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United States Government Accountability Office  
Washington, DC 20548

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B-298209

May 17, 2006

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: Percentages for Direct and Counter-Cyclical Program Advance Payments*

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 "Percentages for Direct and Counter-Cyclical Program Advance Payments" (RIN: 0560-AH49). We received the rule on May 4, 2006. It was published in the Federal Register as a final rule on April 10, 2006. 71 Fed. Reg. 17982.

The final rule implements the provisions of the Agricultural Reconciliation Act of 2005 regarding percentages used to determine payment amounts for producers electing to receive advance payments through the Direct and Counter-Cyclical Program. Reducing the direct payment advance percentage shifts payments between fiscal years but will have no impact on total payments.

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 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  
"PERCENTAGES FOR DIRECT AND COUNTER-CYCLICAL PROGRAM  
ADVANCE PAYMENTS"  
(RIN: 0560-AH49)

(i) Cost-benefit analysis

CCC performed a cost-benefit analysis on the final rule. Changing the advance direct payment percentage shifts about \$0.305 billion of the 2006-crop direct payments from fiscal year (FY) 2006 to FY 2007 direct payments. It also shifts about \$1.47 billion of the payments from FY 2007 to FY 2008. About \$90 million of the 2007-crop direct payments is expected to shift from calendar year 2006 into calendar year 2007 because of the direct payment percentage change from 50 percent to 22 percent.

While no net impact in nominal dollars on income is expected, the postponement of some advance payments does have some time value. The reduction in the real value of payments will be approximately \$5 million for the 2006 crop and \$22 million for the 2007 crop.

(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 are not applicable.

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

CCC states that the final rule does not contain either an intergovernmental or a 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.

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991(c)), provided that the regulations may be promulgated without regard to the requirements for notice and comment found at 5 U.S.C. 553.

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

Section 1601(c) of the 2002 Act provides that the requirements of the Paperwork Reduction Act will not apply to the final rule.

Statutory authorization for the rule

The final rule is promulgated under the authority found at 7 U.S.C. 7911-7918, 7951-7956, and 15 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.

Executive Order No. 13132 (Federalism)

According to CCC, the final rule does not have sufficient federalism implication under the order to require the preparation of a federalism assessment.