FY 2019 Fee Rule Public Meeting on February 13, 2019

Richard Rivera-Lugo, Project Manager in the Office of Nuclear Reactor Regulation, was the Facilitator for this meeting. The facilitator, opened the meeting, stated the purpose of the meeting, his role, and explained the objectives of the Category 2 public meeting, which included NRC interaction with stakeholders during designated times on the agenda.

Mr. Rivera-Lugo was followed by Maureen Wylie, NRC Chief Financial Officer (CFO), who thanked all for attending (either in person, by phone, and via webinar). Ms. Wylie explained that the purpose of the meeting was to highlight the NRC's FY 2019 fee rule and to enhance the dialogue about fees. She noted that the FY 2019 Proposed Fee rule was published on January 31, 2019, only two days behind schedule because of the government shutdown. Ms. Wylie indicated there's an increase in the professional hourly rate from $275 in FY 2018 to $278 in FY 2019 due to a decrease in the number of mission-direct FTEs primarily due to the standardization and centralization of mission support functions, and the transition of Wyoming to agreement state status. Ms. Wylie presented her fellow panelists, followed by a discussion on NRC's budget and fees for FY 2019. She discussed that the Omnibus Budget Reconciliation Act of 1990, also known as OBRA-90, as amended, requires that we collect approximately 90 percent of our current year appropriation. She indicated there are two parts to 10 CFR that cover the collection of fees; Part 170 fees for service at an hourly rate and Part 171 annual fees. Ms. Wylie stated that on January 14, 2019, the Nuclear Energy Innovation and Modernization Act (NEIMA) was signed into law. She briefly explained the three objectives of the Act and indicated that Stephanie Coffin, Director of the Division of Budget and Planning within OCFO, would provide more details on this new legislation later in the presentation. Ms. Wylie took a moment to address the potential for out-of-scope comments. She stated that over time we've received out-of-scope comments, but over the last few years we've noticed a significant decrease in those due to NRC's increased outreached and dialogue over the years. Ms. Wylie stated that we are continually evaluating our fee-setting process to determine improvements to increase transparency, equitability, and timeliness.

Ms. Wylie, then began a detailed explanation of the budgetary considerations used in the development of the fee schedules. She discussed that the FY 2019 proposed rule is based on the Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019, enacted on September 21, 2018. Ms. Wylie indicated the Act appropriated $911.0 million to the NRC which is a decrease of approximately $11 million from FY 2018. Ms. Wylie stated this amount does not include the use of carryover since the NRC doesn't charge fees on carryover. Ms. Wylie explained what was meant by the term "carryover" and continued by stating the FY 2019 appropriation was reduced to account for Congressional direction to use $20 million in prior year unobligated carryover. Ms. Wylie explained that to develop the fee schedule certain amounts are excluded from fee recovery. The excluded amounts fund international activities, advanced reactor technologies regulatory infrastructure, waste incidental to reprocessing activities, Inspector General services for the Defense Nuclear Facilities Safety Board, and generic homeland security activities. In FY 2019, the total excluded was $43.4 million, a slight decrease from FY 2018.

For FY 2019, after deducting the excluded items and making some minor billing adjustments, the NRC proposes to collect approximately $781.9 million in fees, a decrease of $7.4 million from FY 2018 collection target. Ms. Wylie continued to explain the Professional Hourly Rate calculation which is relevant to the Part 170 fees for service billings. Ms. Wylie defined the terms "Mission-direct program salaries and benefits," "Mission-indirect program support," and

“Agency support (corporate support and the IG)” which are the types of resources that are used to calculate the Professional Hourly Rate. Ms. Wylie indicated that overall, the budgeted resources to be included in the Professional Hourly Rate calculation decreased by $9.0 million or 1.2%. However, the Mission-Direct Program Salaries and Benefits component of the Professional Hourly Rate increased this year by $9.0 million or 2.8% from FY 2018. She explained the FTE, or full time equivalent, reductions taken in FY 2019 in response to the decreased projected workload were not sufficient to counteract the increases in the Mission-Direct Program Salaries and Benefits component. She continued that, as in other Federal agencies, the NRC workforce is aging. Accordingly, associated benefits have increased, such as healthcare and pension costs, which contributes to the rising cost of salaries and benefits. Ms. Wylie continued with a discussion on Part 171 Annual Fee billings. She indicated that generally, annual fees decreased due to decreased budgets based on workload reductions; however, there were increases for some licensees. She explained that while budgetary resources remained relatively stable in FY 2019 as compared to FY 2018, for Operating Power Reactors the annual fee increased because estimated part 170 billings declined, primarily due to decreases in both licensing actions and inspections resulting from the shutdown of the Oyster Creek reactor at the end of FY 2018, the planned shutdown of Pilgrim and Three Mile Island reactors during FY 2019, the completion of the APR1400 design certification for Korea Hydro and Nuclear Power Co., LTD, and the replacement of the 6 percent automatic overhead charge for PMs and RIs, with new directly billed docket-related cost activity codes. She also mentioned the reduction of operating reactors (from 99 to 98) over which to spread the budgeted resources contributed to the increase in annual fees. Ms. Wylie explained NRC’s programmatic budget is comprised primarily of Staff/Full Time Equivalents (about two-thirds of the budget) versus contract support which is roughly one-third of the budget. She indicated that one of the challenges associated with this fact is that reductions in FTE don’t always result in an overall decrease in the budget.

Ms. Wylie indicated that for Materials Users, some licensees saw increases due to a realignment of resources that supported regulatory activities that, in previous years, were allocated to fee relief. For the Department of Energy Transportation licensees, the increase is mainly due to an additional Certificate of Compliance, from 21 in FY 2018 to 22 in FY 2019.

Ms. Wylie continued with a description of how the budget is developed in terms of its structure to serve as a baseline for all the following presentations. She closed her presentation stating the purpose of the business line budget discussions is to continue NRC’s efforts to be transparent with the budgeting process and to share where stakeholder input could help in the process.

Ms. Wylie turned it over to Russell Felts, Deputy Director of the Division of Risk Assessment in the Office of Nuclear Reactor Regulation (NRR), and Jane Marshall, Deputy Director of the Division of Safety Systems in NRR, to present an overview of the Operating Power Reactors business line. Ms. Marshall gave an overview of the products falling within the Operating Power Reactors business line. She said that the Operating Reactors business line is composed of mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. She stated that the majority of the business line resources are mission-direct and they fund the NRC’s core activities, including Event Response, Licensing, Oversight, Rulemaking and Research. Mr. Felts provided an overview of some of the activities accomplished by the Operating Reactors business line. Next, Ms. Marshall discussed how the budget is developed using workload forecasting and how it is influenced by the type of work, the amount of work, and the complexity of it. She stated that historical data is also considered. Mr. Felts followed with a description on how the enacted budget changed for the business lines from FY 2018 to FY 2019.

Mr. Felts then turned it over to Anna Bradford, Director of the Division of Licensing, Siting and Environmental Analysis in the Office of New Reactors, to share similar information for the New Reactors business line. Ms. Bradford gave an overview of the product lines falling within the New Reactors business line which are also grouped as mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. Ms. Bradford provided an overview of some of the activities within each of the product lines for FY 2019. Next, Ms. Bradford discussed how the budget is developed based on their planned activities. She indicated the New Reactors business line budget is developed by workload forecasting, communication with stakeholders, and historical data. Ms. Bradford followed with a description on how the enacted budget changed for the business lines from FY 2018 to FY 2019. She indicated there is an overall decrease of $4.5 million in the FY 2019 enacted budget when compared with the FY 2018. She explained the key drivers for the reductions include the completion of the Advanced Power Reactor-1400 Design Certification and the completion of Regulatory Guide 1.206. Ms. Bradford mentioned the increase in the Research product line is to support the infrastructure development for Advanced Reactors; and that the primary increases in Rulemaking are to support Part 50/52 rulemakings, and design certification rulemakings for designs with a completed safety review.

Ms. Bradford then then turned it over to Ms. Stephanie Coffin, Director of the Division of Budget and Planning in the Office of the CFO to explain why the Operating Power Reactors fee class annual fee is increasing. Ms. Coffin indicated the proposed annual fee is increasing by 8.4 percent, and the total budgeted resources essentially stayed flat from FY 2018 to FY 2019. She indicated that there was an increase in the overall for the operating reactors business line. She also stated, that there was an offsetting decrease in the New Reactors business line so overall it's flat. Ms. Coffin explained that the reasons why the annual fee isn’t staying flat are the removal of Oyster Creek from the fee class; the Low Level Waste and Fee Relief Adjustment changed from being a credit in 2018 to being a surcharge in 2019 and the Part 170 estimated billings decrease which Ms. Coffin further discussed in detail.

Ms. Coffin then turned it over to Mike King, Director of the Division of Fuel Cycle Safety, Safeguards and Environment Reviews in the Office of Nuclear Material Safety and Safeguards (NMSS). Mr. King gave an overview of the activities within the Fuel Facilities business line which is composed of mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. Next, Mr. King discussed how the budget for the Fuel Facilities business line is developed. He indicated the Fuel Facilities business line budget is developed by using workload forecasting, communication with stakeholders, and historical data. Mr. King followed with a description on how the enacted budget changed for the business line from FY 2018 to FY 2019. He indicated that overall, in FY 2019 there if a decrease of $1.9 million in the Fuel Facilities budget, including a reduction of 18 FTE compared with FY 2018. Mr. King followed with a brief explanation for the FY 2019 budget changes. After that, Mr. King explained why the annual fee for the Fuel Facilities fee class is decreasing. He indicated that in FY 2019 the annual fee is anticipated to decrease on average approximately 7.4 percent across the Fuel Facilities fee class. Mr. King explained the reasons for this decrease. Mr. King discussed how the staff conducted several public meetings in 2018 where alternative methods for calculating annual fees were explored. He explained that the staff received mixed feedback as to whether the NRC should continue working on changes to the methodology for calculating fees and ultimately made the decision to continue the existing methodology for calculating annual fees for fuel facilities and continue ongoing efforts to identify potential reductions of budgeted resources. He indicated that going forward, the NRC is focusing efforts to align the program of work in the Fuel Facilities area to workload projections and continue to risk-inform the regulatory framework for these activities.

Mr. King turned it over to Kevin Williams, Deputy Director of the Division of Materials Safety, Security, State and Tribal Programs in NMSS. Mr. Williams gave an overview of the product lines falling within the Nuclear Materials User business line which are also categorized as mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. Mr. Williams provided an overview of some of the activities within each of the product lines for FY 2019. Next, Mr. Williams discussed how the budget is developed. He explained the Nuclear Materials User business line budget is developed by using workload forecasting, communication with stakeholders, the evaluation of the complexity and type of work, and historical data. Mr. Williams followed with a description on how the enacted budget changed for the Nuclear Materials Users business line from FY 2018 to FY 2019. He indicated that overall, in FY 2019 there is a decrease of approximately $1.3 million including a reduction of 8 FTE in FY 2019 enacted budget when compared to FY 2018. Next, Mr. Williams explained why the Materials Users annual fees are decreasing for some and increasing for others.

Mr. Williams turned it over to John McKirgan, Chief of the Spent Fuel Licensing Branch in NMSS. Mr. McKirgan gave an overview of the product lines within the Spent Fuel Storage and Transportation business line, which is composed of mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. He provided an overview of some of the key activities within the business line for FY 2019. Next, Mr. McKirgan discussed how the budget is developed. He explained the Spent Fuel Storage and Transportation business line budget is developed by using workload forecasting, communication with stakeholders, the evaluation of the complexity and type of work, and historical data. Mr. McKirgan followed with a description on how the enacted budget changed for the Spent Fuel Storage and Transportation business line from FY 2018 to FY 2019. He indicated that overall, there is a decrease of $1.8 million including a reduction of 3 FTE in FY 2019 enacted budget when compared to FY 2018. Next, Mr. McKirgan explained why the Spent Fuel Storage/Reactor Decommissioning fee class annual fees are decreasing. After that, he explained why the Transportation fee class annual fees are increasing.

Mr. McKirgan turned it over to Bo Pham, Deputy Director of the Division of Decommissioning, Uranium Recovery and Waste Programs in NMSS. Mr. Pham gave an overview of the product lines within the Decommissioning and Low-Level Waste business line, which is composed of mission-direct resources, mission-indirect resources, and some resources that are excluded from the fee base. He provided an overview of some of the activities within the business line for FY 2019. Next, Mr. Pham discussed how the budget is developed. He explained the Decommissioning and Low-Level Waste business line budget is developed by using workload forecasting, communication with stakeholders, the evaluation of the complexity and type of work, and historical data. Mr. Pham followed with a description on how the enacted budget changed for the Spent Fuel Storage and Transportation business line from FY 2018 to FY 2019. He indicated that overall, there is a decrease of $2.7 million including a reduction of 12 FTE in FY 2019 enacted budget when compared to FY 2018. Next, Mr. Pham explained why the Uranium Recovery fee class annual fees are stable.

Mr. Pham turned it over to Ms. Coffin to discuss NRC's Corporate Support business line. Ms. Coffin reinforced how critical stakeholders input is in the budget formulation process. She encouraged continuing communications especially when major changes are coming that will have resource implications.

Ms. Coffin gave an overview of the product lines within the Corporate Support business line and provided examples of specific activities. Next, she discussed how the enacted budget changed for the Corporate Support business line from FY 2018 to FY 2019. She indicated that overall, there is a decrease of $3.4 million in FY 2019 enacted budget when compared to FY 2018. Next, Ms. Coffin explained the impact on fees. She indicated that the Corporate Support business line is embedded in all fees, in both Parts 170 and Part 171 through the fully costed FTE rate. She indicated that the NRC is mindful of overhead costs and always looking for efficiencies in this area. Ms. Coffin indicated that the near-term focus continues to be the NRC's real estate footprint and making smart investments in Information Technology that will pay off with efficiencies in the future.

Ms. Coffin turned it over to Richard Lugo which facilitated the first Q&A session followed with a 10-minute break to continue the meeting at 2:45pm. Ms. Wylie welcomed everyone back and turned it over to Michele Kaplan, License Fee Policy Team Leader in the Office of the CFO.

Ms. Kaplan provided an overview of the statutory and regulatory framework for the agency's fee collection. She followed with a description of the timeline for producing the fee rule. Ms. Kaplan explained the calculations to obtain the Part 171 and Part 170 fees to be collected. She explained that to arrive at our total budget authority of $911 million we exclude the amounts for advanced reactors, international activities, generic homeland security, and the IG services for the Defense Nuclear Facilities Safety Board which totaled $43.4 million to obtain a balance of $867.6 million. She then explained that the fee recovery rate of 90 percent is applied to this balance to obtain the total amount to be recovered ($780.8 million). Next, she explained that billing adjustments are added (timing adjustments for billings) which this year is $1.1 million. This results in an adjusted recovery amount of $781.9 million. She explained that we calculate the amount we estimate to collect in Part 170 billings ($246.7 million) which is then deducted from the adjusted recovery amount of $781.9 million to arrive at our total of $535.2 million for Part 171 collections. Ms. Kaplan provided a summary of NRC's total appropriation for the fee schedule development. She followed with a description of the types of fee relief, the 10 percent of the budget that is excluded from fee recovery. She described the first type would be activities not attributable to an existing NRC license or class of licensee and provided examples. Then she indicated the other type is activities not assessed fees based on existing law or Commission policy and provided examples. Ms. Kaplan presented the percentage of budgeted resources for FY 2019 by License Fee Class and indicated Operating Power Reactors fee class is the largest fee class. Ms. Kaplan followed with a description of the Professional Hourly Rate methodology and discussed the rate calculation. Ms. Kaplan discussed the status of the fees transformation initiative to increase transparency, timeliness and equitability to the fee-setting process. She indicated that originally, over 40 process and policy improvement activities were approved by the Commission to be completed between 2017 and 2020. Ms. Kaplan stated that for FY 2017, FY 2018 and FY 2019, 100 percent of the improvements were completed. For FY 2020, there are six of which two of them have been completed and the four that remain are on track for timely completion. Ms. Kaplan provided a list of information resources and the respective websites.

Ms. Kaplan turned it over to Ms. Coffin. Ms. Coffin provided a description of the budget related provisions that are in the Nuclear Energy Innovation and Modernization Act (NEIMA). She reemphasized that these will be effective in FY 2021 but there is work to be done now in order to prepare and implement the requirements that are in the Act.

Ms. Coffin turned it over to Mr. Rivera-Lugo which facilitated the final Q&A session. After it concluded, Mr. Rivera-Lugo turned it over to Ms. Wylie. Ms. Wylie indicated that she sees the short Question & Answer session as a sign that the NRC's work paper transparency is improving and the Agency will continue to work on transparency. Ms. Wylie reminded the participants that comments for this rulemaking are due on March 4th. She also thanked NEI and the nine licensees participating in the e-billing project. She indicated we are on schedule to complete that project and roll out the first phase by October 1st. Ms. Wylie then thanked all attendees and concluded the meeting at 3:12pm.