



441 G St. N.W.
Washington, DC 20548

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July 31, 2013

The Honorable Barbara Boxer
Chairman
The Honorable David Vitter
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Nuclear Regulatory Commission: Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013*

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 "Revision of Fee Schedules; Fee Recovery for Fiscal Year 2013" (RIN: 3150-AJ19). We received the rule on July 17, 2013. It was published in the *Federal Register* as a final rule on July 1, 2013. 78 Fed. Reg. 39,462.

The final rule amends the licensing, inspection, and annual fees NRC charges to its applicants and licensees. The Omnibus Budget Reconciliation Act of 1990, as amended, requires NRC to recover through fees approximately 90 percent of its budget authority in fiscal year 2013, not including amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities. Based on the appropriations for fiscal year 2013, NRC's required fee recovery amount is approximately \$864.0 million for the year. After accounting for billing adjustments, the total amount to be billed as fees is approximately \$859.6 million.

The final rule has an effective date of August 30, 2013. The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on July 1, 2013, but we did not receive the rule until July 17, 2013. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of 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, with the exception of the 60-day delay in effective date requirement.

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

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
NUCLEAR REGULATORY COMMISSION
ENTITLED
“REVISION OF FEE SCHEDULES;
FEE RECOVERY FOR FISCAL YEAR 2013”
(RIN: 3150-AJ19)

(i) Cost-benefit analysis

NRC did not prepare a cost-benefit analysis because NRC is required to recover through fees approximately 90 percent of its budget authority in fiscal year 2013, not including amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for general homeland security activities. NRC does describe the part 170 licensing and inspection fees and part 171 annual fees that will be applied for fiscal year 2013.

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

NRC determined that the licensees affected by the annual fee increases and decreases include those that qualify as small entities. For this final fee rule, small entity fees have been increased to \$2,800 for the maximum upper-tier small entity fee and \$600 for the lower-tier small entity as a result of the biennial review that factored in the number of increased hours for application reviews and inspections in the fee calculations. NRC believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them. NRC prepared a regulatory flexibility analysis in conjunction with the final rule, and NRC also prepared a written small entity compliance guide.

(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.

On March 7, 2013, NRC published a proposed rule in the *Federal Register*. 78 Fed. Reg. 14,880. NRC received nine comments on the rule from the uranium industry, the nuclear power industry, and the general public. NRC grouped those comments by issue and addressed them in the final rule.

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

NRC states that the final rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Act.

Statutory authorization for the rule

The final rule is authorized by the Omnibus Budget Reconciliation Act of 1990, as amended. 42 U.S.C. § 2214.

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.