

May 31, 2012

Mr. Cass Sunstein, Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Sunstein:

In response to Executive Order 12866, "Regulatory Planning and Review," dated October 4, 1993, I am enclosing the U.S. Nuclear Regulatory Commission's (NRC's) fiscal year (FY) 2012 Regulatory Plan. Our plan includes a discussion of our FY 2013 regulatory priorities and describes the major rulemaking actions that the NRC expects to issue in final form in FY 2012.

Questions about the NRC's FY 2012 Regulatory Plan may be directed to Ms. Leslie Terry, Team Leader, Rules Team, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, at 301-492-3679.

Sincerely,

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Gregory B. Jaczko

Enclosure:  
[NRC FY 2012 Regulatory Plan](#)

## **U.S. Nuclear Regulatory Commission's Fiscal Year 2012 Regulatory Plan**

### **A. Statement of Regulatory Priorities**

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC or the Commission) regulates the possession and use of source, byproduct, and special nuclear material. The NRC's regulatory mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials, to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. The NRC regulates the operation of nuclear power plants and fuel-cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transport, storage, and disposal of radioactive materials and wastes; the decommissioning and safe release for other uses of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material. In addition, the NRC licenses the import and export of radioactive materials.

As part of its regulatory process, the NRC routinely conducts comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. The NRC has developed internal procedures and programs to ensure that it imposes only necessary requirements on its licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

### **B. Major Rules**

The NRC's fiscal year (FY) 2012 Regulatory Plan includes the most significant rulemakings in FY 2012. The NRC anticipates publication of two major rules in FY 2012.

#### **Revision of Fee Schedules and Fee Recovery, Fiscal Year 2012 (RIN 3150-AJ03)**

The NRC will collect fees from its licensees and applicants to fulfill the statutory requirement to recover approximately 90 percent of its budget authority in FY 2012. This recovery does not include amounts appropriated for Waste Incidental to Reprocessing, and for generic homeland security activities (non-fee items). The NRC receives 10 percent of its budget authority from the general fund controlled by the U.S. Treasury each year to pay for the cost of agency activities that do not provide a direct benefit to NRC licensees, such as international assistance and Agreement State activities (as defined under Section 274 of the Atomic Energy Act of 1954, as amended).

#### **Physical Protection of Byproduct Material (RIN 3150-AI12)**

Through this rule, the NRC will amend the Commission's regulations to codify security requirements for the use of Category 1 and Category 2 quantities of radioactive material. The objective of this action is to ensure that effective security measures are in place to prevent the use of radioactive materials for malevolent purposes. The rule also addresses background investigations and access controls, enhanced security for use of, and transportation security for, Category 1 and Category 2 quantities of radioactive material. This rulemaking subsumes Regulation Identifier Number (RIN) 3150-AI56, "Requirements for Fingerprinting and Criminal History Record Checks for Unescorted Access to Radioactive Material and Other Property ([Title 10 of the *Code of Federal Regulations* (10 CFR)] Part 37)." Most of these requirements

were previously imposed by the NRC and Agreement States in 2003 – 2005 using orders and other regulatory mechanisms.

### C. Other Significant Rulemakings

The NRC's other significant rulemakings for FY 2013 and beyond are listed below. Some of these regulatory priorities are a result of recommendations from the Near-Term Task Force established by the NRC in 2011 to examine regulatory requirements, programs, processes, and implementation based on information from the Fukushima Dai-ichi site in Japan, following the March 11, 2011, earthquake and tsunami (see "Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident" (NRC's Agencywide Documents Access and Management System Accession No. ML111861807, dated July 12, 2011)).

- Environmental Effect of Renewing the Operating License of a Nuclear Power Plant (RIN 3150-AI42) – The rule amends the Commission's regulations that provide the environmental protection requirements for renewing nuclear power plant operating licenses.
- Station Blackout (RIN 3150-AJ08) – (addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 4). The advance notice of proposed rulemaking published on March 20, 2012 (77 FR 16175), solicits stakeholder feedback on proposed rulemaking activities to enhance the capability of nuclear power plants to maintain safety through a prolonged station blackout.
- Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150-AH42) – The proposed rule would replace prescriptive requirements with performance-based requirements, incorporate recent research findings, and expand applicability to all fuel designs and cladding materials.
- Strengthening and Integrating Onsite Emergency Response Capabilities (RIN 3150-AJ11) – (addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 8). This advance notice of proposed rulemaking (77 FR 23161; April 18, 2012) solicits stakeholder feedback on regulations governing the integration and enhancement of requirements for onsite emergency response capabilities, and development of both new requirements and the supporting regulatory basis.
- Amendments and Medical Event Definitions (RIN 3150-AI26) – This proposed rule would amend the Commission's regulations that govern medical use of byproduct material related to reporting and notifications of medical events to clarify requirements for permanent implant brachytherapy.
- 10 CFR Part 26 Drug and Alcohol Testing (RIN 3150-AJ15) – This rule amends the drug testing requirements of 10 CFR Part 26, "Fitness-for-Duty Programs," to incorporate lessons learned from implementing the 2008 final rule, enhance the identification of new testing subversion methods, and require the evaluation and testing of semi-synthetic opiates, synthetic drugs and urine, and use of chemicals or multiple prescriptions that could result in a person being unfit for duty.

- Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150-AI49) – The rule would implement the NRC’s authority under the new section 161a of the Atomic Energy Act of 1954, as amended, and revise existing regulations governing security event notifications.
- Site-Specific Analysis (Disposal of Unique Waste Streams) (RIN 3150-AI92) – The proposed rule would amend the Commission’s regulations to require operating and future low-level radioactive waste disposal facilities to conduct a performance assessment and an intruder assessment to demonstrate compliance with performance objectives in 10 CFR Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste,” to enhance safe disposal of low-level radioactive waste.
- 10 CFR Part 26 Drug Testing – U.S. Department of Health and Human Services (HHS) Guidelines (RIN 3150-AI67) – The rule amends the Commission’s regulations to selectively align drug testing requirements in 10 CFR Part 26 with Federal drug testing guidelines issued by HHS.
- Domestic Licensing of Source Material – Amendments and Integrated Safety Analysis (RIN 3150-AI50) – The rule would amend the Commission’s regulations by adding additional requirements for licensees that possess significant quantities of uranium hexafluoride. The proposed amendment would require these licensees to conduct integrated safety analyses.
- Five Certificate of Compliance Rulemakings (RIN 3150-AJ10; RIN 3150-AJ12) – These rulemakings would allow a power reactor licensee to store spent fuel in approved cask designs under a general license.
- Waste Confidence Rule Update – The rule would update 10 CFR 51.23, “Temporary Storage of Spent Fuel after Cessation of Reactor Operation – Generic Determination of No Significant Environmental Impact,” and the Commission’s Waste Confidence Decision if the Commission determines that spent nuclear fuel and high-level waste could be safely stored onsite at nuclear power plants beyond 120 years.
- Spent Fuel Pool Make-Up (addresses Fukushima Dai-ichi Near-Term Task Force Recommendation 7) – The rule would modify regulations to enhance the reliability of spent fuel pool systems and equipment during a prolonged station blackout event. The rule would affect the regulations related to instrumentation that provides information about the condition of the spent fuel pool and the capability for cooling and managing the inventory of water in the pool.
- Revision of Fee Schedules and Fee Recovery for FY 2013 – The NRC will update its requirement to recover approximately 90 percent of its budget authority in FY 2013.