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Washington, DC 20548

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June 3, 2020

The Honorable Pat Roberts  
Chairman  
The Honorable Debbie Stabenow  
Ranking Member  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable Collin C. Peterson  
Chairman  
The Honorable K. Michael Conaway  
Ranking Member  
Committee on Agriculture  
House of Representatives

Subject: *Department of Agriculture, Office of the Secretary: Coronavirus Food Assistance 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 (USDA), Office of the Secretary entitled "Coronavirus Food Assistance Program" (RIN: 0503-AA65). We received the rule on May 19, 2020. It was published in the *Federal Register* as a final rule on May 21, 2020. 85 Fed. Reg. 30825.

According to USDA, the final rule implements the Coronavirus Food Assistance Program (CFAP). USDA stated CFAP provides assistance to agricultural producers impacted by the effects of the COVID-19 outbreak. According to USDA, the final rule establishes provisions for direct payments to producers of eligible commodities and specifies the eligibility requirements, payment calculations, and application procedures for CFAP.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). USDA determined it had good cause because the beneficiaries of this rule have been significantly impacted by the COVID-19 outbreak, which has resulted in income losses due to significant declines in demand and market disruptions.

Enclosed is our assessment of USDA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and a long, sweeping tail on the 'J'.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Mary Ann Ball  
FPAC-BC  
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY  
ENTITLED  
“CORONAVIRUS FOOD ASSISTANCE PROGRAM”  
(RIN: 0503-AA65)

(i) Cost-benefit analysis

The United States Department of Agriculture (USDA) stated the final rule would implement payments totaling \$9.5 billion to partially compensate producers for losses due to price declines that occurred between mid-January 2020 and mid-April 2020, and for specialty crops that have been shipped from the farm by April 15th but subsequently spoiled due to loss of marketing channel. USDA further stated the final rule would implement payments totaling \$6.5 billion to partially compensate producers for \$6.5 billion for ongoing market disruptions and will assist with the transition to a more orderly marketing system as the COVID-19 pandemic wanes.

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

USDA determined the final rule is not subject to RFA because USDA is not required to publish a proposed rule.

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

USDA determined the final rule does not impose any federal mandate on state, local, or tribal governments, or on the private sector.

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

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

USDA determined notice-and-comment procedures do not apply because the final rule relates to benefits.

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

USDA determined the final rule contained an information collection requirement (ICR) under the Act and submitted the ICR to the Office of Management and Budget (OMB) for review. OMB gave emergency approval to the ICR for 6 months.

Statutory authorization for the rule

USDA promulgated the final rule pursuant to sections 714b and 714c of title 15, United States Code and Division B, title I of Public Law 116-136.

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

USDA stated OMB determined the final rule was economically significant and reviewed the rule.

Executive Order No. 13,132 (Federalism)

USDA determined the final rule does not have any substantial direct effect on states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government, except as required by law.

USDA also determined the final rule does not impose substantial direct compliance costs on state and local governments.