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United States Government Accountability Office
Washington, DC 20548

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June 15, 2005

The Honorable Saxby Chambliss
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Bob Goodlatte
Chairman
The Honorable Collin C. Peterson
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Commodity Credit Corporation, Natural Resources Conservation Service: Conservation Security Program*

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, Natural Resources Conservation Service, entitled "Conservation Security Program" (RIN: 0578-AA36). We received the rule on June 1, 2005. It was published in the Federal Register as an "interim final rule with request for comments" on March 25, 2005. 70 Fed. Reg. 15201.

The interim final rule amends a prior interim final rule governing the activities under the Conservation Security Program (CSP). The CSP sets forth a mechanism to provide financial and technical assistance to agricultural producers who, in accordance with certain requirements, conserve and improve the quality of soil, water, air, energy, plant and animal life, and support other conservation activities.

Enclosed is our assessment of the USDA'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 USDA 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 Robert Robinson, Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Douglas J. McKalip
Director, Legislative Affairs Staff, NRCS
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,
NATURAL RESOURCES CONSERVATION SERVICE
ENTITLED
"CONSERVATION SECURITY PROGRAM"
(RIN: 0578-AA36)

(i) Cost-benefit analysis

Congress authorized \$202 million to be available to implement the CSP for fiscal year 2005. The preamble to the interim final rule summarizes a cost-benefit analysis prepared by USDA that uses numerous modeling alternatives and assumptions to arrive at various cost and benefit results.

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

As a notice of proposed rulemaking did not precede the interim final rule, the requirements of the Regulatory Flexibility Act do not apply.

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

The interim final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

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

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

On June 21, 2004, the USDA published an interim final rule with request for comments in the Federal Register. 69 Fed. Reg. 34501. In response, USDA received over 13,400 comments of which 97 percent were form letters and raised issues previously discussed. The preamble contains USDA's response to the other comments received and affirms earlier comment responses.

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

Section 2702 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) states that the rule may be promulgated without regard to the requirements of the Paperwork Reduction Act.

Statutory authorization for the rule

The interim final rule is promulgated under the authority found in Title XII of the Food Security Act of 1985, 16 U.S.C. 3801 *et seq.*, as amended by the Farm Security and Rural Investment Act of 2002, Pub. L. 107-171.

Executive Order No. 12866

The interim final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

USDA has determined that the interim final rule would not have any substantial direct effects on the states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities on the various levels of government.