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NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON THE FISCAL YEAR 2022

PROPOSED FEE RULE

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THURSDAY,

MARCH 17, 2022

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The Public Meeting convened via Video Teleconference, at 10:30 a.m. EST, Anthony Rossi, Facilitator, presiding.

NRC STAFF PRESENT:

ANTHONY ROSSI, OCFO, Facilitator

CHERISH JOHNSON, Chief Financial Officer

BILLY BLANEY, OCFO

CHRISTIE GALSTER, OCFO

JO JACOBS, OCFO

JASON SHAY, OCFO

BRIAN SMITH, NRR

ALSO PRESENT:

JOHN BUTLER, NEI

STEVEN DOLLEY, S&P Global Commodity Insights

ERIC JEBSEN

HILARY LANE, NEI

C-O-N-T-E-N-T-S

P-R-O-C-E-E-D-I-N-G-S

10:30 a.m.

MR. ROSSI: Good morning and welcome to this public meeting to discuss the NRC's fiscal year 2022 proposed fee rule. My name is Anthony Rossi. I am the team leader of the License Fee Policy Team in the Office of the Chief Financial Officer.

The purpose of this meeting is to discuss with the nuclear industry and other stakeholders the fiscal year 2022 proposed fee rule and the budgetary considerations associated with this proposed rule.

The fiscal year 2022 proposed fee rule was published in the Federal Register on February 23rd, 2022, for a 30-day comment period, which ends March 25th, 2022.

Members of the public will have an opportunity to communicate with the NRC staff during the question and answer period of the public meeting.

We are using Microsoft Teams to conduct this meeting. The presentation will be shown using the Microsoft Teams meeting link that was provided in the meeting notice. You may also access the slides in NRC's A-D-A-M-S, or ADAMS system from the NRC website. ADAMS is the NRC's electronic document management system, and the slides are accessible at the ADAMS accession number M as in Mary, L as in Lucy, 22075, A as in apple, 326.

The slides have also been posted to the meeting notice on the NRC's public website. We will periodically alert attendees to the slide number we are on so that attendees may follow more easily.

We hope that the use of Microsoft Teams will allow stakeholders to participate more freely during the meeting. To minimize background noises and distractions we ask that you please mute your phones unless you are speaking for the purposes of this meeting.

To help facilitate the question and answer portion of the meeting we recommend that you utilize the raise hand feature in Teams so we can more easily identify who has a question or comment and call on the individual to ask their question. You can also use the chat to alert us that you have a question. Please do not use the chat to address any technical question. The chat is not part of the official meeting record and is reserved mainly for handling virtual meeting logistical issues.

To minimize interruptions and for

logistical purposes we will first call on participants who have used the raised hand feature or chat to identify that they have a question.

If you joined the meeting using Microsoft Teams bridge line, you will not have access to these features. If you joined using the bridge line and you would like to ask a question or provide a comment, you will need to press *6 to un-mute your phone. After your comment has been discussed, your phone line again will be muted, so if you want to ask additional questions, you will have to press *6 again to un-mute yourself.

Thank you in advance for your patience as we continue to adjust to a remote working environment.

A summary of this meeting will be prepared by NRC staff and placed in ADAMS where it will be publicly available. Our goal is to have the meeting summary completed within 30 days after the meeting, 30 working days after the meeting.

At this time, I will turn the meeting over to the NRC chief financial officer, Cherish Johnson, who will discuss the agenda for today's meeting. Thank you.

MS. JOHNSON: Thanks, Tony.

Good morning. I'm Cherish Johnson, the chief financial officer at the NRC. I'm very happy to be here today to participate in our continued dialogue with our NRC stakeholders and discuss the FY 2022 proposed fee rule with you.

I'd like to take the opportunity to appreciate my staff's support in the development of the fee rule, continued support of the NRC offices and to thank you, our stakeholders, for your participation and support in our second virtual fee rule meeting.

We're excited to present this proposed fee rule to our stakeholders and we hope to continue to enhance our dialogue as we have such as meetings like this.

Next slide, please? As we've done in previous years we're going to start with a review of the key highlights within the budget and the proposed fee rule, and then will be followed by a license fee policy overview and a presentation of the Reactor Safety Program. We'll then move into the Q&A segment of today's meeting that Tony just described.

I'll next introduce my fellow panelists

that will be talking with you today. First is Jason Shay, the budget director, who will be discussing how our budget reflects our activities and the relationship between the budget and the fees. Christie Galster, a senior accountant on the Proposed Fee Policy Team. She'll provide a license fee policy overview of our FY 2022 fee rule. And Brian Smith, the division director within the New and Renewed Licenses in the Office of Nuclear Reactor Regulation, or NRR, will discuss the Reactor Safety Program, which consists of the operating and new reactors business lines.

After these presentations from the panelists, we'll have the question and answer session and provide information how you can also submit comments on this proposed rule.

Next slide, please? Just a reminder as we get started is we wanted to emphasize the type of comments for the conversation today and what we consider would be in scope. As just a reminder, some of those examples would be things regarding the methodology for calculating the fees or changes to the fee regulations or the fee schedules themselves. Some examples of out-of-scope comments that we would not be able to address today are agency efficiencies and our mission goals, streamlining the regulatory practice, or reviewing or changing technical guidelines as an example. Even though we do want to hear from you on these types of questions, this is not the right venue that we'd be able to answer those questions, and so we recommend that you do please reach out to the appropriate persons.

And as always, we do welcome your questions as well as your formal comments and look forward to these dialogues, and I want to again thank everyone for their participation.

And I'm going to turn the meeting over to the budget director, Jason Shay, who will provide our budget overview on the key considerations that relate to the FY '22 proposed fee rule.

MR. SHAY: Thank you, Cherish.

Good morning. Again, my name is Jason Shay, the budget director in the Office of the Chief Financial Officer. It's a pleasure to be here today. My goal over the next few slides is to provide an overview of the fiscal year 2022 budget including authorized carryover and the relationship between budget and fees.

So, next slide, please? Slide 7. The NRC issued the FY 2022 proposed fee rule based on the FY 2022 budget request as further described in the FY 2022 congressional budget justification, however, as most of you may know, the FY 2022 Consolidated Appropriations Act was signed into law on Tuesday by the President. The budget authority amounts within the bill match the NRC's FY 2022 request for both NRC salaries and expenses, and also the Office of the Inspector General appropriations. In addition, fee revenue and net appropriation amount also match the NRC's CBJ request.

So, if I can draw your attention to the FY 2022 enacted budget column in the chart, the FY 2022 enacted budget total is $887.7 million, which is an increase of 43.3 million, or five percent, when compared to the FY 2021 enacted budget. The FY 2021 enacted budget did include $35 million of authorized carryover, $16 million of which was for the University Nuclear Leadership Program, and $19 million to offset the NRC's FY 2021 budget request.

As was the case last year, the FY 2022 Consolidated Appropriations Act, via the explanatory language directs the NRC to use $16 million of authorized carryover to fund the University Nuclear Leadership Program, which is formally known as the Integrated University Program.

The FY 2022 enacted budget increased in the Reactor Safety Program by $24.6 million as indicated on the chart. Increases were basically for salaries and benefits increases consistent with OMB guidance, for IT resources to expand the mission analytics portal; and this is a tool used to enhance the Agency's approach to workload planning and analysis, budget planning, communications, and outreach, and also decision making. It also increased for the planned technical review of three advanced reactor COLs, and it also increased for the 10 CFR Part 53 technology-inclusive, risk-informed, and performance-based regulatory framework rulemaking.

There was also a relatively small increase to the Nuclear Materials and Waste Safety Program of $4.6 million, and that was primarily for salaries and benefits also per OMB guidance. And it also was increased to fully fund the Integrated Source Management Portfolio including streamlining materials license and external user interfaces and to enhance tools for materials tracking.

I do want to highlight that the corporate support budget was reduced by $5.1 million as compared to the FY 2021 enacted budget and the Agency did meet the NEIMA corporate support cap of 30 percent of the total agency budget.

I talked briefly about carryover and I kind of want to define what is meant by the term carryover. The term carryover may be used to describe funds that were appropriated but not obligated in a prior fiscal year or funds that were de-obligated because the funds were no longer needed in subsequent fiscal years.

For example, let's say there is a change in workload between the time that we formulate and the time -- formulate the budget and the time we execute the funding. These changes, while normal, may cause delays in utilizing the budget resources and thus may be carried over in subsequent years resulting in additional carryover.

In addition, carryover can increase if a contract ends and work was completed, but resources remain on that contract. These resources can be de-obligated which may result in carryover for the

Agency.

And lastly, carryover can increase if there are delays in hiring. The time between when an employee leaves and when that backfill onboards creates unused salaries and benefits, which may result in additional carryover.

So, I do want to give you some history on the authorized carryover amounts in the previous fiscal years, which has varied. So again, in 2022, as mentioned above, the NRC received congressional direction to use $16 million of carryover to fund the UNLP, or the University Nuclear Leadership Program. In 2021 authorized carryover equaled $35 million, in FY '20 it equated to $40 million, in FY '19 it was $20 million, and then in FY 2018 it was $15 million.

Next slide, please? So effective in FY 2021 the Nuclear Energy Innovation and Modernization Act, or NEIMA, established a revised framework for fee recovery. NEIMA designated fee relief activities identified by the Commission and other specific activities excluded from free recovery as excluded activities. NEIMA requires the NRC to recover to the maximum extent practicable approximately 100 percent of its annual budget less certain amounts from this free recovery requirement.

So as such, the NRC plans to recover $756.7 million of its FY 2022 budget request from fees assessed to licensees. This will result in a net budget authority of $131 million, which is an increase of $8 million when compared to the FY 2021 enacted budget. This increase in net budget authority was primarily the result of an increase in generic homeland security to fully fund the Integrated Source Management Portfolio, as I mentioned earlier in my presentation, and also for advanced reactors regulatory readiness. Now the net budget authority breakout can be found in appendix D of the fiscal -- of the FY 2022 CBJ if you want to reference it later.

Next slide, please? So, this chart is probably our most widely used chart and is included in most of our external presentations and documents, including the CBJ. Since 2014 the Agency's budget has decreased by 16 percent, or roughly $170 million. The Agency has also reduced FTE by 24 percent during that period totaling over 900 FTE. And we do use FY 2014 as a reference year because that was the highest that from a budget perspective the NRC had.

So, with that, I would like to turn the presentation over to Christie Galster to discuss the FY 2022 fee overview.

Christie?

MS. GALSTER: Thank you, Jason.

Good morning. Today I'll be presenting an overview of the fiscal year 2022 proposed fee rule.

Next slide? The statutory and regulatory framework authorizing NRC's fee policy includes the Independent Offices Appropriations Act, or IOAA, which requires that the NRC collect fees for service. This is established under 10 CFR Part 170. These services provide a specific purpose and have identifiable recipients who are billed as hours expended times the NRC hourly rate. Examples of these services are activities such as license reviews and inspections.

The other law affecting NRC fee collections in NEIMA, Nuclear Energy Innovation and Modernization Act of 2018, which requires the NRC to recover to the maximum extend practical 100 percent of its annual budget minus certain excludable activities. NEIMA also sets a ceiling on the annual fee for power reactors at the 2015 rate as adjusted with yearly inflation.

The annual appropriation enacts the NRC's budget authority to which we formulate the required free recovery amount. If absent, the CBJ requested budget acts as a budget authority. As Jason mentioned, Tuesday, March the 15th, the NRC received its 2022 signed appropriation to be utilized in the final fee rule of 2022.

Next slide? As stated in the proposed '22 fee rule, the budgetary authority for salaries and expense and the Office of Inspector General are described in the CBJ, which totals 887.7 million. This is an increase of 43.3 million from the previous year. This slide illustrates the budget and free recovery for the proposed fee rule for 2022.

As you can see in the top circle on this slide, NRC's budget authority minus the excluded activities of 131 million calculates the fee base budget of 756.7 million. The recovery rate is 100 percent resulting in a required recovery amount of 756.7 million equaling the free base budget.

Below that top purple circle is NRC's Part 171 billing adjustments, or timing adjustments. This reduces the fee recovery by 4.5 million. In the second circle this displays the adjusted fee recovery totaling 752.2 million to be collected within a combination of Part 170 fees and 171 fees.

Below are two subsets of the budget authority excluded activities. First, we have the fee relief resources authorized by the Commission totaling 91.5 million and the second set of statutory activities specifically identified within NEIMA regulation totaling 39.5 million, which equals the 131.1 million of excluded activities.

Next slide? And important step in estimating Part 170 fees is developing the hourly rate and understanding the components that are involved. In developing the hourly rates budget the components include the mission direct salaries and benefits, mission indirect resources which support the Agency's core activities such as supervisory and administrative assistant support. The third component is the agency support which consists of the corporate support business line along with the Inspector General funding. These three components sum to the 743.4 million in the budgetary resources that are included in the Part 170 hourly rate.

The final step is multiplying the mission direct FTEs of the 1,694 by the mission direct FTE productive hours of 1,510, then dividing by the budgetary resources of the 743.4 million up top. This calculates the Part 171 hourly rate of $291. This is an increase of $3, or 0.9 percent from the previous year. The hourly rate increase is primarily due to the rise in salaries and benefits to support federal pay raises. This is offset by 10 additional mission direct FTEs in the New Reactor Program for design certifications, pre-application, and COL application workloads.

You can see at the bottom of the slide there's an FTE rate, and this represents the full cost of an FTE. The amount is calculated by utilizing the budgetary resources of that 743.4 million from above divided by those mission direct FTEs, the 1,694.

Next slide? The important distinction between the two pie charts is the corporate support and the IG business lines within the CBJ budget, the pie piece on your left, whereas the resources that are spread -- these resources are spread on the other pie chart under the fee class budgets. These resources are spread utilizing the fully-costed FTE rate.

And as I discussed earlier, the 131.1 million is non-fee recoverable, which is the difference of the two budgets. So, you can see an orange at the bottom. We have the excluded budget of the 131.1 million. This is the excluded activities, the difference between the business line budgets in the CBJ and the fee class budgets that you'll find in the fee rule.

Next slide, please? Illustrated here is the table on operating power reactor annual fees over the last five years along with this year's proposed fee rule annual fee. I'm going to review the four main components of this year's proposed fee rule. You have the budgetary resources, the estimated Part 170 billings, the Part 171 adjustments, and the licensee count.

The budgetary resources allocated to the power reactor fee class is 33.3 million, or 5.4 percent higher than the previous year. You'll see in the '22 proposed fee rule column on your right-hand side which shows the 641.1 million. Factors contributing to the rise include contract support required to develop infrastructure, gaining analytical capabilities, and mobile applications for resident inspectors. New reactors increase support for their licensing activities including design certification reviews and combined operating licensing allegations, as well as the absence of carryover funding that was available in the previous year.

The second component, the Part 170 estimated billings for operating and new reactors, totaled 160 million this year. This declined by 1.6 million, or 1 percent from the previous year. The decrease is primarily due to the denial of Oklo Power's COL application; however, the decrease is offset by the anticipated new reactor Part 170 workload in support of planned reviews/applications expected this year.

Adjustments for the Part 171 rose as a result of the end of the 2021 COVID-19 pandemic deferral of fees, as well as the absence of the prior year's one-time credit for Indian Point Unit 3 midyear termination. The remaining fee recovery is 485.5 million. This is an increase of 43.8 million, or 9.9 percent from the previous year. That total is divided by 94 operating reactors which incorporates the proposed inclusion of Vogtle Unit 3 in the operating power reactor fleet resulting in an annual fee per reactor of 5,000,165.

Next slide? In this slide the spent fuel storage reactor decommissioning fee class is displayed over the last five years again, along with this year's proposed annual fee on the right-hand side.

The 2022 budgetary resources allocated to the spent fuel storage reactors decommissioning fee class is 1.8 million, or 4.3 percent less than 2021. Factors contributing to the decline include the reduction of staff hours and contract funding for ISFSIs, the independent spent fuel storage installation, license reviews, license renewals and amendments, as well was the completion and license issuance for the Interim Storage Partners.

Next the Part 170 estimated billings total 10.3 million, which is a reduction of 25 percent, or 3.5 million from the previous year. The decline was a result of less workload for the ISFSIs, Interim Storage Partners, as well as the near completion of Holtec's Consolidated Interim Storage Facility application.

The third component, the adjustments, rose by around 600,000 as a result of newly-issued certificates of compliance increasing the percentage allocation of generic transportation for this fee class. The result is remaining annual fee recovery amount of 31.3 million, a rise of 2.4 million, or 8 percent from the previous year. That 31.3 million is then divided by the 123 licensees determining the proposed annual fee of 254K.

This concludes the overview presentation on the 2022 proposed fee rule and now I would like to turn it over to Brian Smith.

MR. SMITH: All right. Good morning, everyone. My name is Brian Smith, and I am the director of the Division of New and Renewed Licenses in NRR. I'll be providing an overview of the budget for the NRC's Nuclear Reactor Safety Program, which is comprised of both the operating reactors and new reactors business lines.

The program encompasses licensing and oversight of civilian nuclear power reactors, as well as non-power production and utilization facilities, also known as research and test reactors and medical isotope facilities. The goal of the program is to ensure that those activities are completed in a manner that protects public health and safety. It also provides reasonable assurance of the security of facilities.

The operating reactors and new reactors business lines can be split between mission direct, mission indirect and excluded resources. Mission direct resources account for about 76 percent of the enacted budget of 1,783 FTE in fiscal year '22. Mission indirect resources account for approximately 24 percent of the enacted budget and supports supervisors, administrative assistants, program analysts, and travel needs.

Next slide, please? Licensing and oversight are the most significant mission direct product lines. Examples of some of the activities performed within those product lines are shown on this slide. The NRC ensures the safety and security of operating power reactors and non-power production utilization facilities within our established regulatory framework. We license reactors to operate, and we ensure that new and existing reactor designs meet regulatory requirements. We also oversee the continued safe operation of those reactors through our inspection program.

In the operating reactors business line, we continue to see interest in programs that provide increased operational flexibility as well as upgrades like those associated with digital instrumentation and control systems. Requests for subsequent license renewal, which represents an extension of a license from 60 to 80 years, continue to increase and the NRC has invested significant resources in ensuring that can be done safely.

Oversight activities are the largest portion of the business line and that includes our on-site resident inspectors at each power reactor as well as the safety and security inspections conducted out of our four regional offices.

In the new reactor business line, the technical review for the NuScale small modular reactor design certification was completed in August of 2020 and the staff is currently undergoing rulemaking to certify that design in August of this year.

The NRC continues to review license amendment requests for Vogtle Units 3 and 4. Construction inspection at Vogtle Units 3 and 4 is led by our Region II Office and NRR has a small team of licensing ITAAC and construction experts to ensure that the NRC is able to make the finding necessary to support the transition to operations.

We are also anticipating additional workload as applications to license new and advanced reactor designs are submitted. We are also conducting pre-application meetings with multiple light water small modular reactor and non-light water advanced reactor developers, and we are reviewing topical reports and white papers associated with these future designs.

Next slide? To develop the budgets for the operating reactors and new reactors business lines we first review the current environment and perform workload forecasting. As part of that we look for significant drivers that could impact our future workload. This includes technical regulatory and legislative developments that have the potential to either generate additional work or reduce work. That could include a rulemaking or guidance change that we expect to drive new submittals from licensees or known plant closures that will reduce the overall size of our program.

We then look at the historical data and trends to measure how our execution in previous years line up with the budget assumptions at the time. We use that data to inform the future budget and identify areas where the assumptions we used previously are still applicable with the future work we anticipate. Historical data also allows us to employ some trending for areas where the workload in a given year can be highly variable in terms of quantity and complexity, or where we can incorporate efficiencies gained based on previous data.

We also rely heavily on communication with our stakeholders to identify accurate dates for planned submittals. We consider letters of intent and regulatory engagement plans provided by licensees and applicants to the NRC to collect information from our project managers and we consider responses to our periodic regulatory issue summaries on that topic.

In order to budget for large licensing projects, we try to balance the appropriate resource needs against the relative certainty that an application will be submitted on schedule and when in the year the application is expected; for example, either in the beginning of the year or at the end of the year. We recognize that business plans within the industry are subject to change and may be influenced by many factors, but this is an area where better certainty and the information we receive leads to more accurate budgeting for the NRC.

As we've identified the workload drivers, we determine the level of effort needed in each of our areas of responsibility. We develop and assign resources for major projects and then allocate those resources across the NRC offices to align with the type of work being performed.

Next slide? One point I want to make clear is that we develop our budget and the Part 170 fee estimates on different timelines. The operating reactors and new reactors budgets, just like our other business line budgets, are prepared two years in advance. This budget includes resources to be covered through the assessment of Part 170 fees in addition to resources for all other mission direct and mission indirect programs.

The budget reflects anticipated changes in the Part 170 workload such as the permanent closure of power plants, however it is important to note that there is not a directly proportionate relationship between the Part 170 fee estimates and the budget. That's because unlike the budget the Part 170 fee estimates are prepared at the beginning of a given fiscal year. Fact-of-life changes in the intervening time will drive the Part 170 fee estimates lower or higher than what was anticipated in the budget.

Changes such as license renewal application that was submitted early, like this year, a delayed application for a design certification, early reactor closure, or a canceled application for a combined operating license will impact the Part 170 fee estimates and in turn impact the Part 171 annual fee.

Next slide, please? The fiscal year '22 operating reactors budget included reductions for Indian Point Units 2 and 3 plant closures and reductions associated with the completion of certain rulemaking activities. These reductions were partially offset by an increase in research activities. These are just a number of the changes that were made in the budget. Those are just a couple to highlight. In addition to changes anticipated in the budget the fiscal year '22 Part 170 fee estimates were reduced due to the continued impacts of COVID-

19 and related travel restrictions on our Operating Reactors Oversight Program.

Next slide, please? For new reactors the fiscal year '22 budget was increased due to new application reviews for combined license, design certification, and standard design approval application reviews. Licensing and construction inspection activities at the new Vogtle units were also reduced as Units 3 and 4 are nearing the completion of construction.

In addition to the changes anticipated in the budget the 2022 Part 170 fee estimates declined due to the cancellation and delays and the submittal and review of certain new licensing applications.

Now I'll turn the meeting over to Jo Jacobs for the questions and answers portion of the meeting.

Jo?

MS. JACOBS: Good morning, everyone. Now that the presentations are over, we have a lot of time for our question and answer session, and if there are any follow-up questions that cannot be addressed at this meeting, we will address these questions a part of the meeting summary within 30 days after today's meeting.

To ensure everyone has a chance to ask a question, please only ask one question at a time and if time permits, we will take your additional questions. Please speak clearly and state your name and affiliation and identity so that -- and identify the panel member that the question or comment is directed towards so that we are able to include this on the record.

At this time Billy Blaney is going to check the chat box to see if anyone has their hand raised to ask a question or make a comment. We will take questions by this method first and then turn over to the phone line to see if anyone has a question on the phone.

Billy?

MR. BLANEY: Good morning. John Butler, looks like you're on the (audio interference).

MS. JACOBS: John Butler from NEI has a comment.

MR. BUTLER: Good morning. This is John Butler with NEI. Can you hear me?

MS. JACOBS: I can hear you perfectly. Can you hear me?

MR. BUTLER: Yes. Yes, great.

MS. JACOBS: Perfect.

MR. BUTLER: I've got a number of questions, but per your instruction I will just try to keep it limited to one at a time.

Let me start -- this may be for Jason, but I'm not sure. Jason pointed out in his discussion that for the previous five budgets Congress has directed NRC to utilize fee-based carryover in its budget and that has enabled a one for one decrease in the fee-based collections. In '21 Congress directed the use of 35 million of fee-based carryover, 16 million going to IUP and 19 million to reduce fee collections. In the current budget Congress only directed the use of 16 million for IUP. This is very unfortunate because had they directed something similar to past years, there would have been significantly less of an increase in licensee fees.

I guess my question is can you identify any reason for Congress not allocating greater use of the carryover funding?

MR. SHAY: Yes, thanks, John. Great to talk to you again. No, I really can't. I do not know the reason behind them not I guess directing to use any additional carryover beyond the $16 million that was directed in the 2022 Consolidated Appropriations Act. I don't know if there's any other panel members, but I'm not aware of any intent not to use carryover.

MR. BUTLER: Well, if you'll allow me just kind of a follow-on question on that same topic?

MR. SHAY: Sure.

MR. BUTLER: Can you give me a sense of what the current tally of carryover funding is right now, what pot is available?

MR. SHAY: Yes, so right now the congressional monthly status report, we have roughly $38.5 million of fee-based carryover that we started with in terms of the fiscal year. So that's what we started with in terms of transitioning from FY '21 into FY 2022.

MR. BUTLER: The most recent report to Congress had a value that was closer to 45, so there may be some confusion on my part between the different tallies.

MR. SHAY: Yes, I mean it depends on if you're including special fund sources within that calculation or if you're --

(Simultaneous speaking.)

MR. BUTLER: (Audio interference).

MR. SHAY: I'm sorry?

MR. BUTLER: (audio interference) fee-based carryover.

MR. SHAY: Are you including the de-obligations in that calculation.

MR. BUTLER: I can't say that I am, so --

MR. SHAY: Okay.

MR. BUTLER: -- I admit I don't have --

MR. SHAY: Yes, I know we have about $9 million in de-obligations this year within the fee-based carryover, so that's probably about right if you're adding the 38 and 9. It's around there, but again I was referencing what we started with in terms of carrying over funding from the previous fiscal year.

MR. BUTLER: So generally what amount of carryover does the NRC like to maintain for the purposes of ensuring continued operation during periods of lapsed appropriation?

MR. SHAY: Cherish, you want to take that or do you want me to take that one?

MS. JOHNSON: Hi, John. I think typically the NRC has looked -- has been desirable to have approximately 10 days available to maintain staff and current operations should there be a lapse in appropriation.

MR. BUTLER: All right. The carryover funding that you currently have, if it's not directed to be used by Congress, how will it -- will it just sit there? I mean my question is at the end of the year if Congress doesn't direct you to use it and -- I mean, is it -- how is it going to be used?

MS. JOHNSON: We do not have to be directed by Congress to use our carryover. The carryover is always available for the NRC to use, and that is our intent. It's just whenever you see a reference within a bill unauthorized, that's when they're directing us to use it for a specific intent. So, in this case they were saying you must fund 16 million towards the specific activity, otherwise through -- we do have recurring conversations with congressional members to discuss some of the risks and the challenges that we have within our funding line, and we do continue to see a decrease in the amount of carryover just as we're improving the actual execution within each fiscal year.

MS. JACOBS: All right. John, we're going to turn over to the phone and see if anyone on the phone has a question. We can come back to any additional questions that you may have.

MR. BUTLER: Understood. Thank you.

MS. JACOBS: Thank you, John.

Does anyone on the phone have a question? If so, please press *6 to un-mute yourself.

(No audible response.)

MR. BLANEY: Okay. With that being said, we will go to the next hand that I saw actually come up would have been Hilary Lane.

MS. LANE: Yes, good morning, everyone. This is Hilary Lane with NEI. Just a general question for today's presentation. I'm observing that the slides and the discussion are centered around new and operating reactors and spent fuel. I notice that there hasn't been any discussion thus far on researching test reactors or NPUFs, non-power utilization facilities, notably because they received over a 16 percent increase in their annual fee. Was there a reason that they were excluded from the discussion today?

MS. JACOBS: Yes, hi, Hilary. This is Jo Jacobs. There wasn't a specific reason why they were excluded. We focused on two areas that have the most -- some of the most licensees.

Christie Galster did you have anything to add to Hilary about some of the changes to the NPUF fee class?

MS. GALSTER: Yes, there were originally four active test and research reactors, or NPUFs, in this fee class, however in December Aerotest had ceased operations. So, it went from the previous year of four licensees within that fee class, which is you take -- almost like the operating reactors calculation, you take all the resources for that annual fee that needs to be recovered divided by how many licensees are in that fee class. So previous year it was four and it got reduced to three in 2022. And so that is the main reason why they had an increase in their annual fee this year.

MS. LANE: Okay. Thanks for that explanation. I guess my comment related to that is that that decrease from four to three was pretty known and pretty widely anticipated. So how was that taken into account in terms of the total budgeted resources given that the NRC knew that that was -- that decrease was anticipated?

MS. GALSTER: Brian, do you have anything for these operating reactors, the NPUFs?

MR. SMITH: So probably at -- I know their request, Aerotest's request to essentially go into decommissioning like state had been around for a while, but I don't know if it was submitted at the time that the budget was developed. So, I'm not sure that we actually made a proposed cut at that time. If we were to make a cut for just the loss of one licensee when you take into account that there are a total of 31 research and test reactors -- if you look at the entire program, the majority of which do not pay annual fees because they're educational institutions, when you take away the resources from like a licensing inspection standpoint, it would not have been very much had we reduced any resources as well.

MS. JACOBS: All right. Hilary, we're going to move on to -- Steve Dolley has his hand raised. Hilary if you have any additional questions, we'll definitely take any additional questions after additional people have a chance to ask their questions.

Steve Dolley?

MR. DOLLEY: Yes, hi. This is Steven Dolley with S&P Global Commodity Insights. Can you all hear me okay?

MS. JACOBS: I can hear you perfectly. Thank you.

MR. DOLLEY: Thanks very much. Well, first I wanted to thank the CFO and all the staff for holding this event, which really is very useful to all of us who follow the budget and the fee rule closely. You've done this the last several years at least and I really appreciate that.

I wanted to use that as the context for my comment, which is as we all know the proposed rule was released and published in the Federal Register on February 23rd, and at least those of us stakeholders who are press can't wait a month to write our stories on the budget. I would urge next year that as in all previous years I'm aware of that this call be held the day that the proposed rule is released. So, I think that benefits everybody. It certainly benefits me because then I can get this useful information into my stories, but I think also would benefit other stakeholders who would then get more than eight days to take this information into account in their comments.

So that's a trying to be helpful suggestion, but again I didn't want to diminish the overall thanks for your holding the event. But I would urge that because at this point we've already written about this.

MS. JACOBS: Thank you, Steve. We will take that under advisement for future fee rules.

Now we're going to turn back to the phone to see if anyone has a question on the phone.

MR. JEBSEN: Hello, this is Eric Jebsen. Can you hear me?

MS. JACOBS: We can.

MR. BLANEY: Yes, we can hear you clearly.

MR. JEBSEN: Oh, thank you. This is Eric Jebsen and I'm just representing myself. I had a follow-on question from one of -- I think one -- it was John Butler from NEI who brought up the issue or the subject I guess you'd say of carryover.

It was interesting to me to hear that the

NRC is -- it's at the NRC's discretion to use undirected carryover however the NRC seem fit to use. So, what I was wondering is, was there any consideration of like filling gap so to speak of prior undirected or directed carryover to be used to offset the expenses to perhaps using it to offset -- I think for some fee classes would see a very large increase; for example, the operating reactor fee, and perhaps use that to offset it? Even though it's undirected, it could be self-directed?

MS. JACOBS: Jason or Cherish, do you want to take that -- respond to Eric?

MS. JOHNSON: Hey, Eric. This is Cherish Johnson. Thank you for that follow-up question. It was also helpful for me to hear the interpretation of my previous response, so I'll elaborate a little bit more.

We will -- I think Jason mentioned it when he was going through the budget is when we do the FY 22 budget, we also submit a spend plan or implementation plan up to Congress for their formal approval. So, since we did just get the Omnibus, that is something that we are preparing right now, and it would be submitted within 30 days. So, we do

I guess communicate -- and of course we have to work everything through the Commission where we weigh different options that the staff would recommend to them for the Commission to make those decisions in where we would utilize that funding. And then it would be submitted to Congress. So, I didn't -- I guess I don't want to give the appearance that we use it -- I think you said like willy-nilly or whatever we choose to do.

We also do have strict control points of which the funding can be used within, so there are those control aspects. And I do appreciate your comment in regard to the consideration of taking for -- where it can offset certain fees.

Jason, did you want to add anything?

MR. SHAY: No, very well said. I was hoping you'd mention the control points and some of the limitations on moving money across control points including carryover. And again, as Cherish mentioned, we are going through development of the execution plan since we did just get the appropriations signed on Tuesday. And I also internally do -- we do go through a midyear resource review process to evaluate any changes or things that have come up throughout the fiscal year and we work with our respective stakeholders internally, the offices. And of course, that is approved by the Commission in terms of where we shift resources around.

MR. BLANEY: Okay. With that, are there any additional questions on the phone?

(No audible response.)

MR. BLANEY: Okay. No additional questions on the phone.

John Butler, we're coming back to you. We don't have any other hands raised at this point.

MR. BUTLER: All right. Thank you. This is John Butler of NEI.

I have a question on the IUP or UNLP. Every year as far as I can recall the NRC excludes funding for the IUP from its proposed budget and every year as long as I can recall Congress inserts funding for the IUP back into the appropriated budget. For the last two years under NEIMA that funding for the IUP has come from fee-based carryover. And as an aside, to me I think that is contrary to the language of NEIMA which excludes funding for grant programs for universities such as the IUP from fee-based funding.

But that aside, my question is this: Why does NRC exclude IUP from its proposed budget? Were you to do that it would be more straightforward for the IUP funding to be fee-based -- excluded from the fee-based under the provisions of NEIMA.

MS. JACOBS: Cherish or Jason, do you one of you want to respond to John Butler's question?

MR. SHAY: Do you want to take that or do you want to take that?

MS. JOHNSON: You can start and I'll add.

MR. SHAY: Yes, John, it's a good question and you are correct, the UNLP would be essentially funded as an excluded activity per NEIMA would essentially be included in our net budget authority. Again, when we're developing a budget, net budget authority is really critically looked at by both -- internally to the NRC and of course OMB and Congress. So, we do have limitations on increases to our net budget authority which has been a challenge for us to include the UNLP within our net budget authority amount.

I don't know, Cherish, if you have anything else to add to that, but --

MS. JOHNSON: Yes, I don't think so.

MS. JACOBS: Great. Anyone else have any questions in the chat or on the phone?

MR. BLANEY: So, there's currently nothing in the chat. And John Butler has his hand raised, so we'll go back to John.

MR. BUTLER: Well, based upon the response to my last question, which wasn't quite clear, I'll just move onto to the next question.

In a recent report to the Appropriations Subcommittee on NEIMA, it's reported the industry, the U.S. industry has paid approximately 21 million to subsidize the rent for FDA and NIH in Three White Flint North. And if nothing changes, we're going to pay an additional 27 million to subsidize the rent for those other federal agencies.

Clearly these payments do nothing to support the Agency's mission. Can you tell me what industry will pay in FY '22 for -- to subsidize the rent for FDA and NIH?

MS. JACOBS: Cherish or Jason?

MR. SHAY: Yes, John, let me get back to you on that. It will take me a couple seconds just to reference the book, but I should have an answer to you here very quickly.

MS. JOHNSON: If I can maybe just expand on that question, John? So, you did reference the report that we did submit to Congress. I can let you know that we've had multiple conversations continued with Congress in regard to the subjects included in that report, including the subsidy that you had mentioned.

MR. BUTLER: That's good to hear.

MS. JACOBS: All right. Are there any additional questions on -- in the chat or on the phone?

MR. SHAY: John, I have an answer to your question on the rent subsidy. It's approximately 4.3 million in 2022.

MR. BUTLER: All right.

MR. BLANEY: So, with no other questions, we'll go back to John.

MR. JEBSEN: This is Eric Jebsen.

MS. JACOBS: Yes, Eric.

MR. JEBSEN: Hey, sorry to jump in front of you, John. I just -- I had trouble finding the un-mute.

And sort of segueing off of John's -- the comment about the -- talking to Congress about the -- you know, repeated conversations with Congress about the money. And so this is I guess a process question which might not be out of bounds; it may be educational for me. The final fee rule is -- there's a very strict time frame on getting the final fee rule out and so forth and so. So, in general thinking about the carryover, thinking about, okay, the subsidized rent, thinking of things that may not be strictly in accordance with the NRC mission, what's the wiggle room here? Like how much I'll say, I don't know, hope is there for including or reducing some of the fees to industry by use of carryover or further exclusions from the appropriation or what's required, or increasing the exclusions I guess you'd say, to reduce the ultimate fee to industry? Just I guess it's more of a philosophical thing or a schedule thing, or is the final rule it and then we have to wait for carryover in fiscal year '23?

MS. JACOBS: Jason, did you want to start off with a response?

MR. SHAY: I mean, again I think we have to follow our internal processes to evaluate the needs of the organization throughout this current fiscal year. So, I really couldn't give like a hypothetical kind of time frame, because again we do have to work with the Commission on, one, the implementation plan first, and then two, again the midyear resource review to essentially evaluate our programs given we're six months into the fiscal year already. So, I'd hate to give you something that is just kind of pie-in-the-sky philosophical.

MR. JEBSEN: No, I can appreciate the difficulty of coming up with a budget halfway through the year, so -- but the pain spreads outward like ripples on a pond.

MR. SHAY: Yes, thank you. Thank you for the question and follow up.

MR. BLANEY: So, we do have a statement or a question in the chat from Janet Schleuter, NEI, related to Hilary Lane's question. Why did NRC not include an overview of NMSS business lines in this meeting consistent with past meetings?

MR. SHAY: Tony, do you want to take that one?

MR. ROSSI: Sure. In past meetings we didn't get a lot of questions, or any questions or any participants in the materials side of it. And out of all the materials licensees most of -- I think most of them are getting a reduction this year and there are some categories that are getting an increase. So, it's not going to be radically different from last year. And so because of those -- there's not a large increase in that area, we didn't include them in this year. In the past it seemed we had representatives from all areas and it was just repetitive. And so we tried to stick to the most important areas. Or not the most important areas, but the most -- the areas that are going to get -- are going to have the most changes. And again, we will take note of that and for future meetings to take forward for us as well.

MS. JACOBS: Definitely.

Are there any additional questions in the chat or on the phone?

MR. BLANEY: Janet also just typed in and said trust me, we are interested and for completeness I would have thought NRC would have covered them.

So again, we will take note of that, and we will ensure that in future meetings that we will consider those topics because again it is important that we are -- have a complete review of anything that our licensees are requesting.

MS. JACOBS: I see John Butler has his hand raised.

MR. BUTLER: You act a little surprised.

(Laughter.)

MR. BUTLER: My next question is kind of a process question for my education, and this may be for Christie. In the calculation of the operating reactor fee, Part 171 fee, you accounted for Vogtle 3 coming into operation. The current schedule for Vogtle 3 as announced by Southern would have that Vogtle 3 starting in fiscal year '23. Also, Palisades has announced that they will be shutting down I believe in May of this year.

So, my question is how is that accounted for? Is that kind of -- is it accounted for in some way in fiscal year '23, or how do you address those schedule changes?

MS. GALSTER: So, John, when we start the proposed fee rule, we begin the '22 proposed fee rule in August and we're finalizing the numbers in December. So, what we knew about, or what we know about Vogtle Unit 3 was that the estimate for completion of the ascension testing was going to happen before we published the final fee rule. And we typically publish the final fee rule the end of June. So that's what we're looking for. So that's why we decided to include Vogtle Unit 3.

I'll have to have you -- maybe Brian can answer about Palisades, where Palisades is at and Vogtle Unit 3 is at currently, but typically our timeline is June 30th. So, if a new reactor comes on or if a reactor is planning on closing down, our timeline is June the 30th.

MR. BUTLER: I guess my question is how do you account for those differences between what you used in our formulation of the budget and what actually occurs?

MS. GALSTER: So, if -- well, that's the thing. If Vogtle -- if we find out in the final fee rule that the process when we're going through the calculations that unit -- that's why we put in the proposed fee rule that this is the -- we're proposing to put Vogtle Unit 3 in. So, if things change, we may have to take out Vogtle Unit 3 from the fleet of operating reactors. Because at the time when we were doing the calculations for the proposed, that -- the estimated date was before June 30th.

MR. BUTLER: So, it's possible in the final fee rule that comes out end of June that the annual fee for each operating reactor could go up proportionately as you reduce the number of operating reactors from 94 to 93?

MS. GALSTER: That could be a possibility. And of course, it also depends on what the Part 170 is at the time as well, because our proposed fee rule -- with the Part 170 estimated billings we're mainly looking at the actual billings of four quarters, prior four quarters. So, in the final fee rule when we're analyzing the Part 170 billings, we have more accurate data as well. So that obviously is a big changing point as well for the annual fee.

MS. JACOBS: John, we definitely will take any more questions you have. We just wanted to see if anyone else has a question first in the chat or on the phone.

MR. JEBSEN: Hey, this is Eric Jebsen.

MS. JACOBS: Hi, Eric.

MR. JEBSEN: Hiya. Hey, I'm going to follow along with that and -- because I'm very interested in how this 93 versus 94 is going to change things. And also, I appreciate the fact that now halfway through the fiscal year there's much better data on the Part 170 receipts and also looking at the reopening, quote/unquote, of travel and so forth because of maybe diminished impact from COVID-19.

So is there a way that you can ballpark now if there will be like a -- let's say Vogtle 3 -- it's determined for the final fee free Vogtle 3 is not going to be included, so there's 93 reactors. Okay. So, I'll say, my opinion only, bad for industry, fees go up. On the other hand, let's say you also know that because of COVID-19 relaxation and activities inspection or licensing action requests that you had that Part 170 is actually running higher than originally proposed.

Is there a way now -- do you have any kind of feel now on how the Part 170s are running through the year or might run into June or through -- actually through September given relaxations in travel perhaps? Just looking for any feel if you know those numbers. MR. BLANEY: So, yes. Hi, this is Billy Blaney. As far as looking at the current numbers, we are looking at the numbers. We're in the current process of that. We do not have a ballpark yet of where we are at, but we do look at all those aspects when we're looking at the Part 170. We work very closely with our contacts in the program offices when we're looking at the Part 170.

But we are -- like I said, we are currently in that process, and we don't have a ballpark at this time. But we do look at as many actuals as we can. We even take and consider -- because the appropriation is a little bit later in the year than normal, we are able to look at more actual data than we typically would. So, we take all of that into consideration.

MR. JEBSEN: Okay. Thanks.

MS. JACOBS: All right. I believe our next -- the next person who had a hand raised was Hilary Lane from NEI.

MS. LANE: Yes, hello again. Hilary Lane from NEI. Just kind of wanted to piggyback off of Janet's comment here in the chats and the comment from OCFO earlier that we're discussing today, licensee categories that had fee increases. So again, just was a little surprised that RTRs and FPUFs weren't discussed today because they did represent the largest fee increase in the FY '22 proposed rule for all of the licensee categories. So just wanted to highlight the substantial increase that they're seeing here compared to the other fee categories.

And I guess at this point more of just a comment than a question is that in some of the other fee categories in the past such as uranium recovery, mining, even fuel cycle facilities the NRC has appropriately recognized that it can't continue to spread those fees kind of like jelly across a decreasing licensee fee class. So, I just hope NRC can really take that to heart moving forward given that we are seeing that NPUF fee class going down and we can't continue to spread those fees amongst that remaining licensee fee class.

And just another comment. In general, we do feel that imposing these fees -- even though at this point now it is on three licensees versus four, we feel that that is in contravention of the Atomic Energy Act, Section 104(c), and even 10 CFR 50.41(b), that really highlights that the purpose and the mission of these facilities is to be used for widespread research and development. So, we do feel that the imposition of fees even on those three licensees needs to be reevaluated moving forward.

So, thanks again.

MS. JACOBS: Thank you, Hilary.

I believe John Butler had his hand raised.

John, did you have another question?

(No audible response.)

MS. JACOBS: Okay. Does anyone else on the phone have a question?

(No audible response.)

MS. JACOBS: Oh, there John is.

Hi, John. Did you have another question?

MR. BLANEY: He seems to have fallen back off again.

MS. JACOBS: I think he fell back off.

Well, if there no more questions, we will move onto how to submit comments on the proposed fee rule.

Okay. As you'll see in the next slides there are three methods by which you can submit comments by the end of the public comment period on the proposed fee rule which ends on March 25th. You can submit your comments by the Federal Register rulemaking website, you can email your comments to the email address shown in the chat box, and you can even mail in your comments. And if you want further information on the proposed fee rule, you can contact Anthony Rossi at (301) 415-7341.

With that being said, I will now turn the meeting back over to Cherish Johnson.

MS. JOHNSON: Thanks, Jo.

So, I'll be able to formally close out our meeting this morning just by thanking everyone for their participation in the virtual meeting to discuss NRC's FY '22 proposed fee rule.

To our public commenters, we really do appreciate your comments and feedback. I find it very useful to hear from you. I wish I could see your faces to make sure that I've answered your questions well or not, but we do appreciate through the virtual meetings the large attendance and the influx of questions. So, thank you again so much for that.

To our staff and stakeholders, for those we do hope that this has been helpful in your understanding of how we do set the fees and the relationship that it does have to our budget. I know we received a good number of questions on the budget itself, which I could talk all day. And we do look forward to your comments as Jo mentioned on how to submit those.

So, I'd also like to thank my team, the Licensee Fee Policy Team, for putting this together. This is a very valuable conversation and useful for sharing the information which I think has worked well over the past years. And I thank you for all that you've done for that.

And with that, I think we're concluded.

MS. JACOBS: Thank you so much. Have a great afternoon.

(Whereupon, the above-entitled matter went off the record at 11:41 a.m.)