



B-285617

June 21, 2000

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

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

Subject: Department of Agriculture, Commodity Credit Corporation: Agricultural
Disaster and Market Assistance

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 "Agricultural Disaster and Market Assistance" (RIN: 0560-AG14). We received the rule on June 2, 2000. It was published in the Federal Register as an interim rule and a final rule on June 8, 2000. 65 Fed. Reg. 36550.

The interim and final rules, in part, implement statutory provisions related to cottonseed market loss, a competitiveness program for extra long staple (ELS) cotton, warehouse-stored tobacco loss assistance, pasture recovery, oilseeds marketing loss, livestock disaster assistance for contract growers and emergency assistance for Harney County, Oregon.

Enclosed is our assessment of the 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 indicates that the CCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is Larry Dyckman, Director, Food and Agriculture Issues. Mr. Dyckman can be reached at (202) 512-5138.

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Keith Kelly
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,
COMMODITY CREDIT CORPORATION
ENTITLED
"AGRICULTURAL DISASTER AND MARKET ASSISTANCE"
(RIN: 0560-AG14)

(i) Cost-benefit analysis

CCC conducted a cost-benefit assessment of the interim and final rules. Outlays under the programs implemented by the rules will total approximately \$616.5 million, of which approximately \$604 million will be direct payments to producers.

CCC notes that the outlays for the Livestock Indemnity Program and the American Indian Livestock Feed Program, totaling \$15.5 million, have, for the most part already been made, and do not represent a new funding commitment.

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

The requirements of the Regulatory Flexibility Act do not apply to the interim and final rules because Notices of Proposed Rulemaking were not utilized in issuing the rules.

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

The requirements of the Unfunded Mandates Reform Act of 1995 do not apply to the interim and final rules because Notices of Proposed Rulemaking were not utilized in issuing the rules.

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

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

Section 824 of the authorizing legislation, Pub. L. 106-78, permitted the final rule to be issued without regard to the notice and comment procedures contained in 5 U.S.C. 553. For those provisions not authorized by section 824, the CCC is issuing the remainder of the provisions as an interim rule and is requesting comments by August 7, 2000. These provisions include the cottonseed assistance, the competitiveness program for ELS cotton, and flood assistance for Harney County, Oregon.

Since the final and interim rules were issued without notices of proposed rulemaking and receipt of public comments, the 60-day delay in the effectiveness of a major rule required by 5 U.S.C. 801 was properly waived by CCC in accordance with 5 U.S.C. 808.

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

The interim and final rules contain information collections that are subject to review by the Office of Management and Budget (OMB). However, section 824 of Pub. L. 106-78 requires that the provisions of the rules authorized by Subtitle A, Title VIII of the statute be promulgated without regard to the provisions of the Paperwork Reduction Act. However, the 60-day comment period and OMB approval are still required following publication of the rule.

Therefore, the preamble to the rules contains the information required by the Act for both those collections that may be approved after publication and for those that are going through the normal OMB process.

Statutory authorization for the rule

The interim and final rules are issued pursuant to the provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Pub. L. 106-78) and the Omnibus Consolidated Appropriations Act, 2000 (Pub. L. 106-113).

Executive Order No. 12866

The interim and final rules were reviewed by the Office of Management and Budget and found to be “economically significant” regulatory actions that met the requirements of the order.