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DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4290

[Docket No. RBS-12-NONE-0002]

RIN 0570-AB01

Rural Business Investment Company (RBIC) Program

AGENCY: Rural Business-Cooperative Service, Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) published an interim rule on December 23, 2011, which made several revisions to the Rural Business Investment program. Through this action, RBS finalizes the rule based on public comments, amends its regulations, and incorporates new program requirements established in the Agriculture Improvement Act of 2018 Bill for the Rural Business Investment Program. This action, which affects some of the substantive aspects of the Rural Business Investment Program, is expected to decrease the time and workload necessary in carrying out the Rural Business Investment Program.

DATES: This rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Sami Zarour, Director, Specialty

Programs Division, Rural Business-Cooperative Service, U.S. Department of Agriculture, STOP 3225, 1400 Independence Avenue, SW., Washington, DC 20250-3225; e-mail: Sami.Zarour@usda.gov; telephone (202) 720-9549.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be non-significant for purposes of Executive Order (EO) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Congressional Rulemaking Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive order. In addition, all state and local laws and regulations that conflict with this rule will be preempted. No retroactive effect will be given to this rule.

Executive Order 12372

These loans are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials. The Rural Business-Cooperative Service (RBS) conducts intergovernmental consultation for each RBIC loan in accordance with 2 CFR part 415, subpart C.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the undersigned has determined and certified by signature of this document that this rule, while affecting small entities, will not have an adverse economic impact on small entities. This rule does not impose any significant new requirements on program recipients, nor does it adversely impact proposed real estate transactions involving program recipients as the buyers.

National Environmental Policy Act/Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1970, subpart A, "Environmental Policies." It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for the program impacted by this action is 10.860, Rural Business Investment Program. The Catalog is available on the Internet at <https://beta.sam.gov>. The Government Publishing Office (GPO) prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at 202-512-1800 or toll free at 866-512-1800, or access GPO's online bookstore at <http://bookstore.gpo.gov>.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act 1995 (UMRA) of Pub. L. 104-4 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, Rural Development generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires Rural Development to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act, to provide increased opportunities for citizens to access Government information and services electronically to the maximum extent possible.

Executive Order 13132, Federalism

The policies contained in this rule do 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. Nor

does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

This rule has been reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Rural Development has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe would like to engage in consultation with Rural Development on this rule, please contact Rural Development’s Native American Coordinator at (720) 544-2911 or AIAN@usda.gov.

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300-4, “Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. Based on the review and analysis of the rule and available data, it has been determined that the program purpose, application submission and eligibility criteria,

issuance of this final rule will neither adversely nor disproportionately impact low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection activities associated with this rule are covered under OMB Number: 0570–0051. This final rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995.

Background

I. Rural Business Investment Program

The Rural Business Investment Program (RBIP) promotes economic development and the creation of wealth and job opportunities among individuals living in rural areas and to help meet the equity capital investment needs primarily of smaller enterprises located in such areas. Under the RBIP, for-profit Rural Business Investment Companies (RBICs) make venture capital investments in rural areas with the objectives of fostering economic development in such areas and returning maximum profits to the RBIC's investors. The regulations set forth the criteria RBS uses to select and license RBICs, guarantee its debentures, and to make grants to RBICs.

The Food, Conservation, and Energy Program of 2008 (the 2008 Farm Bill) was enacted and affected several provisions of the RBIP regulation. Section 6027 of the 2008 Farm Bill resulted in the need for several regulatory modifications. The agency

published an interim rule on December 23, 2011 at 76 FR 80217, with an effective date of January 23, 2012.

In addition, the Agency amended the program to allow RBICs to participate without financial leverage from the Agency. In response to the Interim rule, the agency received three comments from stakeholders. On December 21, 2018, the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) was enacted and contained several statutory amendments affecting the RBIP. Section 6426 of the 2018 Farm Bill resulted in necessary amendments to 7 CFR part 4290, subpart F.

Lastly, the Agency is taking this opportunity to clarify several of the provisions of the regulation.

II Summary of Changes

7 CFR Part 4290

Section 4290.50 - Definitions

Rural Business Concern: The current rule defines a Rural Business Concern as an “enterprise whose Principal Office is located in a Rural Area.” By requiring the Rural Business Concern’s principal office to be located in a rural area, the Agency has determined that this restriction is hampering the full implementation of the program. The statute authorizing the program defines a rural business concern, in part, as one that “primarily operates in a rural area.” By focusing on the location of the principal office, the Agency is unnecessarily limiting the effectiveness of the program. In addition, per the authorizing statute, the key aspect, as noted above, is that the rural business concern “primarily operates in a rural area. The current definition misses this key feature. For

these reasons, the Agency is revising the definition of “rural business concern” to align with the statutory definition.

Rural Business Concern Investment: The current rule defines a Rural Business Concern Investment as being “located in a Rural Area at the time of the initial Financing.” If the initial investment is made in a concern located in an area not considered Rural with the stipulation that the Concern will relocate to a Rural Area after initial financing, the current rules require the RBIC to carry the investment as a non-rural Investment. By requiring the RBIC to carry an investment as a non-rural Investment when the concern has relocated to Rural Area puts an undue burden on the RBIC. The intent of the program is to bring businesses and job opportunities to Rural Areas. So, if the investment was implemented to help facilitate the relocation of the business to a Rural Area, the RBIC should be able to reclassify the initial investment as a “Rural Business Concern Investment.”

- In addition, the definitions are being revised to be consistent with the 2018 Farm Bill and to remove various other definitions that are no longer needed. These include: revising Urban Area Investment, Developmental Venture Capital, Rural Business Concern, and Rural Business Concern Investment; adding Agency; and deleting Principal Office, Secretary, Small Business Concern, Small Business Concern Investment.

Section 4290.210 - Minimum capital requirements for RBICs:

The current regulation requires an RBIC to raise the amount of funds it has identified in its application by the end of the second year from when it receives its “green

light” letter. However, the current regulation does not adequately address situations in which the RBIC may raise and close on capital in increments before the end of second year. Such multiple closing is not uncommon when for competing private equity funds. To better align the program with the realities of raising private equity funds, the Agency is adding a new paragraph to this section (see § 4290.210(d)) that specifically allows for multiple closings.

Section 4290.330 - Grant issuance fee: In order to implement language from the 2018 Farm Bill, the Agency is removing the \$500 cap on guarantee fees the Secretary may charge and revising the paragraph. Any fee charged will be published in the Federal Register and published on the Rural Development website.

Section 4280.700 – Requirements concerning types of Enterprises to receive Financing:

The Agency is revising the requirements found in this section in three ways, as described below.

1. The current regulation identifies minimum levels of financing that must be received by rural business concerns, smaller enterprises, and small business concerns and a maximum level of financing that can go to urban area investments. The authorizing statute contains requirements for the minimum percentage of financings that must be received by rural business concerns and that maximum percentage that can be received in urban areas; it does not specifically identify similar requirements for either smaller enterprises or small business concern investments.

The Agency is keeping the financial requirements for smaller enterprise

investments because of the emphasis in the statute. The Agency is, however, dropping the financing percentage requirements for small business concern investments (i.e., removing § 4290.700(c) from the regulation). This simplifies the implementation of the program and helps reduce potential overlap with programs administered by the Small Business Administration.

2. The current regulation requires the percentage requirements to be met on both the percentage of the number of concerns receiving Financing within the RBIC's portfolio and the percentage of dollars the RBIC provides to the concerns in its portfolio. Requiring both percentages to be met unnecessarily complicates the program. Therefore, the Agency is revising the percentage requirements to be applied to the amount of dollars the RBIC spends on concerns in the three remaining areas (i.e., rural business concerns, smaller businesses, and urban areas).

3. The current regulation requires RBICs to comply with the Financing percentages starting the first year after issuance of the certificate. This is unnecessarily restrictive and does not allow an RBIC sufficient time to implement the program. Therefore, the Agency is revising the regulation to require that the Financing percentages be met by the third year after the RBIC receives its certificate, and each subsequent year thereafter.

- Removing reference to Small Business Concern/Small Business Concern Investment in §§ 4290.370(h), 4290.610(b), and 4290.760(a). The authorizing statute for RBIC does not require Small Business Concerns and the agency is removing this reference to allow for more flexibility for RBICs.

Section 4290.720(g) - Foreign investment exceptions:

In general, the current regulation prohibits Financings to an enterprise if the funds will be used substantially for a foreign operation or more than 49 percent of the employees or tangible assets of the enterprise are located outside the United States. The current regulation has one exception – allowing a financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States.

The Agency has determined that the restriction on financing of foreign investments is unnecessarily restrictive – it is prohibiting investments in rural America that will provide more opportunities for job creation and general economic stimulus. Therefore, the Agency is adding a second exception that will allow the financing of a subsidiary of foreign owned entities when that subsidiary is based in the United States with a minimum of 51 percent U.S. ownership (see § 4290.720(g)(2)(ii)).

Section 4290.720(i) - Entities ineligible for Farm Credit System Assistance

This rule will increase the limitation on rural business investment companies controlled by Farm Credit System institutions from 25% to 50% before the rural investment company is prohibited from providing equity investments to companies that are not otherwise eligible to receive financing from the Farm Credit System.

Section 4290.720(k) - Changes in Ownership of an Enterprise:

The current regulation requires an RBIC to obtain Agency approval whenever there has been a change in ownership. This provision is an unnecessary burden to RBICs because every financing involving equity capital triggers a change in ownership.

Furthermore, the appropriate change should be in the change of control (not ownership) in the rural business concern. Change of control occurs when more than 50 percent of the concern exchanges hands. The Agency, therefore, is revising this provision to require Agency approval when there is change of more than 50 percent of control.

Remove the word “Secretary” and replace with “Agency.”

The current RBIP rule refers throughout to the “Secretary” (that is, the Secretary of Agriculture) in a number of contexts. A substantial number of these references involve an action by the Secretary, such as approvals, delegations, and determinations. The Administrator, Rural Business-Cooperative Service is delegated authority through 7 CFR 2.48(a)(2)(xiii) to administer the Rural Business Investment Program. Therefore, all references to “Secretary” are being revised to reflect the delegation to the Rural Business-Cooperative Service throughout 7 CFR part 4290.

III. Summary of Comments and Responses from Prior Rulemaking

On December 23, 2011, the Rural Business Cooperatives Service (RBS) published an interim rule in the Federal Register (76 FR 80217) to conform the Rural Business Investment Program (RBIP) to the 2008 Farm Bill, to add provisions for Rural Business Investment Companies (RBIC) that wish to participate in a non-leveraged capacity, and to make several clarifications to the existing rule for leveraged RBICs. In addition, this rule amended the categorical exclusions from the National Environmental Policy Act by adding categorical exclusions for the RBIP for both leveraged and non-leveraged RBICs.

Three commenters – 1 from a sponsoring organization and 2 from industry associations, provided a total of 29 comments in response to the interim rule. One

comment was supportive of the changes to the rule. Commenter indicated that the change to the program in general would help support rural communities and economic development. There were 4 comments that were neither supportive nor adverse. There were 24 comments that were averse to certain changes in the interim rule, below are listed the substantive comments.

Comments on rural area: One comment supported the direction that USDA set forth in the interim rule and believes that the USDA has identified an appropriate balance between a regulatory framework that can improve the long-term viability of a non-leverage RBIC while still allowing sufficient flexibility, either expressly or by providing the Secretary with the opportunity to exercise discretion to accommodate unique circumstances.

The four indifferent comments included one wanting some confirmation that Community Reinvestment Act (CRA) Credits will be available for community banks. One commenter wanted to work with the program to make it workable with their clients. Two comments wanted the Agency to provide participation requirements for non-leveraged RBICs and work with the associations to survey its members.

Response: The Agency acknowledges the supportive and indifferent comments, and no action is needed for those comments. RBS disagrees with the following adverse comments.

Non-Supportive Comments: Five comments suggested that the rule should have been issued as a proposed rule or final rule instead of an interim rule.

Response: The Administrative Procedures Act (APA) (5 U.S.C. 553(a)(2)) provides that notice and comment is not required with respect to rules involving listed subject matters areas including “loans, grants, benefits and contracts.” At the time the interim rule was issued, it was the policy of USDA to issue a proposed rule even though this exemption applied unless the agency found for good cause that an interim rule instead of a final rule was in the public interest. On October 28, 2013 (78 FR 64194), USDA published a notice in the Federal Register revoking this policy of seeking notice and comment when the provisions of 5 USC 553(a)(3) were otherwise applicable. As stated in the preamble of the interim rule, RBS determined that good cause existed for the issuance of an interim rule; notably, the degree of similarity between this program and Small Business Administration's (SBA) Small Business Investment Company (SBIC) and New Market Venture Capital (NMVC) programs. RBS determined at that time that little was to be gained from a delay in implementing the program for public comment. USDA minimized administrative burdens by adopting as much of the SBA's SBIC and NMVC programs as possible. Accordingly, the interim rule imposed a minimum number of unfamiliar requirements from the SBIC and NMVC programs and the rule should be very familiar to applicants currently participating in either of those programs.

Non-Supportive Comments: One comment suggested that SBA should administer the program.

Response: The comment is not attributable to the interim rule as it does not address how the Agency will implement the non-leverage program. The RBIP program will be administered by the Administrator of the Rural Business and Cooperative Service.

Non-Supportive Comments: One comment suggested that the rule will have

significant impact on a substantial number of small entities

Response: The Agency disagrees with the concern that the rule will have a significant impact on a substantial number of small entities. The comment is attributed to the preamble section “Regulatory Flexibility Act Certification,” which is intended to address the regulatory burden a rule imposed on small entities.

Non-Supportive Comments: One comment was concerned about the definition of rural being subjective and open-ended.

Response: The Agency disagrees that the definition of rural is subjective and open-ended. The definition of “Rural in character” is statutorily required and will be determined by USDA for this and its other regulations.

Non-Supportive Comments: Ten comments were concerned about Federal Credit Administration (FCA) administering the RBIP.

Response: The RBIP program will be administered by the Administrator of the Rural Business and Cooperative Service.

Non-Supportive Comments: Six comments requested including local and community banks in the RBIP.

Response: The Agency and the program makes every effort to work with community and local banks.

IV. Rural Business Investment Program Applications

As provided in 7 CFR 4290.300, a Notice of Solicitation for Applications (NOSA) will be published separately for each fiscal year, as necessary, to announce any special limitations and the opening and closing dates for the application window.

List of Subjects in 7 CFR Part 4290

Community development, Government securities, Grant programs-business, Securities, Small businesses.

Therefore, chapter XLII, title 7 of the Code of Federal Regulations is amended as follows:

PART 4290 – RURAL BUSINESS INVESTMENT COMPANY (“RBIC”)

PROGRAM

1. The authority citation for part 4290 continues to read as follows:

Authority: 7 U.S.C. 1989 and 2009cc *et seq.*

2. In part 4290, wherever they may occur:
 - a. Remove the word “Secretary” and add in its place “Agency”;
 - b. Remove the word “Secretary’s” and add in its place “Agency’s”;
 - c. Remove the words “his or her” and add in their place “its”;
 - d. Remove the words “he or she” and add in their place “it”;
 - e. Remove the words “him or her” and add in their place “it”;
 - f. Remove the words “him or herself” and add in their place “itself”;
 - g. Remove the words “himself or herself” and add in their place “itself”; and
 - h. Remove the word “Venture”.

Subpart B – Definition of Terms Used in Part 4290

3. Amend § 4290.50 by:
 - a. Adding the definition for “Agency” in alphabetical order;
 - b. Removing the definition of “Principal Office;”

- c. Revising the definitions “Rural Business Concern” and “Rural Business Concern Investment;”
- d. Removing the definition of “Agency” following the definition of “Secondary Relative” and the definitions of “Small Business Concern” and “Small Business Concern Investment;”
- e. In the definition for “Urban Area Investment,” removing the words “whose Principle Office was located” and adding in their place “that primarily operates.”

The addition and revisions read as follows:

§ 4279.50 Definition of terms.

* * * * *

Agency means the Rural Business-Cooperative Service (RBS) an agency of the U.S. Department of Agriculture.

* * * * *

Rural Business Concern means an Enterprise that primarily operates in a Rural Area.

Rural Business Concern Investment means a Financing in a Rural Business Concern at the time of the initial Financing or if the initial Financing is to facilitate a relocation from a Non-rural Area to a Rural Area after that initial Financing.

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Subpart C – Qualifications for the RBIC Program

- 4. Amend § 4290.210 by adding paragraph (d) to read as follows:

§ 4290.210 Minimum capital requirements for RBICs.

* * * * *

(d) *Closing*. Each RBIC may conduct more than one closing to raise the specific amount of Regulatory Capital that the Applicant had projected in its application that it would raise (see § 4290.310(b)). One or more closings may take place subsequent to licensing as an RBIC to raise the difference between the required Regulatory Capital as provided under paragraphs (a) and (b) of this section and the specific amount of Regulatory Capital that the Applicant had projected to raise in its application.

§ 4290.230 [Amended]

5. Amend § 4290.230(c)(5) by removing the word “collectibility” and adding in its place “collectability”.

Subpart D – Application and Approval Process for RBIC Licensing

6. Revise §4290.330 to read as follows:

§ 4290.330 Guarantee fee.

In cases of Leveraged Applications, the Applicant must pay to the Agency an issuance fee for each grant or debenture guarantee. The Agency may charge such fees as the Agency considers appropriate, so long as those fees are proportionally equal for each rural business investment company, with respect to any guarantee or grant issued under this subchapter.

Subpart E – Evaluation and Selection of RBICs

§ 4290.340 [Amended]

7. Amend § 4290.340 introductory text by removing “Agency on behalf of USDA” and adding in its place “Administrator of RBS”.

8. Amend § 4290.370 by revising the introductory text and paragraph (h) to read as follows:

§ 4290.370 Evaluation criteria.

Of those Applicants whose management team is considered qualified for venture capital investing and who have submitted an eligible and complete application, the Administrator of RBS and the Administrator on behalf of SBA, in their sole discretion, will evaluate and select an Applicant for participation in the RBIC program by considering the following criteria:

* * * * *

(h) The extent to which the Applicant will concentrate its activities on serving Smaller Enterprises located in the Rural Area in which it intends to invest, including the ratio of resources that it proposes to invest in such Enterprises as compared to other Enterprises;

* * * * *

9. Amend § 4290.380 by revising the first sentence to read as follows:

§ 4290.380 Selection.

From among the Applicants that have submitted eligible and complete applications, the Administrator of RBS and the Administrator on behalf of SBA, in their sole discretion, will select some, all, or none of such Applicants to participate in the RBIC program. * * *

10. Amend § 4290.390 by revising paragraph (b) to read as follows:

§ 4290.390 Licensing as a RBIC.

* * * * *

(b) *Licensing as a RBIC.* If the selected Applicant has satisfactorily met all the conditions specified in paragraph (a) of this section, as determined within the sole

discretion of the Agency, then the Administrator of RBS and the Administrator on behalf of SBA will license the Applicant as a RBIC.

* * * * *

Subpart H – Recordkeeping, Reporting, and Examination Requirements for RBICs

§ 4290.610 [Amended]

11. Amend § 4290.610 by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

Subpart I – Financing of Enterprises by RBICs

12. Revise § 4290.700 to read as follows:

§ 4290.700 Requirements concerning types of Enterprises to receive Financing.

(a) Financing requirements. Beginning after the third fiscal year after the issuance of your RBIC license and at the close of each of your fiscal years thereafter, you must be in compliance with the Financing percentages specified in this paragraph (a).

(1) Rural Business Concerns. At least 75 percent of your Financings (in total dollars) to your Portfolio Concerns must have been to Rural Business Concerns.

(2) Smaller Enterprises. More than 50 percent of your Financings (in total dollars) to your Portfolio Concerns must have been to Smaller Enterprises that, at the time of the initial Financing to such Enterprise, meet either the net worth/net income test or the size standard set forth in the “Smaller Enterprise” definition in §4290.50.

(3) Urban Areas. No more than 10 percent of your Financings (in total dollars) to your Portfolio Concerns must have been made to Portfolio Concerns located in an Urban Area.

(b) Non-compliance. If you are not in compliance with any of the Financing

percentages specified in paragraph (a) of this section at the end of the third fiscal year after the issuance of your RBIC license or any fiscal year thereafter, you must come into compliance by the end of the following fiscal year. For as long as you remain out of compliance, you are not eligible for additional Leverage (see §4290.1120).

13. Amend § 4290.720 by:

a. Revising paragraph (g)(2);

b. In paragraph (i), removing “25 percent” and adding in its place “50 percent”;

and

c. In paragraph (k), removing “of ownership” from the heading and adding “in control” in its place and removing “ownership of” and adding “more than 50 percent control of” in its place.

The revision reads as follows:

§ 4290.720 Enterprises that may be ineligible for Financing.

* * * * *

(g) * * *

(2) Exception. This paragraph (g) does not prohibit either:

(i) A Financing used to acquire foreign materials and equipment or foreign property rights for use or sale in the United States; or

(ii) A Financing in a subsidiary based in the United States of foreign-owned entities with at least 51 percent U.S. ownership.

* * * * *

§ 4290.760 [Amended]

14. Amend § 4290.760(a) by removing the words “or Small Business Concern”.

Dated: March 13, 2020.

Mark Brodziski,
Acting Administrator,
Rural Business-Cooperative Service.

Dated: March 13, 2020.

Chad Rupe,
Administrator,
Rural Utilities Service.
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