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January 8, 2008

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

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

Subject: *Department of Agriculture, Farm Service Agency: Emergency Agricultural Assistance, 2007; Crop Disaster and Livestock Indemnity Programs*

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, Farm Service Agency (FSA), entitled “Emergency Agricultural Assistance, 2007; Crop Disaster and Livestock Indemnity Programs” (RIN: 0560-AH76). We received the rule on December 28, 2007. It was published in the *Federal Register* as a final rule on December 21, 2007. 72 Fed. Reg. 72,864.

The final rule established the Farm Service Agency regulations for the 2007 Emergency Agricultural Assistance. The assistance includes a Crop Disaster Program which applies to 2005, 2006, and 2007 crop producers who chose to have a Federal Crop Insurance plan of insurance or Noninsured Crop Disaster Assistance Program coverage for the year of the loss and suffered damage due to a natural disaster. It also includes a Livestock Indemnity Program that applies to livestock producers in counties designated as a major disaster or emergency area by the President or those declared a natural disaster area by the Secretary of Agriculture between January 1, 2005, and February 28, 2007. Contiguous counties will also be eligible.

Enclosed is our assessment of the FSA’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 FSA complied with the applicable requirements.

The Congressional Review Act requires a 60-day delay before a major rule can become effective. 5 U.S.C. § 801(a)(3). The final rule became effective on December 19, 2007, less than 60 days after publication in the *Federal Register* or receipt by Congress. The statute authorizing this final rule instructs the Secretary of Agriculture to use the authority provided under 5 U.S.C. § 808(2) to waive the 60-day delay in effective date. Public Law 110-28, § 9005(c), 121 Stat. 217 (2007).

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. 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

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Amy Mitchell
Production, Emergencies, and
Compliance Division
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FARM SERVICE AGENCY
ENTITLED
"EMERGENCY AGRICULTURAL ASSISTANCE, 2007;
CROP DISASTER AND LIVESTOCK INDEMNITY PROGRAMS"
(RIN: 0560-AH76)

(i) Cost-benefit analysis

The Farm Service Agency (FSA) prepared a cost-benefit analysis and published a summary of the analysis with this final rule. FSA estimates that total crop disaster payments will range from \$1.6 billion to \$2.0 billion. FSA expects payment rates to be lower than past crop disaster programs because of program changes. Changes include making insurable crops that were not insured and crops that were eligible for but not covered by the Noninsured Crop Disaster Assistance Program ineligible for payment and requiring at least 25-percent quality loss for compensation. FSA expects payment rates may be higher due to provisions that allow production of a commodity sold through marketing contracts to be eligible for quality loss assistance based on the prices specified in the contracts.

FSA estimates that claims under the 2005-2007 Livestock Indemnity Programs (LIP) will be \$14.4 million. FSA does not expect the impact on any sector of the economy to be measurable nor does it expect any significant change in aggregate social welfare. FSA expects that participants and their local communities may benefit by losses that are offset or reduced by the LIP payments.

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

The final rule is not subject to the Regulatory Flexibility Act since FSA is not required to publish a notice of proposed rulemaking for this rule.

(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 contains no federal mandates for state, local, or tribal governments or for the private sector.

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

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

This final rule is exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. § 553) under its authorizing statute. U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110-28 § 9005(b)(1), 121 Stat. 217, May 25, 2007.

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

This final rule is exempt from the Paperwork Reduction Act under its authorizing statute. U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110-28 § 9005(b)(3), 121 Stat. 217, May 25, 2007.

Statutory authorization for the rule

The final rule is authorized by section 9005 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law 110-28, May 25, 2007.

Executive Order No. 12,866

This final rule was determined to be economically significant under Executive Order 12,866 and was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

FSA states that this rule does not have federalism implications that warrant the preparation of a federalism assessment under the Order.