

UNITED STATES
NUCLEAR REGULATORY COMMISSION

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BRIEFING ON FEE PROCESS

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FRIDAY,

SEPTEMBER 16, 2016

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ROCKVILLE, MARYLAND

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The Commission met in the Nuclear Regulatory
Commission Auditorium, Two White Flint North, 11555 Rockville Pike,
at 9:02 a.m., Stephen G. Burns, Chairman, presiding.

COMMISSION MEMBERS:

STEPHEN G. BURNS, Chairman

KRISTINE L. SVINICKI, Commissioner

JEFF BARAN, Commissioner

ALSO PRESENT:

ANNETTE VIETTI-COOK, Secretary of the Commission

MARGARET DOANE, General Counsel

NRC STAFF PANEL:

MICHELE EVANS, Deputy Director for Reactor Safety

Programs and Corporate Support, Office of Nuclear Reactor
Regulation (NRR)

VONNA ORDAZ, Deputy Director, Office of New Reactors (NRO)

MAUREEN E. WYLIE, Chief Financial Officer, NRC

EXTERNAL PANEL:

TOM BERGMAN, Vice President, Regulatory Affairs,

NuScale

JOHN C. BUTLER, Senior Director, Strategic Programs, Nuclear

Energy Institute (NEI)

MICHAEL J. GUASTELLA, Executive Director, Council on

Radionuclides and Radiopharmaceuticals, Inc.

HEATHER M. KRAUSE, Acting Director, Strategic

Issues, U.S. Government Accountability Office

TONY SCARDINO, Chief Financial Officer, U.S. Patent

and Trademark Office

KATIE SWEENEY, General Counsel, National Mining

Association

P R O C E E D I N G S

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9:02 A.M.

CHAIRMAN BURNS: I will call the meeting to order.

I want to welcome our external panelists and the NRC staff, as well as the members of the public who may be in the audience or listening in.

The purpose of today's meeting is to discuss NRC efforts to improve the efficiency, transparency, and accountability of the NRC fee setting process, address potential fee issues arising from the licensing of advanced nuclear technologies, and to provide an opportunity for stakeholders to present views.

For 25 years, the NRC has been required to recover approximately 100 percent for only 90 percent of its budget authority from fees as a result of the passage of the Omnibus Budget Reconciliation Act of 1990 or OBRA '90 as you may hear it referred to.

Each year the Commission reexamines its fee policy, issues a draft fee rule for public comment and makes changes to the process to respond to those comments within the limits of the statute. Nonetheless, concerns about assessment of fees and billings have gone on.

As part of Project Aim, the Office of the Chief Financial Officer has taken a fresh look at how we assess fees and has developed a road map of changes that can be made within the construct of OBRA '90.

I look forward to the presentations this morning and the ensuing discussion with the Commission.

Before we begin, do my colleagues have anything to

1 say? Commissioner Svinicki.

2 COMMISSIONER SVINICKI: Thank you, Mr.
3 Chairman. In my time of service on this Commission, this meeting is
4 unique in having a meeting on this topic and I appreciate it. I think it's
5 very timely. It was very interesting subject matter because it took me
6 out of a realm that I think commissioners don't really operate in day to
7 day. The issues are complex and interrelated. That's not unlike a lot
8 of what we deal with here, but I wouldn't be surprised if one thing we
9 agree on at the end of this is that we have more work to do and more
10 looking at these issues to move forward. I'm glad we're doing this
11 today. I think this will be very valuable. Thank you.

12 CHAIRMAN BURNS: All right, Maureen, why don't
13 you begin?

14 MS. WYLIE: Thank you very much. Good morning,
15 Chairman Burns and Commissioners Svinicki and Baran. For those of
16 you in attendance who don't know me, I'm Maureen Wylie. I'm the
17 CFO of the Nuclear Regulatory Commission.

18 For starters, I'd like to thank you for an opportunity to
19 brief you on our efforts to improve efficiency, transparency, and
20 accountability in our fee setting process; explain how the budget is used
21 to establish fees; explain the regulatory construct for our fee setting
22 program; potential fee issues for licensing arising from advanced
23 reactors; and provide an opportunity for our stakeholders to present
24 their views.

25 My fellow panelists are Michele Evans, the Deputy
26 Director of the Office of Nuclear Reactor Regulation, who will discuss

1 workload planning; and Vonna Ordaz, the Deputy Office Director for the
2 Office of New Reactors will talk about advanced reactors.

3 Next slide, please.

4 Let me start -- how about the next one? There we go.

5 Let me start with how the budget is used to establish
6 fees for hourly and annual fee setting processes which is the common
7 baseline for today's discussion. Fees based on budgets are somewhat
8 unique in the federal sector. We use workload planning and budget
9 formulation for each business line which is then revised to reflect fact of
10 life changes in the year of execution. Sometimes planned work doesn't
11 arrive and we adjust accordingly.

12 We also receive estimates from each business line
13 lead to show how the work will be accomplished by quarter. The NRC
14 then directly allocates resources to the nine specific fee classes based
15 on those supporting activities shown here on the chart. This is part of
16 our fee setting process called rebaselining and we perform it annually.

17 The nine fee classes listed above are power reactors,
18 of course, the largest fee class; fuel facilities, spent fuel storage and
19 reactor decommissioning, material users, uranium recovery,
20 transportation, research and test reactors, import/export, and rare
21 earth. We don't yet have a licensee in that category.

22 As you can see, approximately 86 percent of our
23 budgetary resources are used to support the power reactor fee class
24 and the remainder is supporting the rest of our fee classes.

25 Our central transparency challenge is that we have to
26 transition from our budget to fee classes, based on these supporting

1 activities, not, I believe, the fee transaction or calculation transparency.
2 That's why it's important for us to make as much data as possible
3 available and continuously communicate with our stakeholders.

4 Next slide, please.

5 This slide is intended to illustrate how our budget and
6 fee recovery amounts for FY 16 fee rule were developed. The NRC
7 receives a general salaries and expense appropriation and an
8 appropriation for the Office of the Inspector General. As the Chairman
9 noted, OBRA 90, as amended, states that certain non-fee items are not
10 subject to fees and these will be talked about later in the presentation.

11 The non-fee items included here include waste
12 incidental to reprocessing, generic homeland security, and our
13 Inspector General services for the Defense Nuclear Facility Safety
14 Board. So in the top circle is our budget authority or our appropriation,
15 minus our non-fee items to calculate a fee base of \$981 million.

16 The recovery of 90 percent has been multiplied by that fee base
17 to come to the required recovery amount of \$882.9 million for our final
18 fee rule. Pretty simple math.

19 We then adjust the recovery amount for timing based
20 on our estimates of Part 171 billings of about \$500K for '16 and that's
21 because even though we bill on a certain fiscal year, payments don't
22 always arrive in that same fiscal year. We always have to focus on our
23 current revenue only. So in the bottom circle, we now know that the
24 adjusted recovery rate amount of \$883.4 million must be collected in a
25 combination of our Part 170 and Part 171 revenue.

26 Next slide.

1 Critical to the collection of our Part 170 is our hourly
2 rate methodology. We follow OMB guidance out of OMB Circular A-25
3 User Charges. As illustrated on this slide, the NRC derives its hourly
4 rate by calculating the sum of the fee based budgeted resources, the
5 mission direct program salaries and benefits, the mission indirect
6 program support, and agency-wide support, which includes both
7 corporate support and the resources for the Office of the Inspector
8 General.

9 Mission direct contract costs are excluded from this
10 calculation as they are billed separately to individual licensees.

11 Next slide.

12 As you can see, the total budgetary resources are then
13 divided by the product of mission direct FTEs multiplied by the
14 productive hours to give us an hourly rate. The productive hourly rate
15 of 1440 hours for mission direct FTE used in our fee rule is based on
16 an analysis of the actual time and labor from 2015. It's an average of
17 the number of hours a technical staff member spends performing
18 activities directly associated with the programmatic mission of the NRC.
19 It excludes training, annual leave, and sick leave.

20 The hourly rate formula includes mission directive FTE
21 budgeted for technical staff work only. Mission direct FTEs include
22 direct -- excuse me, supervisory, secretarial, and other administrative
23 support FTE in programmatic business lines, as well as our corporate
24 support, are not included.

25 Next slide.

26 Now I'd like to discuss how we calculate Part 171

1 annual fees. Much simpler. The Part 171 annual fee amount is
2 determined by subtracting the Part 170 estimate from our net fee
3 recoverable amount. Whatever the NRC does not collect in Part 170,
4 must in fact be collected in Part 171 so that we collect approximately 90
5 percent of our appropriation in the years directed by law. There are a
6 few small adjustments that we make for consistency. We add an
7 allocation for generic transportation which are costs distributed evenly
8 among most fee classes that require transportation of nuclear materials.

9 We also allocate the net fee relief, or surcharge, as well
10 as the low-level waste surcharge. I'll explain how we determine the
11 credit or surcharge in a moment.

12 We also allocate billing timing adjustments which is the
13 net of bills paid from the prior year offset by anticipated unpaid bills from
14 the current year. As I said earlier, because work doesn't always arrive
15 when we expect it. And the total is a required annual fee amount.

16 Next slide.

17 Fee relief. Congress provides a 10 percent net
18 appropriation for our recoverable budget authority through an
19 appropriation. The NRC applies that 10 percent to offset certain
20 budgeted activities that do not directly benefit our licensees. These
21 activities are referred to as fee relief and are listed on this slide.

22 Any difference between the 10 percent appropriation
23 and the required budgeted amount of these fee-relief activities results
24 in an adjustment, either an increase, if it requires more than the 10
25 percent appropriation or a credit if it's less than the 10 percent
26 appropriation. We then allocate that based on their share of the

1 budget.

2 For the 2016 fee rule, fee relief activities were less than
3 10 percent. Therefore, we distributed approximately \$100,000 as a
4 credit by decreasing all of our licensees' annual fees for that amount.
5 And of course, that varies from year to year.

6 Next slide.

7 So that's it. That's the basics of calculation and how
8 Part 170 and 171 are developed. Now I'm going to give you a little
9 feedback overall about our statutory framework for our fee collections.

10 So our fee collection is governed by three laws, the
11 Independent Offices Appropriation Act of '52, or the IOAA; OBRA '90
12 as referred to earlier; and our annual appropriation legislation.

13 The IOAA is the statute authorizing and encouraging
14 federal regulatory agencies to recover to the fullest extent possible
15 costs attributed to services provided to identifiable recipients. This is
16 Part 170. The hours staff worked to provide a service to the licensee
17 are billed at the professional hour rate.

18 The OBRA '90 statute requires NRC to recover
19 approximately 90 percent of our budget authority through fees
20 excluding waste incidental to reprocessing, generic homeland security,
21 OIG services to the Defense Nuclear Safety Board, and any amounts
22 appropriated in the Nuclear Waste Fund.

23 As I mentioned before, OBRA '90 mandates the
24 collection of fees using the budget and not our actual costs. It also
25 requires that NRC use its IOAA authority to collect user fees for NRC
26 work that provides specific benefits. It directs the NRC to establish

1 annual fees that are fair and to recover through Part 171 the budgetary
2 authority not recovered through fees for service.

3 Examples of these types of activities would be
4 research, rulemaking activities, and any other activities that wouldn't
5 necessarily apply.

6 Next slide.

7 To understand how we arrived at approximately 90
8 percent recovery, we need to talk a little bit history. We began as the
9 AEC collecting a very small percentage of fees in 1968. And up
10 through the 1980s, as the statutes changed, the AEC and then the NRC
11 collected percentages from 15 to 45 percent varying by year.

12 In the 1990s, the collection percentage rose to 100 percent.

13 Finally, through an amendment after the year 2000, the
14 collections percentages decreased over time to 90 percent in 2005 and
15 that's where we stand today.

16 Next slide.

17 So within that statutory context, I'm very pleased to
18 present our Project Aim initiative to increase transparency, timeliness,
19 and fairness of the NRC fee-setting process.

20 Project Aim, as you know, was established to enhance
21 the Agency's ability to plan and execute its mission while adapting in a
22 timely manner to a dynamic environment. And I believe we've made a
23 great start in meeting that challenge here in fee setting.

24 During the development of Project Aim, we found that
25 fees transparency was a major issue for industry, so we proposed the
26 fee transformation initiative to the Commission. Once the Commission

1 approved our initiative, I formed an inter-office steering committee with
2 representatives from key offices involved in fee setting including NRR,
3 NRO, NMSS, NSIR, and the Office of the General Counsel.

4 We saw external stakeholder views through a number
5 of media including the annual proposed fee rule meetings, a separate
6 request for information in the Federal Register, and a separate public
7 meeting where these issues were discussed. We also reviewed our
8 past fee rule activities for applicability so that we had the widest possible
9 inputs.

10 This combination of internal and external viewpoints
11 was integral to our efforts. Based on comments received from
12 stakeholders and input from the steering committee members and their
13 staff, we developed a list of more than 50 improvement options that
14 address concerns with the current fee process.

15 The steering committee evaluated all of the potential
16 improvements to determine how they scored using the following criteria:
17 transparency, helping stakeholder understand our fee-setting process,
18 timeliness, enable the NRC to publish our fee rule earlier. And then
19 equitability, improving fairness and allocating costs amongst our
20 licensees.

21 Can we go to the next slide, please?

22 The results were divided into six themes. You can see
23 the list above. It was important to us to be able to group things so that
24 we didn't duplicate or that we saw places where there might be iterative
25 activity over time. There is a table associated with SECY-16-0097
26 where you can see all of them in detail.

1 Next slide.

2 So I've got some examples on the chart. I don't need
3 to read them to you, but what we wanted to do is show that there were
4 a wide range of activities that we could do within each of the themes
5 such as strengthening the congressional budget justification in our work
6 papers associated with the fee rule.

7 We need to strengthen the connection between the
8 budget and fees. We could look more at the as-spent and make those
9 as-spent documents available to our licensees. We are, in fact, going
10 to work on doing the fee rule earlier. We'll talk more about that later.

11 We also are going to try to look at different ways to do
12 flat fees or to find ways that might be more fair such as the size of a
13 licensee.

14 Some of our recommended changes, particularly those
15 in the administrative areas, are simple, but they are initial changes so
16 that we can work on these items over time.

17 Next slide.

18 So the steering committee further classified these
19 improvements as either potential policy actions for Commission
20 approval or process changes that the staff could implement within our
21 authority. We determined that there are 14 improvements that are
22 beneficial that are within my authority and that in partnership with the
23 Office of the Executive Director for Operations, we will implement in
24 2017.

25 The steering committee classified the remaining policy
26 improvements as policy and process changes for future consideration

1 or there are some that are simply not possible in the current statutory
2 and regulatory environment.

3 For each proposed future improvement, I will develop
4 a project plan with my partners on how we would do the further analysis
5 and then if necessary, how they would be implemented.

6 Using transparency, timeliness, and equitability, the
7 steering committee determined that four long term policy improvements
8 are of the highest priority: modifying the calculation of the annual fee
9 based on the size of the licensed facility such as megawatts thermal,
10 the number of well fields on a site, or some other sizing mechanism with
11 completion of that analysis scheduled for fiscal year 2019.

12 Charge operating reactors a single combined flat fee
13 instead of an hourly-fees assessment, with completion of that analysis
14 scheduled for 2018.

15 We could charge a flat fee for license amendments and
16 routine activities for material program licensees such as fuel facilities
17 and uranium recovery facilities, with completion of that analysis
18 scheduled for 2020. And lastly, charge hourly fees for all contested
19 hearings, with completion of that analysis scheduled for 2018.

20 We requested Commission approval to study these
21 potential long-term improvements in the policy paper we sent to the
22 Commission, SECY-16-0097 fee setting improvements in the 2017 fee
23 rule. You received that on the 15th of August.

24 If the Commission approves the request for further
25 study, once completed, the staff will be in a position to gauge whether
26 to recommend the NRC's existing fee policy be modified to incorporate

1 the proposed improvement. If the staff decides to pursue a particular
2 improvement would be welcome, we will recommend that change to you
3 in a notation vote paper before implementation.

4 Next slide.

5 So where do we go from here? The steering
6 committee that was so essential to developing these improvements has
7 been disbanded, having fulfilled its mission.

8 To support the execution of the free transformation
9 initiative, I've established a new fees transformation steering
10 committee. The steering committee will direct implementation of the
11 fee setting transformation activities approved by the Commission or
12 done administratively, and ensure that the effort is carried out in a
13 thorough and effective manner. The NRC Budget Director Ben Ficks
14 will be the chair.

15 In addition to CFO staff, its membership will include
16 representatives from the Office of the Executive Director for Operations,
17 NRR, NRO, NMSS, and the Office of International Programs with the
18 General Counsel and the admin staff serving in an advisory capacity.

19 The steering committee will meet periodically to
20 monitor progress of implementation activities and based on the results
21 of these analyses will develop recommendations to me and the
22 Executive Director for Operations for the annual fee rule paper to the
23 Commission.

24 With the fee transformations process, the NRC will be
25 making continuous improvements that are grounded in the statutes.
26 We will implement administrative changes for '17. We'll also evaluate

1 those policy change options as directed by the Commission and in
2 partnership with the program office, we'll develop future change options
3 subject to the availability of resources.

4 We are committed to this project and I'm certain that
5 working collaboratively with our partners we will succeed.

6 Next slide.

7 And now I'd like to turn to potential fee issues arising
8 from advanced reactors. I'm just going to touch on this briefly and
9 Vonna will talk about it more. It's been a busy topic for us very recently.

10 We have heard in the past and continue to hear that
11 current operating licensees don't feel that they should have to pay for
12 the infrastructure associated with developing a regulatory framework for
13 advanced reactors for non-light water reactors. Given the uncertainty
14 surrounding the technology, we intend to demonstrate the same kind of
15 flexibility that we saw in the small modular reactor rule to be adapted to
16 how we actually eventually assess annual fees for that class.

17 As Vonna will elaborate later in the briefing, our job is
18 not to promote it, advanced reactor technology, but it is to regulate it in
19 a useful and flexible way.

20 This concludes my portion of the briefing. Now
21 Michele Evans will discuss how workloads developed for operating
22 reactors.

23 MS. EVANS: Good morning, Chairman,
24 Commissioners. I'm Michele Evans. I'm one of the deputy office
25 directors in the Office of Nuclear Reactor Regulation.

26 Next slide. There we go.

1 The Agency mission is accomplished in two programs,
2 the Reactor Safety Program and the Nuclear Materials and Waste
3 Safety Program. The Reactor Safety Program is comprised of two
4 business lines: new reactors and operating reactors. My
5 presentation will focus on budget and workload planning in the
6 operating reactors business line, while Vonna Ordaz will discuss
7 activities in the new reactors business line.

8 In the operating reactor business line, the major
9 product lines are licensing, oversight, and research. The resources for
10 these product lines account for approximately 91 percent of the
11 business line budget with the licensing product line at about 32 percent;
12 oversight at about 43 percent; and research at about 16 percent of the
13 contract dollars and FTE of the business line.

14 The licensing product line includes the review of
15 applications for license renewal and licensing actions for operating
16 reactors and research and test reactors as well as Moly-99 construction
17 under Part 50.

18 I will speak specifically on the fee billable activities for
19 operating reactors, the process for licensing budget formulation, and
20 the ongoing process improvements we are undergoing in NRR in an
21 effort to promote efficiency, transparency, and predictability of licensing
22 reviews and, in turn, of licensees' fees.

23 Next slide.

24 Budgeted operating reactor licensing work includes
25 both work billed under Part 170 which translates to the NRC's hourly
26 fee and work billed under Part 171 which translates to the annual fee.

1 The licensing activities billed in the hourly fees category include work
2 such as license renewal applications, topical reports, and licensing
3 actions such as license amendments, technical specification changes,
4 relief requests, exemptions, license transfer, safety orders, and quality
5 assurance and emergency security plan reviews. In addition, operator
6 licensing work including exam development, program reviews and
7 exam administration fall under this category.

8 The results are a subset of other licensing tasks such
9 as reviews conducted of decommissioning funding status reports or
10 steam generator inspection reports that are also budgeted similar to
11 licensing actions and billed under the hourly fees. While the
12 regulations or licensees' technical specifications require licensees to
13 submit these various reports, prior NRC approval is not required.

14 Licensing activity billed under the annual fees include
15 a variety of licensing support activities such as 2.206 petitions, plant-
16 related nonlicensing correspondence, task interface agreements, and
17 process improvement efforts.

18 Next slide.

19 NRR has the lead role in developing the operating
20 reactor business line budget. We work with our partner offices in the
21 Offices of Nuclear Security and Incident Response and Research, as
22 well as regional offices to develop the budget. In developing the
23 licensing budget, the staff uses both historical and to the extent
24 practical, licensee input. For example, in budgeting for license renewal
25 applications and power uprates, the number of actions is based on
26 Letters of Intent and other licensing input since licensees usually plan

1 these activities several years in advance.

2 Historical data, including estimates of expended staff
3 hours and contract costs for conducting these reviews, is then used to
4 determine resources for these activities and the combination of this
5 information is used to develop a budget.

6 For licensing actions, the schedules are less
7 predictable until about six months to a year before they are submitted.
8 Since 2014, the NRC staff has worked with the industry to provide the
9 forecasted incoming workload of licensing actions to the staff.
10 Through these ongoing efforts, 100 percent industry participation was
11 received in response to the most recent regulatory issue summary.

12 The data is currently being evaluated to see what
13 insights can be retrieved such as potential resource adjustments for
14 high workload branches or greatly impacted technical areas.
15 However, the industry has indicated that they can only forecast with
16 reliability about one to two years out. Thus, the data has limitations for
17 budgeting and precise planning, but we are supplementing with ongoing
18 licensee interactions conducted by our licensing project managers.

19 Budgeting for any operating reactors that are
20 transitioning to decommissioning can be more difficult. At times, the
21 staff may know a few years in advance that a reactor will be transitioning
22 to decommissioning such as in the case of Oyster Creek. However, at
23 other times, the staff has little to no warning that a reactor will be shut
24 down as in the case of San Onofre. Depending on when the licensee
25 provides notice to the Agency, the information is captured in the original
26 budget, the current estimate, or the implementation plan.

1 The general effect of a plant transitioning to
2 decommissioning is a reduction of four FTEs in the operating reactor
3 business line and an increase of about one FTE in the nuclear materials
4 business line. In any case, as we proceed through budget formulation
5 and execution, we are able to refine our estimates to reflect updated or
6 emergent information from both internal and external stakeholders.

7 Next slide.

8 So as I just described, the staff uses the best available
9 information to develop the licensing budget two years in advance.
10 Ultimately, fact-of-life adjustments are made as part of budget
11 execution in the implementation year. In addition, we continue to
12 actively implement improvements in the licensing process in an effort to
13 promote efficiency, transparency, and predictability of licensing reviews
14 and in turn, of licensees' fees.

15 In addition to workload forecasting and using historical
16 data as discussed previously, several process improvements have
17 been implemented to increase the efficiency and effectiveness within
18 the licensing action process. For example, over the past two years,
19 several actions have been completed to restore the non-completed
20 licensing actions, the backlog, back to normal pre-Fukushima levels.
21 For instance, staff were transferred from NRO to NRR, the use of
22 contractors was increased, process expectations have been reinforced
23 through issuance of expectations memo, and there has been greater
24 SES management oversight of licensing action status. These actions
25 placed increased accountability across the NRR divisions and the
26 workload management process.

1 To achieve further consistency and predictability in our
2 process, management recently issued a second expectations
3 memorandum to reinforce process expectations, including requests for
4 additional information discipline, as well as establish additional
5 workload processes such as more rigorous estimation and monitoring
6 of hours spent during the reviews. These expectations applied both to
7 project managers and technical staff.

8 We are in the process of advising our guidance
9 document such as office instructions and the project manager
10 handbook to formalize the changes.

11 Process improvement focus groups performed process
12 reviews for additional efficiencies. Two recent examples are in the
13 review of the licensing process and the acceptance review process.
14 Additional lessons learned reviews have been performed on individual
15 projects such as the LaSalle Ultimate Heat Sink Amendment Lessons
16 Learned Evaluation.

17 Relative to data and tools, the replacement reactor
18 program system which will be implemented in October of this year and
19 incorporates new tools for licensing inventory monitoring. The system
20 includes the capabilities of Firefly and our current workload
21 management system, as well as adding new monitoring capabilities.

22 These improvements are being analyzed to see how
23 the Project Aim licensing action process improvement directed by the
24 Commission will be evaluated and performed. We believe that many
25 of the ongoing process improvements taken to date will be similar to the
26 actions likely to emanate from a business process improvement review.

1 In summary, as I have described, in addition to the
2 licensing process improvements implemented to restore our licensing
3 action backlog backlog to the normal pre-Fukushima levels, we
4 continue to implement process improvements in licensing which will
5 help to promote efficiency, transparency and predictability of the
6 licensing reviews and in turn, of licensees' fees.

7 This completes my presentation and I will now turn the
8 discussion over to Vonna Ordaz. Thank you.

9 MS. ORDAZ: Thank you, Michele. Good morning,
10 Chairman and Commissioners. I'm pleased to be here this morning.
11 It is my first opportunity to brief you on activities associated with
12 advanced reactors in the new reactor business line.

13 Next slide, please.

14 There is significant interest and increased activity
15 regarding the development of a new generation of non-light water
16 reactors in the United States. The White House and Congress are
17 interested in understanding the challenges that reactor developers are
18 facing today. DOE and other non-government organizations have
19 reported over 50 vendors working on developing advanced non-light
20 water reactors. There was a wide range of designs, many focusing on
21 high temperature gas cooled reactors, sodium cooled fast reactors and
22 molten salt reactors. Some of the new companies are small, start-up
23 companies with different needs and challenges than the large utilities in
24 the past.

25 The NRC fees are a major topic of discussion and we
26 have been told that they are a key consideration for non-light water

1 reactor developers, designers, potential operators and the financial
2 community when defining a business case for a new nuclear power
3 plant.

4 While the NRC is not responsible for business
5 decisions by these entities, it does bear responsibility to ensure its
6 regulatory requirements including fees are transparent and
7 understandable from a regulatory certainty perspective.

8 Next slide, please.

9 Industry representatives and vendors have testified to
10 Congress on the burden on NRC fees. NRC interactions with
11 applicants are typically billed hourly to the applicant. The extent of the
12 interactions are dependent on the vendors' interest for regulatory
13 feedback and the maturity and uniqueness of the reactor design.
14 Industry has expressed an interest in a different fee structure for
15 developing non-light water reactors.

16 However, there are competing concerns on how the
17 NRC's non-light water reactor activities are paid for. For example, the
18 balance of billing small entrepreneurial non-light water reactor
19 developers with costs for early NRC interactions may be overwhelming
20 versus the fairness of passing these interaction costs through to the
21 existing NRC licensees as Part 171 annual fees.

22 We do anticipate greater use of risk-informed and
23 performance-based approaches for the non-light water reactors which
24 will allow us to make further use of the safety focus review approach we
25 have developed.

26 Through the development and communication of the

1 regulatory infrastructure and focus review approaches, our review
2 process will become more predictable for the industry.

3 Next slide, please.

4 The topic of fees for applicants was included in SECY-
5 10-0034 which is entitled "Potential Policy Licensing and Key Technical
6 Issues for Small Modular Reactor Designs." This year, the NRC
7 revised Part 170 on fees to provide a variable fee for light-water small
8 water reactors that would be scaled for the power production. Some
9 feedback that has been suggested is that this rule should be extended
10 to non-light water reactors.

11 The staff did not include non-light water reactors at this
12 time due to uncertainties about designs and future NRC oversight
13 requirements. We note that the SMR rule change applies to operator
14 SMRs, not those in development or review. Staff will consider
15 expanding the rule scope to non-light water reactors in the future.

16 Next slide, please.

17 The staff released a non-light water reactor vision and
18 strategy readiness document in July 2016. This is a publicly available
19 document. Currently, the implementation action plans for the vision
20 and strategy are being developed to support future budget requests.
21 These internal work plans are for near-term activities within five years
22 that support NRC's efforts to efficiently and effectively review and
23 regulate non-light water reactors. The near term plans are due to EDO
24 at the end of September 2016. We believe by emphasizing efficiency
25 and predictability in our review processes, we can lower the perceived
26 obstacles to new vendors engaging the NRC.

1 In the FY 17 budget, a non-fee recoverable budget of
2 \$5 million was proposed to support the staff's efforts to develop a
3 regulatory infrastructure for advanced reactors. We anticipate similar
4 requests in the future to support the staff's preparation for reviews in the
5 2025 time frame.

6 And finally, there have been industry proposals that the
7 NRC should eliminate the Part 170 review fees for advanced reactors.
8 However, we believe this would require legislative remedy and is not
9 something that we can address at this time.

10 We do appreciate all the input from all our stakeholders
11 and will continue to consider their feedback, as we develop the non-light
12 water reactor regulatory infrastructure. That concludes my remarks.
13 Thank you.

14 CHAIRMAN BURNS: Is that it? Okay.
15 Commissioner Baran.

16 COMMISSIONER BARAN: Thank you for your
17 presentations.

18 Maureen, I want to start by asking about a few of the
19 potential fee process changes that the staff is proposing to study. The
20 first is basing annual fees on the size of the licensed facility. What's
21 the thinking behind that idea?

22 MS. WYLIE: So this is related to some of the learning
23 that we had as we developed the Small Modular Reactor Fee rule. We
24 want to do some specific analysis associated not only with operating
25 power reactors, but with fuel facilities and uranium recovery licensees.

26 There is some variety in those areas in particular and

1 for the calculations in the fuel facilities and uranium recovery area,
2 we've had feedback that the way we're doing it now is especially
3 complicated. So it may not necessarily be a one size fits all solution
4 for all of our licensees, but we want to do a more structured analysis to
5 make sure.

6 COMMISSIONER BARAN: Have licensees raised
7 fairness concerns along these lines? Is this primarily about fairness or
8 about simplifying the fees?

9 MS. WYLIE: We believe that this could be a
10 contributor to fairness, but in this case, the priority would be in
11 transparency and simplification. We would want to actually do an
12 analysis to ensure that. We don't want to just simply say if you make
13 more money, you pay more fee. We want to be able to say if your
14 facility is larger and more complex, you should -- the thinking might be
15 that you should pay more fee for that. That's why we need time to do
16 the analysis of all of the available data.

17 COMMISSIONER BARAN: Well, let's just take a
18 second and focus on power reactors as a potential example there.
19 Maybe it's not the best example. Let's focus on that. So right now
20 every unit regardless of megawatts is charged the same fee.

21 MS. WYLIE: That's correct.

22 COMMISSIONER BARAN: That's actually pretty
23 simple.

24 MS. WYLIE: That's pretty simple.

25 COMMISSIONER BARAN: It seems like it actually
26 gets more complicated if we have a sliding scale based on megawatts.

1 MS. WYLIE: Well, but you could then make an
2 argument that if it's a larger facility, it's more complex to oversee from
3 an oversight perspective or from a license management -- amendment
4 management perspective.

5 So we are trying to balance the different directions that
6 we receive in OBRA '90.

7 COMMISSIONER BARAN: From the staff's point of
8 view is there a fair bit of evidence to support the idea on a unit-by-unit
9 basis, the unit that produces more megawatts actually takes more
10 regulatory resources to oversee?

11 MS. WYLIE: We have not done that analysis. That's
12 why the request to the Commission is to approve more analysis before
13 we recommend implementation. We would do detailed analysis of
14 NRR's workload data as an example to apply this to operating power
15 reactors.

16 Where I sit today, I believe that the more fertile ground
17 is not in reactors, but is in the materials and waste area.

18 COMMISSIONER BARAN: Let me ask the second
19 idea which is a new combined fee instead of hourly fees and an annual
20 fee. That seems more complicated than our current process. I don't
21 know, maybe it isn't. But how would this work?

22 MS. WYLIE: So we would essentially do both a
23 combination of historical analysis and taking the information that we
24 receive from the data that NRR has collected in its risk activities for the
25 last couple of years to determine roughly the average of what we're
26 doing for each of the power reactors, the theory being that simplicity

1 and predictability are values that we've seen in feedback, both in terms
2 of fee transformation and in previous fee rules.

3 It may be that it then doesn't fully support fairness, but
4 if we could look at it over a long enough time scale, we might be able to
5 see that. In most cases, one of the potential outcomes is that over time
6 it averages out.

7 COMMISSIONER BARAN: Another concept is to
8 charge hourly fees for all contested hearings. It strikes me as
9 potentially unfair to require applicants and licensees to pay the costs of
10 other parties to a contested proceeding, in this case, the NRC staff. It's
11 one thing for an applicant or an licensee to pay the costs of a staff
12 regulatory review, but it seems very different to require them to pay the
13 hourly costs of attorneys who may be taking an opposing position in
14 litigation. Is there a compelling reason to consider going down that
15 road?

16 MS. WYLIE: So this is a fairness is in the eye of the
17 beholder effort on our part. So today, costs associated with contested
18 hearings are passed to all operating licensees in Part 170. So the logic
19 that this would increase fairness is driven by if you're in a contested
20 hearing you would pay up to a certain amount. That would place your
21 costs squarely on you as a licensee, but we could set that in such a way
22 that we controlled the amount that you could have risk for. That's why
23 we'd like to study it further.

24 It may be that the Commission determines that the
25 argument that you've described is the right way to go, but it can be a
26 fairly large cost in a single year and it is being spread to everyone today.

1 COMMISSIONER BARAN: One concern we hear a
2 lot from stakeholders is that the shutdown of plants will leave fewer
3 operating reactors to fund the Agency. And the worry I think is that
4 annual fees could get higher and higher every time a plant shuts down
5 and stops paying operating reactor fees.

6 As a practical matter, this hasn't happened because the
7 Agency's budget has been shrinking, so even through there are fewer
8 operating reactors, the annual fee per reactor is actually gone down a
9 bit. But I think the underlying concern is legitimate. One way to
10 address this dynamic is to rely less on annual fees and more on hourly
11 fees. Your list of potential policy changes for future consideration
12 includes charging hourly fees to vendors for inspections and charging
13 hourly fees for white papers. Should we make these higher priorities
14 for evaluation?

15 MS. WYLIE: That is something certainly you should
16 consider. We tried to capture ideas that had merit in at least two of the
17 criteria that we were using because we have scarce resources in our
18 ability to do these analyses. So for our initial effort we're biased to
19 potential changes that affected at least two of the transparency,
20 timeliness, and equitability criteria. So the ones that we delayed, we
21 have either delayed because they would require a lot of resources or
22 they only met one of those criteria.

23 COMMISSIONER BARAN: And do you know for
24 these two particular items hourly fees for vendor inspection and hourly
25 fees for white paper work, are those in the category of just having only
26 met one of the three criteria?

1 MS. EVANS: Yes.

2 COMMISSIONER BARAN: Okay. Another idea on
3 the list for potential implementation in Fiscal Year 2020 is to move to
4 electronic invoices sent by email. I know having read the comments,
5 there's a lot of interest in this.

6 MS. WYLIE: A lot of interest in that.

7 COMMISSIONER BARAN: Why wait so long to
8 implement that improvement?

9 MS. WYLIE: So unfortunately, the accounting
10 systems available to us in the Federal Government are not often as
11 good as those that are used out in the private sector. Over the last
12 several years, OMB and Treasury have been working with the CFO Act
13 agencies to migrate us to a relatively small number of consistent types
14 of software for that.

15 We currently use Momentum which is developed by
16 CGI. We have a very specific billing module that's designed to support
17 our business practices. And so there really isn't an easy or good
18 electronic invoicing system to go to. As we move towards shared
19 service providers, I believe that will improve because there are other
20 agencies that are looking for that.

21 Our estimates that we've had in interaction for the
22 limited capability that Treasury has today, we'd have to completely redo
23 our billing module and I don't have the resources for that. So it is both
24 a people resource issue, a dollar resource issue, and frankly that the
25 capability is under developed throughout the Federal Government.

26 COMMISSIONER BARAN: I know we don't have too

1 much time left, but I want to fly one more issue or ask about it. I know
2 we've gotten a suggestion to require NRC inspectors to provide upfront
3 cost estimates before conducting an inspection. I'm assuming that
4 that's not something we're going to consider applying in the context of
5 resident inspectors.

6 MS. WYLIE: It would not apply to resident inspectors.

7 COMMISSIONER BARAN: Okay.

8 MS. WYLIE: But we have received feedback as most
9 recently as the stakeholder meeting where there are concerns about
10 certain types of inspections, depending on how much they are going to
11 be in advance. And so the idea would simply to be to give an estimate
12 of the number of hours that they might expect to pay.

13 For some of this invoice transparency, billing
14 transparency, for me, the real answer is upstream. If we're providing
15 throughout outreach better information to our licensees in advance, they
16 can plan better rather than wait until the end and look at the invoice.

17 COMMISSIONER BARAN: I definitely see the value
18 in terms of transparency and providing basically advanced notice of
19 what's coming down the pike for billing. I just want to make sure we're
20 careful about this so we don't leave ourselves in a situation where we
21 have inspectors, whether they're resident inspectors or regional
22 inspectors or whoever that are inspecting to like a target estimate rather
23 than being safety focused where we want it to be.

24 MS. WYLIE: Yes, sir.

25 COMMISSIONER BARAN: Thank you.

26 CHAIRMAN BURNS: Thank you, Commissioner.

1 You asked a number of questions I had in terms of some of the
2 proposals. Let me ask one follow up on this one I'm hearing which
3 rattling around in my brain I think at some point the Commission may
4 have thought about years ago and did not adopt. And I will say on the
5 outset I'm extraordinarily skeptical.

6 Let me ask, I'll say a factual question. Is the intention
7 that these hearings would only be licensing-type hearings or would we
8 be charging for enforcement hearings? Is that --

9 MS. WYLIE: Right now, I believe the proposal is just
10 for licensing hearings.

11 CHAIRMAN BURNS: Okay.

12 MS. WYLIE: But as we do the analysis, we would
13 probably want to at least analyze the enforcement data. But I
14 understand the concern about enforcement and I share it.

15 CHAIRMAN BURNS: Yes. I probably would not -- I'll
16 tell you, I probably would not support that. I think going to some of the
17 -- actually, it's sort of paralleling some of the things I think Commissioner
18 Baran said.

19 Let me actually also follow up on his question with
20 respect to the planning piece and inspection. Is the intention -- would
21 the intention there be what I would call sort of baseline inspections? Is
22 that what we would be forecasting? Because again, if we have the
23 circumstances and I think where I would have some concern in terms
24 of reactive inspection, you know, you're responding to a particular event
25 or looking at a particular event, it's more difficult to do that and again,
26 the primacy is the safety or security issue that we're looking at. So

1 that's what I'm trying to say.

2 Clearly, we have a number of baseline inspections,
3 putting aside -- I heard from drop-ins and the likes, certain types of
4 inspections whether we're maybe too robust on some of those, but have
5 a certain set of things you need to go through during the course of the
6 year, that not everything is a surprise inspection so to speak. So I'm
7 trying to understand that a little bit more.

8 MS. WYLIE: It would not be intent to try to get at
9 reactive inspections. We don't want to make this a burden on the
10 internal staff. Part of this is the challenge associated with more
11 transparency, more information up front can also result in more costs
12 for the Agency, so this is going to need to be a balancing act.

13 We would develop an analysis plan to make sure that
14 we focused our efforts on things where we can look at both historical
15 data as well as the sort of planning that we would do in NRR and the
16 regions before we would do an inspection. Do you want to --

17 MS. EVANS: No.

18 MS. WYLIE: So not reactive in the near term certainly.

19 CHAIRMAN BURNS: Putting aside the potential
20 proposals that are before the Commission in the SECY paper, what are
21 the things that we'd say -- you talked about some administrative
22 changes, some other types of changes. What are the things that you
23 think that are within the scope of what the staff can do now that you
24 think would bring the most, in fact, if you will, bang for the buck with
25 respect to improving transparency, improving accuracy and fee billing,
26 and managing the fee process?

1 MS. WYLIE: So from an administrative perspective,
2 we certainly can do more in articulating what our workload is in our
3 congressional budget justification. Over time, I plan to start with
4 greater clarity and workload drivers for '18 and then over time put more
5 and more fee rule type data in the CBJ so that our licensees and our
6 external stakeholders in general will be able to see with more clarity
7 what we're expecting in terms of fee.

8 As we get smarter at doing it, we will increase that
9 transparency. I also want to put more actuals data out there so that
10 people can see how we did versus our estimates. Even in the year of
11 execution, things end up being estimates in the proposed rule and they
12 are refined as we actually go forward. So part of it is just thinking
13 differently about the information that we put out there.

14 There are things that I can do on invoicing today.
15 They're relatively limited. Over time, I want to modify the accounting
16 system to make more of that available on the bill. That costs money,
17 but I still want to try to do it. But I think the biggest bang for our buck
18 is what we characterize in the SECY paper as outreach. So as Michele
19 articulated, we have expectation letters out for our operating reactor
20 program managers. They have instruction materials that help their
21 project managers do estimating. We're also going to expand some of
22 that work in NMSS so that there's more communication at acceptance
23 reviews between the project manager and the licensee so the people
24 will know up front what the estimates are, of course with the caveat that
25 things change, then schedules will change, costs will change. But I
26 think that that's the most meaningful transparency. What happens at

1 the end is important, but not as important as setting an even expectation
2 between the Agency and the licensee.

3 CHAIRMAN BURNS: I wanted to turn to the question
4 with respect to looking at potential fee structures for advanced reactors.
5 Can you refresh my recollection on what are the current policy -- I
6 remember the paper in 2010, but I can't -- I don't recall the details of
7 how it came out, what the distinction for the SMRs was in terms of the -
8 -

9 MS. WYLIE: It's the lower megawatts.

10 CHAIRMAN BURNS: So it was a -- maybe Vonna --

11 MS. ORDAZ: It's a graded approach based on the
12 rate of thermal power, the increase is a variable fee rule. Is that what
13 you're referring to?

14 CHAIRMAN BURNS: But that's where the sited SMR
15 -- that's not for -- if you're coming in for like a design review, for example,
16 NuScale is doing, that's --

17 MS. WYLIE: They're not paying an annual fee yet.

18 CHAIRMAN BURNS: Yes, so we're talking about
19 there the annual fee. So the annual fee is directed toward the thermal
20 --

21 MS. WYLIE: Rated thermal power.

22 CHAIRMAN BURNS: Rated thermal power, and then
23 that will obviously be influenced by the number of units, how many
24 modules that are there, right?

25 MS. ORDAZ: How many modules on site.

26 CHAIRMAN BURNS: Okay, so let me understand and

1 this is partly, maybe it's the nomenclature challenge that there
2 sometimes is when folks talk about small module reactors. Sometimes
3 they are actually talking about advanced reactors. I think for the most
4 part when we are using the term here we've been talking about small
5 module reactors that are light-water --

6 MS. ORDAZ: Small light-water reactors.

7 CHAIRMAN BURNS: Small light-water --

8 MS. ORDAZ: Correct.

9 CHAIRMAN BURNS: -- reactors. So tell me what
10 the challenge is -- I'm trying to understand what the significance of the
11 difference between the light-water and the small module light-water
12 reactor and the advanced reactor are for purposes of this fee issue.

13 I understand right now what we have. We have a
14 policy and that may -- it sounds like that it is focused on what we
15 currently have potentially coming in the door and what we're thinking
16 about in 2010. But I'm trying to understand what the difference is in
17 the sort of the pause and take a breath is with respect to advanced
18 reactors in that regard.

19 MS. ORDAZ: Right, and I think what you're referring
20 to is we had more information than the SMR fee rule. The variable fee
21 rule came through in terms of the NuScale review because that pre-
22 application process started back in 2008. So there was a better
23 understanding of the design and the scope and the review that would
24 be needed.

25 And for the advanced reactors, you know, like I
26 mentioned there's 50 vendors working on developing advanced non-

1 light water reactors and there's a variety of designs. There's various
2 concepts underway. There's so much uncertainty at this time. We
3 know that as we get further down the road, understanding what might
4 actually come through, we'll have a better understanding of how we
5 could propose what the possible fee structure for that would be.

6 MS. WYLIE: So part of it is what is the cost of the
7 infrastructure of regulating and overseeing these different
8 technologies? There's such a wide variety of potential risks associated
9 with the fuel, risks associated with the operation, emergency
10 preparedness. We've got so many uncertainties that just saying up
11 front don't worry, it's going to be based on your power output, I don't
12 think that that would end up being fair for the potential multiple licensees
13 within an advanced non-light water reactor environment.

14 So from a fee perspective, the commitment that I want
15 to make is that we're going to be as flexible as possible and we're going
16 to ensure that we understand the costs, the overall costs of overseeing
17 the technology and try to articulate that as we go forward in fees.

18 MS. ORDAZ: So it's a little too soon to tell in terms of
19 advanced reactors. We know that we want it to be predictable and
20 transparent, but we're learning more about these technologies as we're
21 being briefed by the various vendors that have been coming in.

22 CHAIRMAN BURNS: And so again, is the issue here
23 for an annual fee?

24 MS. WYLIE: Yes. Right now -- because they're off
25 the fee base, whatever work we do, if we get the \$5 million in developing
26 the regulatory framework --

1 CHAIRMAN BURNS: Yes, that's development. I
2 was talking about --

3 MS. WYLIE: We're talking about the annual fee.

4 CHAIRMAN BURNS: I was talking about the point in
5 time that you actually have gone through a review --

6 MS. WYLIE: Annual fee.

7 CHAIRMAN BURNS: And a license is granted and
8 that's where it comes in.

9 MS. WYLIE: Yes.

10 CHAIRMAN BURNS: My time is up. Commissioner
11 Svinicki.

12 COMMISSIONER SVINICKI: Well, thank you, each,
13 for your presentations. And let me begin by just giving some general
14 perspectives. I have spent a lot of time not only with the paper on the
15 identified policy matters. I've also -- I don't think I got through all of it,
16 but I think I got through a good bit of the actual comments that were
17 received from at least one non-governmental organization, of course, a
18 number of fee payers represented by different sectors of the industry.
19 And so as a result of synthesizing that information, the staff came
20 forward with the potential policy items to be explored.

21 Very important to me, but I don't want to be lost in this
22 discussion today, was the set of activities described as kind of a
23 summary level, the items in enclosure 1 of the SECY paper that are the
24 initiatives that the Chief Financial Officer in concert with the rest of the
25 Agency can undertake on their authority and I assume some of those,
26 we've already embarked upon the beginning stages of planning for

1 those.

2 When I lay those -- the other basket were things that
3 might be explored later and might or might not be policy areas. The
4 other bin was items that are, I think your phrasing was not possible
5 under the current environment, either statutorily or in the current
6 regulatory environment. Let me say my one comment on that piece.
7 I'm not certain that I agree in all cases with what was binned there
8 because -- not because I doubt anybody's understanding of the statute
9 so with the current regulatory environment. It simply -- it would depend
10 on what form the change took, wouldn't it, if it were really running afoul
11 of those things. And because of the stage we're at, we don't
12 necessarily know. I'm not faulting that things were binned in that
13 category, but I'm just saying at some point in time if we find ourselves
14 back looking at that bin, there will be a good reason why.

15 Based on my colleagues' questions, I think it may be
16 that they are struggling as am I with an immediate embrace of the four
17 policy proposals. I'm continuing my review, but I also try to be a very,
18 very practical person about this, so let me explain a little bit about my
19 approach to these different baskets and looking at this paper. And
20 Maureen and all those who are supporting this effort which is very, very
21 meritorious, I approach it in this way. First of all, the things that you
22 are undertaking under your own authority, if I'm not enthusiastic about
23 the policy proposals, I'm really enthusiastic about the things that you are
24 undertaking because in reading at length the comments received from
25 people who have different perspective, there was one theme that I think
26 everyone had, even Mr. Lochbaum. It was frustration with really

1 understanding what is in this process. If there are receivers of
2 invoices, they're frustrated with the timeliness. They're frustrated with
3 their ability to -- the scrutability of really understanding what was in
4 there.

5 Maureen, I see the things undertaken in under the
6 CFO's authority are really directed at those and since the commenters
7 almost to a person had that concern, I think that is the most fruitful place
8 to start and so I'm encouraged about that.

9 But then I take the policy proposals which I
10 acknowledge. Many of your answers to the questions today was well,
11 we're just asking you to study these things, so I can't really answer your
12 questions with any specificity. But that's where, you know, I'm going to
13 be pragmatic because I do understand the complexity of arriving at
14 really, really solid proposals out of some of these policy areas. I
15 suspect we would expend a lot of resources to get there.

16 So that brings me back up against the really practical
17 matter that Commissioner Baran asked about which is better
18 understanding in the invoicing which would mean that our systems
19 would have to be different or look different than they are. That may be
20 one of the most productive things that we could do.

21 So the question I ask myself is would the expenditure
22 of staff time and resources in pursuing these policy proposals,
23 particularly if I'm kind of skeptical about getting somewhere where we're
24 really going to love where we got, what about taking the resources you
25 would spend on that and advancing our work towards having a greater
26 information technology capability to respond to something that was

1 spread across what all the commenters were concerned about.

2 Frankly, I think that there might be enough external
3 concern about some of our capability in tracking and passing costs
4 through and giving bill payers the kind of fidelity on that, that if we were
5 to have an element of a future budget, maybe as early as FY 18 that
6 said here's an increment that we're asking for improve transparency in
7 our invoicing system.

8 You mentioned Maureen, that the capability in the
9 Government is still under development. I don't think the capability out
10 in the corporate world is still developing. I don't know. When I'm a
11 customer on something, I can get a pretty detailed invoice and
12 breakdown, so I know it isn't comfortable to be an agency that's leading
13 the way, but is that something that ours is manageable enough that that
14 would be a better use of our focus right now and I think would allow us
15 to be responsive to the universal concern, maybe about antiquated
16 systems and other things.

17 So I'm coming at this by widening the aperture beyond
18 what you were tasked to do and looking at it, but I do want to give you
19 some praise about what you said, what could we take on right now. We
20 don't need policy decisions on it. I think I was very comforted by the
21 areas that you selected to do that in and maybe just taking the
22 resources we would expend on some of the more speculative policy
23 areas.

24 And at least as a start, I'm not saying you would never
25 return to those other concepts, but if you could build everyone's
26 understandings who are having better tracking of costs, better invoicing,

1 maybe that would even provide a benefit in the future exploration of
2 some of the more complex policy proposals because all participants
3 would begin with better and greater fidelity and understanding on how
4 does the system look right now. It might actually enable the
5 development of some of the change alternatives that have policy
6 implications because you would just begin with such a better grip on the
7 deeper understanding of how it is that people are charging time against
8 various activities.

9 So I don't know if that's a little bit kind of Pollyanna, but
10 I think that that might be a way of thinking differently about the set of
11 comment we got. It's more of a sequencing, a little bit of a putting off
12 of things that we might run down rabbit trails in the near term for a period
13 of time and it might also allow us to revisit things that we think just aren't
14 as we say possible under the current regulatory environment. That's a
15 little amorphous.

16 So I don't know if you'd react to that, if you had the
17 liberty to think about it more broadly than the direction you had
18 previously received, is that anything what I'm describing, is that anything
19 that might be a way of kind of sequencing our thought on this?

20 MS. WYLIE: So there's a couple of things and let me
21 unpack it and let me focus on the accounting system and the related
22 data systems and information to licensees.

23 What I would hope to see over time as our workload
24 systems are improved, the new replacement RPS is going to come fully
25 live here shortly. We can use data from EPMS in NRO, coupled with
26 accounting system data to provide more information in the near term to

1 our licensees.

2 I can't get it physically on the invoice for a while
3 because of where I am in updating the accounting system. So I could
4 use some money in '18, but I would not be able to get to I think ever
5 some of the amounts of information that the licensees want.

6 I think that there's a sweet spot in terms of costs versus
7 outcome, but it would require investment and I would also need to add
8 some internal capability. My systems people are not really ready in
9 terms of all of the things that we're doing to take on something as
10 complex as electronic invoicing in '18. So that's one of the reasons this
11 is tiered out, but yes, I could use resources earlier to make more
12 iterative improvements.

13 In terms of just focusing on the administrative changes
14 versus the policy changes, I think there is merit in understanding what's
15 going on, what we might be able to do in these four areas. The
16 resources that would do that analytical work are mostly people with data
17 that we have today vice the contracts they'd cost that changing the
18 system would require. So it's not as easy a substitution as you might
19 hope.

20 I do think that particularly the flat fees for license
21 amendments and routine activities for materials licensees, it takes a
22 while because I don't have the coding structure set up today for the
23 information. I think that one will bear fruit. For us, the three-year
24 window is to give us time to collect three years of good data. Right
25 now, we use cost activity codes to clump together many different types
26 of licensing and we just need to parse that out.

1 So I would not have sent these forward if I didn't believe
2 they might bear some fruit. I think that one is the most likely.

3 COMMISSIONER SVINICKI: And let me just react to
4 that and thank you for that answer and have some closing thoughts.

5 I am excited that the replacement RPS is coming
6 online. I know Michele talked about that. That's been a while in the
7 birthing and it's very, very important. We don't have NMSS at the table.
8 We're going to hear from some bill payers on the next panel related to
9 that program.

10 In theory, if some of the new reactor work might be
11 declining at least over the immediate near term, you know, maybe I'm
12 focused in terms of weighing where we need to put our efforts now in
13 maybe the materials area. I think we need to see what the replacement
14 RPS would give us.

15 I will just close with a thought. I don't think any of us
16 are coming at this with change for change sake. So what we want to
17 do is take the broad principles that you use to guide your consideration
18 of issues of -- and they are high-level principles. Is it equitable? Is it
19 transparent? Is it predictable?

20 The comment record is spread and we've received
21 some feedback after the paper was made public as well, so I'm also
22 reacting to that, that the bill payers, I guess from our standpoint, we're
23 collecting 90 percent. We're meeting the law, we're doing it right now,
24 so what we're engaged in is understanding, I think, whether or not the
25 system and I'm going to be practical here, we're meeting the law.
26 We're recovering 90 percent. We will not arrive at a perfect system

1 and I hope that we're not looking for that. We will have invoice
2 receivers always having issues. Some of it has to do with how this
3 engagement that occurs between the licensing staff where we're grossly
4 off and then all of a sudden they get a huge bill. So I think that's going
5 to go on. We're going to have emergent technical issues and that kind
6 of thing. I'm sure that the licensing staffs are very committed to having
7 that kind of engagement which Maureen, you talked about, is separate
8 from what OCFO does, but it's just the branch chiefs' routine
9 engagement on the status and the resource estimates for licensing
10 agents.

11 But beyond that, if I'm getting heavy feedback or
12 feedback that is tipped toward saying all of your proposals change
13 things, but don't make it any better. And if most of the bill payers feel
14 that way, I'm going to give a lot of weight to whether or not they think
15 the changes make a system that's more equitable, transparent, and fair.
16 And if on balance, they don't think the changes will do that, then we'll
17 just stay with the imperfect system we have now, versus aggravating
18 and imperfect at creating a system that just disrupts other people.

19 The one area is the materials licensees, I think, are
20 open to things. So the other thing I would say is that if the policy
21 changes are pursued, I think you do it in more of a piloting form and you
22 pick some category of licensees that you can bite off and chew.

23 In response to some questions, you said things like well
24 we don't really think operating reactors are the area to do this. I think
25 if the Commission can be specific and say okay, study this policy
26 proposal, but do it for this class of license. Why don't you start there?

1 If it turns out to be the world's best idea, we can look at expanding it in
2 the future.

3 I think some of these things could become intellectual
4 enterprises that would be a resource drain that would be tremendous.
5 I think the more the Commission can give you feedback to say a limited
6 set of policy areas narrowed in the following way, then you could see
7 what kind of success you could have on it. That, and I think, giving a
8 full throated support to the administrative changes which will, I think,
9 just increase understanding I think is my sense of where we should
10 begin.

11 Thank you, Mr. Chairman. I went over my time.

12 COMMISSIONER BARAN: I don't normally jump in
13 like this, but I just want to say I had a very similar reaction to some of
14 the fairness type policy issues where we as an agency don't really have
15 any particular interest in how it's divvied up. And so we might want to
16 change if we have some stakeholders saying well, that's not fair the way
17 you're doing it. I'm a small unit. I shouldn't have to pay what a large
18 unit pays, that kind of situation.

19 But if no one is actually raising that concern, it's not
20 clear to me why we would necessarily -- why we have any particular
21 interest in it if everyone is content with the same fee being applied to
22 them. I don't want to flip about, but what do we care? Right, you
23 know, like if no one is actually complaining about unfairness, then
24 maybe it's actually fair.

25 COMMISSIONER SVINICKI: Yes, I mean like coming
26 at it with kind of an agency neutrality or impartiality of saying if you are

1 all content to accept the current set of unfair things versus a future set
2 of unfair things, then I don't know --

3 COMMISSIONER BARAN: And that may be perfectly
4 fair.

5 CHAIRMAN BURNS: Thanks, Commissioners. I
6 want to thank the staff, Maureen, Vonna, and Michele for their
7 presentations this morning and we're going to take a brief break. We
8 want to try to get back at 10:25 and we'll have our second panel.
9 Thanks.

10 (Whereupon, the above-entitled matter went off the
11 record at 10:17 a.m. and resumed at 10:25 a.m.)

12 CHAIRMAN BURNS: I'll invite our next panel forward.
13 And I welcome our external panel to the second part of the meeting.
14 And just to introduce them, we have Heather Krause, Acting Director of
15 Strategic Issues at the U.S. Government Accountability Office, GAO;
16 Tony Scardino, Chief Financial Officer for the U.S. Patent and
17 Trademark Office. Welcome. John Butler, Senior Director, Strategic
18 Programs for the Nuclear Energy Institute; Tom Bergman, Vice
19 President for Regulatory Affairs, NuScale; Michael Guastella, Executive
20 Director, Council on Radionuclides and Radiopharmaceuticals; and
21 Katie Sweeney, general counsel for the National Mining Association.

22 Welcome all. And I believe we'll start with Ms. Krause.

23 MS. KRAUSE: Thank you, Chairman and
24 Commissioners for inviting me to speak today on these topics. I help
25 to oversee GAO's regulatory work.

26 What I'm covering today; if we could go to the next

1 slide, is a report that we issued in 2015, which really identified key
2 questions for Congress, agency officials and oversight bodies to
3 consider when designing, implementing and overseeing and evaluating
4 regulatory user fees.

5 This work really builds on a body of work that GAO has
6 done on user fees and was pursued to identify what additional
7 characteristics, design and implementation features need to be
8 considered when looking at regulatory user fees. We have found that
9 -- no one-size-fits-all approach with regulatory user fees given that the
10 designs really wildly vary, and so some of the questions we identify may
11 apply more to certain regulatory fees than others. But I'll kind of
12 highlight aspects of each of these four areas and focus a little bit more
13 on the last part, which is reviewing regulatory fees.

14 So in going to the next slide, just to kind of touch a little
15 bit on our scope and methodology for this work, we had done a literature
16 review to help define and identify regulatory user fees, and then we
17 selected and analyzed 10 fees at 6 agencies. The agencies and the
18 fees are collected based on high dollar amounts of collections, high
19 amounts of rulemaking activity and really diverse fee characteristics.
20 So trying to pick up agencies that are both CFO Act and non-CFO Act
21 agencies, independent regulatory agencies and Executive Branch
22 agencies, and then also different types of cost recovery among other
23 types of characteristics.

24 We also examined then public comments on proposed
25 rules, as well as comments on public meetings, or minutes from public
26 meetings for these fees, and then held a panel which involved 10

1 agencies, including the 6, which included NRC. It was represented on
2 that panel and was part of our selected fees for review. EPA, FDA, the
3 National Credit Union Administration, the SEC, and then also the Office
4 of the Comptroller of the Currency, or OCC.

5 So what our work did was really compare and contrast
6 these fees to get a better understanding of sort of the broad applicability
7 of some of the types of principles and questions that need to be
8 considered. Our work didn't necessarily evaluate each one of the fees.

9 So going onto the next slide, starting with the first area,
10 which is really setting regulatory user fees. So the degree to which
11 Congress retains or delegates authority to set user fees has implication
12 for management and really what the agency has control -- or what's
13 within the agency's control. The fees we examined ranged
14 across a spectrum, so on the one hand you have Congress setting in
15 legislation the amount that the EPA Pesticide Registration Service fee
16 -- the actual fee that's paid by users. That's set in law. Where on the
17 other end of the spectrum you have the National Credit Union
18 Administration and the OCC having broad statutory authority to set their
19 fees and how they use them to fund their regulatory activities.

20 Some of the design of the fees or the setting of the fees
21 can also affect the scope of the regulatory activities, so the six selected
22 agencies, including NRC, is use notice and comment in the rulemaking
23 to set regulatory fee structures where Congress has sort of authorized
24 agencies to determine who will pay and what amount. And by using
25 that process it provides an opportunity to solicit comments and get input
26 and foster sort of transparency in the fee setting process.

1 So going to the next slide, which is getting into the
2 collection of regulatory user fees, these sets of questions really deal
3 primarily with timing of when fees are collected, whether they're
4 collected at the time of a transaction, sort of on a regular basis, or a
5 combination of both, and the different types of internal controls that
6 might need to be considered depending on the timing of the fees.

7 So for example, to oversee some of the non-
8 transactional fees that the OCC has, they'll check a sample of
9 assessments to ensure financial institutions were correct, or billed for
10 the correct amount. So that's an internal control they put in place.

11 So going to the next set of questions, the next slide,
12 which is using regulatory user fees, these questions are really to enable
13 Congress and agencies to identify and manage issues related to
14 revenue instability, so the authority to create or implement a tool to
15 manage revenue instability may be retained by Congress or it may be
16 delegated to the agency. So some fee-funded programs have un-
17 obligated balances that they -- are available to them to help mitigate
18 revenue instability, but we found some of those types of questions were
19 a little bit more focused on some of the other fees that we examined
20 than NRC specifically.

21 So turning to the last sort of set of questions that I have
22 in my presentation is related to reviewing regulatory fees. And this is
23 really important because reviews really provide decision makers with
24 robust information that's necessary to support really good deliberations
25 about fee financing. So CFO Act agencies have requirements to
26 biannually review their fees. And in the work we did for this report

1 looking at NRC and others, obviously there's routine or regular reviews
2 of fees, but in our broader user fee work we found that there's many
3 agencies out there that don't do routine reviews of their fees. And
4 when that doesn't occur, when there isn't regular reviews, you really run
5 the risk of misaligning your costs and either over-charging or under-
6 charging users.

7 But going to the last slide and kind of building off the
8 review process is really the issue of providing public participation and
9 transparency. We found with regulatory fees in particular that this is
10 important because you have a mix of benefits going to the general
11 public as well as fee payers themselves. And so, in particular that sort
12 of diverse set of stakeholders, some of which aren't necessarily fee
13 payers, are going to have varying interests in the implementation of the
14 regulatory user fees as well as the programs that they support.

15 And so, the rulemaking process, as I mentioned, aids
16 in that public participation and provides access to supporting analyses
17 and the facts kind of supporting rulemaking decisions, but our review of
18 the stakeholder comments in the rulemakings we looked at for this
19 report showed support for an inclusive fee review and fee setting
20 process, but also expressed some concerns that agencies sometimes
21 are not providing enough transparency.

22 This is consistent with work we've done more broadly
23 on regulations and agencies' efforts to assess regulation. We found
24 that non-federal parties have cited things like the *Federal Register* as
25 being ineffective in communicating with the public because they can be
26 very complicated or difficult to navigate. As a result of some of those

1 findings we've had in the past; and we've made recommendations to
2 the Executive Branch to consider, the administration has since
3 incorporated expectations for more outreach and transparency,
4 including seeking public views and released analysis and supporting
5 documents online wherever possible. Though independent regulatory
6 agencies aren't necessarily required, they were encouraged to consider
7 adopting those practices.

8 And just the last point that I had, which is transparency
9 can also help to mitigate the appearance of regulatory capture. And
10 so, the example we mention in our report is FDA, that that's sort of a
11 concern that they have a perception of regulatory capture as it relates
12 to some of their fees. So to address that issue, they've structured
13 -- tried to build in some structures in a way to minimize that risk. So for
14 example, the performance commitments that FDA negotiates with the
15 regulated industry focused on the regulatory submission review
16 process, sort of what will happen and when and not the outcomes of the
17 review.

18 So just we have -- in our underlying report and the
19 appendix we have more questions that sort of break out and provide
20 more detail, and our report is on the GAO web site. But that's all the
21 comments I have for now and I look forward to answering any questions
22 you have later. Thanks.

23 CHAIRMAN BURNS: Thank you, Ms. Krause.

24 Mr. Scardino?

25 MR. SCARDINO: All right. Thank you. Pleasure to
26 be here. I want to first give you a little bit of an overview of our funding

1 and fee setting approach.

2 We're very different than NRC. We're a fully fee-
3 funded agency. We're appropriated by Congress. What that means
4 is they appropriate a number; we can collect up to that number and
5 spend it. So if we collect less than they appropriate, we can always
6 spend less. And I'll go through if we collect more what happens to the
7 extra money.

8 So, going to the first slide. Mission of USPTO is fairly
9 narrow in the sense of we process patent applications and trademark
10 applications. We register trademarks for folks as well as patents.
11 We're headquartered in Alexandria, Virginia, about 12,500 people work
12 there or out of there, and we have four regional offices throughout the
13 country. We are semi-autonomous in the terms of we are an agency
14 of the Department of Commerce, but a bill was passed, an act was
15 passed in 1999 giving us some independence through the director for
16 budget, procurement, HR, mostly administrative, and then policy
17 guidance to the Secretary of Commerce.

18 Next slide. So our funding model. As I mentioned,
19 we're fully fee-funded, and we like to think of ourselves as a business
20 that operates in a government environment. What I mean by that is
21 work comes in. With the work comes fees. We process the workload
22 and then unfortunately, or fortunately, however -- because we are part
23 of the government environment, we are sometimes subject to
24 continuing resolutions, Government shutdowns, appropriations by
25 Congress.

26 So that makes it a little more challenging, because

1 when the Government shutdown a few years ago, work still came in the
2 door, right, and we still got fees with that work. Couldn't spend the
3 fees. So therefore it was challenging to process the work. So, a little
4 different.

5 Also, we charge fees based on -- we have a statutory
6 requirement to recoup all of our costs, but at the aggregate level. So
7 we charge about 300 fees and very few of them are based upon literally
8 how much does it cost us to provide that service. So I'll go through a
9 little bit of that, too, what makes us a bit different.

10 Next slide, please. Just to give you some idea how
11 much we collect. Over the last 15 years it's grown from a billion dollars
12 annually to roughly \$3 billion. And that's due -- as you can imagine the
13 technology boom and cell phones and every other kind of technology
14 that's there, they all need a patent to operate, to protect their intellectual
15 property. So 90 percent of our collections are based on the patent side
16 of the house and 10 percent roughly on trademarks.

17 Next slide. Little bit of the history. We didn't get fee
18 setting authority until five years ago, but we've been fully fee-funded
19 since 1990, about 26 years now. And before that Congress set our fee
20 rates in statute. As you can imagine, getting Congress to pass a bill is
21 not something that was ideal every time we wanted to collect more
22 money or less. And that's no criticism of Congress. It's just passing
23 bills is challenging when they've got the responsibilities they have.

24 So for the last 20 years we've been trying to create an
25 overarching fee structure that worked for the amount of work that
26 continued to rise and knowing that we didn't have the authority to

1 change our fees. So as a result, what happened in I think 2008 we had
2 a backlog of almost 800,000 applications. So what you used to hear is
3 it took three years to process a patent application. That's not very
4 timely.

5 So the Obama administration decided that one of the
6 goals would be to have more timely prosecution of patent applications.
7 Our goal is actually to get done within 20 months. Ten months would
8 be the first time that we would touch it and give somebody an initial
9 readout on it. And then 20 months you'd get the final as opposed to 36
10 months. But we would need fee setting authority to bring in more
11 money to hire more patent examiners and upgrade our IT systems. So
12 that was provided in 2011 to the American Invents Act. We got fee
13 setting authority.

14 Next slide, please. So as I mentioned; AIA we call it,
15 we got fee setting authority, which actually expires seven years after
16 enactment. As you can imagine, any bill that passes, right, there's a
17 lot of negotiations between our stakeholders, Congress and the
18 administration. And they gave us seven-year sunset so that -- they
19 wanted to see if we were going to be good stewards. Now as part of
20 being good stewards we had to prove that we will sometimes try to
21 reduce costs as opposed to just jack up fees all the time. Right?

22 So back in 1999 the created public advisory
23 committees. We have one on the patent side, on the trademark side.
24 So we have stakeholder meetings every quarter. In fact, we had one
25 yesterday and I'm missing one this morning that a public one.
26 Yesterday was a subcommittee meeting. So they're very involved

1 when they represent the stakeholder committee for patents or
2 trademarks.

3 And also, there's a fence between our fees. And that's
4 when we collect the fee for patents we cannot spend it on trademark
5 operations and vice-versa. So because of that we've been involved
6 with what we call activity-based costing for about 20 years now,
7 because we have to make sure that we're costing things out to know
8 how much money is coming in and how much we're spending on a
9 particular activity. So every examiner, every employee, including
10 myself, we have -- through our time and attendance we have to mark
11 down what we worked on, whether it was patent or trademarks. So
12 then we can bill it accordingly, or at least calculate the cost.

13 So, next -- oh, just to give you an idea, we got fee
14 setting authority in 2011. Took about 18 months to set fees through
15 the rulemaking process. So they went into effect March 2013. Since
16 then we've collected \$1.1 billion approximately additional from the new
17 fees. Again, with an annual budget of \$3 billion, that's roughly \$9
18 billion, right?

19 One-point-one billion of it wouldn't have been collected
20 if we had our old fee structure, which means we wouldn't have hired as
21 many people or wouldn't have processed so many examinations or
22 patent applications. Therefore, our backlog would still be closer to the
23 800,000. Right now it's at about 540,000. So we're working it down.
24 The goal is never to get to zero. We want a working inventory of about
25 400,000 applications. So we've actually gone from 800 almost to our
26 ultimate goal.

1 Next slide, please. Unique features of our fee
2 structure. As I mentioned, we don't follow a traditional OMB A-25
3 guidance in the sense of every fee is set to the agency's cost. It's at
4 the aggregate. So our model is based upon low-barriered entry. We
5 charge people less than it costs us on the beginning of the fund side for
6 a patent application. And then you kind of pay for it on the back end if
7 you get a patent awarded. The whole idea is then there's some
8 financial gain to you. So there's a lot of public policy initiatives that
9 we're also trying to do rather than just individual cost recovery.

10 So through this subsidization, as you can imagine, it's
11 very complicated as to when we raise a fee are you getting close to
12 fuller cost recovery or what are your goals? Because it's kind of
13 either/or, right, and binary? You're either getting full cost recover or
14 you're getting something less, or something more. So whenever you
15 adjust fees, you've got to kind of touch them all and see what should we
16 do? Because again, what you're trying to do is collect at the aggregate
17 level.

18 So next. So what's our philosophy? Following
19 enactment of the AIA we worked with both internal and external
20 stakeholders to establish our philosophy, which is stated here. And I'm
21 going to quickly go through it. We have a set of principles that provide
22 the broad philosophy of our fee structure up in the right corner there.
23 And we have goals and objectives which are all supposed to support
24 that. So every time we touch a fee, we have to make sure that we stay
25 within this philosophy.

26 The main things are inclusion and transparency. And

1 we work with -- through our rulemaking our public advisory committees
2 have to hold hearings and they have to write reports. So we provide
3 them a draft of what we would like to do in terms of changing any fees.
4 Changing could be eliminating a fee, reducing a fee, increasing a fee or
5 initiating a new fee. So they get to weigh in with hearings and a report.
6 And then we've hopefully proven over the last five years that we will
7 take their comments into account and sometimes do what they want or
8 something closer to it. So we're hopeful that will help us get fee setting
9 authority extended.

10 Next slide. Components of the fee setting at USPTO.
11 There are many things to think about. In terms of production
12 workloads, right, how many examiners do we have on board and what
13 can they get done in an annual year? Right? That will help drive your
14 fee setting, because if you need more fire power you're going to raise
15 your fees so you can hire more people.

16 So economic analysis. What's the elasticity of a
17 particular fee? If you double the size of a fee, would fewer people
18 apply for a patent, keep a patent? Because folks are -- I told you, on
19 the back end they keep patents enforced for up to 20 years. They pay
20 us three maintenance fees. Some people call it annuities. Every four
21 years you pay us to keep those intellectual property rights. So
22 sometimes if you raise the fee too much, they'll say, you know what, I'm
23 not getting enough money out of this patent. The financial gain is not
24 enough. I'll drop it. So it's very complicated in terms of how much can
25 you raise it?

26 So I'm going to back to the next slide since I've only got

1 a minute left. The ABI. Why is activity-based cost important? When
2 people have a sense of how much they're paying, they know that we're
3 not getting full cost recovery for every fee and they understand why, but
4 at least when people see how much or how less they're going to pay for
5 a service, it gives them a starting point. All right?

6 So if we're going to raise a fee, they know going in do
7 we get full cost recovery? If we don't, why don't we get it? And we're
8 going to try to get it better. In some ways you're trying to incentivize
9 behavior that will improve the IP system. In other words, sometimes
10 people come in with hundreds of claims and it'll be this high in terms of
11 -- well, as you can imagine, we charge the same price for every
12 applicant. So we will charge them extra if they have more-claims-than-
13 allowable kind of thing.

14 So that's the best we can do in terms of
15 -- I know I heard some of you, should folks pay less? Our system is
16 based on everybody pays the same whether it's Google and they're
17 going to make a lot of money on their patent or whether it's someone
18 -- a company that's not going to actually make as much money. We
19 don't charge according to the financial viability or gain of that patent.

20 I see my time is up. I've got lots more to say if you
21 want to ask questions.

22 CHAIRMAN BURNS: Thank you. Thank you, Mr.
23 Scardino.

24 Mr. Butler?

25 MR. BUTLER: Good morning. And, Mr. Chairman
26 and Commissioners, I really thank you for the opportunity to come

1 speak on the NRC fee process. It's something we've been very
2 engaged in over a number of years.

3 I want to start by providing my thanks and
4 commendation to the Office of the CFO for all the efforts she has put
5 forward to engage stakeholders to conduct meetings, to send out
6 requests for information, to try to find as much as she can on the issues
7 and concerns of the very stakeholders. I think she's done an excellent
8 job here and we really thank her.

9 We have expressed in various forms the economic
10 challenges being faced by nuclear plants and the nuclear industry and
11 have provided recommendations to be taken. The efforts under
12 Project Aim that the NRC is currently engaged in to improve the
13 efficiency and effectiveness of NRC operations go a long ways to
14 addressing a lot of those concerns. Operating reactor licensees are
15 currently engaged in a very similar process with delivering the Nuclear
16 Promise Initiative, again trying to improve the efficiency and
17 effectiveness of operations.

18 The efforts to improve the fee project and the budgeting
19 process go hand in hand with these efforts to address inequities and
20 inefficiencies seen in the fee process.

21 The administrative and policy issues -- processes.
22 Changes to the administrative and policy changes can help alleviate
23 many of the problems, but we've noted in our comments that it may be
24 necessary to seek legislative remedy in some cases to really get to the
25 root of the matter of the concerns.

26 We provided in an August 31st letter comments on the

1 recent SECY paper, so my comments, remaining comments would be
2 relatively brief, and I refer you to that letter.

3 Next slide. Another slide. The SECY paper identified
4 14 administrative changes to be implemented in 2017. The process
5 improvements identified changes to improve communication of
6 anticipated costs of licensing actions and expected costs of rulemaking
7 actions. There are also changes to expand the information provided to
8 stakeholders on future proposed fee rules. These are all positive
9 changes and we encourage them.

10 Generally they are minor in their impact. There are
11 more substantive changes that fall into the category of future
12 consideration. So we would encourage; and I think this came out in
13 the Q&A in the previous panel, looking at those more substantive
14 changes to see if there's any way to accelerate their implementation.

15 Next slide. The SECY paper also identifies four fee
16 policy changes for Commission consideration. They all appear to be
17 solutions in search of a problem, if I could be so bold. The first policy
18 recommendation would modify the calculation of the annual fee based
19 on the size of the licensed facility. The concern we have with this is it
20 has the potential to further reduce the relationship between fees and the
21 cost of providing regulatory services. We are not aware, at least in the
22 case of operating reactors, of a correlation, let alone a strong
23 correlation, between the facility megawatts and the cost of regulatory
24 services.

25 And we understand that the proposal goes beyond
26 basing on megawatts alone, and there are other licensee fee classes

1 that may have a different basis and it may make more sense. But
2 looking at the largest fee class of operating reactors, it does not seem
3 to make a lot of sense.

4 The second policy change would charge a new annual
5 fee covering project manager time plus technical reviewer time for a
6 baseline number of licensing actions.

7 And the third policy change would charge a flat fee for
8 material program license amendments.

9 While we support greater predictability in the fee
10 process, not at the expense of transparency, effectiveness and fairness,
11 the primary concern we have with the proposals is that it has the
12 potential to remove a level of accountability for the services that are
13 being provided. We would prefer; and this was discussed earlier as
14 part of the initiatives undertaken by NRR, identifying the costs, at least
15 the estimates for the costs of services up front and then managing
16 throughout the process both schedule and cost to those estimates.

17 We understand in many cases things come up, and that
18 needs to be addressed. It would require a little bit more effort here, or
19 maybe less effort there. That is understood by licensees. As long as
20 it's communicated to them up front and early, they can accommodate
21 those changes.

22 The fourth policy change would charge hourly fees for
23 all contested hearings. This change is contrary to all the stakeholder
24 input that I've seen. NEI as well as other stakeholders commented that
25 the contested hearings are beyond licensee control and should not be
26 fee-billable.

1 So while the paper only requests Commission approval
2 for additional analyses, we really see no value in pursuing these policy
3 changes in their current configuration.

4 Next slide. Under the NRC's current fee recovery
5 structure there are limits to the value that can be obtained through
6 administrative and policy changes. Durable reform can only be
7 achieved through legislative changes, and we urge the Commission to
8 take a leadership role in addressing the fee policy problems that
9 stakeholders have identified with the current system.

10 Fairness and equity issues are only going to get worse
11 in the coming years under the current structure. While additional
12 reactors -- with additional reactors planning and considering
13 decommissioning this creates substantial risk that the remaining
14 licensees will pay significantly higher fees.

15 The Commission obviously can't pass legislation to
16 amend OBRA-90, but the Commission can take leadership in many
17 forms. The \$5 million appropriation request for advanced reactors was
18 a positive step to address fairness and equity issues.

19 I will end at this point and look forward to questions.

20 CHAIRMAN BURNS: Okay. Mr. Bergman?

21 MR. BERGMAN: Thank you for the opportunity to
22 speak today. I'm going to speak about the value of pre-application
23 engagement given it is a fee-billable activity.

24 If you could go to the next slide, please? I need to
25 acknowledge this work was performed with the support of a grant from
26 the Department of Energy. Regardless, these views are those of

1 NuScale and are not intended to represent the Department of Energy
2 or any other federal agency.

3 Next slide, please. These are the four topics I'm going
4 to cover. And we can just go to the next slide and I'll get right into the
5 substance.

6 So it's been discussed a fair amount today, but
7 NuScale is very appreciative of the variable fee rule for SMRs. The
8 prior rule of a flat fee regardless of reactor size was going to be
9 disproportionately inequitable to NuScale given our very small reactor
10 size. It has removed a significant regulatory uncertainty for our
11 customers, which has helped us in the market.

12 Next slide, please. This is a figure that shows our pre-
13 application fees history over what will be about over eight-and-a-half
14 years by the end of this year, 2016. It is a projection. If you'll note, a
15 few things to note off this slide. There's an inflection point in 2015. I'll
16 get to that later. The fees for 2016 will exceed more than 50 percent
17 of the fees over that eight-and-a-half-year period. We did go back and
18 look at our PM fees for this year. The PM support fees are 2.4 million.
19 What that means is for every hour-and-a-half roughly of safety
20 assessment there's an hour of PM support necessary.

21 If we could go to the next slide? This is a projection
22 going forward for the duration of a 40-month review. The 40 million line
23 comes out of an estimate by the NRC. We also put on a \$60 million
24 fee that is more in line with prior design certification applicants, although
25 lower.

26 Things to note off this slide. Most of the fees will

1 accrue by the end of 2018, and that's just a reality. If you want a 40-
2 month review, you got to get most of the technical work done in that
3 time period. We currently have 10 PMs assigned to the project. If you
4 project that out, that would be in the ballpark of 19 million in fees, which
5 means that the NRC's estimate you're getting basically one hour of
6 safety review per hour of PM support. Goes down as the bill goes up.

7 Just as a data point for NuScale for our DCA
8 development, our PM burden is under five percent. It's not an apples-
9 to-apples comparison, but even if you included my entire department,
10 which the largest it will be is this year, our total burden would be under
11 15 percent.

12 Next slide, please. So lessons learned, which I think
13 is important. We're not going to gain much from this NuScale. We're
14 about done with pre-application, but we have learned a lot. And we
15 really have two periods in pre-application and they center around that
16 inflection point in 2015, which is April 21st, 2015.

17 Prior to that, in retrospect, it was more an opportunity
18 lost to us. We didn't get really sufficiently good information on key
19 safety features and submittals such as white papers, technical reports
20 or the gap analysis. And we think a contributing cost of that is
21 management participation where management is engaged, the staff is
22 engaged. So we saw areas where branch chiefs in particular were well
23 engaged and we made good progress, but in general it wasn't that
24 engaged. And at the executive level it was almost non-existent
25 engagement. And that cost the degree of progress we made during
26 that time period.

1 Next slide, please. So what happened on April 21st is
2 we had a public meeting. NRO's -- almost their entire executive team
3 attended, and even they referred to that meeting as an epiphany, that
4 they really were unaware of the progress the company had made to that
5 point in time. And to the NRC's credit they've done a very good job at
6 catching up rapidly. It's just there's not a lot of time between April 2015
7 and December 31st, 2016.

8 We did begin receiving formal feedback that's been
9 very good. Even if we haven't always liked it, it's feedback. It's good.
10 These have been primarily in the gap analysis letters. And the design-
11 specific review standard appeared to have been accelerated as a result
12 of that engagement, which was good.

13 We did get increased participation from management,
14 particularly at the branch chief level. It would be nice to see more
15 engagement at the executive level. A notable exception to that is ever
16 since Jennifer Uhle's been on board, she's set an exemplary example
17 there for executive engagement.

18 In 2016 we've provided training to over 240 NRC staff
19 managers ranging from a two-hour sort of overview course to a full day.
20 We think that's a valuable activity, especially where it's primarily been
21 given to people who will review the application. One other concern we
22 have is that when we have an engagement that we need a predictable
23 outcome from, that the variance has been fairly high on whether or not
24 we get that value. And the example here is page turns. And in some
25 cases we have the page turn. We're told it either has problems or it's
26 good. We address the problems, we submit it, it gets docketed.

1 We've had other cases where we've been told it's good or we had
2 problems. We addressed the problems. We've been told it's good.
3 We go into the acceptance review and it doesn't get docketed.

4 And the reason that's a concern to us is a page turn on
5 a topical report is very analogous to the readiness assessment on the
6 application, which begins next week. And that's a very large activity.
7 We've budgeted for 2,600 review hours, which is about three-quarters
8 of a million dollars in fees. And it's critical to us that we come out of
9 that knowing where we stand.

10 We're hearing the right things from NRO in terms of
11 what to expect. That's very good. The proof of the pudding will be in
12 the docketing, so to speak. Next slide, please. So for future
13 applicants how could you increase the value? And basically it's move
14 the value-added that we got in the past year-and-a-half earlier in the
15 process. I'm going to present them in a slightly different order.

16 Not to beat it to death, but again where management is
17 engaged, the staff is engaged, I think especially at the executive level,
18 they're far more able to commit to agency positions and recognize and
19 drive significant technical and policy issues to completion. And that's
20 particularly true for key safety features of an innovative design. And
21 that will be even more true I think for the non-light water reactors. I'll
22 give you an example in a minute for specific, and I can give you
23 examples for non-light water reactors.

24 I think the staff should review and comment on
25 submittals, whether they're white papers, technical reports or the gap
26 analysis. They're not regulatory approvals. They're providing insights

1 on where the design stands.

2 Last, I want to bring up the design-specific review
3 standard, which is not a fee-billable activity, although it certainly affects
4 the applicant. It's an odd beast. I think the original intent, if I recall,
5 was to issue the final DSRS after submittal of the DCA. From where I
6 sit today I don't know how anybody thought that was going to work. It
7 almost certainly would have triggered a lot of RAIs, if not a revision to
8 the DCA shortly after submitting it. So the NRC staff has really
9 exceeded the original goal by getting us the DSRS this past summer.

10 What we've learned there and why we suggest two
11 years is even six months prior your engineering work is under such
12 rigorous design control and configuration management processes and
13 the DCA is largely written that you go through this reconciliation effort
14 with the DCA. In our case it didn't affect the design at all. It's an
15 administrative workload, but it's very disruptive at that point in time.
16 Whereas, two years prior to submittal you're under much more flexible
17 design control and configuration management and able to
18 accommodate that type of document at that time.

19 Now, the staff's concern as expressed to us is design
20 maturity, but at least for NuScale when we look back at the design
21 changes over the past few years, there really were none that would
22 have affected the acceptance criteria in a design-specific review
23 standard. They'll affect the analysis, but not the acceptance criteria,
24 which are the regulatory framework that you're using in your application.

25 So let me get a couple of examples in. Licensed
26 operators. I think as you know, our control room is one of the most

1 unique features in our design, and that is probably the single best
2 example that demonstrates the value of effective pre-application.
3 Despite its differences, the staff has been very active for years. And
4 while we don't have NRC approval, the staff has given us enough
5 indications that the risk associated with that aspect of our design has
6 been reduced to almost nothing.

7 Another example I don't have time for would be digital
8 I&C, which has traditionally been a very challenging area.

9 Sort of at the opposite end of that spectrum, the
10 emergency core cooling system is the safety features example. Our
11 emergency core cooling system since 2008 has relied on the annulus
12 between the reactor vessel and the containment as a flow path, and it
13 hasn't been until recently, the past few months, that we've begun to hear
14 concerns with that design feature. For an innovative design that is
15 simply too late to find out that may be a regulatory problem and should
16 have been resolved in 2008 or '9.

17 So to summarize, if you'd go to the last slide, nothing
18 really new here. Again, thank for the Variable Fee Rule. Fees, I think
19 there could be a better balance between safety review and PM fees.
20 And more transparency you've heard about. How were the fees
21 derived? What were the deliverables given for the hours charged?
22 Pre-application. The value-added is commensurate with the level of
23 engagement. And you can increase the value for future applications
24 by giving formal feedback on actual submittals and key safety features.

25 Thank you for your time.

26 CHAIRMAN BURNS: Okay. Thank you. Mr.

1 Guastella?

2 MR. GUASTELLA: Thank you, Mr. Chairman, and I
3 appreciate the opportunity to speak today on future license moly
4 production facilities and the fee process.

5 Next slide. Just a little background. The Council on
6 Radionuclides and Radiopharmaceuticals is a trade association based
7 here in D.C. and we're comprised of companies that manufacture and
8 distribute radiopharmaceuticals, sealed sources and radionuclides that
9 are used in medicine and the life sciences.

10 Next slide, please. Just a little background on moly,
11 molybdenum-99. It is the parent isotope of technetium. And
12 technetium is used in 30 to 40 million nuclear medicine procedures
13 worldwide every year. Approximately half of those have been in the
14 U.S. and about 80 percent of all nuclear medicine procedures require
15 technetium. It's very, very important for cancer and heart disease.

16 Molybdenum is provided through an international
17 supply chain, and there are currently no molybdenum producers here in
18 the U.S. There was a severe shortage of molybdenum back in 2009
19 and 2010, and that was due to unexpected and extended shutdowns of
20 key research reactors around the world. As a result, substitute
21 isotopes like thallium were used, which resulted in higher radiation
22 exposure to patients. Other modalities were also used which in some
23 instances were not optimum. And there's been efforts to improve
24 availability and efficiency. Nuclear pharmacies have been much
25 more efficient in their use of molybdenum/technetium generators.
26 Current moly producers have increased their capacity. And one thing

1 that we're all looking forward to not only in industry but from a healthcare
2 provider and patient perspective is new moly producers here in the U.S.
3 And there are several that are kind of in the pipeline.

4 Next slide, please. Just start with some comments on
5 Part 170 user fees. Licensees, at least our members, have requested
6 invoice clarity and transparency. Seems to be a theme here this
7 morning. Helps provide licensees a better ability to track and confirm
8 charges. Also track and confirm additional expenses: subcontractor
9 expenses, etcetera. And hopefully it allows for better management of
10 reviews relative to projected costs.

11 Also, what came up, at least in my discussions with my
12 members, was active communication between the NRC and the
13 production facility licensees is real important. And this was one of
14 those very simple things, right? Proactive PM communication with
15 licensees. Where I heard that the PM was very proactive and very
16 communicative there was less and less issues with their invoices. So
17 I would encourage and we encourage that type of continued
18 communication.

19 Speaking about the hourly rate, the NRC calculates the
20 hourly rate kind of in aggregate. Combine all the FTEs and applies to
21 all fee categories evenly. Radioisotope manufacturers and future moly
22 producers represent a relatively small category versus some of the
23 other categories that are represented here at the table today. So
24 there's a request for the NRC to potentially evaluate proportional hourly
25 fees based on the NRC category resource utilization in license reviews,
26 etcetera.

1 Next slide. Let's move to Part 171. The future moly
2 producers are not currently assigned to an NRC fee category under Part
3 171. NRC is currently including Part 170 billings from moly facility
4 applications in the determination of the annual fees for research and
5 test reactors. CORAR supports NRC's proposed NPUF rulemaking,
6 SECY-16-0048, which categorizes research and test reactors and
7 radioisotope production facilities under a single term non-power
8 production or utilization facilities. This is flexible, we believe, and
9 captures all the non-power facilities licensed under 50.22 and 50.21(a)
10 or (c).

11 CORAR recommends that the NPUF rulemaking
12 include amending 171.15(f) to apply to the NPUFs licensed under Part
13 50, not just research or test non-power reactors licensed under Part 50.
14 The cost to regulate, our estimates at least of the cost to regulate moly
15 production facilities is similar to research and test reactors.

16 Next slide. Speaking in terms of the Interoffice
17 Special Committee, CORAR appreciates NRC's Interoffice Special
18 Committee evaluation of stakeholder feedback of the annual fee
19 process.

20 One thing that kind of jumped out at some of my
21 members was the accelerated released schedule of the 2017 proposed
22 rule, and any additional acceleration we believe would benefit our
23 members and their business planning moving forward.

24 CORAR does believe that the 14 administrative
25 improvements to the NRC fee process is a good first step towards
26 transparency, timeliness and equitability, and we support additional

1 actions that further improve communication between NRC and its
2 licensees.

3 Next slide. So in conclusion, domestic production of
4 molybdenum is extremely important to ensure a reliable and sustainable
5 supply for U.S. patients.

6 Research and test reactors and moly production
7 facilities should be categorized collectively as NPUFs.

8 CORAR recommends NPUF rulemaking include
9 amending 171.15(f) to apply to NPUFs licensed under Part 50, not just
10 research or test non-power reactors licensed under 10 CFR Part 50.

11 CORAR supports NRC's efforts to improve the NRC
12 Part 170 user fee process, including enhancing communication of billed
13 services on invoices, again provide sufficient information to substantiate
14 charges such as staff associated with the hourly charges, and an
15 improved detail on contractor services.

16 And finally, we continue to encourage NRC project
17 managers to proactively communicate with licensees.

18 Thank you, and this concludes my remarks.

19 CHAIRMAN BURNS: Thank you.

20 Ms. Sweeney?

21 MS. SWEENEY: Thanks for the opportunity to be
22 here today to talk about the National Mining Association's concerns with
23 the NRC fee process. The National Mining Association represents the
24 uranium recovery licensees, or most of them.

25 We've been very engaged on the fee process for about
26 25 years now. We've commented extensively on the annual fees, fee

1 allocation system, particularly level of detail on invoices and the need
2 for cost containment measures. We've met with NRC staff on these
3 issue many times and with the CFO's Office as well on several
4 occasions.

5 And I do particularly appreciate the opportunity to be
6 here today because I realize that uranium recovery represents a very,
7 very, very small portion of the overall NRC budget, but for my members
8 what they spend on NRC fees is a very large portion of their budget.
9 So it's critically important to them.

10 I would like to note there's definitely been improvement
11 over the last few years, in particular about improving stakeholder
12 understanding of how the fees are calculated, how the annual fees are
13 calculated, how the hourly fees are calculated. I think that there's been
14 much more transparency in those calculations, but what my members
15 are really interested in more transparency on is the invoices and then
16 efforts to streamline processes to make the costs more efficient for both
17 stakeholders and for NRC as well.

18 So on my first main slide. So we have some general
19 concerns regarding the fees, and these have been reiterated time and
20 time again in NMA's fee comments, which were attached to this
21 presentation. But basically what I just said, lack of cost containment,
22 sufficient detail on the invoices, timeliness of invoices, and the inability
23 of licensees to budget for future work based on past bills.

24 Next slide, please. So we have some ideas on cost
25 containment, some of which actually are already within NRC's purview.
26 One that I'd like to highlight was when the uranium recovery licensees

1 were making a comeback and there was new interest in getting licenses
2 and applications through the NRC process. Both NRC and the
3 licensees realized we have a lot to learn because it's been a couple of
4 decades and everybody needs to remember what the process is about,
5 how to move through that process most efficiently.

6 So, NRC proposed doing a Generic Environmental
7 Impact Statement for that process to get these new applications through
8 the process. The industry was extremely supportive because
9 everybody thought this would result in efficiencies in licensing, reduced
10 time frames and lower costs. But obviously the first couple of licenses
11 it was going to take a while to get there, but we would all learn from
12 those experiences and try to build on those efficiencies.

13 Unfortunately, that has not paid off in the way that we
14 anticipated, and I don't think it's the way NRC anticipated either. So in
15 May of 2013 NRC estimated the cost of licensing new uranium recovery
16 facilities based on the experience of those first three that had been
17 through the process, and the cost was about \$2.6 million. But the hope
18 was that cost would go down over time as additional experience was
19 gained. But as we learned at the most recent National Mining
20 Association Uranium Recovery Workshop, where we did a few
21 presentations on lessons learned, those costs have continued to go up.

22 And as one example, AUC, one of the licensees, it took
23 them about 4.4 million to get that same license that we were anticipating
24 would cost about 2.6 and hopefully go down. And at that site -- that
25 was despite a lack of any kind of hot button issues. There weren't
26 contest hearings and the impacts were similarly -- were essentially

1 similar to what was articulated in the Generic Environmental Impact
2 Statement. So there weren't a lot of outliers and weird things that came
3 up at that site, so it was truly disappointing to see those costs go up
4 instead of down.

5 Another example is with Uranerz Energy. They're in
6 the process of amending their Nichols Ranch license to include another
7 area. But if you look at that area, it's just an expansion of the well
8 fields. There's no central processing unit. But it appears, at least the
9 way the fees are running to date where they've already spent over a
10 million, that it's going to cost as much to do this license amendment as
11 it did to do the underlying license.

12 So that's also a bit troubling, particularly when, after the
13 license amendment was accepted for review, at that point in time about
14 half a million dollars had been spent and NRC said, oh, that's probably
15 the bulk of it, but to date we're about 1.2 million and it's still going.

16 So those are just a couple of examples where the GEIS did not
17 work to contain costs the way that everybody had hoped, but I still think
18 there's hope for that process. I think we just need to -- and there needs
19 to be more oversight, more management and review of the fees.

20 Next slide. So minimum recommendations for levels
21 of invoice detail. First, I want to say I couldn't agree more with
22 Commissioner Svinicki about needing more details immediately. NMA
23 would be very supportive of any budget request that NRC would like to
24 make to be able to move forward with that more quickly. This is
25 probably the most long-standing issue that my members have, and
26 there's a lot of recommendations up on this slide, but I just want to go

1 through some of the examples that I was provided for today's purpose.

2 We've had instances where we get an unexpectedly
3 high bill and even the project manager doesn't understand why it's as
4 high as it is. Shouldn't be a surprise to them, but I think it's -- and I'll
5 get to this, to contractor billing is part of the problem. We've been told
6 to ask for additional details, that we can get more details. We've
7 requested more details, but it's really mostly the same information in
8 just a different kind of table.

9 One member provided me an example of an entry of
10 work done by a contractor. The only information provided was the
11 name of the project, the name of the contractor and an amount, nothing
12 else, which has been an issue because I know that there are some
13 confidentiality issues related to contractor billing, but I do think there's
14 got to be more transparency than that.

15 Some NMA members also take advantage of NRC's
16 biweekly validation reports to try to figure out if they're on target for
17 billings, but they still get surprises in the amounts that are billed in the
18 end. On timeliness we've had one NMA member who was billed in
19 2016 for work done in 2013 and 2014. Another received a past due
20 letter a couple weeks before the bill arrived. And obviously,
21 electronically billing, if we can ever get there, would help solve some of
22 those problems.

23 Next slide, please. Use of flat fees. So NMA would
24 be happy to be the pilot project if there's interest in trying to go to flat
25 fees. I liked that idea. I know that it probably does not work for every
26 category of licensees, but I do think -- we started talking to the CFO's

1 Office about this in -- early as 2011 when they came out and talked at
2 one of the uranium recovery conferences.

3 And maybe not across the board you don't have the
4 good data to do that, but I do think with the use of the Generic
5 Environmental Impact Statement and the experiences to date we might
6 actually have the data to establish some flat fees within uranium
7 recovery. And obviously you have to have -- I mean, if it goes outside
8 of those parameters, then of course more costs will be incurred, but
9 there should be an opportunity there to do some flat fees.

10 And then just last slide, please. Concepts included in
11 the new SECY paper. We agree that what can be done now by the
12 CFO's Office will be helpful, but we really do support the idea of moving
13 to flat fees sooner versus later. And also we do not agree with charging
14 hourly fees for contested hearings. There were concerns raised in that
15 SECY paper that stakeholders could abuse that hourly fee approach
16 and attempt to increase the costs of billing, and I do think that there's a
17 significant possibility that that could occur.

18 So I thank you for the time today.

19 CHAIRMAN BURNS: Well, thank you all for the
20 presentations. Again, we'll start questioning with Commissioner
21 Baran.

22 COMMISSIONER BARAN: Well, thank you all for
23 being here and for all the feedback you've provided. I think it's really
24 valuable.

25 On the first panel I asked our CFO about three of the
26 four fee change ideas that the staff was recommending exploring in the

1 near term and I wanted actually to start where you ended, Katie, which
2 is on the fourth, which is the concept of flat fees. And the idea there
3 really is charging flat fees for some types of routine materials, regulator
4 reviews.

5 And when I looked at it, I could see pros and cons. I
6 mean, on the one hand it's going to be less precise than hourly fees.
7 So a given licensee may be charged a bit more or a bit less than what
8 it would have been if you looked strictly at the hours. But on the other
9 hand, you'd have up-front fee certainty, which I would imagine would be
10 a significant advantage.

11 So I'm interested in kind of the stakeholder views about
12 that. It sounds like, Katie, your folks think that would be a useful thing
13 to explore. I don't know if you want to talk a little bit more about that,
14 where you think it might be useful, where it would be harder. Are there
15 big challenges you would foresee in getting flat fees worked out?

16 MS. SWEENEY: I think there are probably some
17 areas that will be harder than others, and so maybe you just don't turn
18 to those. Like the one -- obviously we'd love to have a flat fee for the
19 Section 106 process under the National Historic Preservation Act, but
20 that may be one where you just can't get there because there's too
21 much variability.

22 COMMISSIONER BARAN: Yes.

23 MS. SWEENEY: But there are certainly ones, some
24 more straightforward ones where we could get there, maybe for
25 environmental reviews of new uranium recovery facilities that are
26 bounded by the Generic Environmental Impact Statement. Obviously

1 if there were things that were outside of that, that would be a different
2 matter. But if it was bounded by what was already available in that
3 information, I think that would work. And it really is very important to
4 the licensees, especially ones who are publicly traded companies to
5 have some sort of certainty in their budget.

6 COMMISSIONER BARAN: Yes.

7 MS. SWEENEY: They have to report back -- they
8 have to figure out what their budget is, just like NRC does for any given
9 year, and they try to forecast it for years ahead, but they have to report
10 those budgetary items to their management and to their shareholders.
11 And so, for them to have a little more certainty and not have the
12 surprises that they sometimes have now I think would be very beneficial.

13 COMMISSIONER BARAN: I know, John, you talked it
14 a little bit. You didn't sound particularly optimistic about pursuing this
15 one. Can you talk a little bit more about that? Do you see for certain
16 areas it might make sense? Do you think there's any value to looking
17 at it on the power reactor side? Thoughts on that?

18 MR. BUTLER: Flat fees would make sense in certain
19 circumstances. If you have something that is predictable, there's a low
20 level of uncertainty relative to how much it's going to take to do it, it's
21 repeatable. In those instances you could apply a flat fee and not risk
22 significantly going over or under in your prediction in what you'd recover
23 with that flat fee.

24 For the larger license amendment requests and actions
25 you don't have that -- I don't see that level of predictability and reliability
26 in what it would take to go through that. And my concern is for the -- if

1 you apply a flat fee, you're not following through necessarily as closely
2 if you go over on the review or go under on the review to try to correct
3 why -- or try to understand why you went over or under.

4 COMMISSIONER BARAN: Yes.

5 MR. BUTLER: You would certainly do that on a yearly
6 basis when you adjust the fee basis for those flat fee categories, but I
7 just see it very difficult for most of the larger review actions.

8 COMMISSIONER BARAN: And I don't know if we
9 -- on this panel we have everyone who might pipe up in response to
10 this, but outside of uranium recovery is there an area where you think
11 we should further explore this question of flat fees at this time?

12 MR. BUTLER: It sounds like you have a willing
13 stakeholder.

14 COMMISSIONER BARAN: Right. All right. So that
15 seems like it's the prime example where we think it might be productive
16 to look at flat fees on the uranium recovery side.

17 Okay. Let me go back to one of the other ideas, which
18 is basing annual fees on the size of the licensed facility. On the first
19 panel with Maureen we talked mostly really in the power reactor context.
20 On the non-power side is that something that stakeholders think is worth
21 exploring?

22 So I mean, Katie, for example does it make sense?
23 Should we look at charging higher annual fees for uranium recovery
24 facilities with more well fields and lower fees for those with fewer well
25 fields? Is that something that your membership is asking about or
26 thinks would be a good idea?

1 MS. SWEENEY: I have not heard anybody ask about
2 that. And when I did look at the SECY paper, my concern was the
3 number of well fields is not always determinative. Maybe there's a
4 central processing unit. Maybe one is a well field amendment package
5 and there isn't all the other facilities that go with that. So I don't know
6 that it necessarily will make sense.

7 COMMISSIONER BARAN: Yes.

8 MS. SWEENEY: I think it would be one of those ones
9 where you actually had to do kind of the research --

10 COMMISSIONER BARAN: Yes.

11 MS. SWEENEY: -- and find out if that is
12 -- actually promotes fairness or not.

13 COMMISSIONER BARAN: Yes. And right now is it
14 -- it sounds like it may not be an area where your members are
15 concerned that the way we're doing it now is unfair. You're not hearing
16 folks say, well, I'm really kind of a small facility. Why am I paying as
17 much as someone who's bigger?

18 MS. SWEENEY: We're all small facilities.

19 COMMISSIONER BARAN: All right. Well, I also
20 asked Maureen about the ideas of charging hourly fees for vendor
21 inspections, charging hourly fees for white papers. Do any of you have
22 thoughts about those ideas that were kind of more in the long-term pile?
23 Should we be looking more at hourly-fee type approaches to move away
24 a little bit from the annual fee piece? Are there other examples beyond
25 those two where we -- it would make sense from your point of view to
26 do hourly fees, but right now we're not?

1 MR. BERGMAN: Well, at least in pre-application
2 space if the staff were reviewing a white paper, it would be a fee-billable
3 activity.

4 COMMISSIONER BARAN: Okay.

5 MR. BERGMAN: So that would be our expectation.

6 COMMISSIONER BARAN: Okay.

7 MR. BERGMAN: And that's fair. As long as it's
8 specific to the party requesting the review, which is typically what a
9 white paper would be, or asking about your design, not a generic matter,
10 I mean, there's a fairness there that's --

11 COMMISSIONER BARAN: Yes.

12 MR. BERGMAN: -- hard to deny and say that should
13 be generic. It's more the question comes in when the staff is
14 developing things for its own use that have generic applicability beyond
15 that applicant that I think becomes a concern.

16 COMMISSIONER BARAN: John, do you have
17 thoughts on hourly fee for vendor inspections?

18 MR. BUTLER: Actually, I don't.

19 (Laughter.)

20 COMMISSIONER BARAN: That's fair. Okay. Well,
21 maybe I'll stop there. Thanks very much. It was good to get the
22 feedback and I appreciate that in some cases it's feedback that we've
23 apparently been getting for some time, but maybe not that we personally
24 have been so. So it's helpful to get your sense of what's worth pursuing
25 and what is not worth pursuing at this point.

26 I mean, really the question for us right now is that.

1 We're kind of at the threshold. We don't know what the answer would
2 be if we kind of went down one of these paths. And I think just
3 identifying, well, what's the subset of issues really worth taking a deeper
4 look at is kind of the question for us know, and I found your thoughts
5 very helpful on that. Thank you.

6 CHAIRMAN BURNS: Thanks, Commissioner. If you
7 did one of those word -- I forget what they -- so those word things today,
8 I think transparency would be the big word of the day sort of glowing out
9 there.

10 So I actually want to start with some of our colleagues
11 from the other agencies first, and I think, Ms. Krause, you sort of
12 touched -- I think this is what you may have been touching on when you
13 spoke to -- many of us in the Federal Government -- God bless the
14 *Federal Register*. It's actually one of those things that has helped
15 transparency. That was its intention to put forward.

16 But I think one of your comments is saying the difficulty
17 with the *Federal Register*; and I know as a former counsel, is you're
18 hitting all the legal buttons you need to do and all those things you need
19 to touch on because of statute, regulation, review period and things like
20 that. So relying on -- I think what I heard you saying is we got to do a
21 better job than just we may need, we may be required to; and such as
22 we are to publish our rule in the *Federal Register*, take in comment,
23 issue a final rule. But I think what it sounded like your findings are the
24 transparency piece of it has got to be more than that. And if you want
25 to elaborate, I'd appreciate that.

26 MS. KRAUSE: Sure. I think in particular with the

1 regulatory user fees you are dealing with the general public benefit as
2 well as a mix to the fee payers. And so as we had found back when
3 we looked at some issues of assessing regulations and agencies' efforts
4 to assess, I mean, finding other avenues to get information out there,
5 whether it's through agency web sites and posting some of that
6 supporting analysis that might be part of that process and discussion,
7 as appropriate, obviously on web sites and making -- and finding
8 whatever appropriate avenues to get information out, that makes sense.

9 CHAIRMAN BURNS: Okay. Thanks. And, Mr.
10 Scardino, what would you say are your biggest challenges in terms of
11 the transparency? I found your presentation very interesting in terms
12 of the flat -- particularly the flat fees. If I'm from the Google versus
13 somebody -- versus just me, the fee structure is basically the same. So
14 what are some the challenges that you have in that transparency and
15 how do you address them?

16 MR. SCARDINO: Well, transparency, we're doing
17 everything we can to be as transparent as possible, whether it's blogs,
18 Twitter, you name it, because we view it as a partnership. Right?

19 CHAIRMAN BURNS: Yes.

20 MR. SCARDINO: Our customers, our stakeholders
21 are part of the whole IP system. And the director, my boss, and the
22 deputy boss, they came from the stakeholder community.

23 CHAIRMAN BURNS: Yes.

24 MR. SCARDINO: So there's that perspective at all
25 times. You've got the rank and file folks. They're processing patent
26 applications, right? They don't get involved. And they get 22 hours

1 on average to process a patent application, and that's just how it works.
2 On average. Some can do it in 18; some will take 30. But on average
3 -- because some of them are more complicated technology, so they'll
4 get some additional there.

5 But transparency is kind of the name of the game for
6 us in the sense of we think that is vital to keeping fee setting authority
7 -- again, as I mentioned, it expires after seven years, so we want to
8 prove that we're good stewards of this fee setting authority, and the best
9 way to do that is be as open and transparent as possible. So that's
10 right up front with that philosophy.

11 CHAIRMAN BURNS: Okay. Thanks.

12 And I want to turn, again staying with the transparency
13 theme -- actually I'm not sure whether I heard it from Tom or Mr.
14 Guastella, but one of the suggestions or one of the observations was
15 made in terms of the interaction with the project managers in particular
16 circumstances.

17 And I think it may have been you, Mr. Guastella.

18 And I'm trying to understand. Tell me how that helps
19 and where -- what it is if there isn't good communication with the project
20 manager. How does that make the -- from the fee aspect things
21 murkier or surprising, I guess might be the word to --

22 MR. GUASTELLA: Well, from what I understand it's
23 managing the activities, it's making sure that they're coded correctly and
24 that communication is occurring between the PM and the licensee and
25 the individuals that the PM is working with. And I've heard where that
26 communication is good, again there's less frustration. They're not so

1 surprised with their invoices. They believe that the invoices are
2 relatively accurate based on what their expectation -- based on the
3 expectations that were created by the PM.

4 Where that is not happening and we have a
5 stakeholder that is a little bit more frustrated, that seems to be part of
6 the issue. I won't say it's the whole issue, but -- so that communication.
7 And it's a relationship. I mean, part of what I'm -- I'm more of a sales
8 and marketing guy. Okay? I come from industry. And it's customer
9 service. And where you have a mindset of serving your customer,
10 serving your stakeholders, that seems to improve things more. So it's
11 some of the cultural issues potentially, but it's really that mind set.

12 And one other thing I -- I don't know this is, well, even
13 practical, but when you look at the FDA, for example, where I have more
14 experience dealing with, I mean, when the stakeholders sit down to talk
15 about fees with the FDA, right, they're negotiating not only fees, but
16 performance metrics for the Generic Drug User Fee Act or the
17 Prescription Drug User Fee Act or the Medical Device User Fee Act.
18 And whether that type of dialogue or interaction is possible with the NRC
19 that might be something to consider.

20 CHAIRMAN BURNS: Okay. Mr. Butler or Bergman,
21 do you want to add anything?

22 MR. BERGMAN: Yes, I would say first our
23 communications with Mark Tonacci, the branch chief, and his PMs is
24 outstanding. There's multiple calls a day. And we do run into
25 questions on the invoices, they're usually willing to ferret out where it
26 came from. It's we get sort of -- we get the invoice. We can't -- I have

1 accountants who monitor my work and I have bosses who monitor my
2 work. They say explain this number. I can't. It's very labor-intensive
3 perhaps to ferret it out, but they've been willing to do it.

4 But some of them, when you just the invoice and the
5 activity that occurred and the person who charged the time, you just
6 can't say, yes, that makes sense looking at it. You have to do a fair
7 amount of leg work to actually get a good answer to the question. And
8 that's what I mean by lack of transparency.

9 CHAIRMAN BURNS: Okay. John, you want to add
10 --

11 MR. BUTLER: Well, I would just add two words to
12 your words of the day: communication and accountability.

13 CHAIRMAN BURNS: Yes.

14 MR. BUTLER: And they go hand in hand. I made the
15 point that if there's good communication up front on what's expected,
16 how long it's going to take, what the budget will be and that
17 communication continues throughout the process, the surprises that the
18 stakeholders are complaining about occur less often.

19 And so, a lot of the changes that we've been advocating
20 fall into that category: changes to improve the communication; and that
21 extends all the way to the point of invoicing, and increasing the
22 management and accountability over the process.

23 CHAIRMAN BURNS: Okay. And I think you may
24 have talked about it -- I just want to make sure I understood this point
25 about a better balance between safety review and project management
26 fees. Do you -- or maybe Tom? Yes, I'm sorry.

1 MR. BERGMAN: Yes, just again, without being able
2 to see the details of how you get there, when you look at design cert, it
3 is an approval of the safety of the design --

4 CHAIRMAN BURNS: Right.

5 MR. BERGMAN: -- and a ratio of one to one, or even
6 two to one seems a little askew. Like I said, for NuScale, who's doing
7 the same activity on the other side, the burden is much different. And
8 I think if you maybe look back, I'm sure the data has been kept to the
9 renaissance since the beginning, is what have been the number of PMs,
10 etcetera, assigned to the project and the cost relative to the technical
11 review cost? It's just a concern that again that the PM time in particular
12 is hard to disentangle based on how they charge it compared to a
13 technical reviewer. So it's just this block of fees that is hard to justify
14 to an independent party as to why that's a reasonable fee over time
15 given what's occurred.

16 CHAIRMAN BURNS: Okay. All right. Thanks.

17 Commissioner Svinicki?

18 COMMISSIONER SVINICKI: Well, thank you all for
19 your presentations. It's an interesting mix on the panel here today
20 because we have Ms. Krause and Mr. Scardino who have talked about
21 the essential components of being under a fee collection process, or
22 different paradigms for what you emphasize or de-emphasize. And
23 then we have those who pay fees or represent those who pay fees to
24 the NRC. So it's interesting.

25 And you kind of pull back and I'm surprised that this
26 word has not yet come up I think in the other panel, which is subsidy,

1 and across subsidization between various types of fee payers, because
2 I use the term of the previous panel of an unfair system we have now
3 versus changes we can make resulting in a thing that enshrined a
4 different fundamental unfairness. Maybe the better way to say that
5 would have been certain payers are subsidizing certain things now and
6 if you change things, you're probably changing the subsidization in
7 various groups.

8 I sometimes reflect on the fact that with energy
9 infrastructure the AARP will often go before state utility commissions
10 and say I don't want to pay for energy infrastructure that doesn't benefit
11 me, which I always think is a little bit grim for them, because some of
12 this infrastructure is coming online in the next few years. And I'm like,
13 well, I don't know, I'd prefer to be more optimistic. But people don't
14 want to pay for the infrastructure that's going to be needed, but the truth
15 is I get electricity from generating stations that I didn't pay for. So I
16 think that there's that kind of inter-generational equity.

17 The truth is, Mr. Bergman, I appreciate -- I thought your lessons
18 learned, slide 7, was really, really valuable. But of all the people here
19 today, if I were you, I'd probably be keeping my head low, because the
20 truth is in the run-up to the anticipated nuclear renaissance, which didn't
21 unfold quite as the United States expected, the truth is operating
22 reactors, if I read Exelon's letter, which was very, very detailed on these
23 questions, they paid for the NRC's building of infrastructure and
24 preparation for new reactor reviews.

25 And I think it's hard to argue. Historically maybe it's
26 changing as we get more and more participants getting invoices in the

1 new reactor area, but the truth is somebody pays for preparing for the
2 future tends to be the people who are in the space today. That goes
3 on.

4 I do appreciate the comments from operating reactor
5 space represented by Mr. Butler here today, but certain companies sent
6 in their own letters. And I will say for the uranium recovery community,
7 both NMA's comments, and then member companies, a few of whom
8 elected to send in their own comments, are replete with specific
9 examples. The truth is for the first panel when I said why don't we
10 improve transparency, some of it was reacting to the vivid stories that
11 are in the comment record, not all of which were discussed here today.

12 I'm going to turn to Ms. Sweeney and ask you, though,
13 do I miss something about flat fees? Are you -- I guess it depends on
14 how we implement them, but I heard you say something about, well,
15 you would have the predictability of a flat fee for some types of actions
16 for certain classes of licensees. I thought I heard you say and if more
17 costs were incurred, of course you would have an additional -- that's like
18 saying you would always overpay for everything, isn't it? Am I missing
19 the mathematics there?

20 MS. SWEENEY: Well, my math is not always good,
21 but what I meant was I think you can have flat fees for some discrete
22 issues. And if what you are moving forward has a twist or a turn that's
23 completely different and it's new, then yes.

24 COMMISSIONER SVINICKI: Then you'd have to
25 have sort of a relief valve for that?

26 MS. SWEENEY: I do think so.

1 COMMISSIONER SVINICKI: Well, I guess that's why
2 I'm saying -- and I'm not --

3 MS. SWEENEY: I think that's fair.

4 COMMISSIONER SVINICKI: -- opposing an
5 exploration, as I used the term "pilot," in the previous panel for some
6 very specific cases. That's where maybe you would have these
7 learnings. Can we set up the right set of criteria that would say, okay,
8 we're out of the flat fee space now? There's going to have to be some
9 agreement, going back to my earlier commentary, for any policy areas
10 that the Commission were to endorse further exploration.

11 It's going to be my sense that if at the end of the day
12 the fee payers don't like this proposed change, I think you'd still end up
13 where Commissioner Baran and I talked about today. They have to
14 want the change and be supportive of it, because we're going to recover
15 90 percent of our appropriated -- I mean, there's no question here that
16 that will happen.

17 We have a set of cross-subsidization that exists now.
18 I don't feel any need to pay -- to be cute about it, I mean, I think it
19 happens for the Patent and Trademark Office. I know they've said that
20 their money is fenced, but the truth is you've things like electricity and
21 other things. You can do that proportionally. I find as I read the
22 detailed public comment record, if you're small, you want proportionality
23 and if you're big like Exelon, you want to go I just want to know exactly
24 that that cost was attributable to me. So we're going to have a dynamic
25 tension here.

26 And then there are things to pay for that even though

1 the law tells you, well, it needs to be charged to the people to whom it's
2 attributable, you get to some of these cost categories and that's not
3 terribly easy to do. And then if you have truly emergent areas like the
4 new reactors area where this agency expanded in people and money
5 very quickly, built infrastructure for that, somebody pays the freight for
6 that along the way. But I'm not saying it's all so dazzlingly complex that
7 you can't do better. I think having the better data -- and one other thing
8 that -- this is represented on this panel, which is also in the comment
9 record we got. I think in the new reactor space and in the material
10 space there was comment that goes a little outside the four corners of
11 the fee rule. It said, NRC, if you would continue your journey of risk-
12 informed performance-based regulation, there are perhaps activities
13 that you wouldn't even find necessary to pursue.

14 I just want to say that's not within the four corners of the
15 SECY paper or within the four corners of improvements to the fee
16 process, however, I certainly am an advocate for the multi-decadal
17 journey that NRC has been on in terms of improving a risk-informed
18 performance-based regulatory framework. And I also appreciate in
19 new reactor space that they're on a learning curve as well, the
20 demonstration of the ability to conduct reviews to a more predictable
21 schedule. Now, it turns out that there isn't going to be the kind of new
22 build in this country, or there may be another pause here after a multi-
23 decadal pause in new reactor pursuit in the U.S. We had a brief period
24 of activity.

25 It might be that we won't have as much activity going
26 forward, which is unfortunate because as a continuous learning

1 organization I think within the level of performance of our New Reactors
2 Office right now I already see that they have learned from early
3 combined license reviews and other things. Tom, you mentioned the
4 leadership of Dr. Uhle and the current staff of NRO and the fact -- I
5 would point out that in the APR-1400, which is a design certification
6 under review right now, is the first design certification. NRO has hit
7 every interim milestone there. Hopefully, they can continue to build on
8 that performance should we receive small modular reactor designs for
9 review.

10 So, maybe we won't get to leverage that learning curve
11 as much, but that would also allow us to take these estimates on. Gee,
12 what does it take? What are the staff and contractor dollars to do a
13 design certification review? When we're just at the point that we might
14 have truly informed estimates of the effort it would take we might see a
15 slowdown in activity.

16 Katie, I want to comment on the Generic Environmental
17 Impact Statement, which I know in any number of public comment
18 venues there's been consistent comment on that. It is curious to me.
19 I continue to be puzzled that that was such a strong regulatory
20 instrument in operating reactor license renewal and yet I see NRC
21 continuing not to have a reliance on that. I'm just puzzled by it.

22 I don't know why we're the instrument served so well
23 for generic consideration in many issues for operating reactors, which
24 in theory is a more complex dynamic than uranium recovery. I'm not
25 sure why that is. I appreciate -- I know you took -- if the door was open,
26 you took one more chance to comment on that, but it is something that

1 I think bears looking at a little more closely.

2 I want to allow -- if folks want to comment on that,
3 however, I do want to ask in the medical isotope production and moly-
4 99 production -- you said you had a lot more experience in FDA space
5 and you very, very quickly listed a bunch of acts, like generic licensing
6 acts and other things.

7 Based on your experience kind of with pharma just
8 more generally on FDA and the fee structure there, are there really good
9 generic templates that is in any of this statutory framework for -- in the
10 pharmaceutical area for setting fees and recovering fees that based on
11 what you heard here today you would say, hey, go look at this existing
12 act? I know it's about pharmaceuticals generally, but you guys could
13 learn some stuff from that.

14 MR. GUASTELLA: Well, the GAO may have some
15 thoughts.

16 COMMISSIONER SVINICKI: Well, I know the GAO
17 has some work ongoing for NRC and I don't want to put you in a position
18 of having to say anything.

19 MR. GUASTELLA: Well, no, I'm talking about the
20 other -- maybe the other regulatory -- well, it's every five years, right?
21 And stakeholders sit down with the FDA. For example, let's take the
22 Prescription Drug User Fee Act. And so, broadly speaking there are
23 negotiations that occur between industry and the agency not only on the
24 amount of fees and the additional fees that maybe required to improve
25 performance metrics on reviews and approvals, etcetera, but getting
26 into those metrics and reaching some type of agreement on what

1 stakeholders can expect through the submission, review and approval
2 process.

3 So, with the Medical Device User Fee Act that the fees
4 and the metrics are currently being negotiated; I think they're pretty
5 close to being done, I mean, there's a whole set of metrics that come
6 out of that along with the fees that they're -- the collective and aggregate
7 fees that they're expecting to pay inflation-adjusted over the next five
8 years. So maybe more broadly speaking again, if it's just that type of
9 interaction, how that would work for the NRC, I can't say, but that
10 interaction between stakeholders and the agency setting expectations,
11 understanding some of the -- I mean, for me personally today just
12 listening to you talk and being candid there -- I didn't mention subsidies.
13 I didn't mention the word "subsidy," but when I talked about some of my
14 members are saying, hey, we're really, really small and we get the same
15 hourly rate as the power reactors. And there's a bunch of people that
16 are focused on power reactors and there's a very few number of people
17 that are focused on medical isotopes. It just seems to us that it would
18 be a more fair approach if it was proportional. And that's not surprising
19 to you or I think anybody on the Commission today, but I think that type
20 of interaction, that type of dialogue could be very helpful.

21 COMMISSIONER SVINICKI: Well, I hope I didn't say
22 anything overly provocative. I just think when I said no system --

23 MR. GUASTELLA: No, not at all.

24 COMMISSIONER SVINICKI: -- is going to perfectly
25 allocate costs, then when you have -- you're going to have some cross-
26 subsidization. I think what you're trying to do is minimize that and you

1 don't ever get there. And I felt that Mr. Scardino was honest. Maybe
2 he was more diplomatic or precise in his language than I was, but he
3 talked about having a low barrier to entry. There is a lot of interest
4 outside of NRC in advanced reactor technologies. We're going to have
5 to grapple with that low barrier to entry more squarely than we've had
6 to in the past, so I think we will be out looking for lessons learned and
7 good ideas.

8 And I will just say we haven't talked a lot today about
9 legislative proposals. Some of you touched on that. I'm not closed off
10 to that. When the world changes and the existing law confines us to
11 things that aren't workable, I will always have a dialogue. Whether or
12 not Congress elects to act, that will be their choice, but I think the
13 dialogue can be beneficial.

14 And I'm over my time, but I did want to -- if anyone had
15 anything they wanted to comment on.

16 Ms. Krause, did you? You got passed a note, so --

17 MS. KRAUSE: I did. Just a little bit more context in
18 terms of just when you think of FDA versus NRC, there are sort of trade-
19 offs with agency versus congressional control. So in the case of FDA
20 you have appropriations and then fees set every five years, where with
21 NRC you have the appropriations process in particular.

22 But the other point I guess I just wanted to mention was
23 a lot of the questions being raised today get around sort of the issues
24 that we've teased out when we've looked at designing user fees, which
25 are thinking about -- and I hear some of the questions coming up here
26 in the context of efficiency, equity, revenue, adequacy and then

1 administrative burden. So those are the types of areas certainly to
2 think about as you're looking to design fees.

3 CHAIRMAN BURNS: Thank you.

4 Thank you, Mr. Chairman. I apologize for going over.

5 CHAIRMAN BURNS: Well, thank you all for the
6 presentation. I think it's been -- both panels have provided some food
7 for thought, and I particularly appreciate our colleagues from the
8 General Accountability Office and from the U.S. Patent and Trademark
9 Office here, as well as our stakeholders who are paying the fees, or
10 represent those who are paying the fees that cover the regulatory
11 activities that the NRC is delegated the responsibility to carry out.

12 Again, we have a particular paper in front of us. We'll
13 consider that. But also want to commend the staff, as Commissioner
14 Svinicki and I think Commissioner Baran did earlier, with respect to the
15 areas looking at improvement that are well within the capability and
16 responsibility of the offices.

17 With that, we are adjourned. And again thank you for
18 your participation.

19 (Whereupon, the above-entitled matter went off the
20 record at 11:54 a.m.)