

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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May 29, 2014

The Honorable Allison M. Macfarlane
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Macfarlane:

Thank you for appearing before the Subcommittee on Energy and Power on Wednesday, May 7, 2014, to testify at the hearing entitled "The NRC FY 2015 Budget and Policy Issues."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

To facilitate the printing of the hearing record, please respond to these questions and requests with a transmittal letter by the close of business on Thursday, June 12, 2014. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member,
Subcommittee on Energy and Power

Attachments

Additional Questions for the Record

Questions for Chairman Macfarlane on behalf of the Commission

The Honorable Ralph Hall

1. A review of fee recovery rules for the last decade shows that corporate support has increased every year, with only one exception. The fee recovery rule for FY 2014 indicates the NRC spent \$486 million in corporate support. In the hearing, Chairman Macfarlane testified that the NRC estimates spending for FY 2015 is only \$362 million and cited page 151 of the NRC budget. Please describe how the NRC will achieve a reduction of \$124 million in one year when previous efforts have had no apparent impact.
2. The fee recovery rule for FY 2014 indicates 2,254 Mission Direct FTEs. This rule also indicates 1,375 direct hours worked per FTE during the year. According to the FY 2004 fee recovery rule, mission direct FTE's worked 1,776 direct hours. If NRC's current workforce returned to the level of direct hours worked to the levels achieved in 2004, the increase in the NRC's productivity would effectively equal the addition of roughly 509 FTEs.
 - a. Please explain this erosion of productivity.
 - b. Please describe the steps NRC is taking to restore its productivity to previous levels.
 - c. Please explain why the NRC's FY 2015 Congressional Budget Justification requests the addition of 66 FTEs rather than pursuing productivity improvement.
3. In addressing the Nuclear Energy Assembly on May 21, 2014, Chairman Macfarlane stated:

"Of the 18 combined license applications we anticipated, licenses have been issued for two reactor sites and an additional eight are under active review, but six application reviews have now been suspended at your request and two applications have been withdrawn. In response, the NRC has had to define a path to redeploy underused resources to other priorities or transition to a smaller technical team. A similar story can be told with regard to small modular reactors. To borrow a metaphor, running a government agency is akin to driving an aircraft carrier, not a cigar boat. I can't turn this ship on a dime."

A review of previous fee recovery rules indicates a decline in 10 CFR Part 170 fees for each of the last three years. Please describe what actions the NRC is taking to better project the workload billable under Part 170 and how long it will take to bring NRC projections in line with actual fee recovery.

4. There are 68 or more research projects listed in the FY 2015 budget request. Please provide a listing of all research projects under the Reactor Safety Budget including a short description of the project, its ranking in terms of quantitative risk reduction, and specific funding amount requested for each project.

The Honorable John Shimkus

1. In 2012, the DC Circuit Court remanded the NRC's waste confidence rule. When will the revised rule become final?
 - a. Given that spent fuel pool integrity was an issue raised by the DC Circuit in their remand of the waste confidence rule, how will the NRC satisfy the court if the seismic safety of the spent fuel pools remains an open question still under review?

2. Following the DC Circuit Court's remand of the waste confidence rule, the NRC instituted a moratorium on issuing certain licensing actions like new plants and license renewals. When will the waste confidence moratorium officially end?
 - a. Does the NRC have a plan to ensure those licensing actions caught in the moratorium will be issued in a timely fashion?
 - b. One item caught in the moratorium is a new plant license for Watts Bar 2 in Tennessee. Is the NRC still on track to issue that license in Dec. 2014, as Chairman Macfarlane testified in our Dec. 12, 2013, hearing?
3. Page 151 of the NRC budget indicates that corporate support expenditures for FY 2014 of \$384 million—a difference of \$102 million from the \$486 million indicated in the NRC's fee recovery rule for FY 2014. Please explain this discrepancy.
4. NRC staff spent over two years studying the safety of spent fuel pools—something they have studied more than ten times before, examining whether there was a safety benefit that warranted expedited transfer into dry casks. Their conclusion was that the risk of an offsite release of radiation was one in ten million years and that regulatory action was unnecessary. The staff submitted their recommendation on November 12, 2013, and the Commission has yet to complete their consideration of this matter.
 - a. How much was spent on this issue, both costs and staff time (in FTE).
 - b. Please provide the dates each commissioner voted on this matter.
 - c. Please explain the reasons for any extensions of voting on this matter.
 - d. Considering the time and focus dedicated to this Tier 3 issue on which the staff recommended no further regulatory action, please describe what actions the Commission is taking to ensure that the regular licensing workload will no longer be impeded or delayed in favor of matters of such low safety significance.
 - e. As the NRC proceeds to consider matters in Tiers 2 and 3, please describe how the Commission plans to ensure that items with slight safety benefits are dealt with in a more efficient and timely fashion.
 - f. Please explain how the Commission plans to return its attention to only those items with greater safety benefit instead of diverting NRC and licensee attention to such matters of slight safety significance.
 - g. Given the NRC had sufficient funds to expend resources on an item with such low safety significance that has been studied ten times before, please explain why the NRC needs additional funding and staff.
5. Chairman Macfarlane testified that the sharp increase in 10 CFR Part 171 fees billed to reactor operators was due to several factors—including the impacts of sequestration reductions in 2013 and an accounting error of approximately \$20 million. The NRC was funded at the FY 2013 level during the pendency of the FY 2014 continuing resolutions until the final FY 2014 Omnibus Appropriations bill was enacted and NRC was appropriated the full amount of its budget request, unexpectedly receiving a windfall appropriations amount upon enactment of the FY 2014 Omnibus Appropriations bill.

- a. Please provide a detailed explanation of reductions taken in early FY 2014 while NRC was operating under a CR, including deferred, delayed, or cancelled activities and actions.
 - b. Please provide a detailed explanation of actions taken by NRC to modify the FY 2014 spending plan upon receipt of the windfall funding increase arising from passage of the FY 2014 Omnibus Appropriations bill, including any activities or actions that were resumed or accelerated in an effort to return to schedule.
 - c. Please provide the NRC's current amount of "carry-over" funding.
 - d. Please discuss NRC's plans to treat the FY 2014 appropriations windfall as an over collection which would, in turn, be used to offset fee collections in FY 2015.
6. Please describe what actions have been taken to restore efficiency and predictability to the power uprate program, given the concerns raised about this issue in our Dec. 12, 2013, hearing.
 7. I understand a foreign country has asked the NRC for certification of their reactor design for construction, not here in the U.S., but in another country. Considering the NRC is taking seven to eight years to review designs planned for construction here in the U.S., why is the NRC freelancing internationally instead of completing its work on domestic applications?
 - a. The NRC refused to accept this application late last year. Since the NRC had been planning to start reviewing this application and that work is now delayed, will this situation cause the NRC to offset the lost revenue by increasing operating reactor fees?
 - b. Since post-Fukushima work is, in many cases, diverting scarce technical resources away from other routine work, why would the NRC expend resources to review a foreign design for construction in a foreign country?

The Honorable Joseph R. Pitts

1. Please provide a breakdown of the budgeted and actual resources for each tier of post-Fukushima activities for FY 2012, 2013, 2014, and 2015 including the following information:
 - a. Cost estimates and actual costs;
 - b. The estimated number of FTE's and the actual number of FTE's; and
 - c. The estimated amount of contract support and the actual amount of contract support.

The Honorable Robert E. Latta

1. For the purposes of budgeting, how does the NRC estimate how much it expects to recover in 10 CFR Part 170 fees? Please provide the projections for recovery of 10 CFR Part 170 fees used in each of the budgets for the past 10 years and for FY 2015 so that we can compare the accuracy of NRC's projections for 170 fees with actual collections.

2. Considering that the NRC's fee recovery rules for FY 2013 and FY 2014 each accounted for the cessation of operation by 2 reactors and that all four of these reactors were shut down prior to NRC finalizing its FY 2015 budget, what effort did the NRC make to adjust its 2015 budget to reflect the workload reduction due to the loss of those 4 reactors?

3. In addressing the Nuclear Energy Assembly on May 21, 2014, Chairman Macfarlane stated:

"Court decisions, a foreign reactor accident, and government-wide financial challenges have each impacted our current course, in many cases diverting scarce technical resources away from other routine work."

Please provide a list of routine licensing actions which the NRC has delayed by diverting technical resources. Please describe what the NRC is doing to improve its ability to complete routine licensing actions in a timely fashion.

4. In addressing the Nuclear Energy Assembly on May 21, 2014, Chairman Macfarlane stated:

"Of the 18 combined license applications we anticipated, licenses have been issued for two reactor sites and an additional eight are under active review, but six application reviews have now been suspended at your request and two applications have been withdrawn. In response, the NRC has had to define a path to redeploy underused resources to other priorities or transition to a smaller technical team. A similar story can be told with regard to small modular reactors. To borrow a metaphor, running a government agency is akin to driving an aircraft carrier, not a cigar boat. I can't turn this ship on a dime."

Given this reduction in workload and your ability to redeploy underused resources, please explain the NRC's request for additional resources and FTE's in the FY 2015 budget.

The Honorable Adam Kinzinger

1. Given that the agency expects to complete its work on the waste confidence rulemaking this fall, how much has been budgeted for FY 2015 for this work? Has the NRC budgeted any resources in anticipation of a legal challenge to the revised waste confidence rule?
2. The NRC's written testimony for this hearing cites a savings of \$37 million dollars in administrative support costs since 2010, a reduction of 17%. Yet a review of the NRC's fee recovery rule shows corporate support costs have grown from \$330 million in FY 2010 to \$486 million in FY 2014. Please explain the discrepancy between the fee recovery rule and the written testimony. Since previous efforts clearly have not reduced corporate support costs, please describe what steps the NRC will take to reign in growing corporate support costs?
3. Please provide the number of licensing actions and reviews that have been delayed because of Fukushima-related work.

The Honorable Bill Johnson

1. Please indicate when the Commission anticipates providing this Committee with a detailed cost and schedule estimate for completing its review of the Yucca Mountain license application.

2. Since Nuclear Waste Fund money will NOT be used to pay for the NRC's work on alternative disposal strategies for spent nuclear fuel, who will pay for that work: taxpayers or licensees?

The Honorable John D. Dingell

1. On November 18, 2013, NRC ordered staff to complete work on the safety evaluation report for Yucca Mountain. In addition, the Commission requested DOE prepare a supplemental environmental impact statement (EIS) in order to complete its environmental review of the application. On February 28, 2014, DOE informed NRC that it will not complete the supplemental EIS, but that it will provide an updated version of its previously issued technical report on the topics to be addressed in the supplement.
 - a. What, if any, are obstacles NRC will face in order to complete the supplemental EIS internally?
 - b. Does the fiscal year (FY) 2015 budget provide enough resources for NRC staff to finish the supplemental EIS while still completing the SER by January 2015?
2. In March 2014, NRC finished loading Licensing Support Network (LSN) documents into a nonpublic library in the NRC's Agencywide Documents Access and Management System (ADAMS). The remaining related task is to complete the processing of the LSN documents into the agency's records.
 - a. How does this remaining LSN task impact NRC's timely completion of the supplemental EIS?
3. Commissioner Magwood, on March 19, 2014, it was announced that you would be leaving the agency on September 1, 2014 to become director general of the Nuclear Energy Agency. Commissioner Apostolakis, your term as Commissioner will come to an end on June 30, 2014.
 - a. Commissioner Apostolakis, can you provide any indication on whether or not you will be re-nominated before your term expires?
 - b. Has the Commission been given any indication of whether or not Commissioner Magwood's replacement will be nominated before a lapse in service occurs?
 - c. Chairwoman McFarlane, how would a lapse in appointments to the Commission impact the ability of NRC to effectively carry out its completion of the SER?

Questions for Chairman Macfarlane

The Honorable John Shimkus

1. In addressing the Nuclear Energy Assembly on May 21, 2014, Chairman Macfarlane stated:

"Recent changes in the U.S. nuclear fleet have prompted us to place greater focus on decommissioning."

"But those sites undergoing decommissioning must continue to meet license requirements. The NRC will maintain its oversight of these facilities for years to come, including having resident inspectors at certain sites for the next several years. As these sites progress in the

decommissioning process, the NRC will account for the accompanying changes in regulatory responsibility in its planning."

- a. Please describe how your statement represents a change from NRC's past practices.
- b. Does your statement reflect the policy position of the Commission? If so, please provide copies of any Commission policies regarding these issues.

The Honorable Lee Terry

1. Please provide a list of the NRC's chairman's responsibilities as Executive Team Director when the Operation Center is in "Activation" or "Expanded Activation" modes according to the Executive Team Response Procedure.

The Honorable Robert E. Latta

1. In your responses to follow-up questions from the Dec. 12, 2013 hearing, you indicated:

"...the NRC has 3871 staff, including the Office of the Inspector General, which is down 368 employees from FY 2010."

However, the NRC's Performance and Accountability Report for FY 2010 indicates the NRC employed 3,981 employees. Please explain the discrepancy.

The Honorable Adam Kinzinger

1. In the hearing, you testified that the NRC had reduced 192 FTE's since FY 2010. In your responses to follow-up questions from the Dec. 12, 2013 hearing, you indicated:

"...the NRC has 3871 staff, including the Office of the Inspector General, which is down 368 employees from FY 2010."

The NRC's Performance and Accountability Report for FY 2010 indicates the NRC employed 3,981 employees. The NRC's FY 2015 budget request projects 3,896 FTEs in FY 2015. Please explain the basis for your conclusion the agency has reduced 192 FTEs since 2010.

The Honorable Bill Johnson

1. When Sec. Moniz testified before the Science Committee on April 10, 2014, I asked him about DOE's commitment in a January 6th letter to honor the NRC's request to complete a groundwater supplement to the Yucca Mountain EIS and DOE's subsequent letter to the NRC indicating otherwise. He indicated that he discussed with you his decision to have NRC prepare the EIS supplement. Given that is contrary to the Commission's Nov. 18, 2013, order, did you discuss Sec. Moniz's proposal with your colleagues before accepting?

2. In the hearing, I asked a question regarding the NRC's refusal to estimate the costs of carrying out its statutory mandate to complete its review of the Yucca Mountain license application: "Has OMB in any way instructed you either directly or indirectly to withhold such information?" You answered: "I do not believe so." Please clarify your response.

Attachment 2—Member Requests for the Record

During the hearing, Members asked you to provide information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.

The Honorable Gene Green

1. What percentage of the Commission's budget and fees fund NRC rulemakings?

The Honorable Lois Capps

1. When will the review of Dr. Michael Peck's differing professional opinion be completed and published?