



441 G St. N.W.
Washington, DC 20548

B-332258

June 18, 2020

The Honorable Pat Roberts
Chairman
The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Collin Peterson
Chairman
The Honorable K. Michael Conaway
Ranking Member
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Rural Business-Cooperative Service, Rural Utilities Service:
Guaranteed Loanmaking and Servicing Regulations*

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 (USDA), Rural Business-Cooperative Service, Rural Utilities Service entitled "Guaranteed Loanmaking and Servicing Regulations" (RIN: 0570-AB07). We received the rule on June 4, 2020. It was published in the *Federal Register* as an interim final rule on May 22, 2020. 85 Fed. Reg. 31035. The effective date of the rule is May 22, 2020.

According to USDA, the interim final rule updates the Business and Industry Guaranteed Loan Program to allow flexibility to obligate federal funds for guaranteed loans pursuant to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (Mar. 27, 2020), in response to the national COVID-19 public health emergency. According to USDA, this funding will assist rural businesses that are impacted due to the economic impacts of the COVID-19 emergency and allow rural businesses to have access to funding for operating expenses to allow them to sustain operations.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). USDA determined it had good cause to waive the 60-day delay because withholding these funds would unduly delay the provision of emergency benefits under the CARES Act, which Congress intended to provide expeditious relief to address the current economic conditions arising from the COVID-19 emergency.

Enclosed is our assessment of USDA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Michele Brooks
Director, Regulations Management Division
Rural Development Innovation Center
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
RURAL BUSINESS-COOPERATIVE SERVICE,
RURAL UTILITIES SERVICE
ENTITLED
“GUARANTEED LOANMAKING AND SERVICING REGULATIONS”
(RIN: 0570-AB07)

(i) Cost-benefit analysis

The United States Department of Agriculture (USDA) stated the interim final rule will allow additional business and industry funding to prevent, prepare for, and respond to the effects of the COVID–19 pandemic. USDA stated that guaranteed loan funds will be used for working capital loan purposes to support business operations and facilities in rural areas. According to USDA, this funding will assist rural businesses that are impacted due to the economic impacts of the COVID–19 emergency and allow rural businesses to have access to funding for operating expenses to allow them to sustain operations.

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

USDA stated it did not have to conduct a Regulatory Flexibility Analysis because it determined the interim final rule was not subject to notice and comment procedures.

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

USDA stated the interim final rule contains no federal mandates for state, local, and 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.*

USDA waived notice and comment procedures for good cause. USDA determined it had good cause to waive notice and comment procedures because withholding funds would unduly delay the provision of emergency benefits under the Coronavirus Aid, Relief, and Economic Security Act, which Congress intended to provide expeditious relief to address the current economic conditions arising from the COVID–19 emergency. USDA is holding a comment period on the interim final rule through June 22, 2020.

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

USDA determined the interim final rule contains information collection requirements associated with the Business and Industry Guaranteed Loan Program, Office of Management and Budget (OMB) Control Number 0570–0069.

Statutory authorization for the rule

USDA promulgated the final rule pursuant to section 301 of title 5 and section 1989 of title 7, United States Code; and division B, title I of Public Law 116-136.

Executive Order No. 12,866 (Regulatory Planning and Review)

USDA stated the interim final rule had been reviewed by OMB and determined to be economically significant.

Executive Order No. 13,132 (Federalism)

USDA determined the interim final rule does not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. USDA further determined the interim final rule does not impose substantial direct compliance costs on state and local governments.