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United States General Accounting Office
Washington, DC 20548

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April 9, 2001

The Honorable Robert C. Smith
Chairman
The Honorable Harry Reid
Ranking Member
Committee on Environment and Public Works
United States Senate

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

Subject: Federal Emergency Management Agency: Disaster Assistance; Cerro Grande
Fire Assistance

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Emergency Management Agency (FEMA), entitled "Disaster Assistance; Cerro Grande Fire Assistance" (RIN: 3067-AD12). We received the rule on March 29, 2001. It was published in the Federal Register as a final rule on March 21, 2001. 66 Fed. Reg. 15948.

The final rule sets out the procedures for applicants to obtain assistance for injuries and property damage resulting from the Cerro Grande fire. On August 28, 2000, FEMA published an interim final rule, 65 Fed. Reg. 52260, under which it received comments from interested parties. Based on the comments received, this final rule has revised the procedures that were announced in the interim final rule.

Enclosed is our assessment of FEMA'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 FEMA 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 John H. Anderson,

Managing Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Mr. Michael D. Brown
General Counsel
Federal Emergency Management
Agency

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL EMERGENCY MANAGEMENT AGENCY
ENTITLED
"DISASTER ASSISTANCE; CERRO GRANDE FIRE ASSISTANCE"
(RIN: 3067-AD12)

(i) Cost-benefit analysis

Because of the emergency nature of the rule, FEMA states that it did not perform a cost-benefit analysis.

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

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

As defined in title II, the final rule does not contain either an intergovernmental or private sector mandate 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.*

Following publication of the interim final rule, FEMA received 69 written comments on the rule, which it considered in formulating the final rule. In addition, pursuant to 5 U.S.C. 553(d)(3), FEMA has determined that to delay the effective date of the final rule 30 days would not be in the public interest. Therefore, the final rule is effective on the date of publication, March 21, 2001.

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

In connection with the issuance of the interim final rule, FEMA obtained from the Office of Management and Budget (OMB) emergency approval of various information collections. These collections have been revised and are being resubmitted to OMB on an emergency basis so that FEMA may use them to gather information while comments are being received on the collections.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in Cerro Grande Fire Assistance Act, Public Law 106-246, 114 Stat. 584.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.

Executive Order No. 13132 (Federalism)

FEMA has determined that the final rule does not have federalism implications.