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United States Government Accountability Office
Washington, DC 20548

B-296180

April 14, 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: 2003 and 2004 Livestock Assistance 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 (CCC), entitled “2003 and 2004 Livestock Assistance Program” (RIN: 0560-AH25). We received the rule on April 4, 2005. It was published in the Federal Register as a final rule on March 31, 2005. 70 Fed. Reg. 16392.

The final rule sets forth the terms and conditions of the 2003/2004 Livestock Assistance Program (LAP) as provided for by the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act, 2005 (the 2004 Act). Under LAP, assistance will be available to livestock producers for either 2003 or 2004 grazing losses in a county that was designated as a primary disaster county by the President or the Secretary of Agriculture after January 1, 2003, for certain losses occurring through December 31, 2004.

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 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 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: Thomas J. Witzig
Director, Regulatory Review Group
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
"2003 AND 2004 LIVESTOCK ASSISTANCE PROGRAM"
(RIN: 0560-AH25)

(i) Cost-benefit analysis

CCC estimates the 2003/2004 LAP will make payments totaling approximately \$500 million. Actual outlays could range from around \$475 million to \$584 million.

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

As the rule was not preceded by a Notice of Proposed Rulemaking, 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

As the rule was not preceded by a Notice of Proposed Rulemaking, the requirements of title II of the Unfunded Mandates Reform Act of 1995 do not apply. However, CCC notes that the final rule does not contain any mandates.

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

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

Section 101(g) of Division B of the 2004 Act requires that the final rule be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553.

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

Section 101(g) of Division B of the 2004 Act requires that the final rule be promulgated without regard to the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found in section 101 of Division B of the Military Construction Appropriations and Emergency Hurricane Supplemental Appropriations Act (Pub. L. 108-324, 118 Stat. 1220, October 13, 2004).

Executive Order No. 12866

The 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)

CCC notes that the final rule does not have federalism implications warranting the preparation of a federalism assessment.