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4 OVERSIGHT OF NRC MANAGEMENT AND THE NEED FOR LEGISLATIVE
5 REFORM

6 THURSDAY, DECEMBER 12, 2013

7 House of Representatives,

8 Subcommittee on Environment and the Economy

9 Joint with the

10 Subcommittee on Energy and Power

11 Committee on Energy and Commerce

12 Washington, D.C.

13 The Subcommittees met, pursuant to call, at 10:14 a.m.,
14 in Room 2322 of the Rayburn House Office Building, Hon. John
15 Shimkus [Chairman of the Subcommittee on Environment and the
16 Economy] presiding.

17 Members present from the Subcommittee on Environment and

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18 the Economy: Representatives Shimkus, Gingrey, Murphy,
19 Harper, Bilirakis, Johnson, and DeGette.

20 Members present from the Subcommittee on Energy and
21 Power: Representatives Whitfield, Scalise, Hall, Pitts,
22 Terry, Olson, McKinley, Gardner, Kinzinger, Griffith, Barton,
23 McNerney, Tonko, Engel, Green, Capps, Barrow, Christensen,
24 Castor, Dingell, and Waxman (ex officio).

25 Staff present: Nick Abraham, Legislative Clerk;
26 Charlotte Baker, Press Secretary; Matt Bravo, Professional
27 Staff Member; Allison Busbee, Policy Coordinator, Energy &
28 Power; Annie Caputo, Professional Staff Member; Vincent
29 Esposito, Fellow, Nuclear Programs; Tom Hassenboehler, Chief
30 Counsel, Energy & Power; David McCarthy, Chief Counsel,
31 Environment/Economy; Brandon Mooney, Professional Staff
32 Member; Chris Sarley, Policy Coordinator, Environment &
33 Economy; Peter Spencer, Professional Staff Member, Oversight;
34 Tom Wilbur, Digital Media Advisor; Jeff Baran, Democratic
35 Senior Counsel; Alison Cassady, Democratic Senior
36 Professional Staff Member; Greg Dotson, Democratic Staff
37 Director, Energy and Environment; and Ryan Skukowski,
38 Democratic Staff Assistant.

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39 Mr. {Shimkus.} Welcome everyone. I would like to call
40 the hearing to order, and I would like to welcome the
41 Commission here again. And I would like to recognize myself
42 for 5 minutes for an opening statement.

43 We are holding this hearing today to conduct oversight
44 of the Nuclear Regulatory Commission to consider H.R. 3132,
45 Chairman Terry's Bill, the Nuclear Regulatory Commission
46 Reorganization Plan Codification and Complements Act. The
47 NRC's role in protecting public health and safety, and the
48 environment, is a vital one, and we take our oversight
49 responsibility very seriously.

50 Thank you, Commissioners, for making yourselves
51 available today.

52 Earlier this year, August 13, the U.S. Court of Appeals
53 for the District of Columbia Circuit granted a Writ of
54 Mandamus stating that, and I quote, ``the Nuclear Regulatory
55 Commission must promptly continue with the legally mandated
56 licensing process'' for Yucca Mountain. Yet, it wasn't until
57 November 18, 3 months later, that the Commission finally
58 issued an order directing the staff to proceed and resume the
59 license review. While I largely agree with the Commission's
60 Order, I question why it took so long, and why some key

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61 budget and schedule information is still missing. Given the
62 Commission's history on this topic, I wondered if the NRC was
63 dragging its feet on the issue, or if this is just the
64 NRC's normal pace of operation. As it turns out, the NRC
65 seems to be losing its schedule discipline in a number of
66 areas like new plant licensing, license extensions and power
67 uprate reviews, just to name a few. And that seems odd given
68 the growth of the NRC's budget and personnel over the past 10
69 years, the reduced number of operating reactors and the
70 decrease in material licensees, and with the withdraw of many
71 new plant licenses. So on November 21, Mr. Whitfield and I
72 sent you a letter asking for information--for more
73 information to help the Committee understand how the growth
74 in your budget and decreased workload has not fostered
75 timelier decision making. At this time, I would like to ask
76 that it be included in the hearing record together with the
77 NRC's response. Without objections, so ordered.

78 [The information follows:]

79 ***** COMMITTEE INSERT *****

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|

80 Mr. {Shimkus.} Thank you. Going forward, I will work
81 with Chairman Upton and Chairman Whitfield to bring greater
82 scrutiny of the NRC's abilities to manage its workload and to
83 make decisions in a timely fashion.

84 And with that, I would like to yield the balance of my
85 time to Congressman Terry from Nebraska.

86 [The prepared statement of Mr. Shimkus follows:]

87 ***** COMMITTEE INSERT *****

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|

88 [H.R. 3132 follows:]

89 ***** INSERT 1 *****

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|

90 Mr. {Terry.} Thank you, Mr. Chairman.

91 The independence of the nuclear safety regulator is

92 paramount. This is one of the primary reasons why the

93 Nuclear Regulatory Commission is comprised of five

94 commissioners, not a single administrator. In 1980, during

95 consideration of how best to reorganize the NRC, one

96 Congressman raised concerns about how tipping the balance of

97 power too far in favor of the chairman could have drastic

98 consequences.

99 I am going to quote Democratic Congressman Toby Moffett

100 from his testimony before the Senate Government Affairs

101 Committee. ``There will be two situations in the future,

102 those where the chairman is in basic agreement with the

103 majority, then those where he or she is not. In those cases

104 where the chairman has a majority of commissioners with or--

105 with him or her, it is obvious that the chairman will not

106 need the extraordinary powers tucked away in his plan to work

107 his or her will. The Chairman and the Commission can move in

108 unison towards their chosen regulatory policy.'' Continuing,

109 ``But what about the other situation where the Chairman is in

110 the minority, regardless of party affiliation within the

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111 Commission, when the majority of the Commissioners oppose the
112 Chairman? Isn't it equally obvious that it will be at that
113 moment that these special powers will be most appealing to
114 the Chairman? Isn't it clear that if these powers are ever
115 to be needed and utilized at all, it is precisely by a
116 chairmen bent on going against the majority of the
117 commissioners?'' During--end quote and end of his statement.
118 During the previous chairmanship, we witnessed the turmoil
119 that Mr. Moffett foresaw, turmoil that was documented at
120 length by the NRC's Inspector General. While I know we are
121 all glad to see the Commission functioning collegially as it
122 is now and should be, it is incumbent upon us as legislators
123 to do what we can to prevent this type of turmoil from
124 recurring in the future. That concern is what prompted me to
125 draft this Bill, developed in large part from the Inspector
126 General's conclusions and with the advice and counsel of the
127 NRC itself. And I yield back.

128 [The prepared statement of Mr. Terry follows:]

129 ***** COMMITTEE INSERT *****

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|
130 Mr. {Shimkus.} The gentleman yields back his time. Is
131 any member on the majority side seeking the last minutes?
132 Without that, then I will turn to Ranking Member, Mr. Tonko,
133 for a 5 minute opening statement.

134 Mr. {Tonko.} Thank you. Thank you, Mr. Chairman. Good
135 morning. And thank you to our participants at the witness
136 table. It is great to have you before the Committee.

137 We have quite a full roster of potential issues during
138 the course of this hearing. Among these is the Bill to amend
139 the reorganization plan that lays out the structure and
140 authorities of the Nuclear Regulatory Commission, and defines
141 the roles of the chair, the commissioners and the NRC staff,
142 that being H.R. 3132, which is offered by--authored our
143 colleague, Mr. Terry.

144 The nuclear power industry and the electric power sector
145 in general are experiencing a number of significant changes,
146 the low price and ready availability of natural gas is good
147 news. Good news in many respects. But it is shifting the
148 balance amongst different types of power generation. We have
149 discussed the impacts on coal, but this is dynamic--but this
150 dynamic has implications for nuclear power as well. Our

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151 nuclear fleet is aging. Several plants are to be
152 decommissioned. Some are being relicensed. Construction is
153 underway on several new plants. And as many members of this
154 Committee have noted, significant challenges with the
155 permanent storage of nuclear waste are still with us.

156 In addition, the tragic situation at the Fukushima plant
157 in Japan has reawakened some public concerns about nuclear
158 power. These are all very important items and each worthy of
159 examination on their own. And our Subcommittee has focused
160 on some of these in previous hearings.

161 In light of these important ongoing activities overseen
162 by the Commission, I am skeptical of the need for H.R. 3132.
163 The Bill does not appear to address any real problems. And
164 some of its provisions may indeed create new ones. The
165 primary responsibility of the Commission is ultimately to
166 ensure that the fleet of nuclear power plants is operating
167 safely, and that nuclear materials are accounted for and
168 handled safely. There is no room for error. The public will
169 not tolerate mishaps or accidents. And maintaining public
170 safety and public confidence are essential if we are to
171 continue to rely on nuclear power.

172 So as we proceed to consider H.R. 3132, that is the lens

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173 that we should use to examine the merits of this legislation.
174 Quick, speedy response is often times called for. In
175 addition to the central focus on safety, I would observe that
176 reorganizations may at times be productive and useful
177 exercises, but they divert time and attention away from the
178 main mission of any organization undertaking this task.

179 Again, I am skeptical--skeptical, Mr. Cole, that such a
180 diversion would be beneficial given the other important
181 matters before this Commission. I understand that in the
182 recent past, the working relationship among Commissioners was
183 not good. That is a concern. But there are ways short of
184 rewriting the Commission's operating rules to handle that
185 type of problem. And, apparently, the problems have been
186 resolved.

187 I believe that we should concentrate our efforts on
188 solving problems that truly require a legislative solution.
189 I am not convinced that H.R. 3132 can pass that test.

190 Thank you, Chairman MacFarlane and Commissioners
191 Svinicki, Apostolakis, Magwood and Ostendorff for being here
192 this morning. I appreciate the important work that you do.
193 I look forward to your testimony and to our discussion this
194 morning. And I would like to make available my remaining

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195 time. I yield to the gentleman from California, Mr.

196 McNerney.

197 [The prepared statement of Mr. Tonko follows:]

198 ***** COMMITTEE INSERT *****

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|
199 Mr. {McNerney.} Well, thank you, Mr. Tonko. And I
200 thank the Chairman for holding the hearing.

201 In addition to providing oversight for the Nuclear
202 Regulatory Commission, we are here to discuss H.R. 3132, Mr.
203 Terry's Bill, to modify NRC's organizational structure and
204 internal procedures. I do appreciate my colleague and
205 friend's efforts on this. But I do have some concerns. Mr.
206 Tonko already mentioned those concerns, which lead to the
207 ability of the Commission to respond in emergency situations.
208 I am afraid that the Bill would hamper that. And I hope to
209 hear whether that is confirmed or not by the members of the
210 Commission this morning.

211 Another issue of the NRC's purview is nuclear waste
212 facilities include Yucca Mountain. We heard from Secretary
213 Moniz in July that he believes a consent based citing process
214 makes sense. That is important in terms of public support
215 for particular project. I agree wholeheartedly. We need to
216 be able to discuss and address safe technologies for transfer
217 and storage of nuclear materials as well. All of these
218 issues are important for any nuclear project that may occur
219 in the future. And we should take every effort to make sure

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220 that they are addressed as we go forward.

221 My time is expired.

222 [The prepared statement of Mr. McNerney follows:]

223 ***** COMMITTEE INSERT *****

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224 Mr. {Shimkus.} The gentleman's time has expired. The
225 gentleman yields back. The Chair now recognizes the Chairman
226 of the Energy and Air Quality Committee, Mr. Whitfield, for 5
227 minutes.

228 Mr. {Whitfield.} Thank you, Chairman Shimkus. And I
229 also want to thank you, Chairwoman MacFarlane and other
230 members of the Commission for being with us today. And we
231 certainly appreciate the important work that you are involved
232 in.

233 I would like to just point out that we attempted to set
234 up this hearing beginning in August. And I know everyone has
235 very busy schedules. But I hope that your Chief of Staff
236 will work with us in the future. Ms. MacFarlane, I know that
237 we had set some dates that were not agreeable to all the
238 commissioners, and your staff got back to us, suggested a
239 date in which we were not even in session. And as I said, I
240 know we all have very busy schedules. But I hope that we can
241 work together to facilitate these hearings.

242 Also, I read recently that Senator Boxer was being very
243 critical of the travel budget for the Commission. And I
244 would say that I think it is vitally important that you all

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245 do adequate travel, because I think the expertise that we
246 have in the U.S. on nuclear issues and nuclear safety is
247 better than any place else in the world. So I think it is
248 important that we continue to share our expertise. And if--I
249 would also say that if Senator Boxer is concerned about the
250 travel budget, I can't imagine what she must be thinking
251 about the fact that we spent \$14 or \$15 billion on Yucca
252 Mountain and it is still not open. And then on top of that,
253 the judgments against the federal government for not being
254 able to take that waste, and--but, obviously, since
255 Fukushima, you all have been very much focused on safety
256 issues, as you should, because we want to ensure the American
257 people that nuclear energy is safe and that we need nuclear
258 energy. We must have it. But I do believe that additional
259 regulatory costs should be justified by real safety benefits.

260 Chairman Shimkus mentioned in a letter in November that
261 we sent, we point out that the NRC staffing has grown 29
262 percent over the past 10 years. And the fees recovered from
263 licensees and, hence, their customers, has increased 58
264 percent. As we examine this further, we also found in its
265 annual review of the industry's long term safety trends, the
266 NRC reported it has not identified any statistically

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267 significant adverse trends in the industry safety
268 performance. And that is commendable. And we are all
269 pleased with that. But in spite of that, there are 58 new
270 regulations pending. And then the NRC received applications
271 for 28 new reactors. Licenses were issued to build 4, and
272 licenses for 16 reactors have been withdrawn or suspended.
273 Yet, the NRC continues to cite budget constraints and delay
274 in their reviews. So I do agree with Chairman Shimkus that
275 there seems to be an apparent disconnect between the growth
276 of the NRC's resources and what appears as a declining
277 workload.

278 Yet, we look forward to your comments today on the
279 issues that you deem important. And we certainly look
280 forward to the opportunity to ask some questions, and
281 certainly look forward to hear--work with you as we move
282 forward. And so I--Mr. Barton--I yield the balance of my
283 time to Mr. Barton.

284 [The prepared statement of Mr. Whitfield follows:]

285 ***** COMMITTEE INSERT *****

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|

286 Mr. {Barton.} I appreciate that. Welcome to the
287 Commission, and I yield back.

288 [The prepared statement of Mr. Barton follows:]

289 ***** COMMITTEE INSERT *****

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290 Mr. {Shimkus.} So the gentleman yields back his time.
291 The minorities asked me that when Ranking Member Waxman shows
292 up that I allow him to do his opening statement, which I will
293 allow to do. I think the same courtesy will be given for
294 Chairman Upton if he were to show. There are competing
295 hearings. So we want to welcome the Commission.

296 Part of the challenge is always getting the
297 pronunciations of the names right. So with us today is
298 Chairman MacFarlane, Commissioner Svinicki. And if I am the
299 butcher, let me know. Commissioner Apostolakis, Commissioner
300 Magwood--probably the easiest one--and Commissioner
301 Ostendorff. So for my colleagues, we will try to get that
302 right without too much challenges.

303 And now, just welcome. You all will get a chance to do
304 a 5 minute opening statement. Your written testimony is on
305 file.

306 We will start with Chairman MacFarlane. You are
307 recognized for 5 minutes. Thank you and welcome.

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|
308 ^STATEMENTS OF ALLISON MACFARLANE, CHAIRWOMAN, NUCLEAR
309 REGULATORY COMMISSION; KRISTINE SVINICKI, COMMISSIONER,
310 NUCLEAR REGULATORY COMMISSION; GEORGE APOSTOLAKIS,
311 COMMISSIONER, NUCLEAR REGULATORY COMMISSION; WILLIAM MAGWOOD,
312 COMMISSIONER, NUCLEAR REGULATORY COMMISSION; AND WILLIAM
313 OSTENDORFF, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

|
314 ^STATEMENT OF ALLISON MACFARLANE

315 } Ms. {MacFarlane.} Good morning. Is this on? Yeah.
316 Good. Okay. Morning, Chairman Whitfield, Chairman Shimkus,
317 Ranking Member Tonko and distinguished members of the
318 Subcommittee.

319 My colleagues and I appreciate the opportunity to appear
320 before you today on behalf of the U.S. Nuclear Regulatory
321 Commission. The NRC continues to have a full plate of
322 regulatory responsibilities from the operation and
323 decommissioning of reactors to nuclear materials, waste and
324 security.

325 The Commission continues to function effectively and
326 collegially. Today, I would like to share a few highlights

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327 of our accomplishments and challenges.

328 The safe and secure operation of the NRC's licensed
329 facilities and materials remains our top priority. The vast
330 majority, as Chairman Whitfield noted, of operating reactors
331 in the United States are performing well, while a few warrant
332 enhanced oversight to ensure their safe and secure operation.
333 Construction of the new units at the Vogel and V.C. Summer
334 sites is well underway under rigorous NRC inspection.
335 Construction also continues at Watts Bar Unit 2, and the
336 staff is currently working toward an operating licensing
337 decision for that plant in December 2014. We are also
338 anticipating some middle of the first design certification
339 applications for small modular reactors next year.

340 This year, several reactors have shut down or announced
341 their decision to cease operations. At these plants--as
342 these plants transition from operation to decommissioning,
343 the NRC will adjust its oversight accordingly and ensure the
344 next steps are safely addressed while keeping the public
345 informed. The NRC has acted expeditiously to comply with the
346 August 13, 2013, D.C. Circuit Court of Appeals decision
347 directing us to resume review of the Yucca Mountain license
348 application. The Commission carefully reviewed feedback from

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349 participants to the adjudicatory proceeding, and budget
350 information from the NRC's staff. And on November 18, the
351 Commission issued an order directing the staff to, among
352 other things, complete the safety evaluation report for the
353 Department of Energy's Yucca Mountain construction
354 authorization application.

355 The project planning and building of the technical
356 capability at the NRC is now underway. I must note that on
357 several matters related to our review of DOE's YUCAA Mountain
358 license application, my colleagues and I may not be able to
359 comment due to pending Motions before the Commission and
360 indications that participants to the adjudication may seek
361 further relief in federal court.

362 The NRC also continues to make progress in its waste
363 confidence work. The proposed temporary storage rule and
364 draft generic environmental impact statement are out for
365 public comment until December 20. We have conducted 13
366 public meetings in 10 states to get feedback and address
367 questions. To date, the Agency has received over 30,000
368 public comments.

369 In the interim, the NRC continues to review all affected
370 license applications. But we will not make a final licensing

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371 decision dependent upon the waste confidence decision until
372 the Court's remand has been fully addressed. We continue to
373 address lessons learned from the Fukushima Daiichi accident
374 and implement appropriate regulatory enhancements. Among
375 other things, licensees have purchased and emplaced backup
376 equipment at reactor sites, installed supplemental flood
377 barriers and pumps to mitigate extensive flooding, and are
378 developing plans to install hardened vents and improved spent
379 fuel pool instrumentation.

380 We are also making progress on several important rule
381 makings. We are carefully ensuring that this work does not
382 distract us for--or the industry from the day to day nuclear
383 safety priorities. The highest priority safety enhancements
384 will be implemented by 2016. The NRC has held more than 150
385 public meetings to get input on our Fukushima work and share
386 progress. The NRC managed the fiscal year 2013 sequestration
387 cuts such that they did not adversely impact the Agency's
388 ability to carry out normal operations. However, if
389 sequestration continues in 2014, it will negatively impact
390 our research, new reactor work and non-emergency licensing
391 activities, among other responsibilities.

392 The recent government shutdown also had a detrimental

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393 impact on the NRC's operations. The Agency's safety and
394 security mission, including ongoing inspection at our
395 licenses facilities and emergency response capabilities, was
396 never in jeopardy. Furthermore, with prudent use of
397 carryover resources, we were able to limit the impact of the
398 shutdown relative to other agencies. This said, even a 4-day
399 furlough of 93 percent of our staff cost the Agency more than
400 \$10 million in lost productivity.

401 While we have accomplished a great deal, many challenges
402 are still ahead for the NRC. I am confident that we will be
403 able to address these and other issues in the coming months.
404 I would be pleased now to answer your questions.

405 [The prepared statement of Ms. MacFarlane follows:]

406 ***** INSERT 1 *****

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407 Mr. {Shimkus.} Thank you, Chairman. Now, we would like
408 to pause for a second to allow our Ranking Member Waxman to
409 give his opening statement. Mr. Waxman, you are recognized.

410 Mr. {Waxman.} Thank you very much, Mr. Chairman. I
411 apologize for being late. The other Subcommittee that is
412 meeting at the same time started late. So I am here, and I
413 wanted to thank you and especially, Chairman MacFarlane and
414 her fellow Commissioners for being here today.

415 I want to use my opening remark to comment on a really
416 bad idea. That is the bill that we will be examining today.
417 The bill includes a laundry list of changes to the Nuclear
418 Regulatory Commission's internal procedures that dredge up
419 old disputes that the Commission has already worked through.
420 After the Three Mile Island melt down in 1979, Congress and
421 the Carter Administration recognized the importance of
422 centralized emergency authority in the event of a domestic
423 nuclear crisis. The Reorganization Plan of 1980 addressed
424 this concern and established the basic responsibilities of
425 the Chairman and the Commissioners of the Nuclear Regulatory
426 Commission.

427 The Terry Bill purports to codify the reorganization

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428 plan, but it actually rescinds the plan and ignores a key
429 lesson learned from the Three Mile Island that the United
430 States needs a single, clear decision maker during a nuclear
431 emergency. The bill takes exactly the opposite approach by
432 undermining the chairman's authority in a crisis. It
433 requires the NRC Chairman to involve other commissioners in
434 emergency decisions. The bill even prevents the chairman
435 from taking any emergency actions until she notifies the four
436 commissioners, two Congressional committees and the general
437 public that she has declared an emergency.

438 I think that is a troublesome idea. If a nuclear
439 meltdown is happening at a U.S. reactor, we don't need a
440 bureaucracy. We need the Chair to act quickly and
441 decisively. We should not require her to call a host of
442 commissioners and members of Congress, along with the NRC's
443 website administrator or public affairs office, before
444 exercising emergency authority. The impact of this bill
445 could be truly disastrous in a nuclear crisis.

446 And that is not the only troubling change in the bill.
447 Not long ago, the Commission was struggling with a nasty,
448 personal conflict. While the Commission seems to have moved
449 past that discord under the leadership of Chairman

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450 MacFarlane, Mr. Terry, the Committee Republicans, can't seem
451 to let it go. The Terry Bill would stir the pot by reopening
452 past disputes. We need the NRC focused on nuclear safety,
453 not constantly rewriting its internal procedures.

454 The effect of virtually every proposed change in the
455 bill is to shift authority from the NRC Chair to the other
456 Commissioners. It even would mandate that the Commissioners
457 complain to the President and Congress about any perceived
458 violations of the Bill's requirements by the Chair. That is
459 not likely to encourage continued collegiality.

460 There is one NRC internal procedure that is not
461 addressed by the Terry Bill, and that should be changed--but
462 that should be changed. The Commission recently revised its
463 policy for how it handles a Congressional request for non-
464 public documents. Previously, NRC provided documents
465 requested by the Agency's oversight committees, as well as
466 individual members on those committees or with nuclear
467 facilities in their districts. Under the new policy, NRC
468 will not provide non-public documents to individual members,
469 and may withhold sensitive documents from chairman and
470 ranking members as well. I think this is a misguided and
471 dangerous policy. If Mrs. Capps wants to see a document

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472 related to Diablo Canyon, she should get it. If Mr. Terry
473 wants information about Fort Calhoun, he should get it. This
474 is not a partisan issue. It is about the institutional
475 oversight responsibilities of this Committee and its members.
476 And I encourage all five Commissioners to rethink this flawed
477 policy. And I look forward to further discussing this issue
478 today.

479 Mr. Chairman, thank you for your courtesy. And I have
480 to apologize in advance, because I have to be at another
481 subcommittee at the same time this subcommittee. And cloning
482 has not advanced sufficiently for me to be at both places at
483 once. But I will be back and forth as much as possible.
484 Thank you.

485 [The prepared statement of Mr. Waxman follows:]

486 ***** COMMITTEE INSERT *****

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|

487 Mr. {Shimkus.} The gentleman yields back his time. I
488 am sure a lot of people are glad that you are not able to be
489 cloned yet, Mr. Waxman. So--we will miss you though.

490 Mr. {Waxman.} So am I.

491 Mr. {Shimkus.} And I am sure Mr. Terry appreciates your
492 ability to comment on his Bill. So with that, we turn back
493 to the Commissioners. Again, welcome. Commissioner
494 Svinicki, you are recognized for 5 minutes.

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|

495 ^STATEMENT OF KRISTINE SVINICKI

496 } Ms. {Svinicki.} Thank you. Thank you, Chairman
497 Shimkus, Chairman Whitfield, Ranking Member Waxman, Ranking
498 Member Tonko and members of the Subcommittees for the
499 opportunity to appear before you today at this oversight
500 hearing on NRC management and the potential need for
501 legislative reform.

502 The Commission's Chairman, Dr. Allison MacFarlane, and
503 her statement on behalf of the Commission, has provided a
504 comprehensive description of key Agency accomplishments and
505 challenges in carrying out NRC's important mission of
506 protecting public health and safety, and promoting the common
507 defense and security of our nation. The circumstances in
508 which we find ourselves carrying out this mission require
509 constant adaptation of our approaches.

510 This point was communicated very directly last month in
511 a message sent from NRC's senior career official, the
512 Executive Director for Operations, Mark Satorius, to all NRC
513 Agency employees. His message was as follows. Our future is
514 likely to be dynamic and unpredictable. And the Agency will

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515 need to remain highly flexible and agile as we respond to new
516 events and external pressures. We will need to continually
517 evaluate the work we are doing, give careful consideration as
518 to how best to use resources, and remain focused on safety
519 and security. I agree with Mr. Satorius' statement.

520 As any organization--as an organization which embraces
521 the precepts of continuous learning, the NRC consistently
522 seeks to improve its internal organizational effectiveness.
523 As a member of this Commission, I will work with my
524 Commission colleagues and the NRC staff to support the
525 Agency's assessment of how we can accomplish our work
526 efficiently and effectively with the circumstances and
527 factors we face today.

528 I am confident that the NRC's dedicated and highly
529 professional staff members are up to the task of meeting
530 these challenges, as they have proven time and again over the
531 course of the Agency's history. I thank them for their
532 sustained commitment to the Agency, to its work and to each
533 other.

534 Thank you. I appreciate the opportunity to appear today
535 and look forward to questions.

536 [The prepared statement of Ms. Svinicki follows:]

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537 ***** COMMITTEE INSERT *****

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|

538 Mr. {Shimkus.} Thank you. The Chair now recognizes
539 Commissioner Apostolakis. And you are recognized for 5
540 minutes.

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|

541 ^STATEMENT OF GEORGE APOSTOLAKIS

542 } Mr. {Apostolakis.} Thank you, Mr. Chairman. Good
543 morning, Chairman Shimkus, Ranking Member Tonko, Chairman
544 Whitfield, Ranking Member Rush and distinguished members of
545 the Subcommittees.

546 Today, I would like to offer a few comments on the issue
547 of cumulative effects of regulation. The Agency's addressing
548 concerns about cumulative effects of regulation in several
549 ways. For example, the NRC staff has implemented
550 enhancements to our rule making process. These enhancements
551 include the concurrent publication of guidance with proposed
552 and final rules, as well as a specific solicitation of public
553 comment on cumulative effects when the Agency published
554 proposed rules.

555 Aside from the rule making enhancements, the NRC staff
556 has also been receptive to industry proposals for adjustments
557 to implementation schedules for post-Fukushima actions when
558 justified.

559 In addition, in February of this year, the Commission
560 directed the NRC staff to develop options for allowing

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561 licensees to prioritize the implementation of regulatory
562 actions as an integrative set and in a way that reflects
563 their risk significance on a plant specific basis. The NRC
564 staff and industry representatives are currently exploring,
565 in public meetings, the idea of piloting this proposal. The
566 rationale behind this initiative is, first, that nuclear
567 power plant risk is very site specific and, second, that
568 focusing on just one area of regulation, such as post-
569 Fukushima safety enhancements, ignores other important safety
570 significant work that the Agency is doing, such as fire
571 protection.

572 In closing, the NRC remains keenly focused on its core
573 safety and security mission, and are utilizing our resources
574 in a way that will have the greatest impact on improving
575 safety. Thank you very much.

576 [The prepared statement of Mr. Apostolakis follows:]

577 ***** COMMITTEE INSERT *****

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|

578 Mr. {Shimkus.} Thank you. The Chair now recognizes
579 Commissioner Magwood for 5 minutes.

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|

580 ^STATEMENT OF WILLIAM MAGWOOD

581 } Mr. {Magwood.} Thank you, Chairman. Good morning,
582 Chairman Shimkus, Chairman Whitfield, Ranking Member Tonko.
583 It is a pleasure to appear before you today. We appreciate
584 your oversight, even when the questions are hard, because we
585 think it is very important that we have a chance to share our
586 thoughts about these important issues.

587 Chairman MacFarlane's written and oral comments capture
588 the full range of the activities that we have underway, so I
589 won't dwell on that. But as you can see, it has been a very,
590 very busy time for the NRC.

591 We have made considerable progress in a wide range of
592 areas in recent years, including dealing with low level waste
593 issues, updating radiation protection standards, licensing
594 the first new nuclear power plant since the 1970s. However,
595 to this day, most public Congressional attention has been
596 placed in response to the disaster at Fukushima Daiichi.

597 Since March 2011, the NRC has learned very important
598 lessons with--from this tragedy. And it has taken clear and
599 appropriate action to enhance U.S. nuclear safety. We have

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600 kept our pledge to neither overreact nor under-react to the
601 events in Japan. And I think we have gotten it just about
602 right.

603 At the same time, U.S. nuclear energy has also absorbed
604 the lessons of Fukushima and has responded with strategies
605 that, once fully implemented, could provide safety benefits
606 that are actually beyond our regulatory requirements.

607 Perhaps more importantly, the mindset of our licensees
608 have changed in the face of Fukushima. Two months ago, all
609 of the chief nuclear officers of the U.S. nuclear utilities
610 traveled to Japan as a group to inspect the Fukushima site
611 and talk with those who managed the disaster. The personal
612 insights they gained on this trip may have benefits far
613 beyond anything that we can regulate.

614 Our challenge now, both NRC and its licensees, is
615 to absorb the post-Fukushima activities into our normal work
616 and prioritize it appropriately. Doing so will require us to
617 understand how to manage the preparation for low probability
618 extreme events in concert with the enduring need to protect
619 against much more likely accident scenarios. Commissioner
620 Apostolakis' comments this morning point to an initiative
621 that we have undertaken that will help in that direction.

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622 But this is a big challenge. And the steps that we have
623 taken in its face will have significant and far reaching
624 implications for many years to come. As we strive to meet
625 these challenges, the NRC will have, as always, the benefit
626 of the very talented NRC staff, and to have the experience
627 people who lead them. Since we last appeared before this
628 Committee, the Commissioners appointed a new Executive
629 Director of Operations, Mark Satorius, and a new General
630 Counsel, Margie Doan. Both have already had a very strong
631 positive impact on the Agency, and I look forward to
632 continuing to work with them.

633 Thank you for your attention. I look forward to your
634 questions this morning.

635 [The prepared statement of Mr. Magwood follows:]

636 ***** COMMITTEE INSERT *****

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|

637 Mr. {Shimkus.} Thank you, Commissioner. Commissioner
638 Ostendorff, you are recognized for 5 minutes.

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|

639 ^STATEMENT OF WILLIAM OSTENDORFF

640 } Mr. {Ostendorff.} Thank you, Chairman Shimkus, Chairman
641 Whitfield, Ranking Member Tonko, members of the Committee,
642 for the chance to be before you today.

643 The NRC continues to federally fulfill its safety
644 oversight role by ensuring the proper safe operation of our
645 nearly 100 operating reactors and the five reactors under
646 construction across the country. As a learning organization,
647 the NRC is always seeking to leverage operating experience.
648 And as a result, we continue to evaluate the lessons learned
649 from Fukushima. And as noted by the Chairman--or initiating
650 safety improvements where appropriate. I am very confident
651 in the decisions the NRC has made to date in this area, and I
652 believe the Commission is functioning properly as a body as
653 intended by Congress and the Administration.

654 Others have already talked about the waste confidence
655 remand. I won't address that. I will talk very briefly
656 about the Yucca Mountain licensing process. I think the
657 November 18 order issued by the Commission reflected very
658 careful thought and deliberation amongst these five

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659 Commissioners at this table. I think there is a very solid
660 order that was put out here less than a month ago. I expect
661 that we will have sufficient funds to complete the safety
662 evaluation reports, which I believe are important. And we
663 will continue to keep this Committee informed of those
664 activities as we go forward on monthly reports.

665 I would also note that many nuclear power plants in this
666 country today are operating under challenging and different
667 economic conditions than in the past. Potentially costly
668 repairs and the low price of natural gas have led to the
669 permanent shutdown of four nuclear power plants this year.
670 And Vermont Yankees announced they will shutdown next year
671 because they are no longer economically viable. Interesting
672 new reactors, as a matter of fact, is also weighing in the
673 current economic climate.

674 That said, the NRC will remain vigilant to ensure that
675 plants continue to be operating safely, and will provide
676 appropriate oversight for decommissioning activities. As
677 others at this table have noted, we are also looking at the
678 changing demands in our workload, and we have responsibility
679 to ensure that our staff is appropriately right sized.

680 I appreciate this hearing, the Committee's oversight

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681 rule, and I look forward to your questions.

682 [The prepared statement of Mr. Ostendorff follows:]

683 ***** COMMITTEE INSERT *****

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|
684 Mr. {Shimkus.} Thank you, Commissioner. And now I
685 would like to recognize myself for 5 minutes for an opening
686 set of questions. Because--Commissioner Apostolakis, because
687 of your recusal, I am not going to ask you to respond to this
688 series of questions, because they are basically all in
689 direction to Yucca Mountain. So we will go with Chairman
690 MacFarlane, and then from my left to right on the answering
691 of the questions.

692 Pursuant to your duties as Commissioner, will you make
693 every effort to fully and faithfully comply with the law, yes
694 or no, Chairman?

695 Ms. {MacFarlane.} Of course, I will make every effort
696 to comply with the law.

697 Mr. {Shimkus.} Thank you.

698 Ms. {Svinicki.} Yes.

699 Mr. {Magwood.} Absolutely.

700 Mr. {Ostendorff.} Yes.

701 Mr. {Shimkus.} The D.C. Circuit reaffirmed in its
702 August 13 decision that the Nuclear Waste Policy Act and I
703 quote provides that the Nuclear Regulatory Commission--and on
704 their quotation marks--shall consider the Department of

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705 Energy's license application to store nuclear waste at Yucca
706 Mountain. And again, sub-quotes, shall issue a final
707 decision approving or disapproving, closed sub-quotes, the
708 application. Is that correct?

709 Ms. {MacFarlane.} We are now in the process of--

710 Mr. {Shimkus.} No, just a statement that this is the
711 D.C. Court affirmed. And this is what they have affirmed
712 that you will do.

713 Ms. {MacFarlane.} The D.C. Court affirmed that we would
714 continue with the licensing process using the existing
715 nuclear waste funds that we have.

716 Mr. {Shimkus.} Correct. So you agree with the
717 statement from the Court?

718 Ms. {MacFarlane.} I--

719 Mr. {Shimkus.} And that is--okay. Commissioner?

720 Ms. {Svinicki.} Yes, I agree that the Court affirmed
721 that.

722 Mr. {Magwood.} I agree.

723 Mr. {Ostendorff.} I agree.

724 Mr. {Shimkus.} In its November 18 Order addressing the
725 D.C. Circuit Court's Writ of Mandamus, you all acknowledge
726 that it does not have sufficient funds to complete the

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727 license review and the issue of final decision, is that
728 correct?

729 Ms. {MacFarlane.} We do not have sufficient funds to
730 complete the licensing review, that is correct.

731 Ms. {Svinicki.} The funds NRC has would be insufficient
732 for making that decision.

733 Mr. {Shimkus.} Great. Thank you.

734 Mr. {Magwood.} That is correct.

735 Mr. {Ostendorff.} That is correct.

736 Mr. {Shimkus.} When an agency is legally bound to
737 implement a statutorily mandated action, but finds it lacks
738 sufficient resources, do you believe it is incumbent upon
739 that agency to request the funding necessary to comply?

740 Ms. {MacFarlane.} Budget decisions are decisions of the
741 Commission, and we will discuss them as a Commission.

742 Mr. {Shimkus.} So is that a yes or a no?

743 Ms. {MacFarlane.} That is budget decision are decisions
744 of the Commission, and we will--

745 Mr. {Shimkus.} Okay. Well, let me just ask it again,
746 just so we understand the question. When an agency is
747 legally bound, as you all have agreed, to implement a
748 statutorily mandated action, but finds that it lacks the

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749 sufficient resources, do you believe it is incumbent upon the
750 agency that is legally mandated by law that you would request
751 the funding necessary to comply?

752 Ms. {MacFarlane.} I believe we are complying with the
753 law. We are complying with the Court's decision now. And
754 going forward, we will discuss any future budget decisions as
755 a commission.

756 Mr. {Shimkus.} All right. This is where I always get
757 frustrated. So your response is that even though you are
758 legally mandated to comply with the law, and you don't have
759 sufficient funds, you don't think it is incumbent upon you to
760 request the needed funds to comply with the law?

761 Ms. {MacFarlane.} I think we can--we will discuss this
762 as a commission and go forward with it--

763 Mr. {Shimkus.} Why don't you just answer--it is the
764 law. We are required to comply. And we need to add a
765 request to fund that ability.

766 Ms. {MacFarlane.} We will certainly comply with the
767 law. And I will comply with the law.

768 Mr. {Shimkus.} Okay. Commissioner Svinicki?

769 Ms. {Svinicki.} Yes, I believe that agency should
770 formulate and request budgets that comply with the law.

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771 Mr. {Shimkus.} Thank--Commissioner Magwood?

772 Mr. {Magwood.} I think that we will formulate a budget
773 that complies with the law. And we will consult with legal
774 advice within the agency and outside the agency--

775 Mr. {Shimkus.} Yeah, it is really not a quick--I am not
776 trying--it is not really a quick--trying to be tricky. It is
777 just saying--and the budget may not get approved. It may not
778 get presented forward. But the basic question is, if the law
779 says you have got to comply, and you say we don't have the
780 money to comply, I don't think it is a tough response to say
781 and I will ask for the money I need to comply with the law.
782 Commissioner Ostendorff?

783 Mr. {Ostendorff.} I understand your frustration of the
784 responses here, and this is a very challenging issue. As an
785 individual commissioner, I will have an opinion. As a member
786 of the Commission, I will also work with Commissioner
787 colleagues here to my right to--I think your question is
788 directly with respect to the fiscal year 2015, fiscal year
789 2016 budget process. Would we be requesting additional funds
790 for the high level waste licensing? And I think that we have
791 an obligation to follow the law. But I also note that this
792 will be a Commission decision as to how we move forward with

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793 the budget request.

794 Mr. {Shimkus.} But the question is to you as an
795 individual Commissioner.

796 Mr. {Ostendorff.} Yes.

797 Mr. {Shimkus.} Thank you. And my time is almost
798 expired. Let me finish with this. As a statement, the NRC
799 has not, as you noted, submitted a supplemental budget
800 request to the Office of Management and Budget for additional
801 nuclear waste funds based upon the November 21 letter that
802 you sent to us. So my time is expired. I now yield to the
803 Ranking Member, Mr. Tonko, for 5 minutes.

804 Mr. {Tonko.} Thank you, Mr. Chair. And again, welcome.

805 After the Three Mile Island accident, President Carter
806 convened a commission to identify lessons learned in order to
807 improve nuclear safety and ensure a more timely and effective
808 response to nuclear emergencies. The panel concluded that
809 the Nuclear Regulatory Commission needed a clear leader who
810 accessed the Agency's Chief Executive Officer. The panel
811 also concluded that in a nuclear emergency, the country needs
812 a single unified voice to take charge and make decisions.

813 I am concerned that H.R. 3132 takes us backward and
814 ignores these important lessons. The Bill is at least a

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815 provision of the Reorganization Plan that consolidates
816 emergency authority with the Chair. Under the Bill, the
817 Chair may not exercise emergency authority unless and until
818 the Chair satisfies two criteria. First, she must formally
819 declare that a specific emergency exists. Second, before
820 taking any action, she must notify the other 4 Commissioners,
821 the relevant Congressional committees and the general public.

822 I can understand the benefit of a formal declaration.
823 But if the Chair gets a call at 3:00 a.m. that a nuclear
824 power plant is in meltdown, why would we require her first
825 action to be calling her congressional affairs and public
826 affairs staff, rather than calling for an evacuation?
827 Chairman MacFarlane, do you think a requirement for you to
828 notify this Committee and the Senate before taking any
829 emergency action in response to a nuclear crisis is
830 appropriate?

831 Ms. {MacFarlane.} I think that the existing internal
832 commission procedures on this issue are adequate. I believe
833 that the Commission is operating collegially. And I think
834 that no changes are needed at this time.

835 Mr. {Tonko.} Thank you. Should an action to respond
836 directly to the crisis be the first item on your agenda?

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837 Ms. {MacFarlane.} No, I don't believe so.

838 Mr. {Tonko.} Let me ask the other Commissioners. Do
839 any of you think that the Chair should have to put out a
840 press release, or update the NRC website, to fulfill a public
841 notice requirement before exercising emergency authority in
842 an urgent situation when time is of the essence?
843 Commissioner Svinicki?

844 Ms. {Svinicki.} Under our procedures, the Chairman
845 heads an executive team that immediately begins to respond to
846 the emergency. And I would just note that the NRC does not
847 make the decision on evacuations. That is done by the
848 governor of the state in which those--the accident is
849 occurring.

850 Mr. {Tonko.} And, Commissioner Apostolakis?

851 Mr. {Apostolakis.} No. As you have pointed out, there
852 was a very clear message from Three Mile Island, the Chair
853 should be the decision maker during an accident. The last
854 time with Fukushima, there was some issues that were raised
855 regarding when the commissioners were notified. The Chairman
856 had assumed emergency powers. And, certainly, I don't think
857 that the Chairman should have to worry about notifying the
858 other commissioners when she is notified that there is an

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859 accident and action needs to be taken. At some point later,
860 probably she would have to do that.

861 Mr. {Tonko.} Thank you. Commissioner Magwood?

862 Mr. {Magwood.} I think Commissioner Apostolakis'
863 explanation is correct. I think it makes a great deal of
864 sense to enable the chairman to take immediate action in the
865 face of an emergency. But I do also think that it is
866 important that the chairman, in appropriate time during the
867 crisis, notify the chairman's colleagues that emergency
868 powers have been declared and that the situation such as that
869 exists to provide clarity. Because, quite frankly, when this
870 was used previously, there was a long period of time where
871 there was no clarity as to whether an emergency was actually
872 declared or not. And that created a great deal of confusion
873 within the Agency.

874 Mr. {Tonko.} Thank you. Commissioner Ostendorff?

875 Mr. {Ostendorff.} I agree with Commissioner Magwood's
876 characterization.

877 Mr. {Tonko.} Thank you. Let me ask the other
878 commissioners. Do any of you think that the Chair should
879 have to put out a press release or update the NRC website to
880 fulfill a public notice requirement before exercising

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881 emergency authority in an urgent situation when time indeed
882 is of the essence? Commissioner Svinicki?

883 Ms. {Svinicki.} I don't believe a press release should
884 be the highest priority item.

885 Mr. {Apostolakis.} No, she should not have to do that.

886 Mr. {Tonko.} Commissioner?

887 Mr. {Magwood.} No, that should not be the first action.

888 Mr. {Tonko.} And, Commissioner Ostendorff?

889 Mr. {Ostendorff.} Not the first action.

890 Mr. {Tonko.} H.R. 3132 also establishes a greater role
891 for the commissioners in an emergency. For example, the bill
892 requires the Chair to consult with the full commission before
893 taking any regulatory or policy actions during an emergency,
894 as appropriate. And it elevates the involvement of all the
895 commissioners in making decisions that ``may affect
896 commission actions and policies beyond the response to a
897 particular emergency.'' That could be interpreted
898 differently by different commissioners and clouds the
899 authority of the Chair. So, Chairman MacFarlane, during a
900 nuclear emergency, would your time be better spent actually
901 responding to the emergency or engaging in discussions with
902 your colleagues about whether a particular response might

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903 affect policy in the future?

904 Ms. {MacFarlane.} Having personally practiced emergency
905 drills with my NRC colleagues and staff, it is clear that
906 time is of the essence and situations change rapidly. It is
907 important to be able to be as responsive as quickly as
908 possible. I would certainly, and have pledged before, to
909 keep my colleagues informed to my best ability of all actions
910 and the situation.

911 Mr. {Tonko.} Thank you. I note my time has expired.
912 So with that, I will yield back.

913 Mr. {Shimkus.} The gentleman yields back his time. The
914 Chair now recognizes the gentleman from Kentucky, Mr.
915 Whitfield, the Chairman of the Energy and Air Quality
916 Subcommittee.

917 Mr. {Whitfield.} Thank you, Chairman Shimkus. And
918 thank you all for your opening statements and for, as I said
919 earlier, being with us today.

920 I am going to ask a question relating to a comment that
921 I made in my opening statement, and that is about the--over
922 the past 10 years, the number of licensing actions and tasks
923 have decreased by 40 percent, and yet the nuclear safety
924 budget has increased by 48 percent. So you just look at

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925 those numbers. And I think a person could be quite critical
926 of the Agency and say oh, your responsibility's going down,
927 your budget is going up and the country has a debt now
928 approaching \$18 trillion. So I would just ask each of you
929 individually if you wouldn't mind just commenting briefly on-
930 -is criticism like this valid, or is there a valid reason for
931 budgets to go up that much and the workload is going down?
932 Chairman MacFarlane?

933 Ms. {MacFarlane.} Thank you. I would like to submit
934 this for the record.

935 Mr. {Whitfield.} Okay.

936 Ms. {MacFarlane.} This is a chart of the budget, the
937 NRC in actual dollars and in constant dollars from 2003 to
938 this fiscal year 2013.

939 Mr. {Whitfield.} Okay.

940 Mr. {MacFarlane.} And I think you can see that--
941 basically, if you look at the constant dollars, which is the
942 correct comparison over time--

943 Mr. {Whitfield.} Right.

944 Ms. {MacFarlane.} --that the budget now in 2013 is the
945 lowest it has been since 2007. And in 2007, that was before
946 we had Yucca Mountain, we had waste confidence and we had

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947 Fukushima. So I would argue we are doing now much more with
948 less.

949 Mr. {Whitfield.} And what is the total budget for this
950 year?

951 Ms. {MacFarlane.} In constant dollars, the total budget
952 is--this is \$671 million versus in 2007, it was \$680 million.

953 Mr. {Whitfield.} So your--your position is then--in
954 constant dollars, you are roughly the same or less--

955 Ms. {MacFarlane.} Less, yes.

956 Mr. {Whitfield.} And the workload--

957 Ms. {MacFarlane.} Is higher.

958 Mr. {Whitfield.} The workload is higher?

959 Mr. {MacFarlane.} Yes.

960 Mr. {Whitfield.} So even though the applications and
961 licensing actions is going down, the workload is higher--

962 Ms. {MacFarlane.} Yes.

963 Mr. {Whitfield.} And why is that?

964 Ms. {MacFarlane.} The workload is higher, because since
965 2007 at least, we have had the Yucca Mountain application.
966 We have had waste confidence decision. And, of course, we
967 have had the Fukushima accident, which has added on to our
968 workload quite significantly.

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969 Mr. {Whitfield.} Yeah. Yeah. And all of you agree
970 with that assessment, I am assuming? Do you, Ms. Svinicki?

971 Ms. {Svinicki.} I would just note that there isn't a
972 direct correspondence between the budget amount and the
973 number of industry generated items for review in front of us.
974 We do have a number of constant activities that simply must
975 be budgeted every year.

976 Responding more generally to the criticism, you asked
977 for a reaction to the criticism, I would say that as noted by
978 members of the Committee in their opening statements, this is
979 clearly not the world in 2013 that NRC had the trajectory
980 that we had been planning for. And so I do agree with
981 Commissioner Ostendorff's statement, it is appropriate for
982 this Commission and for the Agency to be looking at the right
983 sizing and the application of resources to activities.

984 Mr. {Whitfield.} All right.

985 Ms. {Svinicki.} I think we attempt to do that on a
986 pretty constant basis.

987 Mr. {Whitfield.} Okay. Thanks. And I am running out
988 of time. I do want to ask another question. In your opening
989 statement, Ms. MacFarlane, you referred to a modular reactor
990 process, to start considering those.

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991 Ms. {MacFarlane.} Um-hum.

992 Mr. {Whitfield.} I would like to ask each of you to
993 comment just briefly on your view of the potential of modular
994 reactors, and whether or not they can play an important role
995 or not? Let us start with you, Chairman--

996 Ms. {MacFarlane.} Sure. I think they are an
997 interesting--very interesting innovation. And, you know, we
998 will see--we are waiting for their applications. And I am
999 very interesting in seeing how this technology progresses.

1000 Mr. {Whitfield.} Okay. Ms. Svinicki?

1001 Ms. {Svinicki.} Well, our colleagues at the U.S.
1002 Department of Energy have the tough job of looking at the
1003 merits of the various innovations of the developers of this
1004 technology, because DOE has programs to fund some of the
1005 technology development. But we do expect, as a safety
1006 authority, to be receiving some designs for review. And we
1007 have worked hard to prepare the Agency to be ready to do
1008 those reviews.

1009 Mr. {Whitfield.} Okay. Mr. Apostolakis?

1010 Mr. {Apostolakis.} Well, the industry is spending
1011 serious dollars in developing the designs of these reactors.
1012 So there must be potential there.

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1013 Mr. {Whitfield.} Okay. Mr. Magwood?

1014 Mr. {Magwood.} I honestly don't know. I think I am--
1015 like many people, I am waiting to see. Because in the past,
1016 for small reactors, the challenge has never really been just
1017 technical. It has always been economic and financial. And
1018 until these products are on the market, they will be very
1019 difficult to know for sure. So I am waiting and seeing.

1020 Mr. {Whitfield.} Thank you.

1021 Mr. {Ostendorff.} I will just comment, Chairman
1022 Whitfield, that I think we are ready as an Agency to receive
1023 the applications. We have probably done as--gone as far as
1024 we can, absent an actual license application in hand. We
1025 expect to get one the latter part of 2014.

1026 Mr. {Whitfield.} Thank you very much. Thank you.

1027 Mr. {Shimkus.} The gentleman yields back his time. The
1028 Chair now recognizes the gentleman from California, Mr.
1029 McNerney, for 5 minutes.

1030 Mr. {McNerney.} Thank you, Mr. Chairman. Ms.
1031 MacFarlane, I think you gave an answer to an earlier question
1032 that you may have intended another answer to give. Shouldn't
1033 an action in response directly to a crisis be the first item
1034 on your agenda? Shouldn't responding to a crisis be the

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1035 first item--safety be the first item on your agenda?

1036 Ms. {MacFarlane.} Yes. For--in the case--in the event
1037 of an emergency?

1038 Mr. {McNerney.} Yes.

1039 Ms. {MacFarlane.} Yes, of course.

1040 Mr. {McNerney.} Thank you.

1041 Ms. {MacFarlane.} Sorry.

1042 Mr. {McNerney.} Regarding nuclear waste, Ms.
1043 MacFarlane, is local public acceptance necessary for
1044 implementation of a nuclear waste disposal site?

1045 Ms. {MacFarlane.} I think this is an area of
1046 discussion. The Blue Ribbon Commission on America's Nuclear
1047 Future looked at this issue. They said that consensus was an
1048 important piece of citing, that citing decisions weren't just
1049 technical decisions, but they were also societal. I think if
1050 you look at the experience of other countries on this issue,
1051 ones that have been more successful recently, countries like
1052 Sweden and Finland and France, that--local consensus is
1053 important.

1054 Mr. {McNerney.} Good. Do you--does Yucca Mountain have
1055 local public acceptance?

1056 Ms. {MacFarlane.} It is not for the Nuclear Regulatory

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1057 Commission to judge that, I am afraid.

1058 Mr. {McNerney.} Okay. That is fair enough. In
1059 November, Ms. MacFarlane, the U.S. Court of Appeals for the
1060 District ruled that the Department of Energy can no longer
1061 collect the \$750 million in annual waste disposal fees from
1062 nuclear operators. How is this ruling going to affect the
1063 NRC's ability to develop nuclear waste storage sites?

1064 Ms. {MacFarlane.} At the moment, it is not going to
1065 affect us at all.

1066 Mr. {McNerney.} Okay. I am not sure which commissioner
1067 to ask this question of, but how long would it take to get a
1068 license reviewed for a new nuclear waste--nuclear power plant
1069 design?

1070 Ms. {MacFarlane.} For a new power plant design?

1071 Mr. {McNerney.} Right. Right. From scratch.

1072 Ms. {MacFarlane.} From--a design certification?

1073 Mr. {McNerney.} Right.

1074 Ms. {MacFarlane.} It takes some months to a few years,
1075 up--it should. But it depends in large part on the quality
1076 of the application. And if there are problems with the
1077 application, then we have a number of iterations with the
1078 applicant.

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1079 Mr. {McNerney.} So when I hear horror stories--

1080 Ms. {MacFarlane.} But maybe my colleagues would like to
1081 comment?

1082 {Voice.} Yeah.

1083 Mr. {McNerney.} When I hear horror stories about how
1084 long it takes, 5 years or 10 years, that is likely to be due
1085 to some error--problems in the application?

1086 Mr. {Apostolakis.} It does take that time, sometimes
1087 longer. But it is several years. Now, if there are new--
1088 really new designs like the small modular reactors, there
1089 will be several policy issues that will have to be resolved.
1090 So I really don't know how long that will take.

1091 Mr. {Magwood.} There is no such thing as the average
1092 case with these things. But on average, I would expect that
1093 a design certification is usually about a 3 year exercise.
1094 But to actually implement that, to build the plant, takes
1095 considerably longer. And it really depends on the situation.
1096 For example, if another applicant comes to build an AP1000
1097 plant, which has already been certified and which, as you
1098 noted, was under construction, that would be a much shorter
1099 process than if someone came to us with a completely new
1100 design. So it depends on exactly what the application is.

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1101 Mr. {McNerney.} Thank you. Mr. Magwood, I appreciate
1102 your comment about the Commission's challenge in balancing
1103 the potential for long--for low probability events versus the
1104 day to day events that need constant attention. How does the
1105 Commission go about making those sort of decisions?

1106 Mr. {Magwood.} We are working on that right now.

1107 Mr. {McNerney.} Thank you. Mr. Apostolakis, one of the
1108 things you said was--and I think I am quoting it, the
1109 cumulative effects of regulation. That sounds like something
1110 out of Fox News. Could you clarify what you meant by that,
1111 please?

1112 Mr. {Apostolakis.} We have--especially after the
1113 Fukushima accident and the regulations have started--well,
1114 started coming out of the Commission, there were a lot of
1115 complaints by the industry that we were issuing regulations
1116 without considering other regulations that they have to
1117 comply with. So each decision of the Commission is focused
1118 only on that particular regulation. And the industry wants
1119 the Commission to think about the cumulative effects. What
1120 is it that they have to do? Do they have the resources? Do
1121 they have the time? And is every single regulation or
1122 request by the NRC of equal importance? So that is where--

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1123 that is the issue of cumulative effects of regulation, and
1124 the Commission has responded.

1125 Mr. {McNerney.} Okay. Thank you.

1126 Mr. {Shimkus.} I didn't know my colleague was a fan of
1127 Fox News. So the Chair now recognizes the gentleman from
1128 Texas, Mr. Barton, for 5 minutes.

1129 Mr. {Barton.} Thank you, Mr. Chairmans, in this joint
1130 hearing. I was pleasantly surprised to learn that the NRC
1131 can review a design application in a few months. You got
1132 three right now that have been under review for over 5 to 7
1133 years. You might go back and try to whip those out before
1134 Christmas since it doesn't take but a month or 2. I am going
1135 to ask Mr. Shimkus' question a little bit different way.
1136 Since Yucca Mountain is back under review, and since all the
1137 Commission indicates that you don't have the resources to
1138 complete the review process, anybody want to estimate about
1139 how much additional funding you might need? Ms. Svinicki,
1140 what is your guess on that? And that is not a trick
1141 question. I am just interested.

1142 Ms. {Svinicki.} In order to assess and develop the
1143 order that we issued last month that restarted the licensing
1144 process, we did receive some input. I don't want to say they

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1145 have the full fidelity of a budget estimate, but we attempted
1146 to have submitted to us, both by the adjudicatory board and
1147 also the staff, some estimates for these activities. But I
1148 would not characterize to you, sir, that we have a complete
1149 current estimate for getting all the way to a final licensing
1150 decision.

1151 Mr. {Barton.} Okay.

1152 Ms. {Svinicki.} We do know that restarting the
1153 adjudication would be a resource intensive activity.

1154 Mr. {Barton.} I am not trying to be cute here. I want
1155 a general ballpark estimate. Are we talking about a few
1156 million, several hundred million, a billion? I mean, just
1157 some sort of order of magnitude?

1158 Ms. {Svinicki.} For NRC's activities alone, again this
1159 depends on how the Department of Energy is resourced to
1160 support our activities, because they are also a participant
1161 in this. It is very difficult for me to estimate the total
1162 dollar. Before activities were suspended, our budget
1163 requests from NRC were varying. They were approximately--in
1164 some years, they were very close to \$100 million just for our
1165 review activities for a single year. That began to taper
1166 down a bit I think closer to \$50 million a year. But--so

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1167 based on where it had been in previous years when the review
1168 was underway, I think your estimate of the \$100s of millions
1169 is probably the area that is very difficult to estimate.

1170 Mr. {Barton.} That is good enough. Madam Chairwoman,
1171 has the Commission or the Administration, if not the
1172 Commission, taken a position on Mr. Terry's reform Bill?

1173 Ms. {MacFarlane.} Has the Commission as a whole--no, it
1174 has not.

1175 Mr. {Barton.} Do you have an opinion on his Bill?

1176 Ms. {MacFarlane.} Yes. My opinion is that--my personal
1177 opinion is that it is not necessary at this time, and it may
1178 have unintended consequences.

1179 Mr. {Barton.} Okay. Any other Commissioner wish to
1180 give your opinions on his Bill? You don't have to, I am just
1181 interested.

1182 Mr. {Ostendorff.} I will comment, Congressman Barton.
1183 I think in July of last year, I responded to a QFR following
1184 a hearing to Chairman Shimkus, and just my position was that
1185 with Chairwoman MacFarlane here, the challenges we had as a
1186 Commission with the previous Chairman have gone away, that we
1187 are operating in an open collegial environment. So some of
1188 the issues and motivations behind the challenges we had have

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1189 disappeared. But there are a couple of areas where they will
1190 be greater clarity on some aspects of Congressman Terry's
1191 legislation. There is some aspects that I personally told
1192 Chairman Shimkus via my written response giving with
1193 clarification of invocation of emergency powers, for
1194 instance, would benefit from greater clarity in the statute.

1195 Mr. {Barton.} Okay. Good. My last question. The last
1196 time the Commission was here, I pointed out to the Chairman
1197 that you hadn't given a report on the Fukushima accident.
1198 And you finally did issue a report last week. So that is the
1199 good news. The not so good news is there is still lots of
1200 things that the report didn't address. I am just going to go
1201 through a very quick listing of what the staff has indicated
1202 to me was not addressed in the report. You didn't address
1203 the fact that the U.S. has an independent regulator,
1204 yourself, and Japan does not. The U.S. has an institute of
1205 nuclear power operators to establish best management
1206 practices, Japan does not. The U.S. requires plant specific
1207 training, Japan does not. The U.S. requires severe accident
1208 management guidelines, Japan does not. The U.S. requires
1209 complex training scenarios, site specific, and Japan does
1210 not. The U.S. requires water level procedures for boiling

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1211 water reactors, Japan does not. The U.S. requires site
1212 specific evaluation criteria, Japan does not. And the U.S.
1213 has a requirement for a design basic flood planning that
1214 Japan does not. Now, all these things that the U.S. does, we
1215 can give your Commission kudos for requiring that. That is a
1216 good thing. The fact that none of this was considered in
1217 your evaluation of the accident, my question to the
1218 Chairwoman, do you consider the report that was issued last
1219 week to be the final word, or do you agree with me that more
1220 work needs to be done?

1221 Mr. {MacFarlane.} The report that was issued last week
1222 noted that it wasn't comprehensive. But it noted that there
1223 were similar design basis requirements between the U.S. and
1224 Japan prior to the accident, but that there were different
1225 approaches to beyond design basis events and severe
1226 accidents. At the same time, the report concluded that there
1227 was no evidence that a Fukushima type accident would have
1228 been necessarily avoided in the U.S. And I go back to
1229 something Commissioner Ostendorff mentioned earlier, I think
1230 maybe in his opening statement about the importance of
1231 operating experience. And in the nuclear industry, operating
1232 experience is essential. And from the accident, we learned

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1233 that we had not taken into consideration a number of
1234 important issues. We had not, prior to that accident,
1235 considered that more than one reactor could melt down at the
1236 same time, for instance. There were a number of other issues
1237 that we did not consider. And I just want to point out that
1238 this is not something unique to the United States, to the
1239 NRC, that we discovered this. All other significant nuclear
1240 regulators around the world came to the same conclusions, and
1241 we are all implementing very similar changes as a result.

1242 Mr. {Barton.} My time has expired. I would ask all the
1243 other Commissioners to answer that question in writing for
1244 the record, Mr. Chairman.

1245 Mr. {Shimkus.} Without objection, all members will be
1246 allowed to follow-up this hearing with written questions.
1247 The Chair now recognizes our colleague from the Virgin
1248 Islands, Ms. Christensen, for 5 minutes.

1249 Dr. {Christensen.} Thank you, Mr. Chairman. And, you
1250 know, thank you for holding this hearing. It is always
1251 important for the Committee to exercise its oversight
1252 authority of this Commission as we did the FCC, but not to
1253 really interfere in the day to day decision making of the
1254 Committee--of the Commission.

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1255 The--I want to focus on the Terry Bill for a moment, and
1256 it overhauls the respective responsibilities of the Chairman
1257 and Commissioners of the Nuclear Regulatory Commission and
1258 essentially rewrites the Commission's internal procedures.
1259 Chairwoman MacFarlane, do you think it is necessary or
1260 productive to have Congress rewriting the details of NRC's
1261 internal Commission procedures?

1262 Ms. {MacFarlane.} I think, as I said before, that the
1263 current internal Commission procedures are quite adequate and
1264 that we need to be careful in any kind of changes that are
1265 made to the emergency powers piece, because we don't want any
1266 unintended consequences. We don't want to go back to a pre-
1267 Three Mile Island kind of situation and structure at the NRC.

1268 Dr. {Christensen.} Thank you. And I note that the
1269 Commission spent 3 years debating and more than 1 year voting
1270 on its last revisions in internal procedures. Many of the
1271 issues raised by the Terry Bill were worked out by the
1272 Commissioners themselves--yourselves in 2011. So I don't
1273 really understand why we would want to reopen disputes that
1274 have really already been resolved by the Commission. The
1275 Bill would set inflexible deadlines the Commission is to vote
1276 on atomic safety and licensing board reviews. The

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1277 Commission's current decisions do not set rigid deadlines and
1278 allow for extensions for Commissioners who need additional
1279 time to reach a decision. So, Chairlady MacFarlane, do you
1280 think it is--it makes sense to have strict voting deadlines
1281 without the possibility of extensions?

1282 Ms. {MacFarlane.} Well, the NRC is an adjudicatory
1283 body. The Atomic Safety and Licensing Board is an
1284 adjudicatory body. And some of the cases that they receive
1285 are quite complex, both technically and legally. And
1286 sometimes they take quite awhile to resolve. I know of no
1287 other court or adjudicatory body that has statutory time
1288 limits--that operates under statutory time limits.

1289 Dr. {Christensen.} Thank you. And right now, the NRC
1290 Chair develops a budget and presents it to the Commission for
1291 its review and approval. Under the Bill, NRC staff would
1292 present the budget, not the Chairman. So again, Chairwoman
1293 MacFarlane, do you think it makes sense to strip the NRC
1294 Chairman of the responsibility to present an annual budget to
1295 the Commission?

1296 Ms. {MacFarlane.} I think it is important for a
1297 collegial body to function properly that someone has to have
1298 a leadership role, and somebody has to, in this case, present

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1299 a budget. I think it is important for oversight committees
1300 to have somebody to hold accountable. So--

1301 Dr. {Christensen.} And I would imagine that budget is--
1302 the development of that budget takes place with staff, with
1303 the executive director, but it is--

1304 Ms. {MacFarlane.} It does. And I think you could ask
1305 my colleagues to comment that the budget development that has
1306 occurred since I have been there has been done in a collegial
1307 and collaborative manner.

1308 Dr. {Christensen.} I want to try to finish up one more
1309 question. Back in October 2011, four NRC commissioners sent
1310 a letter to the White House Chief of Staff to express concern
1311 about the then Chairman Jaczko. It was a low point in the
1312 breakdown of the relationship among commissioners. And Mr.
1313 Terry's Bill actually requires commissioners to send future
1314 letters to the President if they believe the Chairperson has
1315 not complied with NRC internal procedures. So again,
1316 Chairlady MacFarlane, do you think this mandate makes sense?
1317 Is it going to encourage continued collegiality among the
1318 chairman and commissioners?

1319 Ms. {MacFarlane.} You know, I don't want to comment on
1320 the--what happened before me. But I think I just will say

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1321 and maintain that I think now the Commission is operating
1322 collegially and collaboratively, and I encourage you to check
1323 with my Commission colleagues on that issue.

1324 Dr. {Christensen.} Well--go ahead. I have about a
1325 minute for you to answer--for all four of you to answer that.

1326 Ms. {Svinicki.} I agree that the Commission is
1327 currently a very collegial body.

1328 Mr. {Apostolakis.} I agree.

1329 Mr. {Magwood.} I agree as well. But let me just take a
1330 second just to say that after having gone through the last
1331 few years, I am extremely appreciative of what Congressman
1332 Terry has tried to do with this legislation. I think that it
1333 is appropriate for Congress to take a look at the legislative
1334 background of the Agency, given recent events. And I agree
1335 with Commissioner Ostendorff that there are some aspects of
1336 the reorganization plan that probably require some
1337 clarification. I think you, however, have pointed out some
1338 things that could lead to unintended consequences, as
1339 Chairman MacFarlane said. So I think it is certainly
1340 something that is worth looking at. And I do think there is
1341 room for clarification.

1342 Dr. {Christensen.} Mr. Ostendorff?

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1343 Mr. {Ostendorff.} I agree with Commissioner Magwood's
1344 comments. And I would just add two pieces here. One, I
1345 think the Chairman needs to be able to be the chairman and
1346 exercise leadership role, and that he or she has to have
1347 appropriate authorities to do such. I also think that there
1348 are places where greater clarification would be helpful, and
1349 I believe that is the spirit of Congressman Terry's efforts
1350 in several cases here.

1351 Dr. {Christensen.} Thank you, Mr. Chairman. I just
1352 think that the commissioners--the Commission itself has the
1353 authority and the wherewithal to make those clarifications.
1354 Thank you, Mr. Chairman. I yield back.

1355 Mr. {Shimkus.} The gentlelady yields back her time.
1356 The Chair now recognizes the gentleman from Georgia, Mr.
1357 Gingrey, Ranking Member of my Subcommittee, for 5 minutes.

1358 Dr. {Gingrey.} Vice Chair. Mr. Chairman, thank you.
1359 Thank you very much. I am very pleased to hear that the
1360 Commission is a collegial body, because indeed we are too, as
1361 you all know.

1362 Chairwoman MacFarlane, I understand you spoke last week
1363 to a conference in Japan where you indicated, and I quote
1364 ``we have no ultimate plan for spent fuel disposition.'' I

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1365 don't know if this statement reaches the depth of a selfie.
1366 But if there is no plan, what was the basis of the D.C.
1367 Circuit issuing a Writ of Mandamus compelling the Agency to
1368 resume its review of Yucca Mountain?

1369 Ms. {MacFarlane.} I think I was referring in general to
1370 the fact that globally, there is right now no high level
1371 waste repository in any country. So I was speaking very
1372 broadly when I was making these statements at this workshop.

1373 Dr. {Gingrey.} Yeah, I understand. But if there is no
1374 plan, what is the basis for our electricity rate payers to
1375 pay \$750 million to the federal government every year?

1376 Ms. {MacFarlane.} I think the Court actually has
1377 overturned that for the moment.

1378 Dr. {Gingrey.} Well, I assume--I--well, I don't assume.
1379 Actually, I assure you, Madam Chairman--I assure you that
1380 there is a plan. There may be a few people in this town that
1381 want to pretend that there is no plan. But there is. And it
1382 is entwined in a law called the Nuclear Waste Policy Act.
1383 And 335--and not just Republicans--335 House Members voted to
1384 fund that plan this summer. What I think we need to see from
1385 NRC is your plan for fully and faithfully complying with the
1386 law. And I would expect an agency that is statutorily

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1387 mandated to complete an action, in this case the license
1388 review, to have a plan for doing so. Failing to plan--Madam
1389 Chair, I know you would agree with this--failing to plan is
1390 planning to fail. Is the NRC preparing this integrated plan
1391 that will encompass all actions necessary in support of a
1392 final decision, including detail schedule and resource
1393 estimates?

1394 Ms. {MacFarlane.} We are in the process of carrying out
1395 the--the staff is in the process of carrying out the order
1396 that I referred to that we issued on November 18. I
1397 understand our staff is going to be providing the Commission
1398 with a plan to move forward to carry out the Court's decision
1399 later this month. So we will look forward to receiving that.

1400 Dr. {Gingrey.} Well, let me ask the same question of
1401 all the Commissioners, starting from your right. Would you
1402 support preparation of such a plan? And if you would not,
1403 why not?

1404 Ms. {Svinicki.} I do support the development of these
1405 types of estimates within the Agency to inform, as we noted
1406 in our order, our future budget deliberations.

1407 Mr. {Apostolakis.} I don't--

1408 Dr. {Gingrey.} And I understand your recuse.

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1409 Certainly. Mr. Magwood?

1410 Mr. {Magwood.} To be perfectly honest, I think that we
1411 have been so focused on implementing the Court's direction.
1412 We haven't taken the next step to really think seriously
1413 about where do we go from here. And I think you have raised
1414 the valid question. Actually, another commissioner and I
1415 were talking about this just yesterday in a very, very brief
1416 way. So I think it is something we will have to take back
1417 and give a lot of thought to.

1418 Dr. {Gingrey.} Mr. Ostendorff?

1419 Mr. {Ostendorff.} I personally do support preparing a
1420 plan to see where it take to move forward.

1421 Dr. {Gingrey.} The Commission has directed the staff
1422 to--and I quote here ``complete the safety evaluation report,
1423 SER, using the approach that was underway when work on the
1424 SER was suspended. That is the staff should work on the
1425 completion of all remaining volumes concurrently, but issue
1426 each SER volume upon completion.'' These are the--my final
1427 two questions. Will that follow the previous schedule that
1428 was in place when the review was terminated, Madam
1429 Chairwoman?

1430 Ms. {MacFarlane.} The previous schedule that when it

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1431 was terminated--start--

1432 Dr. {Gingrey.} When it was terminated. Will you follow
1433 the previous schedule?

1434 Ms. {MacFarlane.} It--as I said, the staff is
1435 developing their plan to move forward. They are going to be
1436 giving that to us later this month.

1437 Dr. {Gingrey.} Well, back then, Madam Chairwoman,
1438 Volume 3 was the next one scheduled for release. Can you
1439 tell the Committee when we can expect to see that volume,
1440 Volume 3?

1441 Ms. {MacFarlane.} We don't have that detail right now,
1442 and I don't want to say more. Because right now, this issue
1443 is subject pending Motions before the Commission and may be
1444 subject of legal action. So we can't go into great detail on
1445 this issue.

1446 Dr. {Gingrey.} Mr. Chairman, I yield back. Thank you.

1447 Mr. {Shimkus.} The gentleman yields back his time. The
1448 Chair now recognizes the gentleman from Texas, Mr. Green, for
1449 5 minutes.

1450 Mr. {Green.} Mr. Chairman, I would like to take a
1451 minute, because our colleague, Congressman Gingrey, I know
1452 lost his mom last week. It is the first time I have seen

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1453 you, Phil. And I know all of us share your loss in your mom.
1454 And like I said, I haven't had a chance to talk to you about
1455 it. But I appreciate your friendship and what we do on the
1456 Committee.

1457 With that, you know, having been on both these
1458 subcommittees for a number of years, I appreciate the panel,
1459 both the Chair and the members, because over the last few
1460 years, that has not been the relationship between the Chair
1461 and the members in the collegial. Now, I know where
1462 Congressman Terry is trying to go with his Bill, because it
1463 was going to solve--trying to solve a problem a lot of us
1464 perceived in hearings over the last few years. And I have
1465 some concern about the imperial chairman issue. And maybe we
1466 can look at that. But I just appreciate the partnership and
1467 the working relationship that the Chair you have instituted
1468 and the agreement that we have. I know it is an unusual way.
1469 We have an agency to do that with the power being in the
1470 chair so much.

1471 But, Ms. MacFarlane, over the last few years, we have
1472 seen--you know, we haven't expanded our nuclear power base,
1473 although we hope to do that. And, frankly, I guess I want to
1474 go to some questions though about what we have done as

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1475 compared to Fukushima. And I will go to those directly. You
1476 discussed the NRC reactor oversight process in the 5 columns
1477 of an action matrix in your testimony. Column 1 consists of
1478 the best safety and security performance. Column 2 and 3
1479 requires excessive increases in NRC oversight and enhanced
1480 inspection. Would you agree that increased oversight and
1481 enhanced inspection means that there may be safety or
1482 security issues that require the Commission's attention?

1483 Ms. {MacFarlane.} Certainly that require the staff's
1484 attention, yes. And the Commission overall, certainly.

1485 Mr. {Green.} Okay. You state that there are 78
1486 reactors in Column 1 and 14 reactors in Column 2 and 7 in
1487 Column 3. Would you agree that the majority of our nation's
1488 nuclear reactors are meeting the highest safety and security
1489 standards?

1490 Ms. {MacFarlane.} The majority of our nuclear reactors
1491 are operating safely, yes.

1492 Mr. {Green.} Recently, in the Federal Register, the NRC
1493 acknowledged that there are currently 56 rulemaking rankings
1494 underway at the Commission. Do you know how many of those
1495 relate to safety or security?

1496 Ms. {MacFarlane.} I am not sure exactly. Fifty-six

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1497 rulemaking, they may--they usually do relate to safety and
1498 security--

1499 Mr. {Green.} Well, that is--

1500 Ms. {MacFarlane.} They may not all be around nuclear
1501 reactors. They might be around nuclear materials, too.

1502 Mr. {Green.} If the majority of our nuclear fleet is
1503 already meeting the highest standard, what new analysis or
1504 evolving circumstances lead to these rules?

1505 Ms. {MacFarlane.} Operational experience.

1506 Mr. {Green.} Okay. Ms. MacFarlane, as you know, in
1507 1998, the U.S. government breached its contractual
1508 obligations with respect to disposing of nuclear waste. Thus
1509 far, every challenge has been brought before the court system
1510 has agreed that the government must fulfill our obligation.
1511 CBO estimate that taxpayer liability related to the breach of
1512 the contract has reached approximately \$12.3 billion.
1513 Additionally, the taxpayers have spent approximately \$15
1514 billion, give or take, on the development of Yucca Mountain.
1515 And, finally, Yucca Mountain is designed to handle about
1516 70,000 tons of waste. At our current levels, our nation
1517 would exceed Yucca's capacity even before it opens. In an
1518 NRC audit CLIA 1308, it was written that the Commission would

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1519 take appropriations requests under advisement in the course
1520 of the Agency's budgeting process. With \$30 billion in
1521 taxpayer funding and liability and waste that exceeds
1522 capacity, why would the Commission not request funding for a
1523 licensing process for the--Yucca Mountain?

1524 Ms. {MacFarlane.} Well, we are--as I said earlier, we
1525 are moving forward with the Court's order. And any further
1526 budgeting decisions will be Commission decisions.

1527 Mr. {Green.} The courts determined the Commission must
1528 move forward. The Administration determined that Yucca
1529 Mountain's not the answer. If that--if the answer isn't
1530 Yucca Mountain, how do we meet these obligations by the
1531 Court?

1532 Ms. {MacFarlane.} That is, you know, a policy decision
1533 that I am going to let you all wrestle with.

1534 Mr. {Green.} Well, I think the House, we can probably
1535 deal with it. But we do have some issues with the Senate.

1536 Ms. {MacFarlane.} Um-hum.

1537 Mr. {Green.} In February 2013, the Commission testified
1538 that restart of the Yucca process and completing the safety
1539 evaluations, that is SER, the NRC would need approximately 6
1540 to 8 months, and has estimated \$6.5 billion--million. In

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1541 September of '13, Commission stated that to complete the SER,
1542 it required 12 months and estimated \$8.3 million.

1543 Ms. {MacFarlane.} Um-hum.

1544 Mr. {Green.} In November, it was reported the NRC staff
1545 estimated cost of \$11.1 million. And the last time the
1546 Subcommittee has addressed Yucca Mountain, we acknowledged
1547 that to complete the SER, Volumes 2 through 5, might require
1548 additional resource 6.5. Is 8.3 the correct number? And why
1549 has the estimate increased over \$2 million over the last 6
1550 months?

1551 Ms. {MacFarlane.} As we said in the Order, the staff's
1552 estimate has changed as a result of the proceeding being
1553 suspended for a number of years. And saying any more on this
1554 topic is not appropriate, because of the Motion before the
1555 Commission.

1556 Mr. {Green.} Well, and I know--if we provide guidance,
1557 Mr. Chairman, from the House side, hopefully the Senate would
1558 recognize there is a Court decision we have to respond to.
1559 And we obviously--I know other countries--and I have been to
1560 other countries to see their nuclear waste facilities, and it
1561 would be nice if we actually led in that effort, even though
1562 some of our other countries are a little further ahead of us.

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1563 So thank you, Mr. Chairman, for your courtesy. Appreciate
1564 the extra time.

1565 Mr. {Shimkus.} Gentleman's time has expired. The Chair
1566 now recognizes the very patient Mr. Terry from Nebraska for 5
1567 minutes.

1568 Mr. {Terry.} Thank you, Mr. Chair.

1569 Mr. {Shimkus.} I think he wants to weigh in on this a
1570 little bit.

1571 Mr. {Terry.} Maybe. First, I would like to say the
1572 issue I think with the NRC is the public has to have
1573 confidence in you. And there has been--I think we can
1574 universally agree that there was a breach in confidence
1575 because you couldn't trust the NRC at one point in time. And
1576 I really appreciate you creating a collegial atmosphere, or
1577 reestablishing--because if you aren't working together, I
1578 don't think you can truly be an effective body. So I
1579 appreciate you restoring some level of comradery and not a
1580 culture of distrust. On the other hand, it has been 33 years
1581 since Congress has really looked into the rules and
1582 procedures. And, frankly, because of the breaches that
1583 occurred prior to your arrival, Chairman, I think it is
1584 legislative malpractice to not recognize that there has been-

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1585 -well, now we know, some holes in those procedures. And I
1586 think probably the heart of that is the misuse of
1587 emergencies. And the heart of this Bill is really about
1588 emergencies.

1589 So I want to ask a couple of questions here. Hey,
1590 Morgan, would you lean forward? Appreciate that.

1591 So do you believe that there should be a declaration of
1592 an emergency?

1593 Ms. {MacFarlane.} Well, first of all, Congressman,
1594 thank you for the--

1595 Mr. {Terry.} I will do a Dingell. That is pretty much
1596 a yes or no question.

1597 Ms. {MacFarlane.} Okay. Well, first of all, I just
1598 want to compliment you on the work that you put into this
1599 Bill, and the thinking that you put into this Bill. Of
1600 course, one should declare an emergency.

1601 Mr. {Terry.} All right. Well, that is not in your
1602 rules and procedures. And so that is one of I think probably
1603 the most important part of this is just to say that the Chair
1604 does have to physically say there is an emergency, and not
1605 keep that from your fellow commissioners. Now, the Bill
1606 says--and I kind of enjoyed some of the questions by my

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1607 colleagues, because they made it sound like you have to
1608 declare the emergency and then right away call the
1609 commissioners. The Bill actually says 24 hours. Is that not
1610 enough--is that too much time or too little time to notify
1611 the other four sitting at that desk that you have declared an
1612 emergency?

1613 Ms. {MacFarlane.} I think it really would depend on the
1614 particular situation. I don't know that we can imagine all
1615 the situations that can come forward.

1616 Mr. {Terry.} Can you imagine--okay. And let me go--
1617 because we actually then define in here what an emergency is,
1618 and that is just simply that it is a safety threat.

1619 Ms. {MacFarlane.} Or a security threat.

1620 Mr. {Terry.} Or a--

1621 Ms. {MacFarlane.} We also are responsible for the
1622 security at nuclear facilities.

1623 Mr. {Terry.} Well--

1624 Ms. {MacFarlane.} And I am a little concerned about the
1625 security language in the Bill, which requires the NRC to wait
1626 for another federal agency to declare a security threat at a
1627 reactor before the NRC can act.

1628 Mr. {Terry.} Well, I think maybe--I think you are

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1629 misreading.

1630 Ms. {MacFarlane.} The NRC is responsible for security
1631 at reactors.

1632 Mr. {Terry.} Okay. Well--

1633 Ms. {MacFarlane.} We practice this with our licensees.

1634 Mr. {Terry.} All right. Well, then I disagree with
1635 that interpretation. But if you would like to work further
1636 on that, that is fine. You--are you against the emergency
1637 provision?

1638 Ms. {MacFarlane.} In this Bill?

1639 Mr. {Terry.} Yeah.

1640 Ms. {MacFarlane.} Yes, I am.

1641 Mr. {Terry.} And you said it will have unintended
1642 consequences. Can you tell me what the unintended
1643 consequences would be of--

1644 Ms. {MacFarlane.} Well--

1645 Mr. {Terry.} Will you let me finish, please?

1646 Ms. {MacFarlane.} Sure.

1647 Mr. {Terry.} Of having to notify the four people on
1648 your right and left, the two on your right and two on the
1649 left that you have declared an emergency?

1650 Ms. {MacFarlane.} I have said earlier and previously

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1651 before this body, and I pledge again to let my colleagues
1652 know in the event of an emergency, and certainly let you all
1653 know--the oversight committees know.

1654 Mr. {Terry.} Okay. Well, then if you have pledged it,
1655 why--

1656 Ms. {MacFarlane.} In the event--

1657 Mr. {Terry.} I think the next commissioner should have
1658 the same responsibilities. But until we change the rules, I
1659 don't know if the next person that takes over your role will
1660 be as responsible as you. And that is why your prior
1661 chairman has shown that we have a big hole in the procedures.
1662 And the next one may be as rogue or as I think Mr. Green was
1663 kinder by saying imperial. But that is why we have to change
1664 the rules. And I don't think a 24-hour notice to your
1665 colleagues and to this Committee if there is a safety threat
1666 is that extraordinary. I think it is pretty reasonable. And
1667 the other part of that is you do have the power to declare,
1668 under this, the emergency. It is only if it is more than 30
1669 days where we want the commissioners to actually be involved.
1670 Before then, for 30 days, all you have to do is within 24
1671 hours say there is an emergency, and that is--you are
1672 satisfied. And it is hard for me to get through my mind,

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1673 turning to your assistant and say make sure we email our
1674 commissioners. That took 5 seconds for me to say. But that
1675 is extraordinary for you? I am just having a hard time with
1676 that. Yield back.

1677 Mr. {Shimkus.} The gentleman yields back his time. The
1678 Chair now recognizes the gentlelady from California, Ms.
1679 Capps, for 5 minutes.

1680 Mrs. {Capps.} Thank you, Mr. Chairman. And I thank you
1681 all on the Commission for being here today. As you know, I
1682 represent Diablo Canyon Nuclear Power Plant, which is owned
1683 and operated by PG&E.

1684 Diablo Canyon is a major contributor to our local
1685 economy. And, obviously, it plays an important role in our
1686 state's energy portfolio. But it also sits on two earthquake
1687 faults, the Hosgri and the Shoreline. So safety is obviously
1688 always a top priority. Now, every power plant must be built
1689 according to a safe shutdown earthquake SSE standard, as we
1690 know, which is the maximum ground shaking that key safety
1691 elements are designed to withstand so it can safely shutdown.

1692 As a condition of Diablo Canyon's operating license, the
1693 NRC required its safety systems to be evaluated using
1694 industry standard--calculations and tests to ensure that it

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1695 could meet the SSE levels. But the NRC did not require the
1696 same industry standard calculations and tests to be used to
1697 evaluate the safe shutdown standards for an earthquake along
1698 the Hosgri Fault. In other words, there is a lot of new
1699 information since those standards were set, which was
1700 predicted to be stronger than the reactor was licensed to
1701 withstand. I believe that is sort of commonly understood
1702 now.

1703 And since then, of course, we have discovered a
1704 Shoreline Fault in the same reason, which is even closer to
1705 the reactor and also not yet fully understood. It makes a
1706 lot of my constituents very nervous. To my knowledge, the
1707 NRC has still not required safety testing using the same
1708 industry standard methodology that originally required in its
1709 operating license. In other words, there is some
1710 inconsistency here. And now, Dr. Michael Peck, the NRC's
1711 former senior resident inspector at Diablo Canyon, even filed
1712 a non-compliant--non-concurrence report with the NRC, saying
1713 that the reactor was not in compliance with its license.

1714 Chairwoman MacFarlane, in light of Dr. Peck's expert
1715 opinion, what is the NRC doing to ensure that the reactor is
1716 in compliance with the seismic safety requirements of its

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1717 operating license?

1718 Ms. {MacFarlane.} The Diablo Canyon Nuclear Power Plant
1719 is in compliance with--

1720 Mrs. {Capps.} Well, he has written this report that is
1721 dissenting. I would ask you to answer in light of that.

1722 Ms. {MacFarlane.} Right. And the NRC's view is that
1723 the Diablo Canyon plant is within compliance, that there are
1724 actually three design basis earthquakes. The design basis--
1725 the double design basis, as you mentioned, and also the
1726 Hosgri earthquake one. That was discovered in the 1980s.
1727 The plant was reevaluated to see if it could withstand that,
1728 and it can. When the Shoreline Fault--

1729 Mrs. {Capps.} I am sorry--

1730 Ms. {MacFarlane.} It was reevaluated--

1731 Mrs. {Capps.} To see if it could withstand the Hosgri--

1732 Ms. {MacFarlane.} The Hosgri. Yes. And it can. And
1733 the Shoreline Fault was evaluated by independent analysis,
1734 and that fault is bounded by the design basis earthquakes.
1735 An earthquake that that fault could produce is bounded by the
1736 design basis earthquake.

1737 Mrs. {Capps.} But--

1738 Ms. {MacFarlane.} So the plant is considered within

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1739 compliance.

1740 Ms. {Capps .} Let--

1741 Ms. {MacFarlane.} But let me say that we are now--we
1742 have asked all nuclear power plants in the country to
1743 reevaluate their seismic hazard. And so Diablo Canyon is in
1744 the process of reevaluating their seismic hazard. And their
1745 seismic hazard reevaluation is due into the Commission in
1746 March of 2015.

1747 Mrs. {Capps.} Will this new evaluation of Diablo Canyon
1748 that they are doing themselves be required to prove that the
1749 reactor can withstand the stronger Hosgri and Shoreline
1750 earthquakes, using--are you using the same industry standard
1751 methodology required in the operating license for the safe
1752 shutdown earthquake?

1753 Ms. {MacFarlane.} We are using the most up to date
1754 methodologies to do the seismic hazard reevaluation.

1755 Mrs. {Capps.} Do you believe they fully incorporate
1756 the--you do believe that?

1757 Ms. {MacFarlane.} To the best of my knowledge. But I
1758 can certainly take this for the record and do a more--give
1759 you a more detailed answer.

1760 Mrs. {Capps.} Well, it is a complicated issue. And I--

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1761 this is just a 5-minute question. But I wanted to make sure
1762 that you could provide me with a copy of Dr. Michael Peck's
1763 differing professional opinion. Are you able to do that,
1764 please?

1765 Ms. {MacFarlane.} I will have--

1766 Mrs. {Capps.} So that I could have a copy of it?

1767 Ms. {MacFarlane.} Yeah, I will have to check on that.
1768 But I will take your larger question for the record here and
1769 give you a more detailed answer.

1770 Mrs. {Capps.} Okay. Your response is rather troubling
1771 particularly in light of the recent changes in NRC's
1772 transparency policies. I am curious to know whether, you
1773 know, this new policy of the fact that only the Ranking
1774 Member or the Chairman are allowed to ask for information,
1775 does--how that affects your decision?

1776 Ms. {MacFarlane.} You know, I want to be clear here.
1777 We haven't significantly changed our policy. We are going to
1778 be as responsive and as transparent as we ever were. And,
1779 certainly, when you have concerns about a reactor within your
1780 district, we are going to respond as completely as possible.

1781 Mrs. {Capps.} I appreciate this. And I know, Mr.
1782 Chairman, I just want to make one final comment, because I am

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1783 looking forward to getting these documents soon. This is of
1784 particular interest to my constituents. I am pleased to hear
1785 that in response--that in light of the recent changes in the
1786 NRC's transparency policies that you are still willing to get
1787 a response to us. But I am very troubled by these new
1788 policies that really preclude transparencies from members of
1789 a committee with oversight to be able to ask directly for
1790 information, both as a member of the committee and as the one
1791 with a nuclear plant in my district. I find the policy
1792 itself to be unacceptable. And that is with no offense to my
1793 good friends, the Chairman and Ranking Member. But I should
1794 be able to freely address your Committee. And it sounds like
1795 you are--

1796 Ms. {MacFarlane.} And you still are. You still are.

1797 Mrs. {Capps.} I appreciate that.

1798 Ms. {MacFarlane.} But I hear your concerns.

1799 Mrs. {Capps.} All right. Thank you very much. Yield
1800 back.

1801 Mr. {Shimkus.} The gentlelady's time has expired. The
1802 Chair now recognizes the gentleman from Texas, Mr. Olson, for
1803 5 minutes.

1804 Mr. {Olson.} I thank the Chair and welcome the

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1805 Commissioners. Seventy-seven point nine miles from my house
1806 is the South Texas Project. As you all know, there are two
1807 reactors there. Unit 1 celebrated its 25 anniversary this
1808 past August. The South Texas Project is in Hurricane Alley.
1809 And yet for 25 years now, they have provided safe, reliable
1810 power for Southeast Texas and our whole Gulf Coast.

1811 I want to follow-up with some of the questions from
1812 Chairman Whitfield. My district also is a home to Fleur, a
1813 large construction company that is looking at making some
1814 small modular reactors using that technology. As you all
1815 know, these are smaller, more forward reactors that could
1816 someday make new nuclear power available to more places.

1817 My first question is to you, Chairman MacFarlane. The
1818 certification of new reactor designs by the NRC is best
1819 described as deliberate. And that is good. But as this
1820 process goes, it is sometimes too deliberate. As Chairman
1821 Barton said, it takes on average 7 years. I know DOE has a
1822 role in this. But safety is critical. Can you tell me what
1823 has caused these delays in designs in cases of the past, and
1824 what can you, the NRC, do to keep those small reactor designs
1825 reasonable and timely?

1826 Ms. {MacFarlane.} Thanks for the question, Congressman.

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1827 The design certification process is a two-way street. And as
1828 I mentioned before, we do need high quality applications.
1829 And so what has often delayed the design certification
1830 process is questions that we have about the application,
1831 because we didn't get a high quality product to begin with.
1832 Now, to try to avert that in the case of small modular
1833 reactors, we have been working with the potential applicants,
1834 telling them what they need to provide to us and making sure
1835 that they clearly understand that.

1836 Mr. {Olson.} Okay.

1837 Ms. {MacFarlane.} Maybe my colleagues would like to
1838 comment as well?

1839 Ms. {Olson.} I will just ask my question. Ms.
1840 Svinicki, is that close, please? Anything to add, ma'am?

1841 Ms. {Svinicki.} I would note that some of the small
1842 modular reactor design certifications or designs that we are
1843 aware of are more innovative than others. And I think that
1844 where the design is less similar to something we have
1845 previously approved, it is likely that we are going to have a
1846 series of questions that we will want to ask to assure
1847 ourselves of safety.

1848 Mr. {Olson.} Commissioner Apostolakis, sir?

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1849 Mr. {Apostolakis.} During the reviews, especially when
1850 the design has new aspects to it, technical issues arise that
1851 require response from the applicant and then an evaluation by
1852 the NRC staff. This happened with Westinghouse AP1000, with
1853 General Electric's ESBWR. And these technical issues
1854 unfortunately are of the nature that, you know, they are not
1855 resolved within a week or 2 weeks or a month. So that is a
1856 cause for delay. I don't know what issues could come up with
1857 the SMRs being reviewed. We will have to see. But I think,
1858 you know, 5 to 7 years is not an unreasonable time.

1859 Mr. {Olson.} Yes. I have to get--Commissioner Magwood
1860 and Commissioner Ostendorff, I have to get your answers for
1861 the record, because I have one more question I want to ask
1862 just for you. I want to call you Captain Ostendorff, because
1863 as a guy who spent his Navy career chasing submarines, it is
1864 great to welcome a submariner here. And as a fellow graduate
1865 of the University of Texas Law School, welcome, welcome,
1866 welcome. I know you will be looking forward to this weekend,
1867 the football game that is going to happen between your alma
1868 mater, the Naval Academy, and the Army at West Point. And
1869 with all due respect to the Chairman here, we are looking for
1870 12 straight victories. Go Navy. Before we go.

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1871 But, actually, I am a strong supporter of nuclear power.
1872 And coming from a state that needs more baseline power, we
1873 need more nuclear power plants. I mentioned South Texas.
1874 They have been trying the two reactors for about a decade,
1875 stops and starts, not because of all you have done. There
1876 has been some things happen back home in Texas. But I am
1877 excited because we built two new plants there in Georgia and
1878 South Carolina. I will ask you, Captain, what have you
1879 learned with these new plants, because this happened--it has
1880 been a long, long time since we have authorized new reactors.
1881 What have you learned, good and bad, going forward, so I can
1882 help South Texas?

1883 Mr. {Ostendorff.} Well, one thing that I will comment
1884 on, I can go back to my Navy experience. Thirty-three years
1885 ago, I was on my second submarine being built in Newport News
1886 shipyard, had responsibilities for supervising the testing of
1887 the propulsion plant in the Newport News shipyard. And this
1888 was the 25th submarine being built at this time. This was
1889 1980, U.S.S. Atlanta. And for the 25th submarine being built
1890 with the same design, every week there were still new issues
1891 that came up about constructability. Where does this pipe
1892 hanger go? Where do you put this mount? How do you do this

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1893 particular welding technique in this orientation? And for a
1894 very mature program for submarine construction at the time,
1895 we were contending to learn lessons routinely. And so we
1896 should not be surprised if Vogel, Watts Bar, Summer and NES
1897 construction that as we go through that process that we learn
1898 new lessons, because there will be some issues that come up
1899 that have not been anticipated.

1900 Mr. {Olson.} I am about out of time. I want to say--
1901 close by saying go Navy, beat Army. I yield back.

1902 Mr. {Shimkus.} The gentleman is out of order. The
1903 Chair recognizes the Chairman Emeritus, Mr. Dingell, for 5
1904 minutes.

1905 Mr. {Dingell.} Mr. Chair, I thank you for your
1906 courtesy. I commend you for the hearing. I welcome you,
1907 Chairman MacFarlane and members of the Commission. I want to
1908 thank you for your recent response to the letters sent by
1909 myself and a number of my colleagues on both sides of the
1910 aisle, asking the Commission to complete work on the safety
1911 evaluation report for Yucca Mountain. I am encouraged by the
1912 recent order to finish the SER and look forward to its
1913 completion.

1914 Now, Madam Chairman, as I just mentioned on November 18,

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1915 the NRC ordered the staff to complete work on the safety
1916 evaluation report for Yucca Mountain, and that such work
1917 would take approximately 12 months. This timeframe made a
1918 few assumptions, and I would like to ask you some questions
1919 about those assumptions. On page 11, footnote 38 of the
1920 Commission's Order, first, will the Commission of the SER be
1921 given a high priority, yes or no?

1922 Ms. {MacFarlane.} It will be given a high priority.

1923 Mr. {Dingell.} Now, Madam Chairman, approximately how
1924 long do you anticipate will it take to gather the necessary
1925 key technical reviewers?

1926 Ms. {MacFarlane.} As I was able to say earlier, we are
1927 expecting a plan from the staff on moving forward on this
1928 later this month. Saying any more on this issue is not
1929 appropriate, because we have some pending Motions before the
1930 Commission on our Order.

1931 Mr. {Dingell.} Could you submit some quick, dirty
1932 response to the Committee on that particular point? Now,
1933 Madam Chairman, is your staff developing a plan on how to
1934 move towards completion of the SER, yes or no?

1935 Ms. {MacFarlane.} Yes, we are.

1936 Mr. {Dingell.} When will such plan be completed, can

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1937 you give us a rough answer on that, please?

1938 Ms. {MacFarlane.} The plan to move forward will be
1939 completed later this month.

1940 Mr. {Dingell.} It is my understanding that Nye County,
1941 Nevada, has appealed the SER Order. Does the NRC have
1942 sufficient funds to complete both the SER and to respond to
1943 Nye County's appeal?

1944 Ms. {MacFarlane.} Well, certainly, all litigation
1945 matters on Yucca Mountain come from the nuclear waste funds.
1946 In terms of specific amounts of money, I--because of this
1947 Motion before us, I can't go into any more detail.

1948 Mr. {Dingell.} Well, I have my great doubt that you
1949 will be able to do so. And as soon as you can tell us that
1950 you don't or you do or you need additional money for this, it
1951 would be appreciated if you would communicate that to us,
1952 because we want you to have the resources you need to do the
1953 job you have to do. Now, Madam Chairman, approximately how
1954 much is it going to cost the NRC to fully respond to Nye
1955 County's appeal?

1956 Ms. {MacFarlane.} I do not know.

1957 Mr. {Dingell.} If you get some lose time when you get
1958 back to the Commission, would you see what you could tell us

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1959 on that for the record? Now, Madam Chairman, in responses to
1960 questions on the record from Chairman Shimkus from July--from
1961 the July 24, 2012, hearing, commissioners who attended that
1962 hearing expressed general support on the internal commission
1963 procedures implemented in 2011. It is my understandings that
1964 these procedures are advised every two years, and the
1965 Commission is currently in the process of further revise
1966 these, is that correct?

1967 Ms. {MacFarlane.} That is correct.

1968 Mr. {Dingell.} Now, I am going to try to do--you are
1969 Polish, aren't you, Commissioner?

1970 Ms. {Svinicki.} The name is Slovak. My grandfather
1971 came to the upper peninsula of Michigan to work in the iron
1972 mines there from Slovakia.

1973 Mr. {Dingell.} Svinicki.

1974 Ms. {Svinicki.} Well, I have Americanized it to
1975 Svinicki, yes.

1976 Mr. {Dingell.} I like the Slovak much better. But
1977 anyway, in any event, Commissioner, welcome. It is always
1978 good to see a University of Michigan graduate.

1979 In your QFR response, you stated that the Commission was
1980 gaining operational experience from the 2011 internal

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1981 procedures. Now that they have been in place for 2 years, do
1982 you agree that the internal procedures and the review process
1983 allow the Commission to properly carry out its duty in a
1984 collegial and collaborative way, yes or no?

1985 Ms. {Svinicki.} Yes, and we are.

1986 Mr. {Dingell.} Now, would the other commissioners
1987 please give us a yes or no answer on that, too? Sir?

1988 Mr. {Apostolakis.} Yes.

1989 Mr. {Dingell.} Madam Chairman?

1990 Ms. {MacFarlane.} Yes.

1991 Mr. {Dingell.} Sir?

1992 Mr. {Magwood.} Yes.

1993 Mr. {Ostendorff.} Yes.

1994 Mr. {Dingell.} Now, do the commissioners believe that
1995 the current ICP are working? Would you each answer yes or
1996 no, if you please?

1997 Ms. {Svinicki.} Yes, but we do have the procedures
1998 under a biannual review process. So they can--we are always
1999 looking where they might be approved--improved.

2000 Mr. {Dingell.} Sir?

2001 Mr. {Apostolakis.} Yes and no.

2002 Ms. {MacFarlane.} Yes.

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2003 Mr. {Dingell.} Sir?

2004 Mr. {Magwood.} Yes.

2005 Mr. {Ostendorff.} Yes, but I agree with Commissioner
2006 Svinicki's comment that they are under review again.

2007 Mr. {Dingell.} Now, for all the Commissioners, do you
2008 believe that every Commissioner's concerns and input have
2009 been considered during the current ICP process? In other
2010 words, have each of you had your considerations and concern
2011 considered in part--in the process? Yes or no, Commissioner
2012 Svinicki?

2013 Ms. {Svinicki.} Yes, my colleagues evaluated my
2014 modifications and approved or disapproved them.

2015 Mr. {Apostolakis.} Yes.

2016 Ms. {MacFarlane.} Yes, we considered each others.

2017 Mr. {Dingell.} Sir?

2018 Mr. {Magwood.} Yes, we all worked together on it.

2019 Mr. {Ostendorff.} Yes.

2020 Mr. {Dingell.} Now, if a commissioner had suggested a
2021 change to the ICP, do you each believe that such a suggestion
2022 would be considered in good faith, yes or no?

2023 Ms. {Svinicki.} Yes.

2024 Mr. {Apostolakis.} Yes.

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2025 Ms. {MacFarlane.} Yes.

2026 Mr. {Magwood.} Yes.

2027 Mr. {Ostendorff.} Yes.

2028 Mr. {Dingell.} I hope that in no way did you feel
2029 distressed at those questions. But I want to see to it that
2030 the Commission gets the fullest support of this Committee in
2031 doing its responsibilities and in having a harmonious
2032 process, because God knows you are having enough trouble
2033 doing your job down there because of outside interference of
2034 all sorts. Thank you, Mr. Chairman, for your courtesy.

2035 Mr. {Shimkus.} The gentleman's time expired. The Chair
2036 now recognizes the gentleman from Illinois, Mr. Kinzinger,
2037 for 5 minutes.

2038 Mr. {Kinzinger.} Thank you, Mr. Chairman. And thank
2039 you all for being here today. Earlier this year, a letter
2040 was sent to the NRC raising concerns about the staff proposal
2041 to mandate filter systems. As it happens, the proposal not
2042 only failed a cost benefit analysis in which there were
2043 serious concerns in regards to an understated cost estimate,
2044 but the advisory committee on reactor safeguards--your expert
2045 advisory body also disagreed with the proposal's approach.

2046 In the response letter that was received, the NRCC

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2047 stated that has followed has followed its process for
2048 ensuring that a sufficient basis exists for imposing
2049 regulatory requirements. Chairman MacFarlane, would you
2050 agree that the current NRCC--NRC practice states that a
2051 sufficient basis for imposing regulatory requirements means
2052 that the change has been shown to be necessary for adequate
2053 protection of public health and safety, or as required by the
2054 Backfit Rule?

2055 Ms. {MacFarlane.} Yes, that is correct.

2056 Mr. {Kinzinger.} Would any other Commissioners like to
2057 comment on that? No?

2058 Okay. The issue here is that the NRCC staff have tried
2059 to override the quantitative analysis related to filtered
2060 vents in order to escape a challenge under the NRC's Backfit
2061 Rule by recommending that the Commission vote to issue an
2062 order. Chairman MacFarlane, isn't that process normally
2063 reserved for matters that are necessary for adequate
2064 protection of public health and safety?

2065 Ms. {MacFarlane.} I don't believe the staff tried to
2066 override the Backfit Rule or the cost benefits analysis. I
2067 think they did their--a thorough cost benefit analysis
2068 according to the information they had.

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2069 Mr. {Kinzinger.} Is that the opinion of all the
2070 Commissioners? Sir?

2071 Mr. {Ostendorff.} I want to comment, Congressman.
2072 Thank you for the question. I think our staff did an
2073 outstanding job of presenting a very difficult issue to the
2074 Commission for our decision. And I don't think they tried to
2075 circumvent or go around any rule. I think there are certain
2076 matters that require judgment. They teed it up to the
2077 Commission who made a decision, and we are moving forward. I
2078 applaud our staff for their work in this effort.

2079 Mr. {Kinzinger.} Well, I would like to--I am not going
2080 to take all my time, actually. I would like to close by
2081 offering my support for Congressman Terry's NRC reform
2082 legislation. My friend and I are working on language to
2083 limit the Commission's use of orders for only urgent and
2084 significant safety needs. A solid line must be issued to
2085 ensure discipline in the Agency's processes so that the
2086 regulations can provide some actual stability to the issues.
2087 With that, Mr. Chairman, I will yield back.

2088 Mr. {Shimkus.} The gentleman yields back his time. The
2089 Chair will now recognize Ms. Castor from Florida for 5
2090 minutes.

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2091 Ms. {Castor.} Well, good morning, Chairman MacFarlane
2092 and Commission members. A decommissioning plan was recently
2093 submitted for the Crystal River Nuclear Power Plant in
2094 Florida. It is a distressing situation all the way around
2095 because the utility attempted to repair the plant. They
2096 exacerbated problems, resulting in cracks in the containment
2097 walls. The repair costs soared. And so the utility chose to
2098 shut it down. It has gotten a lot of attention in Florida
2099 and especially among rate payers because they are on the hook
2100 because of the law in Florida that said rate payers pay in
2101 advance for constructing the plants, and now they are going
2102 to be on the hook for those costs and then costs--some of the
2103 costs of shutting it down, without generating 1 kilowatt hour
2104 of electricity. So this is an important lesson for states
2105 around the country to have safeguards if you are going to
2106 proceed to have an advance recovery fee.

2107 So they have--the utility has chosen safe storage as the
2108 decommissioning option, which will--they estimate will cost
2109 \$1.2 billion. And this will proceed now over 60 years to
2110 2074. Could you please review at this point in time, now
2111 that you have received the decommissioning plan, what the
2112 responsibilities are of the NRC in review of that plan and

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2113 public comment?

2114 Ms. {MacFarlane.} Sure. It is--the NRC maintains an
2115 oversight role throughout the entire decommissioning of the
2116 facility. We continue to inspect the facility, especially
2117 during active decommissioning. As--after we receive a--the
2118 plan from the licensee, we will hold a public meeting and
2119 discuss how the licensee decides to move forward and accept
2120 public comment on this. We also strongly encourage our
2121 licensees to form community advisory boards for
2122 decommissioning process. And, in fact, I did meet with the
2123 licensees yesterday and personally encouraged them to do
2124 this.

2125 Ms. {Castor.} Terrific. Now, there are other plants
2126 around the country that are currently in safe storage. I
2127 believe Three Mile Island is. Name a few others that are--

2128 Ms. {MacFarlane.} Indian Point 1. Zion was in safe
2129 storage. They are now actively decommissioning. So--

2130 Ms. {Castor.} And so in your experience with these
2131 plants that are decommissioned and in safe storage, what is
2132 the likelihood that the \$1.2 billion cost estimate at this
2133 time will remain static, and what is the likelihood that the
2134 cost for decommissioning and attention to the plant over time

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2135 will increase?

2136 Ms. {MacFarlane.} You know, I am not that familiar with
2137 the costs over long periods of time. So let me take that for
2138 the record.

2139 Ms. {Castor.} Okay. Do any of the other Commissioners
2140 have a comment on that, in the likelihood? Okay. On another
2141 topic, the Terry Bill proposes to legislate how official
2142 international travel by all commissioners is approved. Some
2143 might argue that the provision falls into the category of
2144 micromanaging the Commission. But if the majority intends to
2145 legislate in this area, we need to have a better
2146 understanding of the commissioner's travel. According to
2147 information provided by the commissioner's, some of them have
2148 been traveling abroad quite a bit. Now, some of this is to
2149 be expected in the wake of the Fukushima disaster.

2150 Commissioner Magwood spent 52 days in 2013 on official
2151 foreign travel to Europe, Asia and South America. That is
2152 two months of international travel. That seems like quite a
2153 lot, more than 100 days of traveling abroad on official
2154 business over the last 2 years. And Commissioner Svinicki
2155 traveled for 43 days this year internationally. This seems--
2156 seems to be bordering on the excessive, and I think we are

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2157 going to need an accounting here, especially when the primary
2158 responsibilities of course are in the United States. Now, I
2159 think it is reasonable, you have got to understand what is
2160 happening in the field internationally. But since we are
2161 expected to markup legislation that addresses this travel, I
2162 would like each of the commissioners to provide for the
2163 record an accounting of their international travel, and an
2164 explanation of why it is worth the hundreds of thousands of--
2165 of taxpayer dollars that it costs. And thank you, and I
2166 yield back the rest of my time.

2167 Mr. {Shimkus.} The gentlelady yields back her time.
2168 The Chair now recognized the gentleman from Virginia, Mr.
2169 Griffith, for 5 minutes.

2170 Mr. {Griffith.} Thank you, Mr. Chairman. I appreciate
2171 you all being here. And as I have said before, one of my
2172 first experiences was while there was a fight going on. And
2173 so I do appreciate what all of you have done to create an
2174 atmosphere of collegiality. So I do appreciate that.

2175 In regard to Mr. Terry's Bill, I happen to agree with
2176 him that it doesn't seem like it is too onerous. Perhaps the
2177 language can be worked out. Madam Chair, if you will work
2178 with him on the language to make it straight? But when I was

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2179 a kid, there was a TV show, Lost in Space, and the robot
2180 would say danger, Will Robinson, danger.

2181 Ms. {MacFarlane.} I remember it well.

2182 Mr. {Griffith.} And it seems to me there ought to be
2183 some app or way that you can quickly get a message out that
2184 would say danger, Will Ostendorff, danger Will. I would ask
2185 you as well in regard to the Inspector General's reports, the
2186 one on June 6, 2011, and then also the one on June 26, 2012,
2187 have you had an opportunity now to read those? The last
2188 time, you had just gotten started. And so--

2189 Ms. {MacFarlane.} Yes, I have.

2190 Mr. {Griffith.} You have read those. And that I think
2191 is the impetus behind the Terry Bill is that in both of those
2192 reports, it points out that there was some conflicts over
2193 what information could be given to the other members of the
2194 Commission by the Chairman, and that led to a lot of the
2195 angst that was going on prior to your arrival. So I think
2196 that while I support the Bill, I am sure that Mr. Terry will
2197 work with you in regard to working out some of the glitches
2198 that are there that he is trying to do what is right, you are
2199 trying to do what is right. I am sure you all can get that
2200 worked out.

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2201 Now, according to NRC practice, new requirements must be
2202 shown to be necessary for adequate protection of public
2203 health and safety, or be justified by cost benefit analysis
2204 as required by the Backfit Rule. I would like to ask the
2205 Clerk to put up the chart, Average Fleet Implementation Cost
2206 Compared to NRC Estimates. Do you all have that? There you
2207 go.

2208 When I look at this chart in the context of cost benefit
2209 analysis, I wonder how the use of more accurate cost
2210 estimates might have impacted the analysis done in support of
2211 new requirements. Madam Chair, or any other member, do you
2212 have any comment on that?

2213 Ms. {MacFarlane.} I am not sure where your numbers come
2214 from. I would be happy to examine them more in more detail
2215 and get back to you on that.

2216 Mr. {Griffith.} If you could do that for the record, I
2217 would appreciate it very much. Do you have any plans for
2218 undertaking any review of previous cost benefit analysis to
2219 determine--and I recognize you don't know where these numbers
2220 came from. But do you have any plans to determine if there
2221 is more accurate cost estimates that might be done? Assuming
2222 these numbers to be accurate, do you have any plans to do

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2223 that, ma'am?

2224 Ms. {MacFarlane.} You know, in general, I think our
2225 staff does a good job with their cost benefit analyses. And
2226 they rely on the best available information.

2227 Mr. {Griffith.} Yes, ma'am?

2228 Ms. {Svinicki.} If I could supplement the Chairman's
2229 answer my noting that the Commission has heard evidence of
2230 great disparities in the cost estimates. And so we did, as a
2231 Commission, direct the NRC staff to work to find case studies
2232 and have--instead of arguing about estimates before the fact,
2233 to take a case where we had estimated a cost and the industry
2234 has already implemented it, look at what were those actual
2235 costs of that particular item. There are some sensitivities
2236 on the industry side to sharing some of this business
2237 information. But we asked for volunteers to perform what we
2238 were calling case studies and looking at some of our
2239 regulations. So that way we could look at their actual cost
2240 to implement versus our forecast in the hope--and with the
2241 objective of maybe improving the accuracy of our cost
2242 estimating.

2243 Mr. {Griffith.} Yes, ma'am. Thank you about that. On
2244 a separate topic, there have been, as you all have previously

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2245 talked about, four nuclear power plants permanently shutdown
2246 in the past year. One more will shutdown next year. And
2247 reports persist that there may be others. As a result of the
2248 decommission process, this has garnered a lot of public
2249 interest. But I am particularly concerned about the monies
2250 coming in. You talked about the constant money. And,
2251 obviously, there is some other money. But decommissioning
2252 plants don't pay as much in NRC fees as operating plants.
2253 That is correct, is it not?

2254 Ms. {MacFarlane.} It is correct.

2255 Mr. {Griffith.} And so then the question is, as these
2256 plants are closing down and your funds are decreasing from
2257 what they have been paying as operating plants, how is the
2258 NRC going to handle the decreases in funds?

2259 Ms. {MacFarlane.} Operating plants are required to
2260 establish a decommissioning fund, which they set aside for
2261 decommissioning. And we evaluate the amount of money that
2262 they have in that fund and their plans for that fund every 2
2263 years.

2264 Mr. {Griffith.} But I mean over time, after they have
2265 decommissioned, if you have fewer plants, there is going to
2266 be less money coming in. Have you all started making plans

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2267 to deal with that reduction in monies?

2268 Ms. {MacFarlane.} I think we are okay right now. But
2269 let me get back to you on the record with more detail on
2270 this.

2271 Mr. {Griffith.} I appreciate that very much. And
2272 again, thank you for your testimony here today for all--to
2273 all of you. And I yield back.

2274 Mr. {Shimkus.} The gentleman yields back his time. The
2275 Chair now recognizes the Ranking Member of the Full
2276 Committee, Mr. Waxman, for 5 minutes.

2277 Mr. {Waxman.} Thank you very much, Mr. Chairman. In my
2278 opening statement, I expressed serious concerns about NRC's
2279 new policy for responding to congressional requests for non-
2280 public documents. I would like to read the previous policy.
2281 ``The Commission's general practice is to provide sensitive
2282 documents requested by members of its Congressional oversight
2283 committees. It will also provide sensitive documents to
2284 other members of Congress when the documents address matters
2285 pertaining to his or her state or district.''

2286 I thought that was a reasonable policy. It enabled the
2287 members of this Committee and members with reactors in their
2288 districts to obtain the documents necessary for them to

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2289 conduct oversight. The new policy is very different. The
2290 NRC will only provide non-public documents to the Chairman
2291 and Ranking Member of the Committee, and it will provide
2292 documents only after pursuing alternatives that do not
2293 involve producing requested documents. Chairman MacFarlane,
2294 do you acknowledge this Committee's constitutional
2295 responsibility to provide oversight of the Executive Branch?

2296 Ms. {MacFarlane.} Of course.

2297 Mr. {Waxman.} And do you concede that in the absence of
2298 a claim of Executive Privilege, the NRC has no legal basis to
2299 withhold requested non-public documents from Congress?

2300 Ms. {MacFarlane.} Not from its oversight committees and
2301 its--and the Chairman.

2302 Mr. {Waxman.} The new policy also provides each
2303 commissioner the opportunity to review documents before they
2304 are turned over to Congress and to object to producing
2305 specific documents. Chairman MacFarlane, this policy creates
2306 a potential for significant delay in responding to oversight
2307 requests. How much time are commissioners given to review
2308 documents before they are produced to Congress?

2309 Ms. {MacFarlane.} I think we certainly want to maintain
2310 a cognizance of what documents are going in which direction.

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2311 And the decision to produce documents or how we will be
2312 responsive, shall I say, is a Commission decision. And, of
2313 course, we will operate with the most expediency possible in
2314 being responsive to our oversight committees.

2315 Mr. {Waxman.} Well, I have serious questions about
2316 allowing individual commissioners to object to producing
2317 specific documents to Congress. The NRC's policy does not
2318 explain what a legitimate basis for such an objection might
2319 be. And in the absence of a claim of Executive Privilege,
2320 there is no legal basis for withholding the documents.
2321 Chairman MacFarlane, do you think individual commissioners
2322 should have the right to prevent documents from being
2323 provided to Congress even when there is no legal basis for
2324 withholding these documents?

2325 Ms. {MacFarlane.} I think--and certainly not. And
2326 this--again, I just want to be clear. This is a--moving
2327 forward with any kind of document production is a Commission
2328 decision.

2329 Mr. {Waxman.} Well, when Congress requests documents,
2330 we should get those documents. For some particularly
2331 sensitive documents, we need to have discussions about how to
2332 protect certain information while meeting Congress' oversight

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2333 needs.

2334 Ms. {MacFarlane.} Yes. Um-hum. Exactly.

2335 Mr. {Waxman.} But I fear this new policy is much too
2336 restrictive. Would you commit to thinking through the
2337 concerns that we are raising today with your colleagues, and
2338 to consider making changes to the policy to address these
2339 concerns?

2340 Ms. {MacFarlane.} Absolutely. I will consider your
2341 concerns.

2342 Mr. {Waxman.} Thank you. And I would like to ask the
2343 same question of the other members of the Commission. Will
2344 you commit to thinking through these concerns raised today,
2345 and to consider making changes to address them?

2346 Ms. {Svinicki.} Yes.

2347 Mr. {Apostolakis.} Yes.

2348 Mr. {Magwood.} Yes.

2349 Mr. {Ostendorff.} Yes.

2350 Mr. {Waxman.} I thank you. That is very helpful. And
2351 I will look forward to further communications with you.
2352 Thank you, Mr. Chairman. Yield back my time.

2353 Mr. {Shimkus.} The gentleman yields back his time. The
2354 Chair now recognizes the Vice Chairman of the Energy and Air

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2355 Quality Subcommittee, Mr. Scalise, for 5 minutes.

2356 Mr. {Scalise.} Thank you, Mr. Chairman, appreciate the-
2357 -having this hearing. Appreciate all of you being back with
2358 us today. I know back in February when we had our last
2359 hearing on the post-Fukushima requirements, I had asked a few
2360 questions. I want to go back to those, because I haven't
2361 gotten those back. Maybe you all have that information.

2362 If we can first pull up the slide that--on cumulative
2363 effects that we had talked about at the last hearing. Yeah.
2364 That slide there, I had raised--just to show the timeline of
2365 regulatory actions for the average owner of four plants. And
2366 I pointed out how these are a lot of new requirements in
2367 addition to what is already needed for somebody to operate a
2368 plant at the highest level of security. And so as you look
2369 at the slide, and if you look down in the--I think go to the
2370 next slide, because we got--we have got another slide with
2371 even more requirements. And if you will notice, in the
2372 bottom, there is a little box in the bottom right corner that
2373 said that this slide still doesn't even reflect the tier 2
2374 and 3 Fukushima items that will be coming. And that is one
2375 of the things I had asked about, that is how many of those
2376 there are. We were hearing they were 40. There wasn't a

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2377 number that you all could give me then, but can you give me a

2378 number now at how many we are talking about?

2379 Ms. {MacFarlane.} How many--

2380 Mr. {Scalise.} In addition to all of this?

2381 Ms. {MacFarlane.} --tier 3 requirements?

2382 Mr. {Scalise.} Two or three.

2383 Ms. {MacFarlane.} Those are still under discussion at

2384 the Commission. We are not yet considering some of the tier

2385 3 requirements.

2386 Mr. {Scalise.} Okay.

2387 Ms. {MacFarlane.} We will see if they will become

2388 requirements. We haven't decided yet.

2389 Mr. {Scalise.} Do you have a number yet that you can

2390 give us a ballpark?

2391 Ms. {MacFarlane.} No.

2392 Mr. {Scalise.} When will that come out then? When is

2393 the plan for that to happen?

2394 Ms. {MacFarlane.} The number of items that we will be

2395 considering?

2396 Mr. {Scalise.} Yes.

2397 Ms. {MacFarlane.} I can give you that number for the

2398 record.

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2399 Mr. {Scalise.} Because I asked for that in February,
2400 and you said you would give me that for the record. And I
2401 still haven't received that from February. When then can I
2402 expect to get that?

2403 Ms. {MacFarlane.} I apologize for that.

2404 Mr. {Scalise.} Can you--

2405 Ms. {MacFarlane.} We will give it to you with the--as
2406 soon as we can.

2407 Mr. {Scalise.} Before next February, hopefully?

2408 Ms. {MacFarlane.} Before next February, yes.

2409 Mr. {Scalise.} That is good. We are making progress
2410 here. When we were talking about the cumulative effects,
2411 this is an issue that the NRC staff agrees can potentially--
2412 ``can potentially distract licensee or entity staff from
2413 executing other primary duties that ensure safety or
2414 security.'' And so, you know, again, I would emphasize as
2415 you are coming up with whatever that number is going to be,
2416 30, 40, 50 new requirements, when you look at that chart and
2417 those are things that are already being done, and I think we
2418 have seen our facilities have a very high level of security,
2419 we sure don't want to be putting things in place that would
2420 actually take away from their ability to keep that high level

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2421 of security when they are already doing a lot of things that
2422 are important ineffective.

2423 I do want to go now to the next slide, because cost
2424 benefit analysis is something that is real important, too.
2425 When you are putting these items together that you are
2426 putting together with each of these, you would attach, I
2427 would imagine, some cost benefit analysis to show what the
2428 cost is. Because at the end of the day, it is rate payers,
2429 it is hardworking taxpayers that will pay for whatever
2430 proposals would come forward. And it has always been a
2431 requirement that you attach that. If you look here, this
2432 shows a history of the NRA--NRC's estimates. When you come
2433 up with specific rules, and you can go through--there is a
2434 number of rules there that we have seen initially was your
2435 cost estimate at NRC. And then ultimately what the true cost
2436 was with the--you know, an estimate is nice until you
2437 actually find out how it happens in the real world. And just
2438 to use these, if you look at the low end, you were 347
2439 percent off on that cost estimate. On the high end, you were
2440 1,449 percent off on your estimate. And each time, the
2441 estimate was low-balled. It wasn't like sometimes you are
2442 high, sometimes you are low. In all cases, it seemed--I

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2443 don't know if you all are low-balling the numbers just to
2444 make it look like it wasn't going to have that much of an
2445 impact on rate payers. But at the end of the day when you
2446 look at the real world impacts, it is very dramatic how far
2447 off you all have been. And maybe if I can ask everybody on
2448 the panel here, what are you all doing to fix this? I mean,
2449 this is--when you talk about accountability, if you are off
2450 that much, in the same way, you are not--again, it is not--
2451 you know, everything kind of factors out if you are doing--
2452 maybe you got good modeling. Sometimes you are a little
2453 high, sometimes--every time you are low-balling the numbers,
2454 and in a dramatic way you are off. In rate payers pay--this
2455 tax payers, families that are struggling are paying these
2456 costs. And if you come up with a rule and say it is only
2457 going to cost this, and it ends up costing 1,449 percent
2458 more, that is something that we ought to know before you put
2459 that cost on rate payers. So if I could ask everybody, just
2460 going down the line, if you can address this problem?

2461 Ms. {Svinicki.} The Commission is aware of some of
2462 these disparities and has directed the NRC staff to solicit
2463 industry volunteers who would be willing to provide their
2464 business information regarding actual costs after the fact.

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2465 So instead of comparing--

2466 Mr. {Scalise.} So in addition to all the other
2467 requirements you are making them do, you are going to ask
2468 them to fix this for you--

2469 Ms. {Svinicki.} But we could not compel the provision
2470 of this business information by the industry. So we asked
2471 the industry if they were interested in volunteering because
2472 of some of these disparities. We have gotten a very
2473 energetic response that they would like to show us some of
2474 the detailed cost estimates so that we could work towards the
2475 objective of improving our cost estimating ability by looking
2476 retrospectively at how much we were off on some of these and
2477 what was the cause of it.

2478 Mr. {Apostolakis.} The Commission has directed the
2479 staff to reevaluate and look again at the methodology that
2480 they are using for cost benefit calculations. And I believe
2481 when we receive the staff's paper, this kind of slide would
2482 be very important to consider and ask questions why this is
2483 happening and see what--whether the staff would actually have
2484 found the reasons for this disparity.

2485 Ms. {MacFarlane.} I agree with my colleagues.

2486 Mr. {Magwood.} I agree with what my colleagues have

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2487 said. I would add that the fact that we launched this effort
2488 to do these case studies indicates that many of us were
2489 concerned--we didn't see these particular numbers, but were
2490 concerned with the cost estimating situation. It is very
2491 important to get this as close as possible. And I for one
2492 would like us--like to see us do much better.

2493 Mr. {Ostendorff.} I would just add to my Commission
2494 colleague comments that our process in working with industry,
2495 we encourage industry to provide their own estimates to us.
2496 And our staff considers them. And I think in many of these
2497 cases, especially I am going to point out to the one in the
2498 middle, the 10 C.F.R. 73 Security, because I have had
2499 discussions with industry and our staff in this area. I
2500 think both sides, both the NRC and industry did not fully
2501 understand the complexity of some of these procurements of
2502 CCTV systems, motion detector, other security type aspects.
2503 So I think it is a two-way street here. We are not going to
2504 pretend to be experts as an agency in these cost estimate
2505 matters by ourselves and need industry's help. And I think
2506 both sides have recognized the need to do better and work
2507 together.

2508 Mr. {Scalise.} All right. And, obviously, we got to

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2509 get that better. Thank you, Ms. MacFarlane. Especially, I
2510 look forward to getting that information by February. And,
2511 Mr. Chairman, I yield back the balance of my time.

2512 Mr. {Shimkus.} The gentleman yields back his time. The
2513 Chair now recognizes the gentleman from New York, Mr. Engel,
2514 for 5 minutes.

2515 Mr. {Engel.} Thank you, Mr. Chairman. And thank you
2516 all for being here. Thank you for the job you are doing in
2517 many ways. It is a very thankless job, but obviously a very
2518 important one. And we appreciate it, even though we may have
2519 some policy differences from time to time.

2520 Chairman MacFarlane, we have discussed Indian Point in
2521 New York in the past. And I want to revisit it again. It is
2522 one of the most safety serious issues facing the New York
2523 Metropolitan region, and I want to urge continued diligence
2524 from the NRC. Indian Point has an operational history that
2525 has been plagued by serious questions, unplanned shutdowns,
2526 leaking fuel pools, inadequate emergency notification and
2527 response systems. All members of Congress, and I am one,
2528 representing the county in which Indian Point is sited has--
2529 have called for its closure as well as our governor as well.
2530 So it is not something obviously that we take lightly.

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2531 Particularly concerning are the changes that H.R. 3132
2532 would make to the NRC's emergency authorities and response
2533 structure. I know others on this Committee share my concerns
2534 of some of the inadequacies of the response structure brought
2535 forth in this legislation. You have heard it. But I would
2536 like it if you could address some of those concerns. Under
2537 current law, the Chairman of the NRC holds the authorities
2538 necessary to save lives and manage disaster. The changes in
2539 H.R. 3132, in my opinion, would have the NRC governing crisis
2540 by committee. And we all saw how poorly that worked at
2541 Fukushima. So I am told--and correct me if I am wrong.
2542 Before the Chairman could declare an emergency, you would
2543 have to notify the fellow commissioners, the relevant
2544 congressional committees and the general public. The
2545 facility could well be on its way to a meltdown. So I would
2546 like to hear from you how you foresee this legislation
2547 impacting your ability to manage a potential crisis,
2548 specifically in a major metropolitan area like New York?

2549 Ms. {MacFarlane.} I think that the Commission
2550 procedures are adequate at the Agency. I think the
2551 Commission is operating well, operating collegially. And I
2552 don't see any need to alter or change the existing

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2553 procedures, especially with regard to emergency powers.

2554 Mr. {Engel.} Thank you. Anyone else care to comment?

2555 If not, I will move on. Chairman MacFarlane, I would also

2556 like to ask you, in your testimony you mentioned the efforts

2557 the NRC has been undergoing to determine what regulatory

2558 action is required to the expedited transfer spent fuel to

2559 dry cask storage. I have been particularly interested in

2560 that for years, have a Bill that does it. And I understand

2561 the Commission is evaluating staff assessments and expects a

2562 proposal by early 2014. We are all aware of the risks from

2563 spent fuel in storage pools that can--and that it can be

2564 reduced by moving some of it to dry casks. So can you

2565 elaborate on how the NRC is prioritizing the dry cask storage

2566 of spent fuel rods, as well as any hurdles that might remain

2567 for the implementation of this safer storage system?

2568 Ms. {MacFarlane.} We are now in the process of

2569 considering whether to require expedited transfer of spent

2570 nuclear fuel from the pools at reactors to dry cask storage.

2571 And the Commission will be having a commission meeting on

2572 this in early January. We have a few papers from the staff

2573 that address this issue. And so it is an area of active

2574 consideration.

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2575 Mr. {Scalise.} Well, I thank you for that. And, you
2576 know, as I mentioned, I have been concerned about it for
2577 awhile. And I am very happy that you are moving forward on
2578 it. Let me ask you my last question. Mr. Terry's Bill chips
2579 away at the authority of the NRC Chairman in a nuclear
2580 emergency, as we mentioned. The Bill says the Chairman again
2581 can declare an emergency only in response to an eminent
2582 safety or security threat at a facility in the U.S., or
2583 involving nuclear materials directly related by the
2584 Commission. Chairman, do you think it makes sense to limit
2585 your emergency authority to events involving U.S. based
2586 facilities and materials, and are there scenarios in which
2587 events in other countries could trigger an emergency in the
2588 United States or threaten U.S. citizens? I am told that most
2589 of Canada's nuclear power plants are in Ontario, near the
2590 U.S. border, near my state--home state of New York. And I am
2591 also told that last week, thieves stole a shipment of
2592 radioactive cobalt-60 in Mexico, which is an incident that
2593 could have had implications for the United States.

2594 Ms. {MacFarlane.} I think the Chair needs flexibility
2595 to respond to an emergency wherever it is. In particular, in
2596 terms of foreign countries, as you point out, Canada has

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2597 nuclear power plants that are relatively near our border that
2598 may pose an emergency for the U.S. I would also like to
2599 point out that we--the United States has military personnel
2600 in a number of countries that may be near nuclear facilities.
2601 If there is an emergency with one of those nuclear
2602 facilities, I think the U.S. government would probably want
2603 the Nuclear Regulatory Commission to have a full
2604 understanding of the emergency occurring. And so I think we
2605 have to make sure we have flexibility to respond to
2606 situations in which U.S. citizens are--may be at risk.

2607 Mr. {Engel.} Thank you very much. Thank you, Mr.
2608 Chairman.

2609 Mr. {Shimkus.} The gentleman's time expired. Now, I
2610 will show that we have multiple branches of the service. I
2611 turn to Colonel Johnson from the great state of Ohio.

2612 Mr. {Johnson.} Well, thank you, Mr. Chairman. And it
2613 was only the Air Force. But that is okay. I am good. All
2614 of the service are important. And I want to thank the panel
2615 for being here with us this morning.

2616 I got a few comments before I get to my question, and
2617 then I will ask it to each of you. We have heard a lot this
2618 morning about budgets and costs. And when it comes to

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2619 matters that are truly necessary for the protection of public
2620 health and safety of course, cost shouldn't be necessarily
2621 the driving factor. However, I am concerned that the NRC and
2622 the industry are in a pattern of ever increasing cost chasing
2623 ever smaller increments and safety gain. If I could ask the
2624 Clerk to put up the slide of NRC's Nuclear Reactor Safety
2625 Budget Versus Licensing Action?

2626 This slide shows how the NRC's nuclear safety budget has
2627 grown over the last decade. But I want to show you another
2628 slide, Spending on Selected Cost Categories, that shows how
2629 the industry's regulatory costs have grown just since 2005.
2630 That red line shows the percentage increase of regulatory
2631 capital expenditures compared to what the industry spent in
2632 2005. So that distinct red peak shows that regulatory
2633 expenditures in 2012 were about 230 percent of what they were
2634 in 2005. The spending has now leveled off at about twice
2635 what the industry spent in 2005. I am guessing as the cost
2636 of the NRC's post-Fukushima requirements are incurred, this
2637 line will trend upward again. I understand one utility has
2638 estimated their post-Fukushima cost to be \$400 million. That
2639 is \$.4 billion. That is a lot of money.

2640 So the NRC incurs costs in establishing new regulatory

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2641 requirements. Right now, there are 56 rulemakings listed on
2642 the regulations.gov site. The industry incurs costs to
2643 implement the requirements. And then the NRC incurs more
2644 costs approving and overseeing the industry's
2645 implementations. This seems to be a self-reinforcing cycle
2646 of regulatory burden. Not only do I question whether this is
2647 sustainable over the long term, I am concerned about whether
2648 the safety gains are commensurate with these costs.

2649 The NRC's principles of good regulation include
2650 reliability, which states that--and I quote, ``once
2651 established, the regulation should be perceived to be
2652 reliable and not justifiably in a state of transition, and
2653 should be promptly, fairly and decisively administered so as
2654 to lend stability to the nuclear operational and planning
2655 processes. Nuclear energy makes a vital contribution to our
2656 energy security. It is a pillar in our energy profile. One
2657 utility has already cited regulatory burden is a factor in
2658 their decision to close the plant prematurely. For plants
2659 whose economic viability is threatened, this increasing
2660 regulatory burden is a factor that can't be ignored when
2661 considering whether to keep operating. Decommissioning
2662 shouldn't be the only option that provides regulatory

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2663 stability.'" I think this situation calls for strong
2664 leadership from the commissioners.

2665 Now, for the question, and I would like to go down and
2666 have each of you answer. What do you think the NRC should do
2667 to stabilize this situation and restore some stability to the
2668 regulatory environment?

2669 Ms. {Svinicki.} Well, I think that the Commission's
2670 approach to its post-Fukushima actions does reflect and take
2671 into account a number of the concerns that you have just
2672 expressed. For example, when presented with a long list of
2673 potential areas for regulatory action, the Commission itself
2674 took and prioritized those actions into those that would
2675 provide the greatest safety benefit. And we acted on those
2676 first. So the estimate of how much that red line would go up
2677 on your graph once the post-Fukushima actions are completed
2678 and all fully implemented is I think some of the costs will
2679 be loaded into the early years, because we have acted first
2680 on those things that have the greatest benefit to safety.
2681 And for the remainder of the actions, we need to strike the
2682 right balance between the probability of some of these
2683 extreme events and the need to take regulatory action on
2684 them.

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2685 Mr. {Johnson.} Sir?

2686 Mr. {Apostolakis.} I must say I was a little bit
2687 disturbed by your several slides that were shown today
2688 regarding costs. So I will go back and try to understand
2689 better what the reasons are. But as I--and I agree with
2690 Commissioner Svinicki's comments. But also, in my opening
2691 statement, I mentioned a few things that the Agency is doing
2692 now to deal with the so called cumulative effects of
2693 regulations. So I believe the Commission is aware of these
2694 problems, and perhaps we need to do more. So I don't know
2695 yet what else we need to do.

2696 Mr. {Johnson.} All right. Commissioner, I am going to
2697 let you go last, if that is okay? So let us go to Mr.
2698 Magwood.

2699 Mr. {Magwood.} Thank you. I echo both Commissioner
2700 Apostolakis and Commissioner Svinicki. I would also add that
2701 as we go through the effort of looking at each one of these
2702 regulations, we do look at them in the context of what is
2703 necessary. I think each of us of course weighs that
2704 differently. And if something is not necessary, we don't
2705 approve it. There are times--

2706 Mr. {Johnson.} But the slides indicate that hasn't

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2707 worked up until now.

2708 Mr. {Magwood.} And then there are many things that have
2709 been proposed that the Commission has not approved. And we
2710 have been pretty aggressive about that. So in my view, you
2711 know, learning nuclear power plants is not for the faint of
2712 heart. And you have to--we have to be able to meet
2713 regulatory requirements. And the requirements we put forward
2714 I think are appropriate. That said, I think--and
2715 Commissioner Apostolakis alluded to this earlier, that there
2716 is a very useful--very important conversation taking place
2717 within the Agency--and with the Agency and the industry,
2718 talking about prioritization of regulations. And this is
2719 something I think that if it is successful would enable us to
2720 look at regulations in a more holistic manner at each site.
2721 And that is really I think the path of the future. And that
2722 is how you would best address these issues.

2723 Mr. {Johnson.} Mr. Chairman, I know we are considerably
2724 over time, but I would like each panel member to have a
2725 chance to answer. If you would indulge us? Sir?

2726 Mr. {Ostendorff.} Thank you for the question. I would
2727 just agree with my colleagues' comments, and maybe add two
2728 other thoughts. One of them is that we--and Commissioner

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2729 Magwood mentioned that we have this approved staff

2730 recommended enhancements to regulations.

2731 Mr. {Johnson.} I am sure you have.

2732 Mr. {Ostendorff.} Yeah.

2733 Mr. {Johnson.} But what we are talking about here are
2734 the facts that are in the costs and the gains.

2735 Mr. {Ostendorff.} I understand. I am just telling you--
2736 --and I will look at our--specifically in our post-Fukushima
2737 decision making. You know, perhaps we need to do a better
2738 job of coming by to see you and explain these, but we do
2739 post--and all of our written notation votes are public. We
2740 explain in great detail, every individual Commissioner, as to
2741 what decision we have reached and why. And if you go look, I
2742 will just highlight 1 decision, the external filter decision
2743 from earlier in 2013 where the Commission spent a great deal
2744 of time looking at the pros and cons, the cost benefit
2745 analyses and came to a decision that did not require
2746 installation of an external filtered vent, but gave industry
2747 more latitude to develop filtering strategies. So I think
2748 there are examples there. We perhaps need to communicate it
2749 better.

2750 Mr. {Johnson.} And I agree that there are probably some

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2751 things that you have done very well. But in all due respect,
2752 what you are describing are things that you have done that
2753 have--

2754 Mr. {Shimkus.} So my colleague is causing us to be very
2755 patient. If you could? If you would--briefly, if you can?

2756 Ms. {MacFarlane.} I will keep it short.

2757 Mr. {Johnson.} Thank you.

2758 Ms. {MacFarlane.} I agree with my colleagues in the
2759 statements they have made. I do think that we are cognizant
2760 of the cost benefit analysis. But I just want to remind you
2761 that the Atomic Energy Act requires us to not consider costs
2762 when the NRC determines that a given regulatory action is
2763 required for the adequate protection of nuclear facilities.
2764 And that was the case with a number of the orders given post-
2765 Fukushima.

2766 Mr. {Johnson.} Thank you, Mr. Chairman, for your
2767 indulgence, as well as the Committee. Thank you.

2768 Mr. {Shimkus.} The gentleman's time has expired. The
2769 Chair now recognizes my colleague, my friend, my
2770 congressional classmate, the woman--the gentlelady from
2771 Colorado, Ms. DeGette, for 5 minutes.

2772 Ms. {DeGette.} Thank you very much, Mr. Chairman. Good

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2773 to see you in fine form today. I am happy to see all 5
2774 commissioners here today, just as everyone else said. And I
2775 just have a few questions.

2776 Commissioner Svinicki, you were on the Commission in
2777 2010, is that correct?

2778 Ms. {Svinicki.} Yes.

2779 Ms. {DeGette.} I just want to get a little recent
2780 history clear. And since you were there, I want to start
2781 with you. In that year in 2010, the DOE filed a Motion with
2782 the NRC to withdraw the Yucca Mountain license application,
2783 is that correct?

2784 Ms. {Svinicki.} Yes, I believe so. I am having to go
2785 from my memory on some of these dates.

2786 Ms. {DeGette.} Okay. Yeah. But the NRC Licensing
2787 Board denied the Motion, and the Commission sustained the
2788 Licensing Board's denial of the application, is that correct?

2789 Ms. {Svinicki.} Yes.

2790 Ms. {DeGette.} But then after the denial of DOE's
2791 Motion, the NRC did not continue to review the Yucca
2792 application because of budgetary limitations, is that
2793 correct?

2794 Ms. {Svinicki.} The sequence of events may be a little

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2795 bit different after the Commission sustained the Licensing
2796 Board--it may have been that there was some time that the
2797 staff worked to kind of have what we call an orderly closeout
2798 of activities. So they may not have happened exactly
2799 concurrently.

2800 Ms. {DeGette.} Okay. Chairman MacFarlane, what were
2801 the budgetary limitations that were involved with the NRC's
2802 seizing of reviewing the Yucca applications, do you know?

2803 Ms. {MacFarlane.} I wasn't Chairman then, so I--

2804 Ms. {DeGette.} And you don't know?

2805 Ms. {MacFarlane.} I don't know, but I can take that for
2806 the record and try to get the answer for you.

2807 Ms. {DeGette.} Okay. Now, since that point, the courts
2808 have ordered the NRC to continue that review. And you are
2809 now complying with those orders, is that correct?

2810 Ms. {MacFarlane.} That is correct.

2811 Ms. {DeGette.} Now, you have got about \$11 million--
2812 this kind of goes to Mr. Dingell's questions that he was
2813 asking. And my staff tells me that you have about \$11
2814 million remaining in the Yucca accounts. And your staff
2815 estimates that it will cost about that much to finish the
2816 report. Is that correct?

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2817 Ms. {MacFarlane.} To finish the safety evaluation
2818 report, not the licensing.

2819 Ms. {DeGette.} The safety evaluation--that is right.
2820 And I just want to say, I would encourage the NRC to keep to
2821 those timelines set and to finish the safety evaluation
2822 report, because it looks like we have got the money and it is
2823 ongoing. And I think it is important to have that. So I
2824 just wanted to ask one more question kind of following up on
2825 what Mr. Engel was talking about, which is the Bill that we
2826 are talking about today. And as a number of folks have
2827 discussed, the Chairman of the Commission under this Bill
2828 would not be able to exercise emergency authority with--
2829 without consulting with congressional committees, other
2830 commissioners and the public. And like my colleagues, I am
2831 kind of worried about how this would work in a crisis. And
2832 one thing nobody has asked you, and maybe, Madam Chair, this
2833 would be a good thing for you to talk about is if we learned
2834 any lessons from Fukushima about what kind of quick response
2835 we need to have in a crisis? What lessons have we learned
2836 from Fukushima?

2837 Ms. {MacFarlane.} Well, we have learned many lessons.
2838 But in--

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2839 Ms. {DeGette.} But in this particular context?

2840 Ms. {MacFarlane.} In this particular context, I think
2841 it is important for there to be a person who is in leadership
2842 who is in--who can make decisions very quickly. I think that
2843 is one of the lessons taken from Fukushima.

2844 Ms. {DeGette.} Because in fact in Japan what happened
2845 was there were a lot of layers of bureaucracy that they had
2846 to go through, and that delayed decision making, isn't that
2847 right?

2848 Ms. {MacFarlane.} Yes. And I think that was--these
2849 were lessons that the United States learned after the--well,
2850 during the Three Mile Island accident.

2851 Ms. {DeGette.} Um-hum. Yes.

2852 Ms. {MacFarlane.} And that--and those lessons were then
2853 codified into law, and the Nuclear Regulatory Agency was
2854 restructured according to those lessons.

2855 Ms. {DeGette.} Great. Thank you. Thank you very much,
2856 Mr. Chairman. I appreciate it.

2857 Mr. {Shimkus.} The gentlelady yields back her time.
2858 The Chair now recognizes the gentleman from Mississippi, Mr.
2859 Harper, for 5 minutes.

2860 Mr. {Harper.} Thank you, Mr. Chairman. And thank each

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2861 of you for being here. And it is encouraging to see a much
2862 greater level of cooperation among the commissioners than
2863 perhaps in previous years. And so that does bring some
2864 comfort.

2865 And if I may start with you, Madam Chair? When we had
2866 discussions previously, I had asked you if you had read and
2867 reviewed the NRC Inspector General's conclusions in the June
2868 6, 2011, and June 26, 2012 reports. And at that point, you
2869 had not. So I am curious if you have had a chance to do that
2870 since?

2871 Ms. {MacFarlane.} Yes. Yes, I have.

2872 Mr. {Harper.} Okay. And that--I know there were
2873 revised procedures after the 1 in '11. Have there been any
2874 other revisions that I have missed since the June 26, 2012
2875 report as a result of that?

2876 Ms. {MacFarlane.} As a result--no, I don't believe so.

2877 Mr. {Harper.} Okay. Have you taken any actions to
2878 address the IG's conclusions that we need to be aware of?

2879 Ms. {MacFarlane.} No.

2880 Mr. {Harper.} Are there any that you believe you should
2881 make based upon the rather comprehensive report in 2012?

2882 Ms. {MacFarlane.} No.

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2883 Mr. {Harper.} Okay. Did you agree with those
2884 conclusions that were in the report?

2885 Ms. {MacFarlane.} I don't take a--

2886 Mr. {Harper.} I know I am putting you on the spot with--
2887 -

2888 Ms. {MacFarlane.} I don't take a view on those--

2889 Mr. {Harper.} Okay.

2890 Ms. {MacFarlane.} You know, I wasn't here during that
2891 period. So I don't have a view on--

2892 Mr. {Harper.} Yeah. And I understand you weren't here.
2893 But, obviously, we would like to make sure that some of those
2894 don't repeat themselves. So I am appreciative that you have
2895 read those. And if I may ask, on August 1, the NRC provided
2896 its status report on power uprates to the Commission. And,
2897 of course, power uprate is the term for the process where a
2898 nuclear plant requests approval to increase their power
2899 output, correct?

2900 Ms. {MacFarlane.} Um-hum.

2901 Mr. {Harper.} And to date, the NRC has approved 74
2902 power uprate requests totaling over 7,000 megawatts of
2903 additional capacity, roughly the equivalent of 7 new plants.
2904 And so this is a well-established practice. That would be

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2905 true also, wouldn't it?

2906 Ms. {MacFarlane.} Um-hum. Yes.

2907 Mr. {Harper.} You know, in the staff's report, they
2908 indicate that a number of power uprate projects have been
2909 canceled, freeing up 3.9 fulltime equivalent reduction of
2910 staff work. And the staff also notes how they continue to
2911 have challenges in meeting their performance goals, even
2912 though the goals for review timeliness were increased 50
2913 percent. Of the 14 applications under review, three were
2914 filed in 2004 and another one in 2008. Even though the
2915 performance goal for reviewing these applications was less
2916 than 12 months, in fact, none of the applications currently
2917 under review have met their performance goal. And I will
2918 briefly summarize, if I may? It is a well-established
2919 program with the decreasing workload, but the staff is
2920 falling far short of meeting timeliness goals in spite of
2921 these goals being increased 50 percent. To me, that sounds
2922 like a program in need of management and accountability. And
2923 I will give you an opportunity to respond in a moment.

2924 In the Commission response--what was that? It said it
2925 is no longer necessary to provide the Commission the periodic
2926 status report on power uprates, and if specific issues arise

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2927 to inform the commissioners' assistants accordingly.
2928 Employees focus on what their bosses focus on. If timeliness
2929 is of no concern to the Commission, it appears it might not
2930 be for the NRCC's--the NRC's staff. The Commission's lack of
2931 leadership on this issue will only further undermine schedule
2932 discipline at the NRC. The Commission's efficiency principle
2933 states this, the American taxpayer, the rate paying consumer
2934 and licensees are all entitled to the best possible
2935 management and administration of regulatory activities.
2936 Regulatory decisions should be made without undue delay.

2937 And I would like to hear from each of you on how you
2938 think that the Commission would be best be able to restore
2939 some stability and predictability to this core program. And
2940 if I could ask you that, Madam Chair?

2941 Ms. {MacFarlane.} To the power uprate program?

2942 Mr. {Harper.} Yes.

2943 Ms. {MacFarlane.} Yes. Thank you for the question. Of
2944 course, we are concerned with working as efficiently and as
2945 effectively as possible, always, and in terms of power
2946 uprates as well. We have been working under specific
2947 circumstances the past year--year or two. In particular,
2948 this past year, we have suffered like many agencies,

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2949 sequestration, which has affected our ability to be
2950 responsive in a number of areas. And power uprates may be
2951 one of those. In addition to which, we have taken on
2952 additional work for waste confidence that has redirected
2953 staff resources for Fukushima and being responsive to that.
2954 That has redirected staff resources as well. And then we
2955 have the piece of the industry responsiveness. And, again, I
2956 go back to statements I have made earlier that when we
2957 receive applications from licensees, we need high quality
2958 applications that don't generate a number of answers, and
2959 then we need efficient responses as well.

2960 Mr. {Harper.} And I see my time has expired. And I
2961 yield back. Thank you.

2962 Mr. {Shimkus.} The gentleman yields back his time. And
2963 we want to thank you all. A few short comments. And if Mr.
2964 Tonko wants to add. I was invited to and attended the Yucca
2965 economic symposium put on by Nevadans in Reno a couple weeks
2966 ago. So I just throw that out as an interesting comment. A
2967 lot of the comments today by my colleagues I think were based
2968 upon I think the industry fears it is on a knife edge with
2969 nat gas pressures and this cumulative effect of regulation.
2970 And so I think that is that balance that you may have heard

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2971 from a lot of my colleagues. And a commission form of
2972 government is the chairman is responsible for agendas and the
2973 staff, but you are all still one of my equals on casting
2974 votes. And whether that is at the municipal level or whether
2975 that is at the level--and we applaud the comradery and moving
2976 forward and what we have been able to do.

2977 I do have one--two announcements. One is Vinnie
2978 Esposito's last day as our nuclear fellow, he has been
2979 tremendously helpful to us and to me personally. And I want
2980 to wish him God speed and thanks for your help. I would like
2981 to finish by thank you all for coming. It was a long
2982 hearing. But it was a good one. And I think we all learned
2983 a lot. I want to remind members that they have 10 business
2984 days to submit additional questions for the record. And as
2985 promptly as you can, a response to those, we would appreciate
2986 that. And I would say the hearing is now adjourned.

2987 [Whereupon, at 12:50 p.m., the Subcommittees were
2988 adjourned.]