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July 15, 2011

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 2011*

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 2011" (RIN: 3150-AI93). We received the rule on July 1, 2011. It was published in the *Federal Register* as a final rule on June 22, 2011. 76 Fed. Reg. 36,780.

The final rule amends the licensing, inspection, and annual fees NRC charges to its applicants and licensees. NRC is required by law to recover through fees approximately 90 percent of its budget authority in fiscal year 2011, not including amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for general homeland security activities. Based on the appropriations for fiscal year 2011, NRC's required fee recovery amount is approximately $915.8 million for the year.

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. 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

ENCLOSURE

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 2011"
(RIN: 3150-AI93)

(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 2011, not including amounts appropriated from the Nuclear Waste Fund, 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 2011.

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

NRC determined that the licenses affected by the annual fee increases and decreases include those that qualify as 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.

NRC published a proposed rule in the *Federal Register* on March 17, 2011. 76 Fed. Reg. 14,748. NRC received seven comments on the final rule, and responded to those comments in the final rule. 76 Fed. Reg. 36,781.

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

The final rule does not contain information collection requirements within the definition of the Paperwork Reduction 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.