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SUBJECT: NRC: Revision of fee schedules; fee recovery for FY 2007

ACTION: Appropriate

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June 19, 2007

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

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Nuclear Regulatory Commission: Revision of Fee Schedules; Fee Recovery for FY 2007*

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 FY 2007" (RIN: 3150-AI00). We received the rule on May 31, 2007. It was published in the *Federal Register* as a final rule on June 6, 2007. 72 Fed. Reg. 31,402.

The final rule amends the licensing, inspection, and annual fees charged to NRC's applicants and licensees. The final rule is necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended, which requires that NRC recover approximately 90 percent of its budget authority in each fiscal year, less the amounts appropriated from the Nuclear Waste Fund and for Waste Incidental to Reprocessing activities and generic homeland security activities. The amount to be recovered for fiscal year 2007 is approximately $669.2 million. After accounting for carryover and billing adjustments, the net amount to be recovered is approximately $670.5 million.

Enclosed is our assessment of the 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 indicates that NRC complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

Robert J. Cramer
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 FY 2007"
(RIN: 3150-AI00)

(i) Cost-benefit analysis

The NRC was not required to, nor did it prepare a cost-benefit analysis of the final rule. However, the final rule contains an explanation of how the amount of the fees was computed to permit the NRC to recover the necessary costs required by the Omnibus Budget Reconciliation Act of 1990, as amended. For fiscal year 2007, the fee recovery amount is approximately $670.5 million.

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

The entire Final Regulatory Analysis is contained in Appendix A of the final rule. The analysis describes the reason for the rule and the legal basis for it; describes and estimates the number of small entities affected by the rule; discusses the recordkeeping, reporting, and other compliance requirements; and notes the steps taken to minimize the burden on small entities, including a maximum fee level. NRC also prepared a Small Entity Compliance Guide, which is included in the final rule as an attachment to Appendix A. This guide is required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. § 601 note.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule, promulgated by an independent regulatory agency, is not subject to title II of the Unfunded Mandates Reform Act of 1995.

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

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

The final rule was issued using the notice and comment procedures contained in 5 U.S.C. § 553. On February 2, 2007, the NRC published a Notice of Proposed Rulemaking in the *Federal Register.* 72 Fed. Reg. 5107. NRC received seven comments in response to the proposed rule and responds to those comments in the final rule.

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

NRC states that the final rule does not contain any information collections that are subject to review under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was promulgated under the authority of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508), as amended by the FY 2001 Energy and Water Development Appropriations Act (Pub. L. No. 106-377) and the Atomic Energy Act of 1954, as amended.

Executive Order No. 12,866

The final rule, promulgated by an independent regulatory agency, is not subject to the review requirements of the order.