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Office of the General Counsel

B-280802

August 25, 1998

The Honorable Orrin G. Hatch  
Chairman  
The Honorable Patrick J. Leahy  
Ranking Minority Member  
Committee on the Judiciary  
United States Senate

The Honorable Henry J. Hyde  
Chairman  
The Honorable John Conyers, Jr.  
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-AE42). We received the rule on August 12, 1998. It was published in the Federal Register as a final rule on August 14, 1998. 63 Fed. Reg. 43604.

The final rule adjusts the fees schedule of the Immigration Examinations Fee Account (IEFA) for certain immigration adjudication and naturalization applications and petitions. Fees collected from persons filing these applications and petitions are deposited in the IEFA and are used to fund the cost of processing immigration adjudication and naturalization applications and petitions and associated support services; the cost of providing similar services to asylum and refugee applicants; and the cost of similar services provided to other immigrants at no charge. The rule ensures that the fees that fund the IEFA generate sufficient revenue to recover the full cost of providing these services.

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 INS complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Department of Justice, Immigration and Naturalization Service, is Norman Rabkin, Director, Administration of Justice Issues. Mr. Rabkin can be reached at (202) 512-8777.

Robert P. Murphy  
General Counsel

Enclosure

cc: The Honorable Doris Meissner  
Commissioner  
Immigration and Naturalization Service  
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-AE42)

(i) Cost-benefit analysis

INS states that the final rule will increase the revenues collected through the fees by \$230,993,000 annually, and the increased fees will be paid by an estimated 4.3 million individuals and businesses filing immigration adjudication and naturalization applications and petitions. INS also believes that the \$231 million annual increase is probably overstated. It believes there will likely be a decline in applications and petitions because of the implementation of the higher fees.

(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 does not impose a federal intergovernmental or private sector mandate, as defined in the Unfunded Mandates Act of 1995.

(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 in 5 U.S.C. § 553. On January 12, 1998, INS published a notice of proposed rulemaking in the Federal Register to adjust the fees schedule. 63 Fed. Reg. 1775. Following a 60-day comment period, INS had received 2,033 comments regarding the proposed rule and INS responds to the comments in the preamble to the final rule.

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

The final rule does not contain any new information collections which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was issued under the authority of 5 U.S.C. §§ 552 and 552(a); 8 U.S.C. §§ 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. § 9701.

Executive Order No. 12866

The final rule was determined to be an "economically significant" regulatory action under Executive Order No. 12866 and was reviewed and approved by the Office of Management and Budget.