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Washington, DC 20548

B-318011

April 10, 2009

The Honorable Jeff Bingaman
Chairman
The Honorable Lisa Murkowski
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Henry A. Waxman
Chairman
The Honorable Joe L. Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Nuclear Regulatory Commission: Power Reactor Security Requirements*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Nuclear Regulatory Commission, (NRC) entitled “Power Reactor Security Requirements” (RIN: 3150-AG63). We received the rule on March 23, 2009. It was published in the *Federal Register* as a final rule on March 27, 2009. 74 Fed. Reg. 13,926.

The final rule establishes and updates generically applicable security requirements similar to those imposed by NRC orders issued after the terrorist attacks of September 11, 2001. The final rule also adds several new requirements developed as a result of insights gained from implementation of the security orders, review of site security plans, implementation of the enhanced baseline inspection program, and NRC evaluation of force-on-force exercises. The rule also updates NRC’s security regulatory framework for the licensing of new nuclear power plants. The final rule has an effective date of May 26, 2009.

Enclosed is our assessment of the NRC’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that NRC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Rebecca L. Schmidt
Director, Office of Congressional Affairs
Nuclear Regulatory Commission

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
NUCLEAR REGULATORY COMMISSION
ENTITLED
"POWER REACTOR SECURITY REQUIREMENTS"
(RIN: 3150-AG63)

(i) Cost-benefit analysis

NRC's regulatory analysis concluded that the costs of the rule are justified in view of the qualitative benefits. With respect to costs, NRC concluded that the final rule will result in a total one-time cost to all nuclear power plant sites of approximately \$115.71 million, followed by total annual costs of \$38.65 million. The average nuclear power plant site will incur a one-time cost of approximately \$1.78 million, followed by annual costs of approximately \$594,600. In addition, NRC stated that the rule will result in a one-time cost to NRC of approximately \$2.60 million. NRC is not expected to incur substantial annual costs as a result of the rule.

With respect to qualitative benefits, NRC concluded that the rule will provide safety and security-related benefits. More specifically, NRC identified several benefits, including, for example, additional assurance of licensees' capabilities to protect power reactor sites against a radiological sabotage assault, advances in intrusion detection systems, and an increase in licensees' security programs' effectiveness through additional training and procedures such as safety/security interface, on-the-job training, and recurring criminal and credit history checks, and psychological assessments.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

NRC certified that the final rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, NRC is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

NRC promulgated this final rule using the notice and comment procedures found in the Administrative Procedure Act, 5 U.S.C. § 553. On October 26, 2006, NRC published a proposed rule in the *Federal Register* requesting public comment. 71 Fed. Reg. 62,663. NRC received 48 comment letters related to the proposed rule. NRC responds to the comments in the final rule. In addition, NRC held three public meetings to solicit public comment. NRC also published a supplemental proposed rule in the *Federal Register* on April 10, 2008, seeking additional comments on two provisions of the rule for which NRC had decided to provide additional detail. 73 Fed. Reg. 19,443. Finally, three petitions for rulemaking were also considered as part of this final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collection requirements subject to the Act. These information collections have been approved by the Office of Management and Budget (OMB) and assigned OMB Control Numbers 3150-0011, 3150-0151, 3150-0132, and 3150-0002.

Statutory authorization for the rule

NRC cited to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. § 552 and 5 U.S.C. § 553 as the statutory authorization for the final rule.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, NRC is not subject to Executive Order 12,866.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, NRC is not subject to Executive Order 13,132.