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United States General Accounting Office  
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B-291662

November 19, 2002

The Honorable Tom Harkin  
Chairman

The Honorable Richard G. Lugar  
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: Direct and Counter-Cyclical 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 "Direct and Counter-Cyclical Program" (RIN: 0560-AG71). We received the rule on November 5, 2002. It was published in the Federal Register as a final rule on October 21, 2002. 67 Fed. Reg. 64748.

The final rule implements provisions of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171)(the 2002 Act) regarding direct and counter-cyclical payments for the crop years 2002 through 2007. These payments provide income support to producers of eligible commodities and are based on historically based acreage and yields and do not depend on the current production choices of the farmer.

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: Tom Witzig  
Chief, Regulatory Review and  
Foreign Investment Disclosure Branch  
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  
"DIRECT AND COUNTER-CYCLICAL PROGRAM"  
(RIN: 0560-AG71)

(i) Cost-benefit analysis

Direct payments are projected to total \$3.8 billion in fiscal year (FY) 2003 and rise to \$5.2 billion in FY 2004 and each of the subsequent fiscal years until the legislation expires with the 2007 crops. These payments represent an increase of about \$1.2 billion each crop year compared with the Production Flexibility Contract payments if the provisions of that program were extended for the same period.

Counter-cyclical payments are projected to total \$5.8 billion in FY 2003 and increase to \$6.6 billion in FY 2004 but then decline in the remaining years until 2007.

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

Since the final rule was not issued following 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

The 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.

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 states that the final rule shall be issued without regard to the requirements of 5 U.S.C. 553.

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

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 states that the final rule shall be issued without regard to the requirements of the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in Title I of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171), 7 U.S.C. 7911-7918, 7951-7956 and 7991(e), 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.