



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

B-327211

July 30, 2015

The Honorable James M. Inhofe
Chairman
The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Nuclear Regulatory Commission: Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015*

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 2015" (RIN: 3150-AJ44). We received the rule on July 16, 2015. It was published in the *Federal Register* as a final rule on June 30, 2015. 80 Fed. Reg. 37,432.

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 2015, not including amounts appropriated for Waste Incidental to Reprocessing, amounts appropriated for generic homeland security activities, and Inspector General services for the Defense Nuclear Facilities Safety Board.

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). This final rule has a stated effective date of August 31, 2015. The rule was published in the *Federal Register* on June 30, 2015, and received by the Senate on July 14, 2015, and by the House of Representatives on July 15, 2015. 80 Fed. Reg. 37,432; 161 Cong. Rec. S5209 (July 21, 2015); 161 Cong. Rec. H5289 (July 16, 2015). Therefore, this rule does not have the required 60-day delay in 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. With the exception of the required 60-day delay in effective date, 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: Eugene Dacus
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 2015"
(RIN: 3150-AJ44)

(i) Cost-benefit analysis

The Nuclear Regulatory Commission (NRC) stated that it received a total appropriation of \$1,015.3 million for fiscal year (FY) 2015. Based on the Omnibus Budget Reconciliation Act of 1990, as amended, NRC concluded it is required to recover \$895.5 million through user charges under part 170 of title 10, *Code of Federal Regulations*, and annual fees under part 171 of title 10, *Code of Federal Regulations*, for FY 2015. This amount excludes non-fee items totaling \$20.4 million. The required fee recovery amount is \$35.2 million less than the amount estimated for recovery in FY 2014. After accounting for billing adjustments, NRC decreased the fee recoverable budget further to \$888.7 million to be billed as fees to licensees and applicants under parts 170 and 171 of title 10, *Code of Federal Regulations*.

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

NRC stated that it prepared a regulatory flexibility analysis for this final rule. NRC determined that under this final rule, small entity fees increased to \$3,400 for the maximum upper-tier small entity fee and increased to \$700 for the lower-tier small entity fee as a result of the biennial review, which factored in the number of increased hours for application reviews and inspections in the fee calculations. NRC also stated that it prepared a 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 23, 2015, NRC published a proposed fee rule. 80 Fed. Reg. 15,476. NRC received 11 comments on the proposed rule, to which it responded in the final rule. NRC also held a public meeting on April 20, 2015, on the proposed rule.

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

NRC determined that this final rule contains no information collection requirements under the Act.

Statutory authorization for the rule

NRC promulgated this final rule under the authority of sections 901, 902, and 9701 of title 31; sections 2201(w), 2014, 2021, 2021b, 2111, and 5841 of title 42; and section 3504 note of title 44, United States Code.

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

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

Executive Order No. 13,132 (Federalism)

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