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June 17, 2016

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

The Honorable K. Michael Conaway
Chairman
The Honorable Colin C. Peterson
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, Rural Business-Cooperative Service (Agency), Rural Utilities Service entitled "Guaranteed Loanmaking and Servicing Regulations" (RIN: 0570-AA85). We received the rule on April 20, 2016. It was published in the *Federal Register* as a final rule on June 3, 2016. 81 Fed. Reg. 35,984.

According to the Agency, the final rule strengthens criteria for non-regulated lenders to participate in the Business and Industry (B&I) Guaranteed Loan Program. It also codifies provisions of the 2008 Farm Bill, including two types of rural area exceptions and eligibility of local foods projects and cooperative equity security guarantees. The rule also includes provisions for New Markets Tax Credits and the Cooperative Stock Purchase Program. Changes are also made to the loan scoring criteria. Loan servicing changes include the termination of interest accrual after a certain period of time. The rule also adds the ability to obtain personal and corporate guarantees from those owning 20 percent of the business when there is a sale of the borrower's stock. This final rule responds to comments received on an earlier proposed rule, and in some instances makes adjustments to the rule based on those comments.

Enclosed is our assessment of the Agency'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 of the procedural steps taken indicates that the Agency 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: Samuel H. Ridders
Administrator
Rural Business-Cooperative Service
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-AA85)

(i) Cost-benefit analysis

The Department of Agriculture (USDA), Rural Business-Cooperative Service (the Agency) summarized in this final rule an economic analysis of the rule. The Agency believes the changes in the rule may increase lending activity, resulting in the expansion of business opportunities and the creation of more jobs in rural America. The Agency stated that the rule may also improve the prosperity of rural residents through guarantees of targeted investments that may improve rural competitiveness, facilitate industrial conversion, and enable rural residents to profit from private sector activity. According to the Agency, the rule's incremental effect to the public will be to nominally increase the burden for lenders seeking to be an eligible lender and for "new" investors in projects that receive Business and Industry (B&I) loan guarantees after the Loan Note Guarantee is issued by a total of approximately \$ 4,800 per year. The cost to participating lenders and borrowers was estimated to be approximately \$2.5 million. The cost to the federal government to administer the program was estimated to be approximately \$2.1 million.

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

The Agency has determined that this rule will not have a significant economic impact on small entities. According to the Agency, many of the changes being implemented in the rule are small changes to the program that do not have any economic impact on the lenders. The most significant change in the rule that affects lenders is the criteria to become an approved non-regulated lender. The Agency stated that this change by itself does not have a significant economic impact on a substantial number of entities as it affects less than 2 percent of the active lenders (approximately 21 non-regulated lenders).

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

The Agency determined that this final rule contains no federal mandates for the private sector, or state, local, and tribal governments.

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

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

On September 15, 2014, the Agency published a proposed rule with a request for comment. 79 Fed. Reg. 55,316. The Agency received 717 comments from 233 commenters to the

proposed rule. Of the 717 comments, 277 supported the rule as written, 170 resulted in minor changes to the rule, and the remaining comments were adverse to certain proposed changes and were addressed in the final rule.

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

The Agency submitted the information collection requirements contained in the final rule to the Office of Management and Budget for review and approval. In the PRA burden package, the Agency determined that estimated costs of approximately \$1,600 per non-regulated lender would be incurred by the lenders applying for and participating in the program. Based on data of the average assets of small lenders, the average cost of \$ 1,600 per non-regulated lender represents less than 0.003 percent of the total assets. In the proposed rule, the Agency estimated the increase in the public reporting burden to be 3 hours per respondent.

Statutory authorization for the rule

The Agency promulgated this final rule under the authority of section 301 of title 5 and section 1989 of title 7, United States Code

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

The Agency states that this rule was determined to be economically significant because the changes to the B&I Guaranteed Loan Program regulations are estimated to have an impact on the economy of more than \$100 million.

Executive Order No. 13,132 (Federalism)

The Agency determined the final rule conforms to the federalism principles set out in the Order, would not impose any compliance costs on the states, and would not have a substantial direct effect on states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government.