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United States General Accounting Office
Washington, DC 20548

July 27, 2001

Mr. Ronald C. Kelly
Executive Director
Regulatory Information Service Center

Subject: Accuracy of Information in the Unified Agenda

Dear Mr. Kelly:

At the request of the Ranking Minority Member of the Senate Committee on Small Business, we are reviewing the implementation of section 212 of the Small Business Regulatory Enforcement Fairness Act in selected agencies. In the course of that review, we discovered several errors in recent editions of the Unified Agenda of Federal Regulatory and Deregulatory Actions. The errors generally fell into three categories: (1) entries that should have appeared in previous editions of the Agenda, (2) entries that reported the wrong date of regulatory action, and (3) entries that incorrectly reported the status of rules regarding the Regulatory Flexibility Act of 1980. This letter is intended to call those errors to your attention and to suggest a way to improve the accuracy of the Agenda.

In our review, we examined entries in the "completed action" sections of the agendas prepared by the Departments of Commerce and Health and Human Services (HHS), the Federal Communications Commission (FCC), and the Securities and Exchange Commission (SEC) for April and October of 1999 and 2000, and for April 2001. According to the Unified Agenda, "completed actions" include "actions or reviews the agency has completed or withdrawn since publishing its last agenda." Because the Agendas are published roughly every 6 months, items in the completed action section should reflect actions that the agencies have taken within the previous 6 months. However, some of the Agenda entries that we reviewed involved actions completed more than 6 months before the date of the Agenda. At least14 of the FCC "completed action" entries had this problem. For example, an FCC entry in the April 1999 edition of the Agenda (sequence number 4173) indicated that a final rule had been published in the *Federal Register* in September 1997—19 months prior to the date of the Agenda in which the entry appeared. Therefore, this "completed action" did not involve a rule that had been completed since the agency's last agenda.

We also discovered that, in some cases, the Unified Agenda provided the wrong dates on which the rules were published in the *Federal Register*. At least nine of the SEC entries that we reviewed had this problem. For example, in the October 1999 edition of the Agenda (sequence number 4664), the SEC indicated that the final rule for that

entry was published on August 20, 1999. However, the rule was actually published on August 27, 1999. In another entry in the same edition of the Agenda (sequence number 4667), the SEC said that the final rule was published on April 15, 1999, but the rule was actually published on April 21, 1999. These errors in the *Federal Register* publication dates are confusing to Agenda users and make finding the associated rule more difficult.

Finally, we discovered that some of the regulatory actions that the agencies indicated required a regulatory flexibility analysis, in fact, did not require such an analysis. For example, a Department of Commerce entry in the April 2000 edition of the Agenda (sequence number 646) indicated that the rule at issue would require a regulatory flexibility analysis ("Regulatory Flexibility Analysis Required: Yes"). However, the *Federal Register* notice for this rule clearly stated that a regulatory flexibility analysis was not required because the rule was not expected to have a significant economic impact on a substantial number of small entities. We also found entries in which the opposite was true. That is, the Agenda indicated that the rule associated with an entry did not require a regulatory flexibility analysis, but the rule itself indicated that an analysis was done. These errors in the "Regulatory Flexibility Analysis Required" field have made our review of agencies' implementation of section 212 more difficult and can create a false impression regarding the degree to which agencies are conducting the analyses.

We recognize that it is the agencies' responsibility to provide accurate information to your office for compilation in the Unified Agenda. We also recognize that it is impossible to produce a document the size of the Unified Agenda with absolutely no errors, particularly for those parts of the Agenda that reflect forthcoming regulatory actions. However, the completed action field is intended to reflect actions that have already been taken. Agencies should be able to reflect those actions accurately so that users of the Agenda can rely on the document to identify regulatory actions of interest to them. Therefore, we recommend that you alert the agencies contributing to the Agenda that some of their entries have been found in error, and that they should take steps to ensure the accuracy of the information provided for publication in future editions of the Agenda.

We appreciate your attention to this matter. If you have any questions, please call Curtis Copeland of my staff at (202) 512- .

Sincerely yours,

Victor S. Rezendes
Managing Director
Strategic Issues

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