

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

B-333051

March 15, 2021

The Honorable Debbie Stabenow
Chairwoman
The Honorable John Boozman
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable David Scott
Chairman
The Honorable Glenn Thompson
Republican Leader
Committee on Agriculture
House of Representatives

Subject: *Department of Agriculture, Rural Utilities Service: Rural eConnectivity 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 (USDA), Rural Utilities Service, entitled "Rural eConnectivity Program" (RIN 0572-AC51). We received the rule on March 2, 2021. It was published in the *Federal Register* as a final rule, request for comments on February 26, 2021. 86 Fed. Reg. 11603. The stated effective date of the rule is April 27, 2021.

According to USDA, this final rule establishes the Rural eConnectivity Program. USDA states that the Rural eConnectivity Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. According to USDA, this rule describes the eligibility requirements, the application process, and the criteria that will be used by USDA to assess applicants' creditworthiness, and outlines the application process. USDA states that it is also seeking comments on the final rule.

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). This final rule was published in the *Federal Register* on February 26, 2021. 86 Fed. Reg. 11603. The Senate received the rule on March 5, 2021. 167 Cong. Rec. S1457 (daily ed. Mar. 10, 2021). The *Congressional Record* does not yet reflect when the House of Representatives received the rule. The rule has a stated effective date of April 27, 2021. Therefore, this final rule does not have the required 60-day delay in its effective date.

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 that reads "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 UTILITIES SERVICE
ENTITLED
“RURAL ECONNECTIVITY PROGRAM”
(RIN: 0572-AC51)

(i) Cost-benefit analysis

The Department of Agriculture (USDA), Rural Utilities Service, estimated the cost of this final rule, calculated as the annual information collection burden occurring in the year of application and award under the program, and applying the 3 percent and 7 percent discount rates, to be \$11,416,205. USDA also estimated the annualized administrative cost to the federal government to administer the program to be \$5,495,802. USDA also identified, as the main economic impact of this rule, the potential annual transfer associated with \$550,000,000 in authorized funding.

According to USDA, because of the significant changes to program operation, any estimate of the benefits would be speculative and based on the projected increase in the number of applications. Therefore, USDA described qualitative benefits of this rule, including: rural communities' access to remote learning and virtual healthcare services through availability of affordable high speed internet in rural areas; potential economic benefits of connected agriculture technologies within the agriculture industry; economic benefits and improvements in quality of life from availability of telework in rural areas; and a boost to local rural economies.

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

USDA certified that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Act.

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

USDA determined that this final rule is not subject to the requirements of the Act because it 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.*

According to USDA, the Rural eConnectivity Program was previously implemented by issuing Funding Opportunity Announcements (FOA). On December 14, 2018, USDA published the round one FOA. 83 Fed. Reg. 64315. On December 12, 2019, USDA published the round two FOA, with a request for comments. 84 Fed. Reg. 67913. USDA stated it received comments on the round two FOA from six respondents, including one company, three internet/television associations, one state board, and one individual. USDA summarized and responded to key

comments from each respondent in the final rule. In addition, USDA is seeking comments on this final rule to be submitted on or before April 27, 2021.

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

USDA determined this final rule contains information collection requirements (ICR) under the Act and stated that the ICR has been submitted to the Office of Management and Budget (OMB) for approval under OMB Control Number 0572-0152. According to USDA, the total annual burden for the ICR is estimated to be 156,005 hours and the total annual cost is estimated to be \$11,416,205.

Statutory authorization for the rule

USDA promulgated this final rule pursuant to sections 901 *et seq.*, 950aaa *et seq.*, 950cc, and 1981(b)(4) of title 7, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

USDA determined that this final rule is significant under the Order and stated that it was reviewed by OMB.

Executive Order No. 13132 (Federalism)

USDA determined that this 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 that this rule does not impose substantial direct compliance costs on states and local governments.