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Washington, DC 20548

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June 22, 2005

The Honorable Michael B. Enzi
Chairman
The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
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 Labor, Office of Workers' Compensation Programs:
Performance of Functions; Claims for Compensation Under the Energy
Employees Occupational Illness Compensation Program Act*

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 Labor (DOL), Office of Workers' Compensation Programs, entitled "Performance of Functions; Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act" (RIN: 1215-AB51). We received the rule on June 8, 2005. It was published in the Federal Register as an "interim final rule; request for comments" on June 8, 2005. 70 Fed. Reg. 33590.

The interim final rule governs the administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), as amended by Subtitle E of Title XXXI of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375). The amendments established a new Part E of the program that contains a new system of variable federal payments for Department of Energy contractor employees, uranium workers covered by section 5 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note), and eligible survivors of such employees. The rule also implements other amendments dealing with Part B of the program.

Enclosed is our assessment of the DOL'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 DOL 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.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Shelby Hallmark
Director, Office of Workers'
Compensation Programs
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF LABOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS
ENTITLED
"PERFORMANCE OF FUNCTIONS; CLAIMS FOR COMPENSATION
UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS
COMPENSATION PROGRAM ACT"
(RIN: 1215-AB51)

(i) Cost-benefit analysis

The Department of Labor estimates that the costs of the benefits under the interim final rule and its administrative costs (in millions of dollars) are as follows:

<u>Fiscal Year</u>	<u>Benefits</u>	<u>Administration</u>
2005	\$1,025	\$ 90
2006	760	156
2007	593	102
2008	468	77
2009	424	63

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

The Assistant Secretary for Employment Standards has certified that the interim 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 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.

DOL has found "good cause" to waive notice and rulemaking procedures found at 5 U.S.C. 553 because the enabling statute, which was amended on October 28, 2004,

requires that the regulations be prescribed no later than May 26, 2005. Claims under the statute could not be fully adjudicated until the regulations were effective. Therefore, the rule was made effective upon publication rather than after a 30-day delay. Comments have been requested on the interim final rule and will be considered before the interim final rule is finalized.

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

The interim final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. There are six new collections for which DOL has submitted the required information to OMB for review and approval including the estimated burden hours.

Statutory authorization for the rule

The interim final rule is promulgated under the authority found in the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended, 42 U.S.C. 7384 *et seq.*, and Executive Order 13179.

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

DOL has reviewed the interim final rule under the order and found it does not have federalism implications.