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United States Government Accountability Office
Washington, DC 20548

B-296220

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, Farm Service Agency, Commodity Credit Corporation: Tobacco Transition Payment 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 (USDA), Farm Service Agency, Commodity Credit Corporation, entitled "Tobacco Transition Payment Program" (RIN: 0560-AH30). We received the rule on April 4, 2005. It was published in the Federal Register as a final rule on April 4, 2005. 70 Fed. Reg. 17150.

The final rule provides regulations for the Tobacco Transition Payment Program (TTPP), as required by Title VI of the American Jobs Creation Act of 2004 (the 2004 Act), ending the tobacco marketing quota and price support loan programs. The TTPP will provide payments over a 10-year period to quota holders and producers of quota tobacco to help them make the transition from the federally-regulated program.

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 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: Thomas J. Witzig
Director, Regulatory Review Group
Department of Agriculture

ENCLOSURE

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, COMMODITY CREDIT CORPORATION
ENTITLED
"TOBACCO TRANSITION PAYMENT PROGRAM"
(RIN: 0560-AH30)

(i) Cost-benefit analysis

USDA estimates that payments to quota owners, based upon known payment rates and applicable quota levels, will be about \$6.7 billion. Tobacco producers eligible for payments under the 2004 Act are estimated to receive about \$2.9 billion, based upon the specified payment rate and known quota amounts.

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

Since the final 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

Since the final rule was not preceded by a Notice of Proposed Rulemaking, the requirements of title II do not apply. However, USDA 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 642(b) of the 2004 Act requires that the final rule be promulgated without regard to the notice and comment provisions found at 5 U.S.C. 553.

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

Section 642(b) of the 2004 Act requires that the final rule be promulgated and the program administered without regard to the requirements of the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found in Title VI of the American Jobs Creation Act of 2004 (Pub. L. 108-357) and 7 U.S.C. 714b and 714c.

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.