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United States General Accounting Office
Washington, DC 20548

B-291051

August 28, 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, Jr.
Chairman
The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
House of Representatives

Subject: Department of Justice: Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Technical Amendments

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 (DOJ), entitled "Claims Under the Radiation Exposure Compensation Act Amendments of 2000; Technical Amendments" (RIN: 1105-AA75). We received the rule on August 22, 2002. It was published in the Federal Register as a final rule on August 7, 2002. 67 Fed. Reg. 51422.

The final rule revises DOJ's regulations to implement the Radiation Exposure Compensation Act Amendments of 2000. The changes include, among others, an expansion of the list of compensable "downwinder" and "onsite participant" diseases, additions to the list of "downwinder" geographical areas, modifies the burden of proof, and allows previously denied claimants to file up to three more times.

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

On September 17, 2001, GAO issued a report entitled "Radiation Exposure Compensation: Analysis of Justice's Program Administration." GAO-01-1043. We are currently conducting a further review of the program.

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: Dianne S. Spellberg
Senior Counsel
Civil Division, Torts 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
ENTITLED
"CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT
AMENDMENTS OF 2000; TECHNICAL AMENDMENTS"
(RIN: 1105-AA75)

(i) Cost-benefit analysis

DOJ notes that the compensation payments provided for by the Radiation Exposure Compensation Act and the 2000 Amendments and implemented by the final rule will exceed \$100 million a year for several years.

(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

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.

DOJ states that it found "good cause" as required under 5 U.S.C. 553(b)(3)(B) and (d)(2) to forego public notice of a proposed rulemaking and opportunity for public comment because the final rule merely conforms to the 2000 Amendments and does not expand upon the provisions of the statute.

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

The final rule contains an information collection that has already been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned OMB No. 1105-0052.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in sections 6(a), 6(i), and 6(j) of the Radiation Exposure Compensation Act (Pub. L. 101-426), as amended by sections 3(c-h) of the Radiation Exposure Compensation Act Amendments of 2000 (Pub. L. 106-245)(42 U.S.C. 2210 note).

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.