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B-326290

October 14, 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, Farm Service Agency and Commodity Credit Corporation:
Agriculture Risk Coverage and Price Loss Coverage Programs*

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, Farm Service Agency and Commodity Credit Corporation (CCC) entitled "Agriculture Risk Coverage and Price Loss Coverage Programs" (RIN: 0560-AI24). We received the rule on September 23, 2014. It was published in the *Federal Register* as a final rule on September 26, 2014. 79 Fed. Reg. 57,703.

The final rule implements the new Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) programs authorized by the 2014 Farm Bill. ARC and PLC provide producers a choice between a program that provides counter-cyclical type of payment support—PLC—and a revenue support type of program—ARC. This rule specifies the eligibility requirements, enrollment procedures, and payment calculations for ARC and PLC.

The final rule has an effective date of September 26, 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). We received the rule on September 23, 2014, and the rule was published in the *Federal Register* on September 26, 2014. Therefore, the final rule does not have the required 60-day delay in its effective date. 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 that it would be contrary to the public interest to delay the effective date of the final rule, as it would delay implementation of Agriculture Risk Coverage and Price Loss Coverage programs as required in the 2014 Farm Bill, which specifies in section 1601(c)(3) that rules implementing title I of the 2014 Farm Bill, such as this final rule, use the authority in section 808(2) of CRA.

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: Deirdre Holder
FSA Regulatory Review Group Director
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FARM SERVICE AGENCY,
COMMODITY CREDIT CORPORATION:
ENTITLED
"AGRICULTURE RISK COVERAGE AND
PRICE LOSS COVERAGE PROGRAMS"
(RIN: 0560-A124)

(i) Cost-benefit analysis

The Commodity Credit Corporation (CCC) performed a cost-benefit analysis in conjunction with the final rule. CCC determined that this final rule would be considered a budgetary transfer representing a payment from taxpayers to program beneficiaries unrelated to the provision of any goods or services in exchange for such payments. As such, the benefits and payments to those who receive such a transfer are matched by the costs borne by taxpayers. CCC determined that Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) program payments are estimated to total \$26.8 billion for crop years 2014 through 2018 based on supply, demand, and price conditions as of May 2014. Nearly all producers on farms with base acres are expected to participate in either PLC or ARC or both. Annual payments are projected at \$0.8 billion for crop year 2014, \$10.1 billion for crop year 2015, \$10.9 billion for crop year 2016, \$3.9 billion for crop year 2017, and \$2.9 billion for 2018.

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

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The final rule is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, and therefore the final rule is not subject to the Regulatory Flexibility Act.

(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 contains no federal mandates for state, local, and tribal governments, or on the private sector.

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

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

In general, the Administrative Procedure Act, 5 U.S.C. 553, requires that a notice of proposed rulemaking be published in the *Federal Register* and interested parties be given an opportunity to comment. However, section 1601(c)(2) of the Agricultural Act of 2014, Pub. L. No. 113-79

(the 2014 Farm Bill) exempts rules promulgated under title I of the 2014 Farm Bill, such as this final rule, from the notice and comment provisions of the Administrative Procedure Act.

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

The final rule is exempt from the Paperwork Reduction Act, as specified in subsection 1601(c)(2)(B) of the 2014 Farm Bill, which provides that rules promulgated under title I of the bill be promulgated and administered without regard to the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is authorized by the Agricultural Act of 2014, Pub. L. No. 113-79 (2014 Farm Bill).

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

The final rule was designated as economically significant under the Order 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 any substantial direct effect on states, on the relationship between the federal government and the states, or on the distribution of power among the various levels of government, except as required by law. Additionally, CCC determined that the final rule does not impose substantial direct compliance costs on state and local governments.