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February 7, 2001

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

The Honorable John Boehner
Chairman
The Honorable George Miller
Ranking Minority Member
Committee on Education and the Workforce
House of Representatives

Subject: Department of Labor, Occupational Safety and Health Administration:
Occupational Injury and Illness Recording and Reporting Requirements

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, Occupational Safety and Health Administration (OSHA), entitled "Occupational Injury and Illness Recording and Reporting Requirements" (RIN: 1218-AB24). We received the rule on January 23, 2001. It was published in the Federal Register as a final rule on January 19, 2001. 66 Fed. Reg. 5916.

The final rule revises the recording and reporting of occupational injuries and illnesses including the forms employers use to record those injuries and illnesses.

Enclosed is our assessment of OSHA'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 OSHA 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: Ms. Marthe B. Kent
Director, OSHA Directorate of
Safety Standards
Occupational Safety and Health
Administration
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
ENTITLED
"OCCUPATIONAL INJURY AND ILLNESS RECORDING
AND REPORTING REQUIREMENTS"
(RIN: 1218-AB24)

(i) Cost-benefit analysis

OSHA performed a cost-benefit analysis of the final rule. The annualized costs consist of new certification requirements (\$23.8 million), additional data requirements (\$12.0 million), expansion in the scope of the rule (\$5.5 million), and transitional costs of the new rule (\$1.5 million). The largest sources of savings are the simplified maintenance of the Log (\$4.8 million), less time required to relearn the recordkeeping system (\$3.1 million), and simplified maintenance of individual reports (\$1.1 million). The net impact of these changes is an estimated annual cost of about \$38.6 million.

The benefits of the final rule, described qualitatively, are enhancing the ability of employers and employees to prevent occupational injuries and illnesses and the improved recordkeeping also increases the utility of the records for OSHA's purposes.

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

The Assistant Secretary has certified that the 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

According to OSHA, the final rule does not impose 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.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On February 2, 1996, OSHA published a Notice of Proposed

Rulemaking in the Federal Register. 61 Fed. Reg. 4029. In response, OSHA received 449 written comments and 1,200 pages of transcripts from public meetings regarding the rule. These comments are discussed in the preamble to the final rule.

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

The final rule contains information collections that are required to be reviewed and approved by Office of Management and Budget (OMB) under the Paperwork Reduction Act. The necessary documentation has been forwarded to OMB for review.

OSHA estimates that there are 1,365,985 establishments that will be required to keep the records covered by the final rule. A total of 4.5 million hours will be needed to comply with the requirements for the first year and 3.5 million for each subsequent year.

Statutory authorization for the rule

The final rule is promulgated under the authority of sections 8(c), 8(g), 20, and 24 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), Secretary of Labor's Order No. 1-90 (55 Fed. Reg. 9033), and 5 U.S.C. 553.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be a "significant" regulatory action under the order.

Executive Order No. 13132 (Federalism)

OSHA notes that because the rule involves a "regulation" issued under section 8 of the Occupational Safety and Health Act, and not a "standard" under section 6 of the Act, the rule does not preempt state law.