Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

Title: Fuel Facilities Fee Matrix Public Meeting

Docket Number: (n/a)

Location: Rockville, Maryland

Date: Wednesday, December 13, 2017

Work Order No.: NRC-3434 Pages 1-52

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON

FUEL FACILITIES FEE MATRIX

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WEDNESDAY,

DECEMBER 13, 2017

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ROCKVILLE, MARYLAND

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The meeting was held at the Nuclear Regulatory Commission, Three White Flint North, 11601 Landsdown Street, Rockville, Maryland, at 9:30 a.m., Kevin Ramsey, Project Manager, presiding.

NRC STAFF:

KEVIN RAMSEY, Project Manager, Fuel Facilities Manufacturing Branch, NRC, NMSS

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BRIAN SMITH, NMSS

SOLY SOLO LUYO, NMSS

JEREMY SUTTENBERG, OGC

JAKE ZIMMERMAN, NMSS, ECSE

ALSO PRESENT:

ZACHARY COHEN, Winston & Strawn, LLP

STEVEN DOLLEY, Inside NRC*

TIM KNOWLES, NFS

HILARY LANE, NEI

JONATHAN MARCANO, NMSS

WYATT PADGETT, URENCO (LES)

MAX PIERCE, Naval Reactors

JAMIE SCHEIMAN, Naval Reactors

JANET SCHLUETER, NEI

JARED SCHULTZ, NEI

JENNIFER SCRO, OGC

RANDY SHACKELFORD, NFS

TYSON SMITH, Winston & Strawn, LLP

DAVE SPANGLER, B+W*

P R O C E E D I N G S

2:02 p.m.

MR. RAMSEY: Okay, I want to welcome everybody to the public meeting on the Fuel Facilities Fee Matrix. And I think Robert had some opening remarks.

MR. JOHNSON: Yeah, thank you, Kevin. My name's Robert Johnson, I'm the Fuel Manufacturing Branch Chief. I've met most of you at this point. We'll go around the room in just a minute for introductions, but. Okay. Thank you for coming, we've got a great turnout. We're here to talk about the Fuel --

MR. DOLLEY: We can't hear you on the bridge, and could people identify themselves, please. This is Steven Dolley with Platts.

MR. JOHNSON: Okay, good afternoon. Let's try this again. My name is Robert Johnson, the Fuel Manufacturing Branch Chief. I wanted to welcome everybody. We've got a great turnout here in the room, and it sounds like we've got a bunch of people on the bridge line.

The purpose the public meeting today is to talk about the fee matrix, to gain stakeholder feedback and perspectives on the Fuel Facilities Fee

Matrix. The fee matrix is an algorithm that's used for, used to apportion annual fees across the major fuel facilities.

NRC has been evaluating the process and considering potential improvements, and we wanted to reach out the members of the public and our stakeholders to get some additional insights or feedback on any potential improvements.

So the purpose of the meeting is not to have a lengthy discussion about NRC's going to be reducing fees. It's really to try and get insights on how the fees are apportioned. With that, I'd like to pass it back to Kevin.

MR. RAMSEY: Okay, my name's Kevin Ramsey, I'm a project manager in the Fuel Manufacturing Branch. I'd like to welcome everybody. Before we get started with the introductions, just like to have a brief safety moment.

If there's any reason to leave the building for a fire alarm or something, you can go back out through the lobby the way you came in. If for any reason that way is blocked, you can also turn left, go all the way down around the corner. There is another exit door down there. The bathrooms are also down to the left, if you need a water fountain or anything like that.

So I'm going to ask Robert to pass the microphone around. We're going to ask everybody to introduce themselves to him. My name is Kevin Ramsey, I'm the Project Manager in the Fuel Manufacturing Branch.

MR. JOHNSON: This is Robert Johnson again, Fuel Manufacturing Branch Chief

MS. KAPLAN: Michele Kaplan, License Fee Policy Chief.

MR. McKIRGAN: John McKirgan, I'm Chief of the Spent Fuel Management Branch here at the NRC.

MR. ERLANGER: Craig Erlanger, I'm the Director of the Division of Fuel Cycle Safety Safeguards and Environmental Review.

MS. JACOBS: Jo Jacobs, Budget Analyst in Office of Chief Financial Officer.

MR. DOLLEY: We can't hear the people off-mic.

MS. SOLO LUYO: Soly Soto, I'm with the Division of Recycle Safety and Safeguards.

MR. MARCANO: Jonathan Marcano, NRC.

MR. SMITH: Brian Smith, Deputy Director, Division of Fuel Cycle.

MS. ALBERT: Michelle Albert, OGC, NRC.

MS. SCRO: Jennifer Scro, OGC, NRC.

MR. SUTTERBERG: Jeremy Suttenberg, OGC, NRC.

MS. RAND: Jennifer Rand, NMSS.

MR. BARTLETT: Matt Bartlett, Fuel Cycle.

MR. COHEN: Zachary Cohen, Winston & Strawn.

MS. CUADRERO: Leira Cuadrero, Fuel Manufacturing Branch.

MS. LANE: Hilary Lane, NEI.

MS. SCHEIMAN: Jamie Scheiman, Naval Reactors.

MR. PIERCE: Max Pierce, Naval Reactors.

MR. SMITH: Tyson Smith, Winston & Strawn.

MR. ZIMMERMAN: Jake Zimmerman, I'm the Chief for the Enrichment and Conversion Branch in Fuel Cycle Division.

MS. SCHLUETER: Janet Schlueter, Senior Director for Materials and Radiation Safety at NEI.

MR. SHACKELFORD: Randy Shackelford, Nuclear Fuel Services.

MR. KNOWLES: Tim Knowles, Nuclear Fuel Services.

MR. RAMSEY: Okay, thank you. If we

could go to Slide 2. Okay, basically, up to now we've completed the introductions. We're going to do a presentation on the fee matrix of the data and the approaches that we've considered so far. Slide 2. And then we'll open it up for comments and questions.

Now this is a Category 3 meeting, so we're inviting people to comment and, you can comment and ask questions all through the meeting. And we'll try to use the microphone as much as possible to help people on the phone line.

So if you want to go to Slide 3. Now, over the past year, we have engaged with our internal stakeholders on these subjects. This the beginning of our efforts to engage with external stakeholders. No decisions have been made, and no changes to this fee matrix will be proposed to the FY18 fee rule. And we expect publication of the proposed rule for FY18 in January.

Basically we felt like we had to engage external stakeholders before we proceed with any changes. That's why we're not doing anything this year. We value your input, and we want to allow time for a meaningful exchange of ideas.

So our objectives here are review the

current method that we use to calculate annual fees fuel facilities, review the data that we've gathered and the alternative approaches that we've considered so far, of course obtain your input, and answer any questions.

Go to Slide 4. Now, the NRC is aware that the industry has concerns with our fees. And we recognize the concerns, and we've completed several efforts to identify efficiencies. These efforts have resulted in significant reductions in our budget over the past few years. What you see on the slide here is our budgets over the last few years.

Now, currently we have ongoing efforts to identify additional efficiencies, so we hope that the reductions will continue. As Robert said, the purpose of this meeting is not to discuss the size or the speed of the budget reductions. It's to engage you on the method used to calculate the annual fees.

And as you'll see in the next few slides, we recover some of our, what we have to reimburse the Treasury for, we recover some of that through direct services and some of it through annual fees. So regardless of how small our budget gets, there's always going to be a piece that we have to recover through annual fees. So this distribution isn't going to go away.

Okay, Slide 5. So the NRC has two types of fees. We have service fees for direct services. And what I mean by that is usually licensing actions or inspections where we're charging our time to a cost accounting code and there's a specific docket number assigned to that code. So those hours get charged to that docket, those are service fees.

All other costs are recovered through annual fees. Those are basically, those codes don't have any docket numbers associated with it. An example is this meeting. There is no specific docket number associated with this meeting, so the time that we spent on this all goes into the bin for annual fees.

Now, a fuel facility business line distributes annual fees based on a level of effort to regulate each facility, and that calculation's been based on a matrix of effort factors that we've been using since 1999.

If we could go to Slide 6. So for the fuel facilities business line, this is what the numbers look like for FY17. Total budgeted resources for our business line was roughly 34 million.

The estimated Part 170 collections, those direct services, licensing and inspection actions, about 10 million, so we subtract that out. There are some other adjustments that are made, some surcharges that get added back in. And then we have the total amount that we recover through our annual fees. So that's what it looked like in FY17.

MR. KNOWLES: Did you provide any additional details on the other adjustments?

MR. RAMSEY: Okay, hold on a second. The question was additional information on the adjustments.

MS. KAPLAN: So the other adjustments, as you can see from the fuel for '17, there was some generic transportation costs, which was allocated to this fee class, low level waste surcharge, and then there was a fee relief surcharge. So those are three components of the 4.1 million.

MR. KNOWLES: What's the, how did you get to the 9.6 as the estimated collection?

MR. RAMSEY: The question was how did we get to 9.6. Basically what we do is we go to the licensing and inspection staff each year and say, okay, here were the hours you charged last year. What do you expect next year? And it's an estimate, but it's asking them do you expect to charge more hours, fewer hours, what's your best guess. And so we get all that input from the licensing and inspection staff, and the estimate is based on that.

MR. SMITH: Okay. I guess a related question is on the next slide, you've got two categories for licensing and oversight, which would sound to me like direct services, but those total 29. So I'm just curious as to what's the subset. What does licensing and oversight from the next page mean?

MR. RAMSEY: Okay, the question is on Slide 7, so let's go to Slide 7. Of the 33.9 million that we talked about in the last slide, this is the breakdown for FY17. And you'll notice that most of the resources go to licensing, oversight and rulemaking. And oversight is inspection.

So as was noted in the question, licensing and oversight get up around 30 million, but we're only recovering ten million from direct services. So what are those technical staff doing? Again, meetings like this, when they're working on guides and procedures, that's generally a non-billable action. Of course rulemaking's not a billable activity. Maintaining our websites.

You know, anything that's kind of generic. And of course there's general administrative overhead tasks also. But anything that's not associated with a specific docket number is going into that bin for annual fees. Okay? Janet.

MS. SCHLUETER: Yeah, I don't know what to do without a mic. What do you want?

MR. RAMSEY: I can repeat your question if you just want to do that.

MS. SCHLUETER: Well, I think yeah, Tyson's getting at something that, you know, the observation that we made. So I just want to make sure that we're all interpreting what you're saying correctly. And that is, I guess about two-thirds of the cost there of the 29 million, is actually for non-direct service activities, like guidance, like rulemaking, generic issues, the website, the things you just mentioned.

MR. RAMSEY: Right.

MS. SCHLUETER: That's correct? It's like 9.6 out of the 29 in this case.

MR. RAMSEY: Yeah, roughly. The breakdown that we've seen in recent years is about a third comes from direct services to a specific licensee, two-thirds is not allocated to a specific licensee and gets distributed through annual fees.

If we can reduce our overhead, we might be able to get that closer to 50-50, but that's where we are today.

MS. SCHLUETER: Well, maybe not just overhead, unless you mean the word overhead very broadly. How did you mean to use the word overhead in that case?

MR. RAMSEY: Well it was, a lot of the efforts that we're looking at internally is how can we get more things channeled into those specific services that are charged to a specific docket and off this unspecified thing that people just kind of, just collects this massive amount of charges.

I mean, quite frankly, some managers, they just have like a code for supervision, and they don't break down their time as to which licensee's document they're reviewing at any given time. There's been discussions about you know, should we, to move toward something like that. Decisions in that regard haven't been made yet.

MS. SCHLUETER: Okay, could we, since we started the questions on the slides specifically, I was kind of holding back, but now that everybody else has opened the flood gate, can we ask some more specific questions on this slide?

MR. RAMSEY: So this is --

MR. DOLLEY: Can speakers identify themselves, please?

MS. SCHLUETER: I'm sorry, Steve, it's Janet Schlueter. I thought you knew my voice.

MR. DOLLEY: Yeah, there's a lot of voices and I know I'm getting a little hard of hearing. Thanks, Janet.

MR. JOHNSON: Okay, this is Robert Johnson. We have some room to talk about the specific budget, the budget process or budget questions. But the discussion that we would like to get into is about the fee matrix. So there is a process for the fee rule, the proposed fee rule, and public comments and insights on the fee rule and the process.

However, the goal for today is to be able to talk about the fee matrix and how the annual fees are apportioned.

MS. SCHLUETER: Sure, and we appreciate that. I think we just like to make sure we're asking informed questions. So event response, is this budget that supports the headquarters operations office? Because we assume that event response, if it's licensee-specific, they're being billed for that.

MR. RAMSEY: Yes, that's my understanding that, you know, there's some general things. Like we have to man the operations center and do some generic things like that. So all the business lines contribute to that effort.

MS. SCHLUETER: Okay, so that's your generic contribution to the HOO.

MR. RAMSEY: Yes.

MS. SCHLUETER: Not licensee-specific. Okay, so international activities, this is anything that's obviously in the fee based and not coming out of the IP general fund bin.

MR. RAMSEY: I'm not an expert on the international activities, but I've been told that some international activities are billable. I'm not the best one to explain how that breaks down.

MS. SCHLUETER: But obviously if it's in, I mean, I'm going to make an assumption here. If it's in this business line budget, then it is international activities that are not being funded out of the general fund. These are being recouped somehow by 170 or 171 fees.

MR. RAMSEY: Right, I mean for example, as many of the licensees know, I mean they have import and export and international protocol responsibilities where we have to, there's certain work we have to do just on that business of shipping of products in and out.

MS. SCHLUETER: Sure. So the only other one I think, when we talked about this, and we very much appreciated having the slides be made public last week, that was very helpful. State and tribal programs -- could someone describe what effort is under that bin for this business line?

MR. RAMSEY: I'm not sure we have any specific information here. We can try to follow up on that.

MS. SCHLUETER: And training is staff training? Training for your staff?

MR. RAMSEY: Yes.

MS. SCHLUETER: Okay.

MR. RAMSEY: Okay?

MR. SMITH: This is Brian Smith. Going back to Janet's question about state and tribal. You may recall we used to have a Office of State and Tribal programs. That got moved into NMSS, and that's in the MSTR division right now. And I think each of the business lines contributes a portion of that budget for the generic type of work that they do.

MR. SMITH: This is Tyson Smith. Just to make sure I, well, I think it would be helpful to understand, within the licensing and oversight categories, which, how much of that is allocated to direct services that are recovered by fees, versus the annual fee, which should be for generic activities.

And I understand you said two-thirds, one-third. But I'm just, you know, there's no way to figure out where that 9.6 comes from based on this column. So some additional detail would be helpful in understanding if we're allocating properly between generic and direct service fees.

MR. RAMSEY: Well, we could see if we could provide some better information. But quite honestly, you know, we have a certain number of licensing staff and a certain number of inspection staff. And sometimes they're working on specific actions for a specific licensee, and sometimes they're working on these generic activities.

So all we have here, this is the specific budget that was enacted, it was approved by Congress. And then we have the estimate of what we think we're going to collect in direct services. And then as we go through the year and we actually do collect fees.

If that's higher and lower than an estimate, then might have to make an adjustment towards the end of the year. But that's, sometimes the breakdown isn't any more detailed than that.

All right, I'm going to move on --

MS. SCHLUETER: So Kevin, Janet Schlueter again. So just following up, I think we might be able to see where our source of confusion is if we look at Slide 6, the 9.6 that Tyson's referring to on the estimated 170 collections. We tried to figure out whether or not that was actually coming from the data on Slide 10, the direct services billing data, the column that does say Part 170 charges over four years. Because we thought --

MR. RAMSEY: Yeah, that's not a, yeah. What we have on the slide that we haven't looked at yet, that's the past four years, actual charges that we've billed.

MS. SCHLUETER: Right.

MR. RAMSEY: What we did here on FY17, that's just an estimate of what we think we're going to bill during FY17. FY17 isn't complete yet. But we, you know, we try to make a guess of what we're going to collect through direct services and then we base our, the amount that we're collecting through annual fees, on.

MS. SCHLUETER: Right, so if we just look at the 32 --

MS. KAPLAN: Can I -- this is Michele Kaplan. I'd like to clarify what Kevin's been saying about how we developed the estimate for Part 170. For the proposed rule, we don't have a lot of actual data for the year yet, so we estimate.

But as the year progresses and then we develop the calculations for the final rule, we do have some actual data, so that the estimate is part estimate, part actual.

MS. SCHLUETER: That makes perfect sense. So if we looked at that column, and over four years, it doesn't matter what four years it was, it would average about 8.2. So 9.6 and 8.2 is not that far off. So I think we just wanted to make sure that we were looking at that column correctly, that in fact it could be data that would be useful for you to estimate.

Is that right? Maybe as we go through, it'll make more sense. But we were seeing a disconnect between the 8.2 and the 9.6. But 9.6 is purely an estimate is what you're saying.

MR. RAMSEY: Yeah, I mean like Michele

said, when we start with the proposed fee rule, we're pretty much estimating the whole fiscal year. By the time we get to the final rule, we might have two quarters' worth of actual billing data, and we're only estimating the last two quarters. Hopefully that guess is much more accurate.

Slide 8. I apologize for the teeny, tiny numbers, but actually, this was the most legible version I could get. This is the existing matrix for annual fees. Now, I'd like to note, down the lefthand side for licensees, we're listing everyone we've actually issued a license to, whether they built the facility or not.

Then you'll notice on the righthand side there are some rows where there's no totals. Those are the facilities that were, we issued a license to them, but they haven't built the facility and completed an operational readiness review inspection yet. And so they're not being billed an annual fee. The license is out there.

Now, a frequent question we've gotten when we were coordinating internally was, how does this compare to what all the other business lines do. Now, for the reactor categories, that includes operating reactors, decommissioning reactors, and research reactors, their annual fee is simply the cost to be recovered divided by the number of licensees. Everybody gets the same bill. At least everybody in a given category.

However, for non-reactor licensees, we have typically applied some type of weighting factor. Because if all our licensees did nothing but boil water, we'd be great. But they don't do that, they do all kind of weird things. So we try to recognize that.

You know, this is the matrix that we've used for fuel cycles. Uranium recovery has their own matrix of what they call regulatory benefit factors. So they use a matrix somewhat similar to ours.

Materials licensees have a formula where they put in application fees, which are also a fixed fee, they just pay an upfront-cost for their application, and inspection costs. And they go through this formula. And that's believed to be indicative of the complexity of the license. So there are a lot more fee categories for materials licensees, but they have a formula they use. Uranium recovery and fuel cycle have a matrix.

Can we go to Slide 9. So let's take a closer look at that hard-to-read matrix. NRC's method is based on the processes authorized in the license. So those are the processes that we have listed. Please note that there are some processes that are classified, can't be discussed. We use the unclassified processes as surrogates in that case.

Now, we score both safety and safeguards, that's the S and SG columns. For people who may not be familiar with the terminology, safeguards is basically the security side of the house. The available factors are 10, 5, 1, and 0. And these factors are qualitative judgements by the staff. So does anybody have any questions about the matrix that we currently use?

MR. SMITH: This is Tyson Smith. Are there any, what are the concerns with the current matrix, if any?

MR. RAMSEY: Well, as we'll see when we get into the data, the numbers are qualitative judgements, and there's a lot of assumptions that go into that. And there's always a question about whether we're making good assumptions or not.

So one of the, part of this effort was to see if we could validate, you know, if there's any data that we could use to validate the results, just to see if we're on the mark or not.

There's been a belief, and some people ask why there's such a spread in the fees from one licensee to another, and questions raised about whether our fees are fair and equitable, and all that general concern. That's what prompted us to go back and take a look at this. Okay.

MR. SMITH: I have a really similar question, this is Tyson Smith again. Is the numbers or the values in the matrix, do they change much year to year?

MR. RAMSEY: No, actually, you know, when we pass around and say, well, this is, you know, we ask people who work at the various facilities, both the licensing and inspection, you know, here's how they scored last year, do you think we should change anything. Quite often, there aren't very many changes.

I mean, one of the ones that recently was Global had a license for low enriched fuel fab. And we did issue a license for Global Laser Enrichment, for an enrichment facility, but they weren't up and running yet. They had wanted to do a demonstration. So they did the demonstration under Global Nuclear Fuel's license.

So they were doing low enriched fuel

fabrication and some enrichment demonstrations. That kind of got them into multiple categories. So their numbers were pushed up a little bit because they were kind of doing two things at the site.

MR. SMITH: So is it fair to say that in absence of changes in processes or new or different types of activities, it's been pretty stable?

MR. RAMSEY: Yeah, in terms of the scores. Yeah, they don't change a lot from one year to the next.

MR. SMITH: Thank you.

MR. RAMSEY: All right, let's go to Slide 10. So this is the billing data. Now, this is -- let me make a general comment. We looked at two sets of data to see if we could validate the annual fees calculated in the matrix. Now, we acknowledged that the billing data is for direct services billed under 170. These are not the annual fees billed under 171, so apples and oranges, we recognize that.

However, we took a look at this data because the data we have for non-billable codes, it's hard to break down into fee categories, because there are no docket numbers there. We do have docket numbers here and we could break it down. So we said, well, let's take a look and see what it looks like.

So that's what we did. And we used certified billing data over 16 quarters. So these are bills that were actually issued. What we see is that direct services to high enrich fuel fab and enrichment direct services were similar to both, around 20% percentage. And that the direct services to low enriched fuel fab and conversion facilities were similar.

So the question that we have is do you think this is a valid comparison? Do you believe there's any relationship between direct services and indirect services that we can gain any insights here, or these are completely unrelated?

MS. LANE: Hilary Lane, NEI, just a clarifying question. Over four years, what four years is that? The past, the last four years, or?

MR. RAMSEY: Yeah, roughly. You know, I took 16 quarters, so it may not actually fit into fiscal years, you know, it's --- I asked the CFO staff, give me the last 16 quarters of certified data. And so they bring a big, long report and we tallied it up.

MR. PADGETT: Kevin -- Wyatt Padgett, URENCO -- I didn't quite catch that -- is that for, which year was that exactly?

MR. RAMSEY: I think it probably strays over a little bit into maybe the first quarter of FY17. I don't remember exactly when I asked them to run the report, but we said we only wanted certified billing data. So it was only for the quarters that the bill's actually been issued. So it may include like first quarter FY17, probably all '16, all fiscal year '15, and maybe a piece of '14.

MR. PADGETT: The question I would have is there any trend, you know, when it comes to licensees, you know, I would say specifically for ours, but the value decreasing. I'd have to look, but it seems like it would be. Due to our activities onsite.

MR. RAMSEY: Well, I mean, one reasons we took four, you know, 16 quarters or four years, was to smooth out some of the bumps. Because as people probably know, some facilities have had process upsets and issues where we went and spent a lot of time, you know, with reactive inspections and things, and we didn't want those unusual quarters to skew the data too much. That's why we took 16 quarters to try to smooth that out.

MR. SMITH: This is Tyson Smith. It strikes me that, and this is interesting and, you know, provides some insights, but without digging in, I'm not sure, without digging into particularly where licensees are in their licensing cycle, for instance, if you have to do renewal or if you're, you know, some other specific activity's going on, that could, you know, certainly shift the costs in one direction or the other.

It wouldn't be reflective of the Agency's, I guess, generic activities in the oversight and licensing categories that we were talking about earlier.

MR. RAMSEY: Okay.

MR. PADGETT: I understand that. Thank you very much, you know, but the difference here is you know, for enrichment there -- and for conversion both, there's really no equivalent facilities to balance that against to get that data reflective of the actual amount of effort at that time. It might be appropriate to pull it here, and then depending upon those activities, you know, it could be -- for us, I would specifically say, because of reduced construction. So those are just things to consider.

MR. RAMSEY: Yeah, and we recognize that. In fact, we got questions, because if we got -- if you're a brand new licensee and you're going through a lot of start-up activities, there's a lot of activity there. If you're a well-established licensee and you're operating well, probably your hours are a little less.

That's probably the reason we took a four-year span. People have asked, well, what about, you know, could you do five years, could you do six years. Yeah, we could, out of whatever we have data for, we can take whatever average you feel is best. So anybody, you know, if you think that a different span of time would be better, you know, let us know and we'll pass those comments along.

MR. SMITH: This is Tyson Smith. It strikes me that there's at least one easier breakdown. Are they licensing fees or are they inspection-related fees? Do you all track those, is there a separate code, or do you trace those differently?

MR. RAMSEY: Well, we yeah, we could, I think we could break it down into whether it was licensing or inspection. But would that make a difference?

MR. SMITH: Well, I wouldn't know without, I guess, without seeing the data, I guess. But you know, it strikes me that there might some differences. Or it might eliminate there. You know, certain types of facilities require higher inspection levels. And I think this is compounded by the fact that we don't have a good breakdown in the licensing and oversight category you provided early.

So I still know it's, you know, that 9.6 is two-thirds of that licensing and one-third inspection, or is it vice-versa? So it's just there's a level of granularity that I think doesn't permit us to, you know, evaluate whether this is a reasonable approximation going forward.

MR. RAMSEY: I mean, one of the concerns that we got into internally was sharing sensitive information. I mean, if we actually, we suspect that some licensees might not be happy if we actually shared their billing statements with the whole world, or we don't want to be quite that open. That's why we took, you know, a four-year total might be reasonable. So there's some sensitivity to what you all are willing to share.

Okay, so anyways, that's the billing data. Let's go to Slide 11. Second set of data is like I said, if the billing data is for direct services, annual fees or for any other services, not direct. Now, maintaining procedures and guidance is a large part of the other services. So what we did was, we said, well, let's make a list of all the licensing and inspection documents we maintain.

That was basically going through a lot of standard review plans and inspection procedures and just tallying up all the references. And we, having provided that background for that list that's in the handouts, so if you want to go review that and tell us if we missed something, or if we mischaracterized something, please, you know, let us know if you see any errors there.

Now, many documents are applicable to more than one fee category. And part of what we did was we said, well, we have all the documents, let's look at what's been revised recently, because there might be some old documents that just haven't been revised for decades and we're just not spending a lot of time on.

So if we go to Slide 12, this is what we ended up with. Approximately 250 documents totaled. And when we got into which fee categories that they were applicable to, those were the numbers we came up with. So not a huge spread from one fee category to another. And we didn't see a significant difference between old documents versus ones we revised recently.

So again, do you think that's valid to compare that to the fee matrix? Is that, think we should be using that for insight?

MR. SMITH: This is Tyson Smith. No, I don't. I haven't seen the list of all the documents, but, you know, based on my experience, there a number of documents that, you know, apply in their entirety to class of facility, but only a little piece applies to another facility.

And so I'm not sure just looking at the documents without being able to infer how much of that document relates to a particular class of facilities. I don't think that's really a fair and reasonable approach.

MS. SCHLUETER: Janet Schlueter, NEI. So I'm still missing something on the 250 versus the 308. This sentence, Approximately 250 documents were identified versus the documents revised, 308 and the 812. What is the 250 again?

MR. RAMSEY: Well, when it does, what I added up the there was, so if a document was applicable to all four fee categories, I counted it four times. That's why that number's so much bigger.

MS. SCHLUETER: Okay, that was a question we had.

MR. RAMSEY: The second table is smaller because those are only the documents that have been revised recently. So we started off with a smaller data set. And then we went through again and just counted the number of hits on applicability.

MS. SCHLUETER: Okay, so there is some double counting, if you will.

MR. RAMSEY: Yeah, and like I said, if you want to review the table and say, well, you counted this as applicable to my fee category, and I don't believe it's applicable. You shouldn't have counted it, you know. We'd be more than happy for you to help us scrub that list.

MS. SCHLUETER: Okay, I guess that is one question we had. Because I think, relative to Tyson's point, when I started flipping through the list, which actually there's one on the other side of the room. You know, when you get to like the reg guide series 8, all the rad protection stuff that Kevin, I know you know quite well, it's not unique to fuel facilities at all.

And so I have to believe that the touch that the fuel cycle division would make on that document on any revision would be pretty light, considering that there's many divisions that have responsibility for that document across the Agency. You know, Research or NRR, depending on who it is had the lead.

So it's hard to tell, when you just look at a huge inventory like this, sort of the waiting factor, if you will, for one group of documents or a single document versus another. Huge inventory, but they aren't all equal in their contribution to this budget.

MR. RAMSEY: Yeah, I mean recognize that, yeah, we may not be the owners of every single document. There may be, you know, another office, another division that owns a document and we're just providing input to their changes.

MS. SCHLUETER: Yes, I think we were just trying to figure out how does that effort all translate to billable hours.

MR. ERLANGER: This is Craig. One comment that I'd like to make is that it's not just the division that you may interact with on a day-to-day basis. It's the fuel facilities business line which has a, you know, I think it was 112 or 116 FTE. So it's much broader than, or it is broader than NMSS. It involves other divisions and organizations throughout the Agency.

MS. SCHLUETER: Right. Yeah, I guess one thing we kind of, just I'm going to throw this out here, I don't expect you to answer it.

But in looking at this large inventory too, I think one thing that we want to sort of go back and maybe look at the list and scrub it a little bit from our own perspective to just sort of identify which one of these documents are guidance documents that this community typically references and uses as part of their license programs, licensing actions, renewals, amendments, and what have you.

And that might help us be able to hone down on those documents that are most important to this business line.

MR. RAMSEY: Yeah, and the one thing I didn't do, I didn't try to list all our websites. But if you think that maybe looking at stuff like this is useful and it's like, yeah, we also think you ought to make a list of all the websites you're maintaining. Because technical staff spent a lot of time trying to keep those websites up to date also.

Do you think that's a useful exercise? Let us know. That's something else we could look at. Okay.

Slide 13. Okay, so possible approaches.

We could continue using a fee matrix. Maybe consider changing some of the factors that we've assigned. Do you think that's best bet? Do you have any ideas on changing the scores? We would be interested in that input.

Another alternative would be to do what the reactors do, just take the total, divide by number licensees, everybody gets the same bill.

A third option would be doing something similar to the formula that was used for the materials licensees, which is kind of a combination of uniform proportional methods. And for the proportional side of things, it would be using the percentages that came out of that direct services evaluation.

So I'm going to ask you to hold your questions. Let me go through this next slide, kind of get it all out there, and then we'll see what comments people have. So let's go to Slide 14.

So of course you know what the current fee matrix is. That's over on the righthand side there, at least for that fiscal year.

If we were going to do the uniform approach, at least for FY17, that's that third column. So basically everybody's got a bill for 3.9 million. Now, if we were going to do this combination, we got a 15% and 85% split. So one of the obvious questions is, well, where did that come from.

When we were debating internally whether there's any relationship between direct services and indirect services, the conclusion that we came to was, at least the conclusion that staff came, was that we believe there is a relationship for significant issues.

When there is a significant issue, some kind of a process upset or something like that, we believe that there'll be increased direct services through the reactive inspections, possibly unplanned licensing actions to implement corrective actions.

And there would also be increased indirect service, because you'd have more involvement of senior management, more work for public affairs, more work for congressional affairs, that type of thing. So we did see a relationship for significant issues. The question became well, what's a reasonable estimate of our effort on significant issues.

We settled on 15%. So that's where we said 15% of our efforts, especially with significant issues, we'll put that proportional thing in there. But for the rest of it, it's uniform, and the rest of it just gets distributed uniformly. So that's where those numbers came from.

Okay, so what do you think, good, bad?

MR. PADGETT: This is Wyatt Padgett from URENCO. So the proportional amount that you have in that column, is that based on the existing matrix, or was that the proposed?

MR. RAMSEY: You know, the proportional amount is based on that table for the direct services. If you look back at the breakdown of direct services over a four-year period, that's where those numbers came from.

So this, these two approaches, the uniform approach and the combination approach, we'll be getting away from the matrix entirely and just using these grand totals.

MR. PADGETT: Are you asking for comments now?

MR. RAMSEY: Yeah, if you want to give now, or, you know, email them to me later, or whatever you want to talk about. Nobody wants to share?

MR. SPANGLER: Dave Spangler with B+W.

MR. RAMSEY: Okay.

PARTICIPANT: My understanding that proportional amount column or the combination approach now would be better. When we read it the past week, I wasn't sure what the purpose of that was, but I don't want to put words in your mouth.

But that would be like, my facility was having a more significant issue at the time, more weight was coming into that as a result of my facility or another's, or does that still get distributed in some fashion? How is the proportion side of it, the side about a proportional percentage to the left of that column, column number four? So they're still taking a total, taking 15% of the total, and in proportion by the 15, by the --

MR. RAMSEY: Yeah, when you see the, across the top there where it says, Proportional amount of four million and change, and then parenthesis, that that's 15% of the total, of the 27 million. So we're starting with the four million number and we're multiplying by the percentage in that percentage column, and that's where the values come from.

MR. SPANGLER: Got it. And then there's the remainder trying to balance, that there's, again, I'm trying to get to make sure I'm understanding the FAQ, so under uniform with a proportional amount that we could discuss whether 15 is the right number. But here's proportionally the level of effort and significance in that, in uniformly here's the, we work the same for each licensee no matter what you are.

These contributions that are the Part 21 or whatever it's, I don't know, Part 51, whatever those kind of things that, in 250 documents are very similar. That's uniform among them.

So your thought there was not a straight fee matrix, but that I think has been outdated and not as nimble and flexible as the logic we were going on. And maybe just straight uniform doesn't seem to take in risk, and a combination approach is attempting to take in some sort of proportional risk based upon a four-year history. Is that kind of what this comparison chart is?

MR. RAMSEY: Yeah, I mean we were getting back to it's a relationship between the direct services and the indirect services. Because, I mean one of the arguments that was made internally was well, if you received more direct services, you've benefitted more from the procedures and guidance associated with those direct services.

We got a whole enforcement manual, if you don't have any enforcement actions, you're not really benefitting from that enforcement manual. So, you know, that's part of the argument. And the other part of the argument is now there's no relationship there, you shouldn't be paying any attention to any of that.

But like I said, the staff felt that we could argue for a relationship when we get into significant issues, because we feel like there's extra effort being expended both on the direct side and the indirect side. For routine activities where there's no unusual events, it's harder to make that argument.

PARTICIPANT: Right. So you already have that built in somewhat if you look at the formal chart on total fraudulent spending charges over four years. Those areas of higher risk, some have been applied, resident, I know the resident charges, it's my understanding at the latter end of the four-year chart.

Lower risks are adding routine inspections, unless there is an incident that would require more attention. So those things, or licensing actions or amendments or et cetera are effective as well as reflective in this level of effort, if you will, outside of routine.

MR. RAMSEY: Yes, and so that's, you know, the question that we're posing to you all is does this sound like a good idea, or should we just leave well enough alone. Should we do something different? Is there an approach we haven't even thought of here?

PARTICIPANT: Well, I would say from GL's standpoint that they've never been in support of a fee matrix, and don't think that that has really any good basis, it's not very flexible, it's not transparent. It's so out of date it's charging us right now for things we haven't done in six years or decades. So that to me shouldn't even be a consideration going forward. Though I do applaud the NRC for taking a look at.

The other would be one of the reasons I think they are looking at it is the disproportion between the Cat 1 being twice a nuclear power plant. But if you look at the scale, how could you positively set forth to say, you're three orders of magnitude less, and the NRC considers you twice as risky as a nuclear power plant. That clearly should not be a continued practice.

If you thought that, then you could take a sketch, run fuel fabs out of this and move them into a nuclear power plant, if they're as risky as a nuclear power plant. So that's kind of just what I was thinking, but it still takes a large amount, something like twice as much as a nuclear power plant for the last couple of years. Or a factor of 1000 less of risk. So I do applaud you all looking into it, I hope you make it more sense.

Within the fuel fab that I haven't, there's nothing so radical as that. But a third approach that you all have not considered, that I would add now is that you could remove the Cat 1, because they are covered by government. And that would prevent the government from charging the government, and you could put those, by rulemaking, into the correction column.

I'm going to just to pick a number, say 90%, do 80% and include the Cat 1, or call them just covered by the government if you include it in that overhead amount, not recovered.

That's just one other way to look at this and skin the cat and not burden the type of -- that will not try to burden it through a Cat 1. So this is a step in the right direction, but maybe not all the way, because you failed to push a large amount over to the non-Cat 1.

MR. RAMSEY: Okay.

PARTICIPANT: Thank you.

MR. RAMSEY: Anybody else?

MR. SMITH: This is Tyson Smith. I do not support this change. I think the old method worked just fine. It seems to be relatively stable, it hasn't changed much. I'm not seeing a driver for a change here. While I appreciate the effort to try and simplify the way fees are charged, I don't think that should come at the expense of no longer reasonably reflecting the cost of regulatory services that are provided.

You know, frankly I just don't see how you can lump a conversion facility that only handles natural uranium into the same category as, you know, a high enriched uranium fuel fabrication facility. I think those are just too different of a type of facilities to treat them all the same. And I think if you, as a result, I don't think that this approach would pass muster under OBRA.

MR. RAMSEY: Well, that was Tyson Smith who just spoke there. This is Kevin Ramsey again. I would like to point out that we're not really trying to bill on risk, we're trying to bill for the services we provide. So keep that in mind. But in fairness, if you think about it, after the 9-11 attacks, we put out a lot of security orders.

Now, when terrorist attacks happened, the only people who were required to have any physical protections, plans, or you know, guns and guards, were the people who had enriched uranium. But afterwards, we started imposing those physical protection requirements on natural uranium and by-product material.

And so in many cases, trying to get people who'd never done it before up to speed required more effort than working with people who'd been doing it for years. On top of that, we have the natural phenomenon concerns that came up after the earthquake in Japan. And as you all know, that involved a lot of work across the whole business line.

So in recent years, a lot of our effort has been to a large extent much more uniform across the business line. Because things that we were only doing for enriched uranium we're pretty much doing for everybody now, at least on the security side. And I know there's variations. But there's a lot of different factors that go into what we're spending our time on.

MR. SMITH: I think it's, and I

appreciate that, and I accounted for all of those different factors. You know, if you look at your current matrix, the level of effort that the NRC has been relying on for 15 plus years has the level of effort at, for a conversion facility, at one-quarter of that of a fuel fabrication facility, HEU fuel fab facility. It's about half that of the enrichment facilities.

And yet in, you know, proposing to, in one fell swoop, more than, you know, double the annual fee paid by that facility, without any demonstration that what is currently being used is unreasonable. And so that's the part that I'm not, I don't understand.

And when you look at, and I know when you delve into the guidance, what you will find is that you know, a lot of the guidance touches on things that do not apply at Metropolis, they're a conversion facility, like criticality and things like that. ISAs they're not required for Metropolis, whether they volunteer for that or not.

So that's my concern, I just don't think that looking at documents is an insufficient way to measure the level of regulatory effort that's being provided. It's too high level and isn't granular enough, given the disparity and the types of facilities that are being regulated.

I mean if we're, in the comment from the last person who spoke about removing certain types of facilities from this, you know, if you want to do that, it seems like a conversion facility, which is a Part 40 facility, perhaps then should be more associated with uranium recovery facilities and other Part 40 facilities, rather than Part 70 facilities.

So just that difference between the -- it is a level of risk, but it's also about the types of material that are there and the level of risk at the facility is reflected within the guidance documents. I just think that it cannot be treated uniformly. That's too broad of a brush to paint with for something as significant as a 2.5% increase in fees.

MR. RAMSEY: Okay. Any other commenters?

MR. SHACKELFORD: Yeah, let me make a comment. This is Randy Shackelford from Nuclear Fuel Services. With regard to the matrix, of course NFS is a Cat 1 facility. We're not in favor of that, using that matrix. Primarily because if we're looking at providing equity for billing for services provided, I don't think the matrix really does that.

You know, yeah, granted we used the matrix for a long time, but I don't think it's fair and equitable.

MR. RAMSEY: Okay. Was there somebody else on the bridge who wanted to speak? Okay, so going on to Slide 15. This is just summarizing a lot of the things we've already discussed. So when it comes to the data, if you want, we'd be very interested in feedback on, should we, or additional feedback that we don't have already.

Should we be comparing the billing data for direct services to the fee matrix? And should we be comparing the document data to the fee matrix? And anything else that we should be, any other data you think we should be looking at? We're very interested in feedback on those items.

On Slide 16, of course with regard to the approaches, should we keep using a fee matrix? Should we change to the uniform approach or the combination approach, or something else, if somebody has a better idea? Feedback on anything along those lines would be useful.

Let's go to last slide. And like I said, I just want to re-emphasize, no decisions have been made. What we have been asked to do is provide a status report to our senior management in the February time frame. And we're going to do that, based on what we've heard at this meeting and any other input you want to provide us. If you can get that to us by January 17, we can provide that with the status report.

The reason we're asking for January 17 is not to send you home for the holidays with homework, but that'll give us an opportunity to review your feedback, and if we have any questions about clarifying what you said and verifying that we understand what you mean, we could do that during the week of the 22nd, and get that all folded into our status report.

That's just a status report. Like I said, we're not proposing any changes to the fee matrix in the FY18 fee rule. The FY19 fee rules, CFO won't be asking us for input until June. So we have between now and June to keep kicking this around. If you have a brilliant thought after you leave here, please share it with us. But that's the schedule that we're working to right now. Any questions?

MR. SHACKELFORD: Just some final comments from NFS. You know, first, we really appreciate your interest in working with the industry on this topic. It's an important topic for not only NFS but the entire industry.

Second, we recognize that progress has been made on the fee reduction and building improvements, and we hope that continues. NFS, along with the industry, the rest of the industry, we're interested in understanding the basis for the fees to the extent that we can. You know, the details behind the fees, the number of FTEs, the total fee budget.

We also want the fees to be fair and equitable relative to the risk of protecting the public and the environment. Also relative to the services that the NRC is providing to the facilities. Transparency is very important because of interest from our customer and our ability to communicate the basis of the fees with the customer.

For NFS, the fees are a significant portion of our operating costs. And as you've seen in the slides, you heard from Dave Spangler, with regard to the Cat 1's, it's a substantial contribution to the annual fees from the two Category 1 facilities.

And then finally, NFS will be planning to provide comments in writing.

MR. RAMSEY: Okay, thank you.

MR. ZIMMERMAN: This is Jake Zimmerman from NRC. Janet, I'm going to turn to NEI and maybe put you on the spot a little bit, but I'd be interested, you know, we really want to know if you think there's a better way. And can't help but think, you know, NEI, you charge a fee for your members.

And I'm just curious, do you have some sort of a matrix, do you charge all of your members the same exact fee? You may not be able to tell me, but is there some way that you've determined, perhaps, that either today you could share, or through your formal feedback, that may help us to come up with a better way?

This is what we've come up with, but we certainly are interested in your feedback and views on how we could do it better or differently. Or is the same okay?

MS. SCHLUETER: Right, yeah, I don't think I'm at liberty to discuss NEI members' fee membership matrix, although I will say it's not a uniform approach, okay. But I think as an industry, we thought about this a little bit, the slides were very helpful. We've gotten a lot of good questions out on the table today and information back.

I think we do need to go back and see if there's some other alternative that maybe we can come up with. I'm not sure we can, but I think it is incumbent upon us to try to do that. Take in what we've heard, obviously there's a diversity of opinion, because it doesn't matter how you slice and dice this. I mean, any way you do it, unless you do the uniform approach, there's going to be winners and losers.

It's just a matter of the numerator, as I think Randy was getting at. You know, how big is the pie that you're trying to cut up? We want the pie smaller, I know we're not here to talk about the size of the pie, but that is fundamentally where we're at.

So we'll put our thinking caps on and see if we can come up with some alternative that hasn't dawned on us yet based on what we reviewed in the slides. But maybe the conversation today will lead us somewhere. And we will get your comments on or before that date.

MR. RAMSEY: Okay, and this is Kevin Ramsey. Let me point out one thing that we didn't mention, just so you have that to the back of your head. If we implement a change, especially something as drastic as what we've thrown up there, we recognize the financial burden as their annual fee shoots way up. So we are completely open to phasing in any changes.

If you want to provide any thoughts about, well, if there is an increase, I want it phased in over whatever period of time you think is reasonable for your operating budgets. I mean, we're not, we don't want to drive anybody into bankruptcy, but we want to, we're hoping to improve the process.

MR. ERLANGER: This is Craig. I'd just like to mention, as Kevin articulated early on, today's focus was on the Fuel Facilities Fee Matrix.

The Agency, though, is looking at fees across the board, and there are many initiatives on their way, they've been going on for some time, ranging from our fee transparency project to what the actions we took under Project Aim. And we are looking at all these items.

What we want to do today though is really hone in on the matrix itself. As Kevin mentioned, at the end of the day, there will be an aspect where we need to apportion, no matter what that number is. So I appreciate, I didn't want to -- I wanted to let you know that as an agency, we are looking at the broader issues associated with fees. Thanks.

MR. RAMSEY: Okay. Any final comments from anybody on the bridge? Hearing, none, we are adjourned. Thank you.

(Whereupon, the above-entitled matter went off the record at 3:12 p.m.)