

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

B-333379

June 29, 2021

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

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

Subject: *Nuclear Regulatory Commission: Revision of Fee Schedules; Fee Recovery for FY 2021*

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 (Commission) entitled “Revision of Fee Schedules; Fee Recovery for FY 2021” (RIN: 3150-AK24). We received the rule on June 17, 2021. It was published in the *Federal Register* as a final rule on June 16, 2021. 86 Fed. Reg. 32146. The effective date is August 16, 2021.

According to the Commission, the final rule amends the licensing, inspection, special project, and annual fees charged to its applicants and licensees. The Commission stated these amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act (NEIMA), Pub. L. No. 115-439, 132 Stat. 5565 (Jan. 14, 2019), which, beginning with fiscal year 2021, requires the Commission to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee recovery requirement. In addition, the Commission stated it is also making improvements associated with fee invoicing to implement provisions of NEIMA.

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 16, 2021. 86 Fed. Reg. 32146. The Senate received the rule on June 21, 2021, and the House received the rule on June 17, 2021. 167 Cong. Rec. S4694 (daily ed. June 22, 2021); 167 Cong. Rec. H3130 (daily ed. June 24, 2021). The final rule has a stated effective date of August 16, 2021. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of the Commission'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 fluid and cursive, with the first letters of each word being capitalized and prominent.

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  
“REVISION OF FEE SCHEDULES, FEE RECOVERY  
FOR FISCAL YEAR 2021”  
(RIN: 3150-AK24)

(i) Cost-benefit analysis

The Nuclear Regulatory Commission (Commission) estimated that it must recover approximately \$708 million in fees for fiscal year 2021 to comply with its statutory mandate. The Commission stated that it estimates it will collect \$190.6 million in 10 C.F.R. part 170 service fees and \$517.4 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

The Commission prepared a Final Regulatory Flexibility Analysis on the final rule. The analysis discussed the impact of the final rule on small entities and the maximum fee.

(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, the Commission 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.*

The Commission published a proposed rule on February 22, 2021. 86 Fed. Reg. 10459. The Commission received comments on the proposed rule and addressed them in the final rule.

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

The Commission determined the final rule does not contain collection of information requirements subject to the Act.

Statutory authorization for the rule

The Commission promulgated the final rule pursuant to section 5514 of title 5; section 6402 of title 26; sections 901, 902, 3701, 3713, 3716, 3719, 3720A, and 9701 of title 31; sections 664, 2014, 2201, 2215, 2236, 2273, 2282, and 5841 of title 42; and section 3504 note of title 44, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

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