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United States Government Accountability Office
Washington, DC 20548

B-309260

April 16, 2007

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

The Honorable Collin Peterson
Chairman
The Honorable Robert Goodlatte
Ranking Minority Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Farm Service Agency: 2005 Section 32 Hurricane Disaster Programs; 2006 Livestock Assistance Grant 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, Farm Service Agency (FSA), entitled “2005 Section 32 Hurricane Disaster Programs; 2006 Livestock Assistance Grant Program” (RIN: 0560-AH45). We received the rule on March 30, 2007.

FSA published an interim final rule on May 10, 2006, with a 30-day comment period which ended on June 9, 2006. 71 Fed. Reg. 27,188. It was published in the *Federal Register* as a final rule on January 9, 2007. 72 Fed. Reg. 875. The final rule provides for the establishment of four hurricane disaster programs and one grant program to provide funds to eligible producers who suffered eligible losses in counties affected by the 2005 hurricanes Katrina, Ophelia, Rita, Wilma, the drought during March through August 2006, or a related condition.

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.

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: Tom Witzig
Director, Regulatory Review Group
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
"2005 SECTION 32 HURRICANE DISASTER PROGRAMS;
2006 LIVESTOCK ASSISTANCE GRANT PROGRAM"
(RIN: 0560-AH45)

(i) Cost-benefit analysis

The named hurricanes and other related disasters severely limited the purchasing power of farmers engaged in the production of agricultural commodities. The final rule provides for the establishment of four hurricane disaster programs to be administered by FSA in order to provide funds to eligible producers who suffered eligible losses, and a grant program to enable named states to assist aquaculture producers who suffered losses. One purpose of these programs is to reestablish these producers' purchasing power. FSA performed a cost-benefit analysis of this final rule for each of the four disaster programs and the grant program under which funds are available.

(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 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.

The Administrator of FSA has found "good cause" under 5 U.S.C. § 553 to make this regulation effective immediately because to delay implementation of this final rule would significantly delay assistance to the many people who suffered losses by the disasters.

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

The information collection requirements contained in the final rule have been reviewed by the Office of Management and Budget (OMB) and assigned OMB Control number 0560-0257.

Statutory authorization for the rule

The final rule is promulgated under the authority found in 7 U.S.C. § 612c, Public Law No. 106-387, 114 Stat. 1549, and Public Law No. 107-76, 115 Stat. 704.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

FSA states that the final rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.