



Office of the General Counsel

B-276233

March 6, 1997

The Honorable Richard G. Lugar
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Bob Smith
Chairman
The Honorable Charles W. Stenholm
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: Department of Agriculture, Farm Service Agency and Commodity Credit Corporation: Conservation Reserve Program - Long Term Policy

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, entitled "Conservation Reserve Program - Long Term Policy" (RIN: 0560-AE95). We received the rule on February 12, 1997. It was published in the Federal Register as a final rule on February 19, 1997. 62 Fed. Reg. 7601.

The final rule amends the Conservation Reserve Program (CRP) regulations to revise the terms and conditions for enrolling acreage in the CRP to more cost-effectively target the CRP to more environmentally sensitive acreage. In addition, the final rule updates eligibility requirements and consolidates and reorganizes existing CRP regulations into one regulation.

The effective date of the rule is February 12, 1997, which is less than the 60-day delay in a major rule's effective date required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In establishing the effective date, Agriculture states in the preamble to the final rule that, pursuant to section 808 of SBREFA, it is impracticable, unnecessary, and contrary to the public interest to

delay the effective date. Having the rule immediately effective, according to the preamble, will permit the Commodity Credit Corporation to conduct a general sign-up period for the CRP in advance of the spring planting season. Delaying this period would unduly limit the supply of land available for enrollment in the CRP.

Enclosed is our assessment of Agriculture'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 indicates that Agriculture, with the exception noted above, complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Department of Agriculture, Farm Service Agency and Commodity Credit Corporation is Robert A. Robinson, Director for Food and Agriculture Issues. Mr. Robinson can be reached at (202) 512-5138.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Grant Buntrock
Administrator, Farm Service Agency
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE DEPARTMENT OF AGRICULTURE, FARM SERVICE AGENCY AND
COMMODITY CREDIT CORPORATION
ENTITLED
"CONSERVATION RESERVE PROGRAM - LONG TERM POLICY"
(RIN: 0560-AE95)

(i) Cost-benefit analysis

Agriculture prepared a cost-benefit analysis comparing three enrollment scenarios. The first assumes the maximum permitted enrollment level of 36.4 million acres and the second scenario has an enrollment level of 28 million acres. The third scenario assumes that no enrollment authority for new acreage had been provided and no existing contracts extended. Under this scenario, enrollment acreage would decline to 1.7 million acres by 2002.

While recognizing that comprehensive measures of the value of environmental benefits do not currently exist and the estimates used are rough approximations of the potential value of the benefits, Agriculture finds that the total environmental benefits from soil productivity, improved water quality, and increased consumptive and non-consumptive uses of wildlife to be \$2 billion per year for the 28 million acre scenario and \$2.7 billion for the 36.4 million acre scenario.

Through production of feedgrains, wheat, cotton, and soybeans, CRP payments and production flexibility contract payments annual net farm income is expected to increase by \$5.8 billion and \$7.6 billion for the 28 million acres and 36.4 million acres, respectively, compared with the no continuation scenario. Compared with the no continuation scenario, it is estimated that, due to higher commodity prices and higher CRP payments, crop prices would rise for corn 9 percent, for wheat 8 percent, and for soybeans 11 percent.

The average annual CRP outlays are \$1.1 billion higher for the 28 million acre scenario and \$1.2 billion higher for the 36.4 million acre scenario over the no continuation scenario.

Total estimated benefits to society exceed costs by \$1.1 billion and \$1.2 billion, respectively, for the 28 million and 36.4 million acre scenarios.

The preamble notes that the Commodity Credit Corporation intends to enroll up to 36.4 million acres by accepting acreage that maximizes environmental benefits.

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

Agriculture took no action under the Regulatory Flexibility Act because Agriculture stated in the preamble to the final rule that since it was not required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, the Regulatory Flexibility Act is not applicable to 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

The final rule does not contain federal mandates for state, local, or tribal governments or the private sector under the Unfunded Mandates Reform Act of 1995 and therefore, sections 202 and 205 are inapplicable.

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

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

Agriculture stated in the preamble that it was not required by the Administrative Procedure Act to publish a notice of proposed rulemaking. Officials at Agriculture have advised our Office that the rule falls under the exemption for rules relating to public property, loans, grants, benefits or contracts. 5 U.S.C. § 553(a)(2).

However, Agriculture did publish the proposed rule on September 23, 1996. 61 Fed. Reg. 49697. The proposed rule solicited comments within 45 days of the date of publication and Agriculture received 3,467 comments in response. The preamble to the final rule summarizes the comments and Agriculture's responses and actions taken as a result of the comments.

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

The preamble to the proposed rule contains the information required by the Paperwork Reduction Act such as the need for the information collection and the burden estimates. Comments were requested in the proposed rule to be sent to both the Office of Management and Budget (OMB) and Agriculture.

The information collections consist of the interested parties submitting bids and enrolling in the program and documenting requests for program payments, annual program compliance, and documenting other actions relating to program administration. The estimated number of respondents is 272,500 and the burden hours are estimated to be 34,371 hours.

The preamble to the final rule states that OMB has approved the information collection and assigned OMB No. 0560-0125.

Statutory authorization for the rule

The Environmental Conservation Acreage Reserve Program, Public Law 99-198, as amended, 16 U.S.C. §§ 3830-3836.

Executive Order No. 12866

The final rule was determined to be an "economically significant regulatory action" by OMB under Executive Order No. 12866 and was approved by the Office of Information and Regulatory Affairs, OMB as complying with the requirements of the order based on information supplied by Agriculture, including a planned regulatory action document describing the reason for the rule and an assessment of the costs and budgetary impact of the rule.

Other acts and orders

Agriculture has determined, following an environmental assessment, that the rule does not have a significant adverse impact of the environmental, historical, social, or economic resources; and therefore, an Environmental Impact Statement is not required. Also, the final rule is not subject to Executive Order No. 12372, which requires intergovernmental consultation with state and local officials.