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B-316699

July 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, Commodity Credit Corporation: Cotton World Price Determination*

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 "Cotton World Price Determination" (RIN: 0560-AH78). We received the rule on June 24, 2008. It was published in the *Federal Register* as a final rule on May 27, 2008. 73 Fed. Reg. 30,274.

The final rule revises the Upland Cotton regulations to use the Far East (FE) prices instead of Northern Europe prices in determining the upland cotton adjusted world price (AWP). The change is being made because of changes in the market and in the available price data. The AWP is used to determine repayment rates for marketing assistance loans and to establish loan deficiency payments. Under section 1204 of the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill), (Pub. L. No. 107-171, 7 U.S.C. § 7934), repayment of the loan is allowed at the AWP in lieu of what would otherwise be full repayment of the loan plus interest.

Section 1601(c) of the 2002 Farm Bill requires that the regulations be promulgated without regard to the notice and comment provisions of the Administrative Procedure Act. Moreover, section 2702(c) of the 2002 Farm Bill states that the Secretary of Agriculture may use the authority found at 5 U.S.C. § 808(2), which provides for an exemption from the 60-day delay in the effective date of a major rule

under the Congressional Review Act if the agency finds that there is good cause to do so. The rule was issued as a final rule without notice and comment and has an effective date of May 23, 2008.

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 CCC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Deirdre Holder  
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,  
COMMODITY CREDIT CORPORATION  
ENTITLED  
"COTTON WORLD PRICE DETERMINATION"  
(RIN: 0560-AH78)

(i) Cost-benefit analysis

CCC prepared a cost-benefit analysis of this final rule. CCC states that the final rule changes its regulations to recognize the shift in world cotton trade to the Far East (FE) market that has occurred over time. In addition, it allows the program to operate in the manner that CCC and market participants have found consistently provides a smooth transition between crop years, while reducing potential CCC budgetary outlays. CCC states that the switch to FE as the basis for determining the cotton AWP is expected to generate modest savings as lower transportation costs to the FE. The net effect will likely raise the AWP, reducing CCC's exposure on marketing loan benefits.

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

CCC states that the final rule is not subject to the Regulatory Flexibility Act since it was 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

CCC concludes that the final rule contains no federal mandate under the regulatory provisions of the Unfunded Mandates Reform Act for state, local, and tribal governments or the private sector. In addition, CCC notes that, regardless, this final rule is not subject to the Act because CCC was not required to publish a notice of proposed rulemaking for this final rule.

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

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

CCC states that this final rule is exempt from the notice and comment requirements of the Administrative Procedure Act, as specified in section 1601(c) of the 2002 Farm Bill.

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

CCC states that this final rule is exempt from the requirements of the Paperwork Reduction Act, as specified in section 1601(c)(2)(A) of the 2002 Farm Bill.

Statutory authorization for the rule

The final rule was promulgated under the authority in 7 U.S.C. §§ 7231 -7236, 15 U.S.C. §§ 714b and 714c, Pub. L. No. 108-324, Pub. L. No. 108-447, and Pub. L. No. 109-234.

Executive Order No. 12,866

The Office of Management and Budget designated this final rule as economically significant under the Order and, therefore, reviewed the final rule.

Executive Order No. 13,132 (Federalism)

CCC states that the final rule does not have federalism implications that warrant the preparation of a federalism assessment. The final rule will not have a substantial direct effect on states or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.