

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
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April 10, 2018

The Honorable Kristine L. Svinicki  
Chairman  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Svinicki:

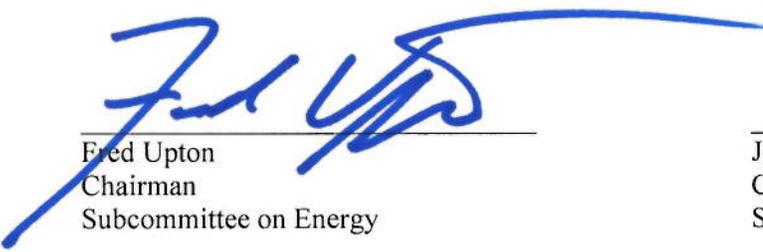
Thank you for appearing before the Subcommittee on Energy and the Subcommittee on Environment on March 20, 2018, to testify at the joint hearing entitled "Fiscal Year 2019 Nuclear Regulatory Commission Budget."

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. Also attached are Member requests made during the hearing.

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 Tuesday, April 24, 2018. Your responses should be mailed to Kelly Collins, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [kelly.collins@mail.house.gov](mailto:kelly.collins@mail.house.gov).

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

Sincerely,



Fred Upton  
Chairman  
Subcommittee on Energy



John Shimkus  
Chairman  
Subcommittee on Environment

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy  
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachments

## Attachment 1—Additional Questions for the Record

### The Honorable John Shimkus

1. In an October 8th, 2017 letter regarding the Design Basis Assurance EQ Program, the Nuclear Utility Group on Equipment Qualification expressed concern that the ongoing NRC inspections of nuclear power plant licensee Environmental Qualification (EQ) programs “are simply inquiries into and challenges related to licensees’ EQ program licensing bases. These are questions which present perspectives and challenges by NRC inspectors related to fundamental, generic methodologies which have long been accepted as appropriate qualification methodologies throughout the industry.

Thus, the areas of concern addressed in these comments primarily relate to the use of the inspections to “re-evaluate” a plant’s EQ licensing basis and its implementation with respect to several technical topics. These re-evaluations appear distinct from the intent of the inspections to assess the maintenance of the EQ program in accordance with a plant’s EQ licensing basis. In short, those challenges and questions are inappropriate for this inspection process.”

- a. What evidence is there that calls into question the sufficiency of the NRC-approved EQ licensing basis for each plant?
  - b. Have any licensees performed any testing or analyses in response to NRC inquiries as part of these EQ inspections?
  - c. Were any of these tests or analyses performed at the suggestion of NRC staff or management?
  - d. Please provide the NRC resources, by fiscal year, that have been applied to the EQ inspection effort since its inception.
  - e. Please list all the findings that have resulted from the EQ inspection effort.
2. Over the last decade, licensee’s annual fees for NRC fuel facilities have increased dramatically. In some cases, licensee fees have more than tripled and NRC’s budget to manage these facilities continues to rise, while the number of fuel cycle licensees continues to decline. NRC Staff’s lack of transparency increases the challenges for licensees to determine what they are paying for.
    - a. What steps is NRC planning on taking to bring NRC fuel facility annual fees back in line with historic norms?
    - b. What can the NRC do to provide all of its licensees a clearer picture of how the commission is calculating annual licensees’ fees and how those fees are being used? For example, would NRC consider sharing its budget execution data for the purposes of comparing those planned activities with what was budgeted?

3. One area where NRC plays an important role is in licensing facilities developing or providing advanced nuclear medicine innovations. For example, there is work underway by several companies to create a domestic supply for certain a medical isotope known as molybdenum-99 or Moly-99, which is critical for diagnostic imaging for 50,000 patients every day. As NRC is pursuing its reviews of isotope facilities, the international supply chain of Moly-99 we rely upon continues to be subject to disruption—which creates an urgent need to develop a domestic supply. So unnecessary burdens and delays in regulatory approvals may impact not only the innovative companies but also the access to timely diagnostics in emergencies.
  - a. Is the Commission aware of this tension between timely licensing and patient needs?
  - b. How is the NRC working to streamline and make more efficient review and approvals of medical isotope and related nuclear medicine facilities, as well as the regulatory approach for NRC materials licensees?
4. Government Accountability Office (GAO) report GAO-18-318 titled “Additional Action Needed to Improve Process for Billing Licensees” identifies actions to improve NRC’s billing process and also identifies several challenges that NRC’s licensees have experienced.
  - a. The GAO report explains that NRC is planning is to implement a new validation process for its billing process by October 2018. What is the agency’s progress on meeting this deadline?
  - b. When is NRC planning to implement electronic billing and what is the agency doing to meet this deadline?
5. The last time the Commission testified before the Committee, the NRC was still in process of updating Management Directive 4.8 relating to its budget execution. This directive, issued in August 2016, has now been in place for a full budget development cycle and seeks to (among other items), establish a process for “managing changes to the use of resources during budget execution that are made to meet current year program objective and achieve optimal performance.”
  - a. Please describe any changes to NRC’s recent budget management formulation and execution process that were the specific result of the revised directive.
  - b. What additional steps could be undertaken to further refine and improve this budget development process?
6. Government Accountability Office (GAO) report GAO-17-232 “Regulatory Fee-Setting Calculations Need Greater Transparency” identified a number of issues associated with NRC’s process by which it conducts the statutorily-required fee recovery rulemaking. However, NRC staff considered options to improve portions of this process, including establishing a pilot program for flat fee structure for fuel cycle facilities.

- a. Please provide an update on the status of the flat fee pilot project and any lessons learned since the implementation of the flat fee pilot project.
  - b. Ratepayers pay the bulk of NRC's costs. This includes an hourly rate that exceeds \$260 per hour and an average annual cost over \$180,000 per NRC staffer. Beyond the flat fee project, what other steps must NRC consider to bring additional discipline into the fee-setting process?
7. In GAO's 2017 report on NRC's planned changes to its budget structure and justification (GAO-17-294), GAO reported that NRC completed making changes to its budget structure in fiscal year 2017, which involved eliminating the Office Support business line and returning mission support activities back to the mission programs. To what extent have these changes improved transparency or lowered overhead costs?
8. The NRC's statutory mandate is to provide "reasonable assurance" of adequate protection of public health and safety. Commissioner Burns has described the concept as follows:
- "[Reasonable assurance] is not absolute assurance of protection or an expectation of 100% risk free. Why is this important when it comes to understanding how to be a regulator? Well, every decision that the regulator makes must be viewed through this lens. An essential function of the NRC is to determine how much risk is acceptable when establishing its regulatory requirements."
- a. How does the NRC ensure that its statutory mandate to protect with "reasonable assurance" is interpreted appropriately and consistently throughout NRC Headquarters and the Regions?
  - b. How does NRC management ensure that the NRC is not regulating to an "absolute assurance" standard?
  - c. Are you aware of any situations in which the NRC staff was potentially regulating to an "absolute assurance" standard? If so, what corrective actions were taken?
9. In the Government Accountability Office (GAO) report GAO-17-294, "Changed Planned to Budget Structure and Justification," GAO noted NRC developed a system to alert responsible offices to update their guidance as guidance expiration dates approach. What is the current status of NRC's process to regularly update its directives to ensure that guidance does not become out of date?
10. Compared to the FY2018 annualized continuing resolution, the NRC's FY2019 budget request increases by nearly \$60M, even though it reflects a decrease of 149 FTE. The increase has been attributed to several factors, including an additional \$47.7M for Yucca Mountain and \$10M for advanced reactors.

Even taking into consideration the additional \$47.7M for Yucca Mountain and \$10M for advanced reactors, this still leaves the FY2019 approximately \$30M over the FY2018

budget considering the decrease of 149 FTE. Please explain what constitutes this \$30M increase.

- a. Does the Commission believe this budget request consistent with the spirit of Project Aim, which sought to "right-size" the agency and make it more efficient and agile?
  - b. To what extent does the NRC review its budget request against its actual expenditures to ensure that its subsequent year budget request is as realistic and accurate as possible?
  - c. Similarly, does NRC staff routinely review the fees charged for inspections against the estimated charges set forth in the inspection procedures? If not, wouldn't doing so help to identify any trends that would assist the NRC in budgeting with the most fidelity and transparency?
11. The NRC budget includes \$47.7 million and 124 FTE to restart the Yucca Mountain licensing proceeding. If Congress does not fund the Yucca Mountain proceeding, will NRC's FY 2019 budget requests be adjusted downward to reflect the decreased planned workload?
12. NRC's budget proposal for Fiscal Year 2019 lists a staffing goal of 3,184 FTE, excluding the Office of Inspector General. According to NRC's documentation, this is a reduction of 149 staff from FY2018 levels of 3,333. The Commission's recent monthly report to Senate Environment and Public Works Chairman Barrasso reported a total staff of 3,240 in FY 2017 and staffing projections of 3,090 for the end of FY2018. The numbers reported to the Senate EPW Committee are starkly divergent from what is in the budget proposal. During the hearing, Commissioner Baran said the NRC ended the last fiscal year with 3200 FTE and Chairman Svinieki said current staffing is a slightly over 3,000.
- a. What is the agency's current staffing level?
  - b. Please describe the specific process that resulted in the FY2018 FTE level in the Congressional Budget Justification to be listed as 3,333.
  - c. When did the agency last have 3,333 FTE in the organization?

### **The Honorable Tim Walberg**

1. The NRC is responsible to establish the regulatory requirements for offsite emergency preparedness planning for our nation's fleet of commercial nuclear power plants. These requirements are based on NRC's risk profile of its licensees and the Federal Emergency Management Agency (FEMA) has a consultative role in this process. Like the NRC, FEMA's Radiological Emergency Preparedness Program (REPP), is funded by fees that are ultimately paid by my constituents. That is why I recently wrote FEMA Administrator Long

with my colleague Representative Perry to request an accounting of how they track and manage the program's funding. I look forward to FEMA's response.

I also have a question regarding interactions between FEMA and NRC in the regulatory process. Chairman Svinicki, NRC staff is analyzing the requirements for both decommissioned plant sites as well as advanced nuclear technologies. These requirements are based on the risk profile of those respective plants conducted by your staff. I have heard concerns that recently FEMA's REPP program has sought to expand its role and reflect qualitative concerns, which goes beyond the more disciplined and predictable, quantitative approach reflected in NRC's approach.

- a. Chairman Svinicki, will you please describe NRC's regulatory jurisdiction and process for offsite emergency preparedness?
- b. Would you request a meeting with FEMA to resolve any potential jurisdictional issues that have recently been raised between the REPP program and NRC staff?
- c. Lastly, will you please keep the Committee staff and my office informed of ongoing discussions on the issue?

**The Honorable G. K. Butterfield**

1. Chairman Svinicki, the NRC plays an underappreciated though very important role in overseeing the use of nuclear materials in medical products. I understand that the commission recently announced it would be proposing a rule updating the export licensing provisions pertaining to a compound called deuterium, which is essentially heavy water. Several biopharmaceutical manufacturers have incorporated very low levels of this compound into products they are testing in clinical trials due to its favorable impact on metabolism. Can you commit that you will take the unique aspects of clinical trials and the pharmaceutical supply chain into consideration during the development and implementation of this rulemaking as it relates to medical products?

## **Attachment 2—Member Requests for the Record**

*During the hearing, Members asked you to provide additional 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 Greg Walden**

1. What is the NRC's forecasted total cost to complete the new scale design review and are you aware if NRC is currently performing with respect to the forecasted budget?

### **The Honorable Richard Hudson**

1. Can you provide updated RAI tracking information to the committee?
2. Do managers in the offices of the nuclear regulatory reactor regulation and new reactors review additional rounds of RAIs, as GAO reported was the agency's intent?

### **The Honorable Jeff Duncan**

1. You have asked for an increase in the budget and the new reactors office has significantly reduced workload, claims a 13 percent reduction in staffing, and yet you ask for an increase of \$4 million in funding. How do you explain that contradiction?

### **The Honorable Doris O. Matsui**

1. Can you outline some of the differences between the facilities, Holtec in New Mexico and Waste Control Specialists in Texas, envisioned by the two applications?

### **The Honorable Tony Cárdenas**

1. How is the department doing when it comes to recruiting today's technical folks that the department needs to fill the positions that would be ongoing?
2. Mr. Chairman if we could get a report from the commission on how local communities can enlist in making sure that young, talented folks can apply these kinds of programs. For example, the campuses that you are already involved in or the campuses you would like to be involved in.