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United States Government Accountability Office
Washington, DC 20548

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April 7, 2011

The Honorable Tom Harkin
Chairman
The Honorable Michael B. Enzi
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

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

Subject: *Equal Employment Opportunity Commission: Regulations to Implement the Equal Employment Provisions of the Americans with Disability Act, As Amended*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Equal Employment Opportunity Commission (EEOC), entitled "Regulations to Implement the Equal Employment Provisions of the Americans with Disability Act, As Amended" (RIN: 3046-AA85). We received the rule on March 18, 2011. It was published in the *Federal Register* as a final rule on March 25, 2011. 76 Fed. Reg. 16,978.

The final rule revises the Americans with Disabilities Act (ADA) regulations and accompanying interpretive guidance in order to implement the ADA Amendments Act of 2008. The final rule will become effective on May 24, 2011.

Enclosed is our assessment of EEOC'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 EEOC 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: Peggy R. Mastroianni
Associate Legal Counsel
U.S. Equal Employment
Opportunity Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
ENTITLED
"REGULATIONS TO IMPLEMENT THE EQUAL EMPLOYMENT PROVISIONS
OF THE AMERICANS WITH DISABILITY ACT, AS AMENDED"
(RIN: 3046-AA85)

(i) Cost-benefit analysis

EEOC prepared a cost-benefit analysis in conjunction with the final rule. EEOC determined that the annual costs of reasonable accommodations attributable to the final rule could range between \$60 million and \$183 million depending on the assumptions made about the number of individuals in the labor force whose coverage has been clarified under the final rule and the number of such individuals who will receive a reasonable accommodation. EEOC stated that it does not believe administrative costs will add significantly to the annual costs associated with the final rule, and that EEOC does not believe it is possible to accurately estimate any increase or decrease in legal costs. EEOC stated that the final rule will have extensive quantitative and qualitative benefits for employers, government entities, and individuals with and without disabilities, and that EEOC believes the resulting benefits will be significant and could be in excess of \$100 million annually.

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

EEOC certified that the final rule will not have a significant economic effect 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 Unfunded Mandates Reform Act (UMRA) does not apply to federal regulations that establish or enforce any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability. 2 U.S.C. § 1503. Therefore, EEOC stated that the UMRA does not apply to the final rule.

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

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

EEOC published a notice of proposed rulemaking in the *Federal Register* on September 23, 2009. 74 Fed. Reg. 48,431. EEOC received over 600 comments on the

proposed rule. EEOC responded to the comments in the final rule published on March 25, 2011. 76 Fed. Reg. 16,978.

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

EEOC stated that the final rule includes no new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is authorized by the ADA Amendments Act of 2008, Pub. L. No. 110-325.

Executive Order No. 12,866 (Regulatory Planning and Review)

The final rule was reviewed by OMB as required under the Order. EEOC also prepared a regulatory impact analysis as required by the Order.

Executive Order No. 13,132 (Federalism)

The final rule does not address Executive Order No. 13,132 on federalism.