



G A O

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

B-319895

June 17, 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 Stewardship 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 Stewardship Program” (RIN: 0578-AA43). We received the rule on May 28, 2010. It was published in the *Federal Register* as a final rule on June 3, 2010. 75 Fed. Reg. 31,610. The final rule was effective June 3, 2010.

The final rule addresses comments received on the interim final rule on the Conservation Stewardship Program and makes other minor adjustments to improve the clarity of the rule. The Conservation Stewardship Program provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land, which can include cropland, grassland, rangeland, non-industrial private forest, agricultural land under the jurisdiction of an Indian tribe, and other private agricultural land on which resource concerns related to agricultural production could be addressed.

The Congressional Review Act (CRA) generally 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). However, any rule which an agency for good cause finds that notice and public procedure

thereon are impracticable, unnecessary, or contrary to the public interest shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). CCC found good cause to waive the delay in effective date in order to meet the congressional intent to have the conservation programs authorized in effect as soon as possible.

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. 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: Keira Franz
Director of Legislative Affairs
Natural Resources Conservation Service
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 STEWARDSHIP PROGRAM"
(RIN: 0578-AA43)

(i) Cost-benefit analysis

CCC prepared a cost-effectiveness analysis (CEA) of the final rule, which is an approach used when benefits are not well understood or difficult to measure, but activity costs are available. The CEA compares the impact of these conservation activities in generating environmental benefits with program costs. The CEA describes how the improvements can produce beneficial impacts concerning onsite resource conditions, such as conserving soil, and significant offsite benefits, such as cleaner water, improved air quality, and enhanced wildlife habitat. The total cumulative program costs for four program ranking periods are estimated to be \$2.990 billion in constant 2005 dollars, discounted at 7 percent, or \$3.520 billion in constant 2005 dollars discounted at 3 percent. Since the Conservation Stewardship Program is a voluntary program, it is not expected to impose any obligation or burden upon agricultural producers and non-industrial private forestland owners who chose not to participate.

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

CCC determined that the Regulatory Flexibility Act is not applicable to the final 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 with respect to the subject matter of the final rule.

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

CCC determined that the final rule does not compel the expenditure of \$100 million or more by any state, local, or tribal governments, or the private sector.

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

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

CCC published an interim final rule with a 60-day public comment period on July 29, 2009. 74 Fed. Reg. 37,499. On September 21, 2009, CCC published a notice extending the comment period an additional 30 days. 74 Fed. Reg. 48,005. CCC addressed the comments received in the final rule. 75 Fed. Reg. 31,3610.

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

CCC did not report recordkeeping or estimated paperwork burden associated with the final rule, because section 2904 of the Food, Conservation, and Energy Act of 2008, provides that regulations made under Title II of that Act, which includes the Conservation Stewardship Program, be made without regard to the Paperwork Reduction Act. Pub. L. 110-234, §2904(b)(1)(A), 122 Stat. 923, 1091.

Statutory authorization for the rule

The final rule is authorized by section 2301 of the Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, codified at 16 U.S.C. 3838d, et seq.

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

The final rule was determined by CCC to be an economically significant regulatory action under Executive Order 12,866 and was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CCC determined that the final rule will not have federalism implications, because it would not impose any compliance costs on the states and would not have substantial direct effects on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities on the various levels of government.