



Office of the General Counsel

B-275318

October 31, 1996

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

The Honorable Pat Roberts
Chairman
The Honorable E (Kika) de la Garza
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: Department of Agriculture: Certification Provisions of the Mickey Leland
Childhood Hunger Relief Act

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Department of Agriculture, entitled "Certification Provisions of the Mickey Leland Childhood Hunger Relief Act." We received the rule on October 7, 1996. It was published in the Federal Register as a Final Rule on October 17, 1996. 61 Fed Reg. 54270.

This action is required as a result of the Mickey Leland Childhood Hunger Relief Act (Title XIII, Chapter 3, Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66), amendments to the Food Stamp Act of 1977, as amended, 7 U.S.C. § 2011-2032. The Leland Act amendments: (1) simplify the household definition; (2) establish eligibility for children who live with their food stamp eligible parents in a drug or alcohol rehabilitation center; (3) exclude from resources the value of vehicles used to transport fuel or water; (4) increase the fair market value exclusion of vehicles for determining a household's resource limit; (5) exclude certain General Assistance vendor payments; (6) exclude the earnings of elementary and secondary school students under age 22 who live with their parents; (7) increase the maximum amount of the dependent care deduction; (8) eliminate the current

federally-imposed limit and require State agencies to establish a Statewide limit on the dependent care reimbursement paid to participants in the Food Stamp Employment and Training Program; and (9) require proration of benefits only in the initial month of certification.

Enclosed is our assessment of the Department of Agriculture's compliance with the procedural steps required by sections 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule.

If you have any questions about this report, please contact Kathleen E. Wannisky, Associate General Counsel for Operations, at (202) 512-8326. The official responsible for GAO evaluation work relating to the rule is Robert A. Robinson, Director, Food and Agriculture Issues, Resources, Community and Economic Development Division. Mr. Robinson can be reached at (202) 512-5138.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Ellen Haas
Under Secretary for Food, Nutrition,
and Consumer Services
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
ENTITLED
"CERTIFICATION PROVISIONS OF THE MICKEY LELAND CHILDHOOD HUNGER
RELIEF ACT"

(i) Cost-benefit analysis

Although the Department did not prepare and submit to us a separate cost-benefit analysis, it did include a brief discussion of the benefits and costs associated with this rule in its regulatory impact analysis. According to the Department, this action increases the number of potentially eligible food stamp recipients and increases the benefit level of certain households that are affected by these provisions. The Department estimates that this action will increase the annual cost of the Food Stamp Program by as much as \$207 million by fiscal year 1998.

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

The Department reports that it reviewed this rule in relation to the requirements of the Regulatory Flexibility Act, 5 U.S.C. § 603-605, 607 and 609. The Under Secretary for Food, Nutrition, and Consumer Services has certified under section 605 of the Act that this rule does not have a significant economic impact on a substantial number of small entities.

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

According to the Department, this rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under Acts and Executive orders

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

The Department promulgated this rule under the notice and comment procedures of 5 U.S.C. § 553. An initial Notice of Proposed Rulemaking was published in the Federal Register on August 30, 1994 (59 Fed. Reg. 44866). The Department received comments from 26 State and local welfare agencies and public interest groups. The Department discusses these comments and any action taken in reaction to them in

the supplementary information provided when the Final Rule was published in the Federal Register on October 17, 1996. 61 Fed. Reg. 54270.

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

According to the Department, this rule affects the determination of eligibility and benefit levels; it does not affect the current information collection requirements for making such determinations. Those information collection requirements were previously approved under OMB No. 0584-0064.

Executive Order No. 12866

This rule was determined to be economically significant and is therefore subject to Executive Order No. 12866. According to the Department, the Office of Management and Budget has reviewed the rule.

Executive Order No. 12778

According to the Department, this rule was reviewed under Executive Order No. 12778, Civil Justice Reform. We note that the Executive Order has been replaced by Executive Order No. 12998, effective May 5, 1996. However, the requirements now found at section 3(b)(2)(A), (D), and (E) were similarly included in the previous version of the Executive Order and it appears that the Department meets those requirements. The supplementary information published with the Final Rule clearly states the preemptive effect to be given to the rule; what, if any, retroactive effect its provisions may have; and the administrative procedures to be followed prior to any judicial challenge to provisions of the rule.

Executive Order No. 12372

According to the Department, this rule was reviewed under Executive Order No. 12372, Intergovernmental Review of Federal Programs, and the Department determined that it was not covered by the Order.

Statutory Authorization for the rule

This action is required as a result of Title XIII, Chapter 3, Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, the Mickey Leland Childhood Hunger Relief Act, amendments to the Food Stamp Act of 1977, as amended, 7 U.S.C. § 2011-2032.