



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-284091; B-284092

November 19, 1999

The Honorable Phil Gramm
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jim Leach
Chairman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Banking and Financial Services
House of Representatives

Subject: Emergency Steel Guarantee Loan Board and Emergency Oil and Gas
Guaranteed Loan Board: Emergency Steel Guarantee Loan Program and
Emergency Oil and Gas Guaranteed Loan Program

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on two major rules promulgated by the Emergency Steel Guarantee Loan Board and the Emergency Oil and Gas Guaranteed Loan Board, entitled "Emergency Steel Guarantee Loan Program" and "Emergency Oil and Gas Guaranteed Loan Program" (RIN: 3004-ZA00 and RIN: 3003-ZA00). We received the rules on November 9, 1999. The rules were published in the Federal Register as final rules on October 27, 1999. 64 Fed. Reg. 57932 and 64 Fed. Reg. 57946.

The final rules implement Chapters 1 and 2 of Public Law 106-51, August 17, 1999, and establish the procedures for providing guarantees of up to \$1 billion in loans for qualified steel and iron ore companies and \$500 million in loans for qualified oil and gas companies. The loans would be made by private sector lenders, with the federal government providing a guarantee of up to 85 percent of the amount of the principal of the loan.

Both loan guarantee programs will be administered by the Emergency Steel Guarantee Loan Board and the Emergency Oil and Gas Guaranteed Loan Board. The Boards are composed of the Chairman of the Board of Governors of the Federal

Reserve System, the Secretary of Commerce, and the Chairman of the Securities and Exchange Commission.

Prior to the issuance of the loan guarantee and while any guarantee is outstanding, the company must agree to permit an audit by our Office, or our designee, and an independent auditor acceptable to the Boards. Also, audited financial statements are required to be submitted with an application.

The final rules have an announced effective date of December 27, 1999. The Congressional Review Act requires major rules to have a 60-day delay in their effective date following publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A) Congress and our Office did not receive the rule until November 9, 1999, which means the final rules will not have the required 60-day delay in their effective dates.

Enclosed is our assessment of the Boards' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rules. Our review indicates that the Boards 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 W. Gramling, Director, Corporate Audits and Standards. Mr. Gramling can be reached at (202) 512-9406.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Jonathan Orszag
Acting Executive Director
Emergency Steel Loan Guarantee Board
and Emergency Oil and Gas Guaranteed
Loan Board

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF
TWO MAJOR RULES ISSUED BY THE
EMERGENCY STEEL GUARANTEE LOAN BOARD AND
EMERGENCY OIL AND GAS GUARANTEED LOAN BOARD
ENTITLED
"EMERGENCY STEEL GUARANTEE LOAN PROGRAM" AND
"EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM"
(RIN: 3004-ZA00 AND RIN: 3003-ZA00)

(i) Cost-benefit analysis

A cost-benefit analysis was not performed in connection with the final rules. Congress has appropriated \$122.5 million and \$140 million to cover the subsidy costs associated with the guarantees for the oil and gas and the steel and iron ore loans, respectively.

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

Since the final rules were not subject to the rulemaking requirements of 5 U.S.C. 553, the requirements of the Regulatory Flexibility Act are not applicable.

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

The final rules do not contain federal mandates, as that term is defined by Title II of the Act, on either state, local, or tribal governments or the private sector.

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

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

The final rules are exempt from the notice and public comment requirements of 5 U.S.C. 553 since they are matters relating to loans. 5 U.S.C. 553(a)(2). However, a public meeting was held on September 22, 1999, and was attended by numerous companies in the affected industries. Oral statements and written comments were considered in promulgating the final rules.

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

The final rules contain certain information collections which are subject to the review and approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

The preambles to the final rules state that the required documentation will be forwarded to OMB for review and approval.

Statutory authorization for the rule

The final rules were issued pursuant to the authority of Chapters 1 and 2 of Public Law 106-51, 113 Stat. 255 (15 U.S.C. 1841 note).

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action and was approved by OMB as complying with the requirements of the Order.