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March 12, 2013

The Honorable Barbara Boxer
Chairman
The Honorable David Vitter
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: Electric Power Research Institute;
Seismic Evaluation Guidance*

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 “Electric Power Research Institute; Seismic Evaluation Guidance” (NRC-2013-0038). We received the rule on February 26, 2013. It was published in the *Federal Register* as an “endorsement letter; issuance” on February 26, 2013. 78 Fed. Reg. 13,097.

The endorsement letter was issued by the NRC with clarifications of Electric Power Research Institute (EPRI)-1025287, “Seismic Evaluation Guidance: Screening, Prioritization and Implementation Details (SPID) for the Resolution of Fukushima Near-Term Task Force Recommendation 2.1: Seismic,” Revision 0, hereafter referred to as the SPID report. This SPID report provides guidance and clarification of an acceptable approach to assist nuclear power reactor licensees when responding to NRC staff’s request for information dated March 12, 2012, Enclosure 1, “Recommendation 2.1: Seismic.” The NRC endorsement letter includes additional clarifications on the: (1) use of the Individual Plant Examination of External Events (IPEEE) submittals for screening purposes; (2) development of the foundation input response spectra (FIRS) consistent with the site response used in the development of the site-specific ground motion response spectrum (GMRS); (3) updating of the seismic source models; and (4) development of the site response.

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

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
NUCLEAR REGULATORY COMMISSION
ENTITLED
"ELECTRIC POWER RESEARCH INSTITUTE;
SEISMIC EVALUATION GUIDANCE"
(NRC-2013-0038)

(i) Cost-benefit analysis

No cost-benefit analysis was prepared.

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

Since the endorsement letter issuance did not follow the issuance of a Notice of Proposed Rulemaking, the requirements of the Regulatory Flexibility Act are not applicable.

(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 stated that the basis for its endorsement is that its staff interacted with the stakeholders on development of the SPID report with a focus on screening, prioritization, and implementation details as they relate to performing a seismic reevaluation. The SPID report is the product of significant interaction between the NRC, Nuclear Energy Institute, EPRI, and other stakeholders at over 15 public meetings over a 9-month period. NRC believes that these interactions and the insights gained from the meetings allowed for the development of this document in a very short timeframe. The meetings helped develop the expectations for how licensees would perform plant evaluations after having updated their seismic hazard information. At each meeting, NRC staff provided its comments on the current version of the SPID report and discussed with stakeholders subsequent proposed revisions to the document. This iterative process, over several months, resulted in the final version of the document. NRC stated that its staff's endorsement of the SPID report, subject to the additional guidance noted in the endorsement letter, is

based on this cumulative development process resulting from the extensive interactions between stakeholders and NRC staff.

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

NRC did not discuss the compliance with the Paperwork Reduction Act although there is a request for information associated with the endorsement letter.

Statutory authorization for the rule

In this issuance, NRC did not discuss the statutory authorization for the endorsement letter issuance, but did state that 10 C.F.R. sec. 50.54(f), the regulation that addresses conditions of licenses issued to every operating nuclear power reactor, requires that each licensee is to submit to NRC its intention to follow the NRC-endorsed seismic reevaluation guidance or an alternative approach.

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.