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before the
House Energy and Commerce Committee on

H.R. 2054, the Energy and Revenue Enrichment Act of 2011

June 13, 2011

Introduction

Thank you, Mr. Chairman, Ranking Member Waxman, and Members of the Committee. I appreciate this opportunity to appear before you and comment on legislation under consideration by the Committee, as well as to provide information on management and disposition of the Department of Energy's depleted uranium.

The Administration continues to view nuclear power as an important element in its strategy to increase energy security and combat climate change. We join the international community in taking of stock of the lessons learned from the impact of the tragic earthquake and tsunami affecting nuclear power plants in Japan. We believe that nuclear power's contribution as a reliable source of safe and secure clean, carbon-free nuclear energy in the United States will be further enhanced by implementing the lessons learned from Japan relevant to our domestic nuclear power plants. The Department also sees the necessity of managing its uranium inventory in a manner that is consistent with and supportive of the maintenance of a strong domestic nuclear industry while at the same time supporting Departmental missions and objectives.

Management of the Department's Excess Uranium Inventory

I would like to start by providing the Committee with an overview of the Department's uranium inventory and the policies and procedures that guide the management and disposition of that inventory. The Department of Energy holds a significant inventory of uranium in various forms including highly enriched uranium ("HEU"), low enriched uranium ("LEU"), natural or normal uranium, and depleted uranium hexafluoride, all of which must be actively managed. The majority of this inventory is depleted uranium the Department plans to process through recently constructed conversion facilities and dispose of as waste. The uranium equivalent contained in the remaining inventory corresponds to almost three years of supply requirements for U.S. nuclear power plants. This uranium is a valuable asset both in its monetary value and in the role it could play in achieving vital Departmental missions and in maintaining a healthy domestic nuclear fuel infrastructure. A significant amount of this inventory requires further processing before it is considered suitable for commercial use. Consistent with applicable law the Department manages the release of uranium inventories in a manner that avoids adverse material impact on domestic uranium miners, converters, and enrichers.

The Department's depleted uranium hexafluoride was generated from the government's prior uranium enrichment activities. Making this depleted uranium hexafluoride useable would require additional processing, depending on the uranium's assay level and degree of contamination. The portion of this material with higher

assay levels potentially marketable in its current form is subject to the market price of uranium. This uranium could constitute at least 10 percent of DOE's total inventory of depleted uranium hexafluoride.

The Department has broad authority under the Atomic Energy Act (AEA), as amended, to sell, transfer, dispose or otherwise utilize its inventories of depleted, natural, and enriched uranium. In exercising this authority, the Department must act consistently with other relevant statutory provisions, including the National Environmental Policy Act and section 3112 of the USEC Privatization Act. Section 3112 imposes limitations on certain specified transactions, including the sale and transfer of natural or enriched uranium to certain domestic end users of material from the Department's inventory. Under this section, the Secretary of Energy must determine that a proposed sale or transfer of natural or enriched uranium, with the exception of certain sales to select non-commercial entities or for national security purposes, "will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry."

The Department believes, as a general guideline, that the introduction into the domestic market of uranium from Departmental inventories in amounts that do not exceed 10 percent of average annual domestic demand (approximately 2,000 metric tons of uranium or 5 million pounds of U3O8) in any one-year period would not have an adverse material impact on the domestic uranium industry. The 10 percent guideline was in fact one of industry's recommendations regarding the Department's management of its uranium. The Department, however, anticipates that in any given

year it may introduce less than that amount into the domestic market and that in some years it may introduce more for certain special purposes. Regardless of whether a particular transfer or sale is above or below the 10 percent guideline, if it is a transaction that is covered by section 3112(d), the Department conducts the requisite analysis and the Secretary must determine that the transfer or sale will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industries.

Within the Department, the Office of Nuclear Energy (NE), the Office of Environmental Management (EM), and the National Nuclear Security Administration (NNSA) are collectively responsible for these uranium inventories. These offices coordinate the identification of transactions that are planned or under consideration, or that may be considered by DOE in the future, for disposition of DOE's uranium. These same offices developed the Department's Excess Uranium Inventory Management Plan (the Plan), which provides for a strategy for the sale or other disposition of this uranium. The Department is committed to managing its excess uranium inventories in a manner that: (1) complies with all applicable legal requirements; (2) maintains sufficient uranium inventories at all times to meet the current and reasonably foreseeable needs of DOE missions; and (3) supports the maintenance of a strong domestic nuclear industry.

DOE has established priorities for the transfer of uranium through 2013. On March 2, 2011, Secretary Chu announced that DOE has issued a determination and market impact analysis authorizing uranium transfers to fund accelerated cleanup activities at the

Portsmouth Site in Piketon, Ohio. The Determination found that the proposed transfers will not have an adverse material impact on the domestic uranium industries. The total proposed Department transfers through calendar 2013, including scheduled transfers by NA, are approximately 2,000 metric tons of uranium per year, or about 10 percent of U.S. reactor demand, consistent with the principles and policies set forth in the Plan.

Comments on H.R. 2054

We understand that the Energy and Revenue Enrichment Act of 2011, H.R. 2054, seeks to realize value through the enrichment of the Department's high assay depleted uranium hexafluoride to a useable form of uranium, funding the enrichment through the sale of the enriched material, assuming title to and responsibility for disposition of depleted uranium, or a transfer of a portion of the enriched material in exchange for the enrichment services. The amount of funding needed to enrich depleted uranium tails is significant and not currently within the overall priorities for the Department as supported by the President's Budget. As acknowledged in the legislation, transfers of uranium for enrichment might lead to a volume of uranium transfers to the commercial market in excess of our annual guideline of no more than 10 percent of uranium requirements at domestic commercial reactors.

We also believe certain provisions of the bill, while well intentioned, may complicate the Department's ability to meet its own missions. An objective of the Department is to maintain sufficient uranium inventories at all times to meet the current and reasonably

foreseeable needs of Departmental missions. Specifically, by funding enrichment services through the transfer of the enriched uranium, the bill might impair the Department's ability to use this material to meet mission priorities, e.g., use in national defense programs requiring domestic origin uranium.

Also, several sections of the bill appear to grant the Department authorities it already has. The appearance of grants of authorities in this legislation could lead to confusion over the Department's existing authorities.

Conclusion

In considering the management and disposition of the Department's uranium inventory, including enriching the Department's high assay depleted uranium tails, a variety of factors need to be assessed, including DOE's mission needs, energy security, other statutory limitations and guidelines on the Department's disposition actions, and the flexibility to respond to a changing uranium market.

Thank you for this opportunity to testify before you. I look forward to answering your questions and working with the Committee to achieve the Administration's goals of utilizing the value of our valuable uranium assets in a manner that meets energy security needs, reduces the nation's carbon emissions, and supports skilled jobs for American workers.