

**Opening Statement of the Honorable John Shimkus  
Subcommittees on Environment the Economy & Energy and Power  
Hearing on “The Nuclear Regulatory Commission: Policy and Governance Challenges”  
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*(As Prepared for Delivery)*

It is nearly two years since the Fukushima accident and nearly one year since the NRC issued a suite of requirements responding to the accident. Since you last testified before this committee, the NRC instituted a moratorium on licensing actions until the agency addresses a court remand of its Waste Confidence rule. We have also heard announcements two nuclear plants will close prematurely and there is speculation in the press that several others may also.

So, it is in this context I'd like to discuss the defense-in-depth philosophy, which has been fundamental to nuclear safety in our country since the industry's inception. I'm sure we all agree it plays a vital safety role. This was a painful lesson for the Japanese to learn and one that was highlighted by the Diet report, which stated: “The defense-in-depth concept used in other countries has still not been fully considered.”

With the Atomic Energy Act, Congress endeavored to balance the benefits that nuclear energy brings to the general welfare with protection of public health and safety. I am concerned the Commission risks undermining this balance by shifting to an unlimited application of the defense-in-depth philosophy in reaction to the Fukushima accident.

Defense-in-depth has, or should have, a sensible constraint. For example, I understand there is a three-unit nuclear plant here in the U.S., which currently has eight emergency diesel generators. These reactors need six generators to ensure safety in case the plant loses access to off-site supplies of electricity. That means this site has two redundant spares. In the wake of Fukushima, this site will add two more in a separate bunker away from the plant for a total of ten diesel generators.

An unmanaged application of defense-in-depth philosophy would question why stop at 10? Why not have 20? Or a hundred? I don't know what the right number is. However, common sense and critical thinking should show that, at some point, there are diminishing safety benefits from additional generators. It seems to me cost-benefit analysis provides a necessary and sensible constraint in this situation: that safety gains should be significant enough to outweigh additional costs.

Unfortunately, with the NRC staff's filtered vents proposal, we have exactly the opposite. The staff's recommendation to mandate filtered vent structures failed the cost-benefit test so the staff chose to justify the mandate based on the defense-in-depth philosophy. The staff recommended this mandate against the advice of the NRC's body of experts, the Advisory Committee on Reactor Safeguards. That committee advised a more holistic approach recognizing that all plants are different and a one-size-fits-all mandate may create unintended consequences.

As the Near-term Task Force wrote in their 2011 report following the Fukushima accident:

*“...adequate protection has typically only led to requirements addressing beyond-design-basis concerns when they were found to be associated with a substantial enhancement in safety and justified in terms of cost.”*

Recommendation 1 in their report was that the Commission should reassess the role that the defense-in-depth philosophy should play. While the Commission has not yet resolved this policy question, agency staff nonetheless appears to be embedding ITS preferred approach in the filtered vents recommendation. I don't think the staff should attempt to set policy on a matter on which the Commission has not yet reached a conclusion.

Furthermore, this matter was raised in our January 15th letter, which twenty of my colleagues and I signed, and the Commission's response was unsatisfactory beginning with the failure to answer our first question: When will the NRC conduct a "gap analysis" of the regulation differences between the U.S. and Japan? I expect some of my colleagues will likely share some additional concerns with your response. I'm disappointed that you didn't take your communication with members of this committee more seriously and I expect that you will in the future.

I again want to thank you all for being here today and look forward to your testimony.

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