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United States Government Accountability Office  
Washington, DC 20548

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B-298603

August 31, 2006

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 Howard P. "Buck" McKeon  
Chairman  
The Honorable George Miller  
Ranking Minority Member  
Committee on Education and the Workforce  
House of Representatives

Subject: *Department of Education: Federal Student Aid Programs*

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 Education (Education), entitled "Federal Student Aid Programs" (RIN: 1840-AC87). We received the rule on August 23, 2006. It was published in the Federal Register as "interim final regulations; request for comments" on August 9, 2006. 71 Fed. Reg. 45666.

The interim final rule amends the Federal Student Aid Program regulations to implement the changes made by the Higher Education Reconciliation Act of 2005 (Public Law No. 109-171).

Enclosed is our assessment of Education'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 Education 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: Elizabeth A.M. McFadden  
Assistant General Counsel  
Division of Regulatory Services  
Department of Education

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF EDUCATION  
ENTITLED  
"FEDERAL STUDENT AID PROGRAMS"  
(RIN: 1840-AC87)

(i) Cost-benefit analysis

The Department of Education states that the interim final rule will impose increased costs on some borrowers, such as an increase in the loan interest rate for Federal Family Education Loans PLUS borrowers, the elimination of in-school and joint consolidation loans, and the mandatory imposition of the previously optional 1-percent guaranty agency default insurance premium. Education estimates that the annualized monetary transfers from the federal government to postsecondary students and from student aid program participants to the federal government will be \$976 million.

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

Education 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.

The Secretary of Education has determined that it is unnecessary and impracticable to have the notice and comment procedures found at 5 U.S.C. 553 used for the interim final rule. There is not sufficient time to obtain comments before the statutory provisions take effect and most of the changes are mandated by the statute and the Secretary has no discretion in implementing the changes.

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

The interim final rule contains information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Several of the collections have already been approved but Education is modifying the annual burden to be consistent with the interim final rule.

Statutory authorization for the rule

The interim final rule was promulgated under the authority found at 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1099b, and 1099(c).

Executive Order No. 12866

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