

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

Majority (202) 225-2927
Minority (202) 225-3641

MEMORANDUM

April 18, 2016

To: Democratic Members of the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy

Fr: Democratic Staff of the Committee on Energy and Commerce

Re: Hearing entitled “Fiscal Year 2017 Nuclear Regulatory Commission Budget.”

On **Wednesday, April 20, 2016, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy will hold a hearing entitled “Fiscal Year 2017 Nuclear Regulatory Commission Budget.” This memo provides background on several issues that may be discussed at the hearing.

I. NUCLEAR REGULATORY COMMISSION FY2017 BUDGET REQUEST

For fiscal year (FY) 2017, the Nuclear Regulatory Commission (NRC) requested \$982.3 million, a decrease of \$19.8 million below the FY 2016 enacted budget. This level of funding provides for 3,462 full-time equivalent employees (FTEs), representing a decrease of 90 employees as compared to FY 2016.¹

NRC recovers approximately 90 percent of its budget from annual fees assessed to NRC licensees. Accordingly, the net appropriation request for FY 2017 amounts to \$121.1 million, which is a \$2.1 million increase in net general revenues spending when compared with FY 2016 enacted levels.²

¹ U.S. Nuclear Regulatory Commission (NRC), *FY 2017 Congressional Budget Justification Summary*, at 3 (online at pbadupws.nrc.gov/docs/ML1603/ML16036A086.pdf) (accessed Apr. 18, 2016).

² *Id.*

In the area of nuclear reactor safety, NRC requested \$587.5 million to support activities at operating nuclear reactors, which is a \$1.7 million decline from FY 2016 enacted levels. This includes completing 900 licensing actions at existing reactors; continuing to implement lessons-learned from the Fukushima nuclear accident; reviewing seven license renewal applications; and continuing 17 rulemakings.³ There are currently 99 operating nuclear power reactors in the United States, with the number reaching 100 when Unit 2 at the Watts Bar Nuclear Power Plant starts operation this year.

NRC also requested \$169.9 million to support activities relating to new nuclear reactors, a \$1.4 million decrease from the FY 2016 enacted levels. These activities include reviewing three combined license applications for new reactors; reviewing two design certifications; and supporting inspection activities at reactors under construction.⁴ In the area of nuclear materials and waste safety, NRC requested \$212.8 million to support activities relating to fuel facilities, spent fuel storage, decommissioning, and low-level waste: a \$1.8 million decline from FY 2016 enacted levels.⁵

On March 24, 2016, 37 House Republicans wrote to the Appropriations Committee requesting total funding of \$916.3 million for NRC, which was \$66 million below the agency's budget request.⁶ At a February hearing on the NRC budget request, Rep. Mike Simpson (R-ID), Chairman of the Energy and Water Appropriations Subcommittee, stated that he was "impressed" with the NRC budget request and the agency's efforts to trim its budget.⁷

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Letter from Rep. Bill Flores to Chairman Mike Rogers (Mar. 24, 2016).

⁷ *Appropriators praise NRC for budget request, downsizing*, Environment & Energy Daily (Feb. 11, 2016) (online at www.eenews.net/eedaily/stories/1060032218/feed).

**Table 1. Nuclear Regulatory Commission
Budget by Appropriation**
(\$ millions)

	FY2016 Enacted	FY2017 Request	Changes from FY 2016
MAJOR PROGRAMS			
Nuclear Reactor Safety			
Operating Reactors	589.2	587.5	-\$1.7
New Reactors	171.3	169.9	-1.4
Total Nuclear Reactor Safety	760.4	757.4	-3.0
Nuclear Materials and Waste Safety			
Fuel Facilities	44.3	41.5	-2.9
Nuclear Materials Users	91.6	92.5	0.9
Spent Fuel Storage and Transportation	36.1	37.2	1.1
Decommissioning and Low-level Waste	42.5	41.6	-0.9
Total Nuclear Materials and Waste Safety	214.6	212.8	-1.8
MAJOR PROGRAMS SUBTOTAL	975.0	970.2	-4.8
INTEGRATED UNIVERSITY PROGRAM	15.0	0.0	-15.0
INSPECTOR GENERAL	12.1	12.1	0.0
Total	1,002.1	982.3	-19.8

Source: FY 2017 NRC Congressional Budget Justification Summary

II. PROJECT AIM

In 2014, NRC developed Project Aim in an effort to improve efficiency in the agency’s internal processes and reduce corporate support requirements. The most significant aspect of this effort involves “re-baselining” the agency’s current and projected workload by reviewing lower priority activities that can either be shed or performed with fewer resources.⁸

⁸ U.S. NRC, *Congressional Budget Justification Fiscal Year 2017*, at viii.

NRC has developed a list of 151 activities in this vein as part of Project Aim. The first 29 items were identified early enough to be included as reductions in the formulation of the FY 2017 Congressional Budget Justification.⁹ Examples of these activities include reducing travel, discontinuing or delaying rulemakings, and reducing the hours of telephone operators at the commission, among others.

III. DECOMMISSIONING RULEMAKING

In November 2015, NRC published advance notice of a proposed rulemaking regarding potential changes to its regulations for decommissioning nuclear power reactors. NRC's goals in amending these regulations would be to provide a more efficient decommissioning process, reduce the need for exemptions from existing regulations, and support the principles of good regulation, including openness, clarity, and reliability.¹⁰

There are currently 19 nuclear power reactor sites in the U.S. undergoing decommissioning.¹¹ In 2013, four power reactor units permanently shut down without significant advance notice or pre-planning. These licensees and the associated shut down reactors are Duke Energy Florida for Crystal River Unit 3 Nuclear Generation Plant; Dominion Energy Kewaunee for Kewaunee Power Station; and Southern California Edison for San Onofre Nuclear Generating Station, Units 2 and 3. On December 29, 2014, Entergy Nuclear Operations, Inc. shut down Vermont Yankee Nuclear Power Station (VY), and on January 12, 2015, the licensee certified that VY had permanently ceased operation and removed fuel from the reactor vessel. Furthermore, Exelon Generation Company, the licensee for the Oyster Creek Nuclear Generating Station, has indicated that it is currently planning to shut down that facility in 2019.¹²

IV. YUCCA MOUNTAIN NUCLEAR WASTE REPOSITORY

On March 3, 2010, the Department of Energy (DOE) filed a motion asking the Atomic Safety and Licensing Board (Licensing Board) of the NRC to dismiss its license application for construction of the Yucca Mountain depository. In its motion, DOE stated that “a geologic repository at Yucca Mountain is not a workable option for long-term disposition” of spent nuclear fuel and high-level nuclear waste.¹³

⁹ U.S. NRC, *Enclosure 1 - Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities* (2/1/2016) (ML16028A212 - SECY-16-0009).

¹⁰ U.S. NRC, *Regulatory Improvements for Decommissioning Power Reactors*, 80 Fed. Reg. 72358 (November 19, 2015) (advance notice of proposed rulemaking).

¹¹ U.S. NRC, *Locations of Power Reactor Sites Undergoing Decommissioning* (April 12, 2016) (online at www.nrc.gov/info-finder/decommissioning/power-reactor/).

¹² U.S. NRC, *Regulatory Improvements for Decommissioning Power Reactors*, 80 Fed. Reg. 72358 (November 19, 2015) (advance notice of proposed rulemaking).

¹³ U.S. Department of Energy's Motion to Withdraw, (Mar. 3, 2010), *In the Matter of U.S. Department of Energy*, ASLBP (No. 09-892-HLW-CAB04).

In June 2010, the Licensing Board ruled that DOE did not have the authority to withdraw the Yucca Mountain license application.¹⁴ On September 9, 2011, NRC announced it was evenly divided (2-2) on whether to take the affirmative action of overturning or upholding the Licensing Board's decision. As a result, the Licensing Board's decision continued to remain in effect.¹⁵

On August 13, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued a 2-1 decision ordering NRC to continue its review of DOE's Yucca Mountain license application. In his majority opinion, Judge Kavanaugh wrote that "unless and until Congress authoritatively says otherwise or there are no appropriated funds remaining, the Nuclear Regulatory Commission must promptly continue with the legally mandated licensing process."¹⁶

Following the D.C. Circuit Court's decision, the NRC directed its staff to complete work on the Yucca Mountain Safety Evaluation Report (SER). The last two of the five volumes of the SER were issued in January 2015. The SER concluded that DOE's license application met regulatory requirements, except for requirements related to ownership of land and certain water rights.¹⁷

V. NRC's ONGOING RESPONSE TO THE FUKUSHIMA NUCLEAR DISASTER

On March 21, 2011, NRC created a task force to conduct short-term and long-term analysis of the lessons learned from the disaster at the Fukushima Dai-ichi nuclear facility in Japan. On July 12, 2011, the Near Term Task Force released its recommendations based on its review of the events leading up to and following the Fukushima accident.¹⁸ Although the Task Force concluded that continued operation and licensing of nuclear reactors in the United States "do not pose an imminent risk to public health and safety," the report outlined 12 recommendations for strengthening nuclear safety.¹⁹

Since that time, NRC has identified a number of additional issues with a connection to the Fukushima Dai-ichi accident. NRC set up a prioritization approach that grouped these

¹⁴ U.S. NRC Atomic Safety and Licensing Board, *Memorandum and Order In the Matter of U.S. Department of Energy*, ASLBP No. 09-892-HLW-CAB04 (Jun. 29, 2010).

¹⁵ U.S. NRC, *Memorandum and Order In the Matter of U.S. Department of Energy (High-Level Waste Depository)*, CLI-11-07 (Sept. 9, 2011).

¹⁶ *In Re: Aiken County*, Opinion 11-1271, at 22 (U.S. Court of Appeals for the D.C. Circuit, Aug. 13, 2013).

¹⁷ Congressional Research Service, *Yucca Mountain: Legal Developments Relating to the Designated Nuclear Waste Repository* (Aug. 14, 2015) (R44151)

¹⁸ U.S. NRC, *Recommendations for Enhancing Reactor Safety in the 21st Century* (Jul. 12, 2011) (online at www.nrc.gov/docs/ML1118/ML111861807.pdf).

¹⁹ *Id.*

additional items into three tiers. Currently, ten Tier 2 and Tier 3 items remain unresolved and are being evaluated by the Commission. These include evaluation of natural hazards, various emergency preparedness activities, and enhancements to the reactor oversight process, among others.²⁰

VI. WITNESSES

The following witnesses have been invited to testify:

The Honorable Stephen G. Burns
Chairman
Nuclear Regulatory Commission

The Honorable Kristine L. Svinicki
Commissioner
Nuclear Regulatory Commission

The Honorable William C. Ostendorff
Commissioner
Nuclear Regulatory Commission

The Honorable Jeff Baran
Commissioner
Nuclear Regulatory Commission

²⁰ U.S. NRC, *Proposed Plans for Resolving Open Fukushima Tier 2 And 3 Recommendations* (November 4, 2015) (SECY-15-0137).