events of the NRC since the commissioners last testified before the committee. Among these were licensing for two new nuclear plants which has not occurred in 34 years, issuing of orders for "post-Fukushima improvements," and the change of leadership to Macfarlane which Shimkus said was "long overdue." Shimkus noted the importance of identifying weaknesses in the NRC governance through oversight and to evaluation of policy changes. Shimkus stressed his concern of post-Fukushima regulatory changes on nuclear plants throughout the United States.

Subcommittee on Environment and the Economy Ranking Member Gene Green (D-TX) gave his opening statement focusing on the storage and disposal of spent nuclear fuel. Henry Waxman (D-CA), ranking member of the full committee, gave his opening statement highlighting the mission of the NRC, which is to regulate the nation's nuclear materials to protect health, safety, and the environment, and promote defense and security. Waxman said the commission had been "distracted" from their mission the past year and a half by policy makers who "second-guessed its decisions and sowed internal dissension."

Subcommittee on Energy and Power Chair Edward Whitfield (R-KY) gave his opening statement referencing Japanese Kokkai 's (National Assembly) Fukushima Nuclear Accident Independent Investigation Commission reports on the Fukushima Daiichi disaster. The Kokkai of Japan is the country's bicameral legislature. Whitfield said that the report found that if the NRC's "B.5.b" order were in place, that "the accident may have been preventable." He noted that the NRC's Task Force said that any Fukushima accident was "unlikely to occur in the United States." He closed by mentioning the lack of cost-benefit analysis in orders released from the NRC in early March and said he expected future orders to include these. Full Committee Chairman Fred Upton (R-MI) gave his opening remarks discussing the Palisades nuclear plant "degraded performance." He closed by talking about the NRC Inspector General report highlighting former Chairman Jaczko's wrong-doings. Upton said he was "relieved that the Jaczko era is behind us." Subcommittee on Energy and Power Ranking Member Bobby Rush (D-IL) rounded out the opening statements by reiterating the importance of safety in nuclear power. He discussed the NRC's involvement in Historical Black Colleges and Universities (HBCUs) engineering programs as well as science, technology, engineering and math (STEM) education.

Allison Macfarlane began the witness testimonies by discussing her approach of governing the commission as chairman. She stated that she has begun reaching out to the other commissioners and looks to keeping "open lines of communication." She further discussed the three tiers of action that were recommendations of the NRC's Near-Term Task Force report, "Recommendations for Enhancing Reactor Safety in the 21st Century." The first tier was approved in March. Tiers two and three are currently in development. Macfarlane said that this was a "substantial amount of progress in a short amount of time." She closed by noting the progress of the year, including the licensing of the Vogtle Site in Georgia and the Summer Site in South Carolina.

Commissioner Kristine Svinicki gave her brief testimony beginning by acknowledging Macfarlane's fostering of a collegial relationship with the commissioners even before she was sworn in. Svinicki said Macfarlane's attitude is a "most welcomed opportunity to move forward in a positive manner." She closed by discussing the orders issued March to enhance the safety of nuclear power plants.

Commissioner William Magwood began his testimony by revisiting events handled by the NRC in the past year. This included, in addition to those mentioned earlier by Macfarlane, the licensing of the first uranium enrichment facilities not constructed by the government. He closed by saying that Macfarlane was off to an "excellent start" as chairman of the NRC.

Commissioner William Ostendorff stated in his testimony that the NRC Task Force said there was "no imminent risk from continued operation of U.S. nuclear power plants." He said that Macfarlane is "off to a very strong start as chairman."

Shimkus began the questions by talking about the Honeywell's Uranium Conversion Plant, which was deemed safe by the NRC in May. Two months later, it was shut down due to seismic issues. Shimkus asked if the NRC was initially correct on its assessments in May. Svinicki said additional studies were requested after the Fukushima events. She said the amount of material that could be released in a seismic event was more than estimated.

Green continued by asking when the risk evaluation of on-site storage pools would be started. Macfarlane said they are "considering various options." She could not go further into detail because it is an "adjudicatory matter." He then asked about the possible influence of international reports of the Fukushima disaster on commission decisions. Svinicki said the NRC is aware of these reports and they have helped with the U.S. response to Fukushima. Green asked about the differences between the regulatory requirements of Japan and the United States. Magwood said there are "significant differences." In the U.S., each plant must have an emergency exercise on a regular basis, which does not exist in Japan.

Whitfield revisited the requirement of cost-benefit analysis, asking if it would be beneficial to include this in future actions. Macfarlane said each action would have to be considered individually. Svinicki said that after the highest orders have been issued,

it is her “personal view” to return to cost-benefit analysis. Magwood said he agreed with Macfarlane.

Rush asked to hear more about the programs at the NRC which support the HBCUs engineering program and STEM education. Macfarlane said in fiscal year (FY) 2011, the minority servicing institutions grant program awarded 26 grants. Fifteen of these awards went to HBCUs. Upton continued questions by discussing Palisades plant “column three” status in the Reactor Oversight Program and asked what the protocol for those types of plants are. Ostendorff said column one is the best plant while column five is the “worst operating plant.”

Representative John Dingell (D-MI) focused his questions on the speediness of NRC reviews. In 2007-2008, the goal of review completions was 36 months. The time has now increased to 42 to 48 months, with some pushing 60 months. Macfarlane said the NRC is committed to completing reviews as “efficiently as possible.” Dingell asked how long until a finalization on a “single waste storage site.” Macfarlane said that it is “totally uncertain.” He then asked how many authorized single storage sites were available, to which Macfarlane said “one.” Dingell closed by discussing the Integrated University Program (IUP) and the lack of funding in the President's FY 2013 budget request for it. The IUP develops a trained nuclear energy workforce through scholarships and fellowships.

Representative Joe Barton (R-TX) asked Macfarlane to discuss her management style. She said she considers the commissioners as “peer equals.” She further said, “[...] we will not agree on every issue, but that is not the intention of the commission.”

Waxman expressed his concerns on Diablo Canyon and San Onofre Nuclear plants in California and why NRC reviews did not identify flaws. Svinicki referenced the augmented inspection team report, which identified 10 unresolved items. Representative Lee Terry (R-NE) asked about the need for a reform in the “declaration of an emergency.” Ostendorff noted the “lack of clarity” when it came to emergency issues during Jaczko's leadership.

Representative John Barrow (D-GA) asked about the status of construction on the two new nuclear plants. Ostendorff said “things are moving along well” and said communication is great. Magwood mentioned how it has been a great “educational process.”

Representative Robert Latta (R-OH) revisited the renewal application timeline and asked what is being done to assist promptness. Macfarlane noted how these issues take time, “especially when they are contested.” Svinicki noted periods of when the commission only had three members and it only “functions best” when it has a full commission of five. Magwood said that regulators should not have to “apologize” for taking more time to ensure safety.

Representative Lois Capps (D-CA) discussed the spent fuel pools of the Fukushima disaster and asked what the safety concerns of “densely packed spent fuel pools” are. Macfarlane answered this issue was a Tier 3 activity that the NRC will look at. Capps presented the alternative method of dry-cask storage and asked about their performance in Japan during the Fukushima disaster. Macfarlane said the dry casks withstood the earthquake and tsunami “very well.”

Representative David McKinley (R-WV) brought up the Yucca Mountain site, an area in Nevada designated to be the nation's only deep geological nuclear and radioactive waste repository. McKinley wanted to know how much money has been spent on the Yucca project. Macfarlane said the amount spent on “Yucca Mountain itself and not on the entire waste disposal program” was around \$7 to \$8 billion. McKinley asked which of the two options, a geological repository or recycling, would be the direction the U.S. would choose for nuclear fuel rods. Macfarlane said that there is a need for a final repository, regardless of which option.

Representative Cory Gardner (R-CO) aimed his questions on the role of the Office of Public Affairs. He asked if Macfarlane thought the Public Affairs Office duties was to “devise press strategies to influence commissioners' votes.” Macfarlane said the Office of Public Affairs is to assist the chairman and thus works at the “direction of the chairman.” She then re-enforced that “now there is a new chairman” and said she does not intend to use the Office of Public Affairs to sway other commissioners.

Representative Eliot Engel (D-NY) focused his questions on decommissioning costs and how several older plants do not have enough money saved for dismantling. He asked Macfarlane what would happen if one of the underfunded reactors needed to be decommissioned. Macfarlane replied saying that several successful decommissions have occurred, but if Engel's scenario were to occur, the NRC would have to visit the site.

Representative Steve Scalise (R-LA) asked if any initial thoughts after Fukushima have been changed by newly available data. Magwood said that Japan had “much more to learn from Fukushima” than the U.S. did. In the time since the disaster, the NRC has progressed in taking appropriate steps to ensure nuclear safety. Scalise asked the panel for some top safety changes that have occurred since Fukushima, which Magwood noted the plants need to be able to respond to “beyond design basis events.”

Representative Edward Markey (D-MA) talked about the NRC's Near Term Task Force report released last year with 12 recommendations to ensure safety. The NRC has not voted to accept these recommendations and he asked Macfarlane if she

supports the results of the “NRC’s top safety experts.” Macfarlane said she is committed to protecting the health and safety of the citizens and “shepherding” through the Fukushima recommendations. He closed by saying Macfarlane’s duty at the NRC is not to win a “popularity contest” with the other commissioners.

Representative Greg Walden (R-OR) continued discussion on the NRC’s Near Term Task Force report, asking for the other commissioners’ opinions. Svinicki noted that she voted to take the recommendations and open them to public comment before moving forward. Magwood said that individual commissioners did “make additions, not subtractions” to what the Task Force recommended. Ostendorff discussed his inclusion of a “station blackout rule,” which accounts for loss of all AC power used to keep cores cool. It helps prepare to mitigate issues when there is a loss of power.

Shimkus was yielded time to ask more questions by Representative Morgan Griffith (R-VA). Shimkus took the opportunity to ask Macfarlane on her views of Yucca Mountain, as she has demonstrated “public criticism at Yucca Mountain.” Macfarlane said she would examine and take appropriate action on topics presented as chairman. Shimkus closed by giving the other commissioners time to give an example of when a vote has been “misconstrued” of supporting the protection of public safety. Svinicki noted the task force recommendations and how the handling of the report has been portrayed. Magwood agreed with Svinicki. Ostendorff closed by saying that the media does not often credit the NRC for including recommendations made by the NRC staff.

Representative Tim Murphy (R-PA) questioned Macfarlane once more on her opinions of Yucca Mountain, noting how she has shown her disinterest in the project. Macfarlane clarified that she has never said she did not favor Yucca, using a supporting quote from her book *Uncertainty Underground*. He then asked for opinions on the “notation voting process” at the NRC. Macfarlane said the notation voting process has “the potential to operate fine.” Svinicki said she supports the method, as it benefitted her with the “rich written record” from prior commissioners. Magwood pointed out the notation process allows for commissioners to do research before voting and works “extremely well.” Ostendorff said it is a great way to learn and explain viewpoints. Murphy closed by quoting Macfarlane’s answer to a question posed in a 2009 MIT Technology Review interview which asked if “Yucca is really unsuitable.” Macfarlane’s answer was yes. Macfarlane responded to Murphy’s statement saying she has not read all the NRC documents on Yucca Mountain and with new details arising over time she said she intends to “keep an open mind.”

Witness testimonies, opening statements, and an archived webcast of the hearing can be found on the committee web site.
