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Office of the General Counsel

B-280725; B-280726

August 17, 1998

The Honorable Richard G. Lugar  
Chairman  
The Honorable Tom Harkin  
Ranking Minority Member  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable Robert F. Smith  
Chairman  
The Honorable Charles W. Stenholm  
Ranking Minority Member  
Committee on Agriculture  
House of Representatives

Subject: Department of Agriculture, Federal Crop Insurance Corporation: (1) General Administrative Regulations, Subpart U; and Catastrophic Risk Protection Endorsement; Regulations for the 1999 and Subsequent Reinsurance Years and (2) General Administrative Regulations, Subpart T--Federal Crop Insurance Reform, Insurance Implementation; Regulations for the 1999 and Subsequent Reinsurance Years; and the Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on two major interim rules promulgated by the Federal Crop Insurance Corporation (FCIC), entitled "General Administrative Regulations, Subpart U; and Catastrophic Risk Protection Endorsement; Regulations for the 1999 and Subsequent Reinsurance Years" (RIN: 0563-AB68) and "General Administrative Regulations, Subpart T--Federal Crop Insurance Reform, Insurance Implementation; Regulations for the 1999 and Subsequent Reinsurance Years; and the Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions" (RIN: 0563-AB67). We received the rules on July 31, 1998. They were published in the Federal Register as interim rules on July 30, 1998. 63 Fed. Reg. 40630 and 40632.

The first rule amends subpart U of the General Administrative Regulations--Ineligibility for Programs Under the Federal Crop Insurance Act and the Catastrophic Risk Protection Endorsement--to conform with the statutory mandates of the Agricultural Research, Extension, and Education Act of 1998. The second rule amends subpart T of the Regulations and the Common Crop Insurance Regulations, Basic Provisions, to conform with the same Act and to move those provisions that are terms of insurance from subpart T into the Basic Provisions. This rule also removes those provisions of subpart T that have been moved to the Basic Provisions.

Enclosed is our assessment of the Federal Crop Insurance Corporation's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rules. Our review indicates that the FCIC complied with the applicable requirements.

If you have any questions about this report, please contact Kathleen Wannisky, Associate General Counsel for Operations, at (202) 512-5207. The official responsible for GAO evaluation work relating to the Federal Crop Insurance Corporation, is Lawrence Dyckman, Director for Food and Agriculture Issues. Mr. Dyckman can be reached at (202) 512-5138.

Robert P. Murphy  
General Counsel

Enclosure

cc: Mr. Kenneth D. Ackerman  
Manager, Federal Crop Insurance Corporation  
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF TWO MAJOR INTERIM RULES  
ISSUED BY  
THE DEPARTMENT OF AGRICULTURE,  
FEDERAL CROP INSURANCE CORPORATION  
ENTITLED  
"GENERAL ADMINISTRATIVE REGULATIONS, SUBPART U; AND CATASTROPHIC  
RISK PROTECTION ENDORSEMENT; REGULATIONS FOR THE 1999 AND  
SUBSEQUENT REINSURANCE YEARS" AND  
"GENERAL ADMINISTRATIVE REGULATIONS, SUBPART T--FEDERAL CROP  
INSURANCE REFORM, INSURANCE IMPLEMENTATION; REGULATIONS FOR  
THE 1999 AND SUBSEQUENT REINSURANCE YEARS; AND  
THE COMMON CROP INSURANCE REGULATIONS; BASIC PROVISIONS;  
AND VARIOUS CROP INSURANCE PROVISIONS"  
(RIN 0563-AB68 AND RIN: 0563-AB67)

(i) Cost-benefit analysis

These rules are being published as interim rules on an emergency basis so that affected producers have the opportunity to make timely decisions regarding their crop insurance plans for the 1999 crop year. FCIC has not yet prepared cost-benefit analyses for these two rules, but states in the preambles to the interim rules that it will complete the analyses within 90 days of publication of the rules in the Federal Register. FCIC states that such analyses will be made available to the public when prepared.

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

Pursuant to section 605(b) of the Act, FCIC certified in the preambles to both the interim rules (63 Fed. Reg. 40630 and 40632) that the rules would not have a significant impact on a substantial number of small entities. Therefore, there was no requirement to prepare initial or final regulatory flexibility analyses under sections 603 or 604 of the Act. For the same reasons, sections 607 and 609 are inapplicable.

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

According to FCIC, these rules contain no federal mandates under Title 2 of the Act for state, local, and tribal governments or the private sector; therefore, sections 202 and 205 of the Act are inapplicable.

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

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

Because the Agricultural Research, Extension, and Education Reform Act of 1998, signed by the President on June 23, 1998, requires that the changes to crop insurance policies made by these rules be effective for the 1999 and subsequent reinsurance years (beginning July 1, 1998), FCIC invoked the exception to the notice and comment requirements contained in 5 U.S.C. 553(b)(B). It stated that it would be impractical and contrary to the public interest to publish these rules prior to making them effective. Instead, FCIC published these as interim rules. FCIC did announce that it is soliciting comments for 60 days after the date of publication in the Federal Register and will consider the comments in preparing the final rules.

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

The collections of information for these rules have been previously approved by the Office of Management and Budget under control numbers 0563-0053 through October 31, 2000. According to FCIC, the amendments set forth in these rules do not revise the content or alter the frequency of reporting for any of the forms or information collections cleared under the above control numbers.

Statutory authorization for the rules

FCIC is authorized by 7 U.S.C. 1506(l) and (p) to issue regulations to carry out the function of providing crop insurance.

Executive Order No. 12866

These rules were determined to be economically significant for the purposes of Executive Order 12866 and were reviewed by the Office of Management and Budget.

Executive Order No. 12988

According to FCIC, these rules have been reviewed in accordance with Executive Order No. 12988 on civil justice reform. The provisions of these rules will preempt state and local laws to the extent that such laws are inconsistent with these rules.

Executive Orders No. 12612 and 12372

The preambles to the rules state that they have been reviewed under Executive Orders No. 12612 (Federalism) and 12372 (Intergovernmental Cooperation) and were not subject to those orders.