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B-324088

November 16, 2012

The Honorable Tom Harkin  
Chairman  
The Honorable Michael B. Enzi  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

The Honorable John Kline  
Chairman  
The Honorable George Miller  
Ranking Member  
Committee on Education and the Workforce  
House of Representatives

Subject: *Department of Education: Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan 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 Education (Education), entitled “Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program” (RIN: 1840-AD05). We received the rule on November 6, 2012. It was published in the *Federal Register* as final regulations on November 1, 2012, with an effective date of July 1, 2013. 77 Fed. Reg. 66,088.

The final rule amends the Federal Perkins Loan (Perkins Loan) program, the Federal Family Education Loan (FFEL) program, and the William D. Ford Federal Direct Loan (Direct Loan) program regulations. Specifically, it implements a new Income-Contingent Repayment (ICR) plan in the Direct Loan program based on the “Pay As You Earn” repayment initiative, incorporates recent statutory changes to the Income-Based Repayment (IBR) plan in the Direct Loan and FFEL programs, and streamlines and adds clarity to the total and permanent disability (TPD) discharge process for borrowers in loan programs under title IV of the Higher Education Act of 1965, as amended. Education expects that this rule will assist borrowers in repaying their loans and that the changes to the TPD discharge process will reduce the burden for borrowers who are disabled and seeking a discharge of their title IV debt.

Enclosed is our assessment of Education's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Except as concerns the requirements of the Unfunded Mandates Act of 1995 as described below, our review of the procedural steps taken indicates that Education 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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Michael Gross  
Assistant General Counsel,  
Regulatory Services,  
Office of the General Counsel  
Department of Education

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF EDUCATION  
ENTITLED  
"FEDERAL PERKINS LOAN PROGRAM,  
FEDERAL FAMILY EDUCATION LOAN PROGRAM, AND  
WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM"  
(RIN: 1840-AD05)

(i) Cost-benefit analysis

The Department of Education (Education) has assessed the potential costs and benefits—both quantitative and qualitative—of this regulatory action. The agency believes that the benefits justify the costs. The benefits identified by Education include: (1) enhanced cash management option for borrowers, (2) reduced payments and shorter forgiveness periods, which may encourage acknowledgement and payment of debt, (3) reduced monthly payments which may allow greater participation in the economy, (4) simplified processes for borrowers, (5) increased consistency of TPD determinations, and (6) process changes which could reduce reinstatements for paperwork reasons. Education expects this rule to have a net budget impact of approximately \$2.1 billion over the 2012 to 2021 loan cohorts. Education also estimates that the paperwork compliance costs will be approximately \$1,295,000 annually.

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

Education determined that this final rule will not have a significant economic impact on a substantial number of small entities.

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

Education did not address this Act in the final rule. In its submission to us, Education indicated that the Act's requirement to prepare a written statement under section 202 of the Act (15 U.S.C. § 1532) did not apply. Education also stated that it determined that this final rule will not unduly interfere with state, local, or tribal governments in the exercise of their governmental functions.

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

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

On July 17, 2012, Education published a notice of proposed rulemaking. 77 Fed. Reg. 42,086. Education received comments from 2,892 parties on the proposed rule, to which it responded in the final rule.

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

Education determined that this final rule contains information collection requirements under the Act. For the information collection requirement with Office of Management and Budget (OMB) Control Numbers 1845-0065 and 1845-NEWA, Education will be issuing a separate 60-day notice requesting public comment. For those two forms, Education estimates that the total burden will increase by 24,157 hours for an estimated cost of \$431,927 and will be 23,221 hours for an estimated cost of \$571,469, respectively. Education also estimates that the total burden associated with the form under OMB Control Number 1845-0019 will decrease by 28 to 3 hours, or an estimated \$689 in savings, and that the total burden associated with the form under OMB Control Number 1845-0020 will increase by an estimated 913 hours with a cost of \$22,469.

Statutory authorization for the rule

Education promulgated this rule under the authority of sections 1070g, 1071 to 1087-2, 1087a to 1087j, and 1087aa to 1087hh of title 20, United States Code.

Executive Order Nos. 12,866 and 13,563 (Regulatory Planning and Review)

Education determined that this regulatory action will have an annual effect on the economy of more than \$100 million. Education estimates that the availability of the rule's Pay As You Earn repayment plan will transfer from the federal government to students approximately \$10.6 billion and \$10.2 billion on a cash basis at 3 percent and 7 percent discount rates, respectively. These transfers will be in the form of reduced principal and interest payments over the 2012 to 2021 loan cohorts. Education expects this rule to have a net budget impact of approximately \$2.1 billion over the 2012 to 2021 loan cohorts. Therefore, Education determined that this final rule is economically significant and subject to review by OMB under the order.

Executive Order No. 13,132 (Federalism)

Education did not address this order in the final rule. However, Education did state that it determined that this final rule will not unduly interfere with state, local, or tribal governments in the exercise of their governmental functions.