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United States General Accounting Office  
Washington, DC 20548

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B-289586

January 4, 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, Office of the Attorney General, September 11<sup>th</sup> Victim Compensation Fund of 2001

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), Office of the Attorney General entitled "September 11<sup>th</sup> Victim Compensation Fund of 2001" (RIN: 1105-AA79). We received the rule on December 21, 2001. It was published in the Federal Register as an "interim final rule with request for comments" on December 21, 2001. 66 Fed. Reg. 66274.

The interim final rule contains certain procedural rules for the administration of the September 11<sup>th</sup> Victim Compensation Fund of 2001 that allow the Special Master to commence operation of the fund and disbursement of payments as soon as practicable.

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.

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: Robert D. McCallum  
Assistant Attorney General  
Civil Division  
Department of Justice

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF JUSTICE,  
OFFICE OF THE ATTORNEY GENERAL  
ENTITLED  
"SEPTEMBER 11<sup>TH</sup> VICTIM COMPENSATION FUND OF 2001"  
(RIN: 1105-AA79)

(i) Cost-benefit analysis

The Department of Justice did not perform a cost-benefit analysis of the interim final rule.

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

DOJ has certified that the interim final rule will not have a significant economic impact on a substantial number of small entities. The rule provides compensation for individuals, not entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The interim final rule does not contain 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.

Since the Congress set a 90-day deadline for the issuance of this rule, DOJ found "good cause" under 5 U.S.C. 553(a)(2) to forgo the issuance of a proposed rule and the solicitation of comments as impracticable. Likewise, "good cause" was found under 5 U.S.C. 553(d) to have the rule effective upon publication rather than the normal 30-day delay.

However, DOJ did publish a Notice of Inquiry on November 5, 2001, in the Federal Register. 66 Fed. Reg. 55901. In response to this notice, DOJ received over 800 comments that are discussed in an appendix to the interim final rule. In addition, comments on the interim final rule submitted by January 22, 2002, will be considered.

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

The interim final rule contains an information collection that is subject to review by the Office of Management and Budget under the Paperwork Reduction Act. The preamble to the interim final rule contains the information required under the Act. DOJ estimates that the “Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund” will have an estimated 5,000 claimants with an average burden of 6.0 hours per response or a total burden of 30,000 hours.

The collection has been approved on an emergency basis for 180 days and DOJ is soliciting comments on the collection for the regular review process.

Statutory authorization for the rule

The interim final rule is promulgated pursuant to the authority contained in the September 11<sup>th</sup> Victim Compensation Fund of 2001, Title IV of Public Law 107-42, 115 Stat. 230 (Air Transportation Safety and System Stabilization Act).

Executive Order No. 12866

The interim 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)

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