



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

B-326075

July 29, 2014

The Honorable Debbie Stabenow
Chairwoman
The Honorable Thad Cochran
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Frank D. Lucas
Chairman
The Honorable Collin C. Peterson
Ranking Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Federal Crop Insurance Corporation: General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions*

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, Federal Crop Insurance Corporation (FCIC) entitled "General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions" (RIN: 0563-AC43). We received the rule on July 14, 2014. It was published in the *Federal Register* as an interim rule on July 1, 2014. 79 Fed. Reg. 37,155.

The interim rule amends the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions to revise those provisions affected by changes mandated by the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), enacted on February 7, 2014. The rule has an effective date of June 30, 2014; however, it is an interim rule and FCIC will be accepting comments until September 2, 2014.

The interim rule has an effective date of June 30, 2014. 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 rule was published in the *Federal Register* on July 1, 2014, but we did not receive the rule until July 14, 2014. Therefore, the interim rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of FCIC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. With the exception of the 60-day delay in effective date, our review of the procedural steps taken indicates that FCIC 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: Brandon Willis
Administrator, Risk Management Agency
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FEDERAL CROP INSURANCE CORPORATION
ENTITLED
"GENERAL ADMINISTRATIVE REGULATIONS;
CATASTROPHIC RISK PROTECTION ENDORSEMENT;
AREA RISK PROTECTION INSURANCE REGULATIONS;
AND THE COMMON CROP INSURANCE REGULATIONS,
BASIC PROVISIONS"
(RIN: 0563-AC43)

(i) Cost-benefit analysis

FCIC performed a cost-benefit analysis in conjunction with the interim rule. In summary, the analysis finds that changes contained in the interim rule will have an expected cost of \$115.9 million annually over a 10-year period to the FCIC in administration of the federal crop insurance program. Non-quantifiable benefits of this rule include increased program integrity, additional risk management tools, and incentives for beginning farmers and ranchers to participate in the federal crop insurance program.

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

FCIC certified that the interim rule will not have a significant economic impact on a substantial number of small entities. Therefore, FCIC did not prepare a regulatory flexibility analysis.

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

The interim rule does not contain any 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, 5 U.S.C. §§ 551 et seq.

FCIC has determined that the interim rule falls under an exception to the rulemaking requirements of the Administrative Procedure Act, under 5 U.S.C. § 553(a)(2), because it is a matter relating to contracts. Previously, changes made to the federal crop insurance policies were required to be implemented through the rulemaking process under a statement of policy made by the Secretary of Agriculture. 36 Fed. Reg. 13,804 (July 24, 1971). Recently, the current Secretary of Agriculture published a notice in the *Federal Register* rescinding the prior notice, thereby making contracts exempt from the notice and comment rulemaking process. 78 Fed. Reg. 64,194 (Oct. 28, 2013). FCIC stated, however, that because it values the input received through comments, it has elected to solicit comments to the interim rule, which will be considered when the rule is made final.

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

The interim rule contains information collection requirements under the Paperwork Reduction Act. The collections of information in the interim rule have been approved by the Office of Management and Budget (OMB) under OMB control numbers 0563–0085, 0563–0083, and 0563–0053.

Statutory authorization for the rule

The interim rule is authorized by sections 2611, 11007, 11009, 11014, 11015, 11016, and 11019 of the Agricultural Act of 2014, commonly referred to as the 2014 Farm Bill.

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

This rule has been determined to be economically significant for the purposes of Executive Order 12,866 and, therefore, it has been reviewed by OMB.

Executive Order No. 13,132 (Federalism)

FCIC determined that the interim rule will not have a substantial direct effect on states, or on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.