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United States General Accounting Office  
Washington, DC 20548

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B-289585

January 3, 2002

The Honorable Patrick J. Leahy  
Chairman  
The Honorable Orrin G. Hatch  
Ranking Minority Member  
Committee on the Judiciary  
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 Justice, Immigration and Naturalization Service: Adjustment of Certain Fees of the Immigration Examinations Fee Account

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 Justice, Immigration and Naturalization Service (INS), entitled "Adjustment of Certain Fees of the Immigration Examinations Fee Account" (RIN: 1115-AF61). We received the rule on December 20, 2001. It was published in the Federal Register as a final rule on December 21, 2001. 66 Fed. Reg. 65811.

The final rule adjusts the fee schedule of the Immigration Examinations Fee Account for certain immigration and naturalization applications and petitions, as well as the fee for fingerprinting of applicants who apply for certain immigration and naturalization benefits.

Enclosed is our assessment of the INS' 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 the INS 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 Norman Rabkin,

Managing Director, Tax Administration and Justice. Mr. Rabkin can be reached at (202) 512-9110.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Richard A. Sloan  
Director, Policy Directives and  
Instructions Branch  
Department of Justice

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE  
ENTITLED  
"ADJUSTMENT OF CERTAIN FEES OF THE  
IMMIGRATION EXAMINATIONS FEE ACCOUNT"  
(RIN: 1115-AF61)

(i) Cost-benefit analysis

Without the fee adjustments, INS estimates that it will collect approximately \$815 million in fees for immigration and naturalization benefits in fiscal year 2002. If the fee adjustments become effective on January 1, 2002, INS anticipates collecting approximately \$942 million in fiscal year 2002, an increase of \$127 million in revenues.

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

The Attorney General 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

The final rule will 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 August 8, 2001, INS published a Notice of Proposed Rulemaking in the Federal Register. 66 Fed. Reg. 41456. In response, INS received 467 comments, which are discussed in the preamble to the final rule.

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

With the exception of the listing of the fees on already approved forms, the final rule does not impose any new information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Because of these changes, INS will submit the forms to OMB for approval.

Statutory authorization for the rule

The final rule is promulgated under the authority contained at 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; and 31 U.S.C. 9701.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.