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B-323620

July 3, 2012

The Honorable Barbara Boxer  
Chairman  
The Honorable James M. Inhofe  
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 2012*

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 2012” (RIN: 3150-AJ03). We received the rule on June 20, 2012. It was published in the *Federal Register* as a final rule on June 15, 2012. 77 Fed. Reg. 35,809.

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 2012, not including amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for general homeland security activities. Based on the appropriations for fiscal year 2012, NRC’s required fee recovery amount is approximately \$1,038.1 million for the year.

The final rule has an effective date of August 14, 2012. 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 June 15, 2012, but we did not receive the rule until June 20, 2012. Therefore, the final rule does not have the required 60-day delay in its effective date.

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

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 2012"  
(RIN: 3150-AJ03)

(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 2012, 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 2012.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 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 remain unchanged at \$2,300 for the maximum upper-tier small entity fee and \$500 for the lower-tier small entity to ease the financial burden for small entities. 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 15, 2012, NRC published a proposed rule in the *Federal Register*. 77 Fed. Reg. 15,530. NRC received eight comments on the final rule, from the uranium industry, the nuclear power industry, the materials industry, and small entities. NRC addressed those comments in the final rule.

Paperwork Reduction Act, 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.