



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

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February 26, 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: Regional Conservation Partnership 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 "Regional Conservation Partnership Program" (RIN: 0578-AA70). We received the rule on February 13, 2020. It was published in the *Federal Register* as an interim rule on February 13, 2020. 85 Fed. Reg. 8131. The effective date of the rule is February 13, 2020.

The interim rule with request for public comments adds a new part to the existing regulations to implement the Regional Conservation Partnership Program (RCP), which is reauthorized by the Agriculture Improvement Act of 2018. Pub. L. No. 115-334, 132 Stat. 4490 (2018) (2018 Farm Bill). The new part has four subparts: Subpart A provides the general framework for the program and provides the purposes, scope, definitions, fund allocations, and basic program requirements; Subpart B provides the framework for the proposal, selection, and administration of RCP partnership agreements, including the supplemental agreements to facilitate the provision of program assistance to producers, and further includes general provisions related to third party contracts; Subpart C provides the framework under which National Resources Conservation Service (NRCS) provides program assistance to producers to implement eligible activities; and Subpart D provides the standard programmatic information about appeals, assignments, and related matters.

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 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). Here, CCC states that, due to the nature of the rule, the mandatory

requirements of the 2018 Farm Bill, and the need to implement the RCPP regulations expeditiously to provide assistance to producers, NRCS and CCC find that notice and public procedure are contrary to the public interest, and thus they are not required to delay the effective date for 60 days from the date of publication.

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: Deirdre Holder
Farm Production and Conservation Business Center
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
“REGIONAL CONSERVATION PARTNERSHIP PROGRAM”
(RIN: 0578-AA70)

(i) Cost-benefit analysis

The Department of Agriculture, Commodity Credit Corporation (CCC), under the heading of an economic impacts summary, compared the Regional Conservation Partnership Program (RCP) under the prior statutory authorization to the current statutory authorization.

Under the Agricultural Act of 2014 (2014 Farm Bill), CCC states that 375 projects have been selected across the United States and Puerto Rico leveraging \$1 billion in National Resources Conservation Services (NRCS) technical and financial assistance with approximately \$1.3 billion in partner contributions. The 2014 Farm Bill provided \$100 million annually in RCP mandatory funding, and the conservation activities were undertaken through partnership agreements (between NRCS and a lead partner) and contracts or agreements with eligible landowners, entities, and individuals under one or more covered programs (Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP), Agricultural Conservation Easement Program (ACEP), Healthy Forests Reserve Program (HFRP), and the Watershed Protection and Flood Prevention Act). According to CCC, EQIP, CSP, and ACEP each contributed 7 percent of their annual funding to RCP, and the federal transfers under the 2014 Farm Bill totaled slightly more than \$1 billion for Fiscal Year (FY) 2014 through 2018, or \$200 million on an annual basis.

CCC states that the Agriculture Improvement Act of 2018 reauthorizes RCP with significant changes to how the program is funded. Pub. L. No. 115-334, 132 Stat. 4490 (2018) (2018 Farm Bill). Specifically, according to the rule, contributions from “covered programs” are eliminated, and “covered programs contracts” are replaced with RCP contracts and programmatic partnership agreements. The 2018 Farm Bill repeals the 7 percent reserved resources from the covered programs, provides \$300 million in annual mandatory CCC funding, and establishes RCP standalone contracts. CCC states that the \$300 million in mandatory annual funding increases RCP funding by \$100 million annually, taking into account the past contributions of the “covered programs” during FY 2014 through 2018.

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

CCC states that this rule is not subject to RFA because no law requires that a proposed rule be published for this rulemaking initiative. CCC states further that, despite RFA not applying, the action only affects those entities who voluntarily participate in RCP 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 states that this rule contains no federal mandates, as defined under the Act, for state, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of the Act, according to CCC.

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

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

CCC states that this rule involves matters relating to benefits, and therefore is exempt from the Act's requirements. CCC also states that regulations to implement the programs of chapter 58 of title 16, United States Code, are to be made as interim rules effective on publication, with an opportunity for notice and comment. 16 U.S.C. § 3846.

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

CCC states that the regulations to implement the programs of chapter 58 of title 16, United States Code, and the administration of those programs are exempt from the Act. 16 U.S.C. § 3846.

Statutory authorization for the rule

CCC states that it promulgated this interim rule pursuant to sections 714b and 714c of title 15, and sections 3871 *et seq.* of title 16, United States Code.

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

CCC states that the Office of Management and Budget (OMB) designated this rule as economically significant under the Order, and, therefore, OMB has reviewed this rule.

Executive Order No. 13,132 (Federalism)

CCC states that the policies contained in this interim final rule do 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. CCC also states that this rule does not impose substantial direct compliance costs on state or local governments.