



441 G St. N.W.
Washington, DC 20548

B-331756

January 23, 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, Commodity Credit Corporation: Environmental Quality Incentives 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 "Environmental Quality Incentives Program" (RIN: 0578-AA68). We received the rule on January 10, 2020. It was published in the *Federal Register* as an interim rule on December 17, 2019. 84 Fed. Reg. 69272. The effective date of the rule is December 17, 2019.

The interim rule makes changes to the Environmental Quality Incentives Program (EQIP) to conform to changes made by the Agriculture Improvement Act of 2018 (the Act). Pub. L. No. 115-334, 132 Stat. 4490 (2018). The Act made several changes to EQIP as described in the rule. For instance, the Act makes a state, irrigation district, groundwater management district, acequia, land grant-mercedes, or similar entity eligible for EQIP payments. The Act also requires targeting of at least 10 percent of EQIP funds to wildlife conservation practices, reduces EQIP funds targeted for livestock to 50 percent, and creates various incentives to address resource concerns in identified watersheds and other high priority areas.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the 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. § 80(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for 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). CCC determined due to the nature of the rule, the mandatory requirements of the Act, and the need to implement the regulations expeditiously to provide assistance to producers, the 60-day delay is contrary to the public interest. CCC made the rule effective upon publication in the *Federal Register*.

Enclosed is our assessment of 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. 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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Verna Howell
FFAC-BC
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
“ENVIRONMENTAL QUALITY INCENTIVES PROGRAM”
(RIN: 0578-AA68)

(i) Cost-benefit analysis

The Department of Agriculture, Commodity Credit Corporation (CCC) estimates most of the rule’s impacts consists of transfer payments to producers for completed conservation practices under Environmental Quality Incentives Program (EQIP) contracts. The Agriculture Improvement Act of 2018 increases funding by 22 percent on an annualized basis to \$1.84 billion per year. CCC further estimated that implementation of the EQIP conservation practices will be \$13,640.2 million from both public and private sources.

The agency also estimated the conservation practices funded by EQIP will continue to contribute to improvements in soil health and reductions in water and wind erosion on cropland, pasture, and rangeland. The agency further estimated EQIP efforts would reduce nutrient losses to streams, rivers, lakes, and estuaries; increase wildlife habitat; and provide other environmental benefits. Finally, CCC estimated continued implementation of practices that treat and manage animal waste through EQIP will directly contribute to improvements in water quality and associated improvements in air quality.

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

CCC stated the rule is not subject to the Act because no law requires that a proposed rule be published for this rulemaking initiative. The agency further stated despite the Act not applying to this rule, the rule only affects those entities who voluntarily participate in EQIP and in doing so receive its benefits.

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

CCC determined the rule contains no federal mandates for state, local, and tribal governments or the private sector.

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

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

CCC determined the rule involves matters relating to benefits and therefore is exempt from the APA requirements. The agency is soliciting comments on the rule through February 17, 2020.

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

Because the rule implements the programs of chapter 58 of title 16, United States Code, the agency determined the rule is exempt from PRA.

Statutory authorization for the rule

CCC promulgated the rule pursuant to sections 714b and 714c of title 15 and sections 3839aa to 3839-8 of title 16, United States Code.

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

CCC stated the Office of Management and Budget designated the rule as economically significant under the Order and reviewed the rule.

Executive Order No. 13,132 (Federalism)

CCC determined the 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.