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United States Government Accountability Office
Washington, DC 20548

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August 10, 2010

The Honorable Blanche Lincoln
Chairman
The Honorable Saxby Chambliss
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Collin C. Peterson
Chairman
The Honorable Frank D. Lucas
Ranking Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Commodity Credit Corporation: Conservation Reserve Program*

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 Agriculture, Commodity Credit Corporation (CCC), entitled “Conservation Reserve Program” (RIN: 0560-AH80). We received the rule on July 23, 2010. It was published in the *Federal Register* as an interim rule on July 28, 2010, with an effective date of July 28, 2010. 75 Fed. Reg. 44,067.

The interim rule amends the Conservation Reserve Program (CRP) regulations to implement provisions of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The 2008 Farm Bill generally extends the existing CRP through 2012 with some changes in eligibility requirements. The purpose of CRP is to cost-effectively assist producers in conserving and improving soil, water, wildlife, and other natural resources by converting environmentally-sensitive acreage from the production of agricultural commodities to a long-term vegetative cover and to address issues raised by state, regional, and national conservation initiatives. Section 2904 of the 2008 Farm Bill authorized CCC to issue the interim rule effective on publication with an opportunity for comment.

Enclosed is our assessment of the CCC'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 of the procedural steps taken indicates that CCC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Deirdre Holder
Director, Regulatory Review Group
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
COMMODITY CREDIT CORPORATION
ENTITLED
"CONSERVATION RESERVE PROGRAM"
(RIN: 0560-AH80)

(i) Cost-benefit analysis

CCC states that the changes to CRP in this rule are expected to cost about \$6.7 million per year over 10 years (2011–2020). CCC explains that this is a net cost that reflects roughly \$77 million in additional CRP payments to participants over the next 10 years for additional land enrolled through the county maximum acreage waivers to exclude certain acreage and revised cropping history requirements and payments for pollinator habitat practices, minus roughly \$10 million in reduced payments for the revised permissive uses. CCC states that the benefits to participants will be the net additional \$6.7 million per year over the next 10 years. CCC notes that there are expected to be additional non-quantifiable environmental benefits from the waivers to exclude that will allow more environmentally sensitive acres to be enrolled through continuous signup, from additional highly erodible land enrollment that could result from making land in long-term hay rotations eligible, and from the incentives for pollinator habitat. Additionally, CCC states that the other provisions in this rule, such as local preference, are expected to have little to no cost. CCC believes that these provisions will largely substitute one CRP participant for another, or one practice for another, leading in a shift in costs and benefits to different participants and practices, but little net cost or benefit for CRP as a whole.

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

CCC has determined that the Regulatory Flexibility Act is not applicable to this interim rule because CCC is not required by 5 U.S.C. § 553 or any other provision of law to publish a notice of proposed rulemaking for this rule. CCC states that it is authorized by section 2904 of the 2008 Farm Bill to issue an interim rule effective on publication with an opportunity for comment.

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

CCC notes that this interim rule contains no federal mandates for state, local, or tribal governments, or the private sector under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA, Pub. L. No. 104–4). In addition,

CCC is not required to publish a notice of proposed rulemaking for this rule. Therefore, CCC states that this rule is not subject to the requirements of sections 202 and 205 of UMRA.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

CCC states that it is not required by 5 U.S.C. § 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. CCC notes that it is authorized by section 2904 of the 2008 Farm Bill to issue an interim rule effective on publication with an opportunity for comment.

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

The regulations in this interim rule are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 2904 of the 2008 Farm Bill, which provides that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act.

Statutory authorization for the rule

CCC states that this interim rule is authorized by the Food, Conservation, and Energy Act of 2008. Pub. L. No. 111-246, 122 Stat. 1651.

Executive Order No. 12,866 (Regulatory Planning and Review)

CCC has determined that this interim rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12,866.

Executive Order No. 13,132 (Federalism)

CCC states that the policies contained in this interim rule do not have any substantial direct effect on states, on the relationship between the federal government and the states, on the distribution of power and responsibilities among the various levels of government. CCC notes that this rule does not impose substantial direct compliance costs on state and local governments. Therefore, CCC believes that consultation with the states is not required.