



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

B-335563

September 15, 2023

The Honorable Thomas R. Carper  
Chairman  
The Honorable Shelley Moore Capito  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

The Honorable Cathy McMorris Rodgers  
Chair  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Nuclear Regulatory Commission: Inflation Adjustments to the Price-Anderson Act  
Financial Protection Regulations*

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 or the Commission) entitled “Inflation Adjustments to the Price-Anderson Act Financial Protection Regulations” (RIN: 3150-AL01). We received the rule on September 5, 2023. It was published in the *Federal Register* as a final rule on September 5, 2023. 88 Fed. Reg. 60565. The effective date is October 5, 2023.

According to NRC, this final rule amends the Commission’s regulations to adjust for inflation the maximum total and annual standard deferred premiums specified in the Price-Anderson Act. 42 U.S.C. § 2210. NRC stated that the Commission must perform this adjustment at least once during each 5-year period following August 20, 2003, as mandated by the Atomic Energy Act of 1954, as amended (AEA). 42 U.S.C. §§ 2011–2297h-13.

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 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). In this final rule, NRC stated that it found for good cause that the solicitation of public comment on the rule is unnecessary, since the rule’s adjustments are made pursuant to a formula required by statute, and requesting public comment on these adjustments would not result in a change to the adjusted amount. The Commission therefore determined that the effective date of the rule will be 30 days after the date of publication of the rule in the *Federal Register*, rather than the customary 60-day delay in effectiveness for major rules under CRA.

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, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
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  
“INFLATION ADJUSTMENTS TO THE PRICE-ANDERSON ACT  
FINANCIAL PROTECTION REGULATIONS”  
(RIN: 3150-AL01)

(i) Cost-benefit analysis

In its submission to us, the Nuclear Regulatory Commission (NRC or the Commission) indicated that it considered preparation of an analysis of the costs and benefits of this final rule to be not applicable.

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

In this final rule, NRC determined that the requirements of the Act do not apply to the rule. NRC noted that the Act does not apply to regulations for which a federal agency is not required by law to publish a general notice of proposed rulemaking, and stated that the Commission is not publishing the rule for notice and comment.

(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) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

NRC did not discuss the Administrative Pay-As-You-Go-Act of 2023 in the rule.

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

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

In this final rule, NRC claimed that the rule was not required to be issued with prior public notice or opportunity for public comment under the Act because there was good cause to excuse this requirement. The Commission stated that it found, for good cause, that solicitation of public comment on the rule was unnecessary because the Price-Anderson Act (42 U.S.C. §§ 2210) requires the rule's non-discretionary adjustments in the maximum total and annual standard deferred premiums. NRC stated that requesting public comment on these adjustments, which are made pursuant to a formula required by statute, would not result in a change to the adjusted amount.

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

NRC determined that this final rule contains no new or amended information collection requirements under the Act. The Commission stated that existing collections of information were approved by OMB, Approval Number 3150-0039.

Statutory authorization for the rule

NRC promulgated this final rule pursuant to sections 552 and 553 of title 5, United States Code, as well as pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, both codified as various sections of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

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