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United States General Accounting Office
Washington, DC 20548

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June 11, 2001

The Honorable Edward M. Kennedy
Chairman
The Honorable Judd Gregg
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable F. James Sensenbrenner
Chairman
The Honorable John Conyers
Ranking Minority Member
Committee on the Judiciary
House of Representatives

Subject: Department of Labor, Office of Workers' Compensation Programs:
Performance of Functions Under This Chapter; Claims for Compensation
Under the Energy Employees Occupational Illness Compensation Program
Act

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor (DOL), Office of Workers' Compensation Programs, entitled "Performance of Functions Under This Chapter; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act" (RIN: 1215-AB32). We received the rule on May 25, 2001. It was published in the Federal Register as an "interim final rule; request for comments" on May 25, 2001. 66 Fed. Reg. 28948.

The interim final rule governs the administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA). It provides lump-sum payments and medical benefits to covered employees of the Department of Energy, its predecessor agencies, and certain of its vendors, contractors, and subcontractors and, where applicable, survivors of such employees. The EEOICPA also provides for the payment of smaller lump-sum payments and medical benefits to individuals already found eligible for benefits under section 5 of the Radiation Exposure Compensation Act and, where applicable, their survivors.

Enclosed is our assessment of DOL'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 DOL complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Cindy Fagnoni, Managing Director, Education, Workforce, and Income Security. Ms. Fagnoni can be reached at (202) 512-7215.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Shelby Hallmark
Acting Director, Office of Workers'
Compensation Programs
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
DEPARTMENT OF LABOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS
ENTITLED
"PERFORMANCE OF FUNCTIONS UNDER THIS CHAPTER;
CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES
OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT"
(RIN: 1215-AB32)

(i) Cost-benefit analysis

The Department of Labor estimates that the costs of the benefits under the interim final rule and its administrative costs (in millions of dollars) to be as follows:

<u>Fiscal Year</u>	<u>Benefits</u>	<u>Administration</u>
2001	\$358	\$ 50
2002	597	136
2003	477	100
2004	253	55
2005	222	50

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

The Assistant Secretary for Employment Standards has certified that the interim final rule will not have a significant economic impact on a substantial number of small entities.

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

The interim final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

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

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

Since the EEOICPA required that the program's provisions concerning lump-sum payments and medical benefits take effect on July 31, 2001, DOL found "good cause" under 5 U.S.C. 553(b)(B) to forgo notice and comment under the Administrative Procedure Act as impracticable and contrary to the public interest. However, DOL is accepting comments on the interim final rule until August 23, 2001.

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

The interim final rule contains information collections that are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

DOL is submitting to OMB the required information on eight new information collections necessary to implement the provisions of the interim final rule. The required information is summarized in the preamble to the interim final rule and includes the reasons for the collections and the estimated burden hours.

Statutory authorization for the rule

The interim final rule is promulgated pursuant to the authority contained in section 3611 of the Energy Employees Occupational Illness Compensation Program Act (Public Law 106-398, October 30, 2000) and Executive Order No.13179.

Executive Order No. 12866

The interim final rule was reviewed by OMB and found to be an “economically significant regulatory action.

Executive Order No. 13132 (Federalism)

DOL has reviewed the interim final rule under the order and found it does not have federalism implications.