



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

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July 1, 2020

The Honorable John Barrasso  
Chairman  
The Honorable Thomas R. Carper  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

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

Subject: *Nuclear Regulatory Commission: Revision of Fee Schedules; Fee Recovery for Fiscal Year 2020*

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 2020" (RIN: 3150-AK10). We received the rule on June 19, 2020. It was published in the *Federal Register* as a final rule on June 19, 2020. 85 Fed. Reg. 37250. It has an effective date of August 18, 2020.

According to NRC, the final rule amends the licensing, inspection, special project, and annual fees charged to its applicants and licensees. NRC states these amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, 104 Stat. 1388 (Nov. 5, 1990), as amended, which requires NRC to recover approximately 90 percent of its annual budget through fees less certain amounts excluded from this fee-recovery requirement. To mitigate the financial impact and economic disruption caused by the COVID-19 Pandemic, NRC stated it has suspended billing of annual fees and fees for services for the 90-day period of April through June 2020, and deferred fees will be billed in July 2020.

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 final rule was published in the *Federal Register* on June 19, 2020. 85 Fed. Reg. 37250. The House of Representatives received the rule on June 24, 2020, but the *Congressional Record* does not indicate when the Senate received the rule. 166 Cong. Rec. H2513 (daily ed. June 25, 2020). The agency informed us the final rule was delivered to the Senate on June 24. Email from NRC to GAO. The final rule has a stated effective date of August 18, 2020. 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. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Eugene Dacus  
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 2020”  
(RIN: 3150-AK10)

(i) Cost-benefit analysis

The Nuclear Regulatory Commission (NRC) estimates that it must recover \$728.1 million in fees for Fiscal Year (FY) 2020 to comply with its statutory mandate. NRC stated that it estimates to collect \$220.2 million in 10 C.F.R. part 170 service fees and \$507.9 million in 10 C.F.R. part 171 annual fees.

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

NRC stated it prepared a regulatory flexibility analysis entitled “Small Entity Compliance Guide” for the FY 2019 proposed fee rule and that it would continue to use this compliance guide for FY 2020. The next compliance guide will be developed when NRC completes the next small entity biennial review in FY 2021.

(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 commission, 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 June 10, 2019, NRC published a proposed rule. 84 Fed. Reg. 26774. NRC received five comments from the Nuclear Energy Institute, several industry stakeholders, and one non-governmental organization. NRC responded to the comments in the final rule.

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

NRC determined the final rule does not contain an information collection requirement subject to the Act.

Statutory authorization for the rule

NRC promulgated the final rule pursuant to sections 901, 902, and 9701 of title 31; sections 2014, 2201, 2214, 2273, 2282, 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 commission, NRC is not subject to the Order.

Executive Order No. 13,132 (Federalism)

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