National Sustainable Agriculture Coalition

July 27, 2010

Branch Chief
Regulations and Paperwork Management Branch
U.S. Department of Agriculture
STOP 0742
1400 Independence Ave, SW
Washington, DC 20250-0742

Delivered via regulations.gov

Re: Rural Microentrepreneur Assistance Program (7CFR 4280) -- Interim Rule with Request for Comments. (Federal Register Vol.75, No 103 at pp 30114 - 30158)

Dear Chief:

I am submitting these comments on behalf of the National Sustainable Agriculture Coalition (NSAC) and its 40 represented member organizations regarding the Interim Rule for the Rural Microentrepreneur Assistance Program (RMAP).

NSAC represents family farm, rural development, and conservation organizations from around the United States that share a commitment to federal policy that promotes healthy, economically vibrant rural communities, sustainable agricultural production systems, and family farms and ranches.

We are excited by the potential the RMAP program has to spark real sustained rural growth and appreciate this opportunity to offer our comments on the Rural Development Agency's interim rule for the program.

We would like in particular to call your attention to a surprising aspect of the definition of "microenterprise" that we did not catch when the proposed rule was published that we do not believe was noted in comments on the proposed rule by other groups or individuals. Including agricultural producers among the types of microenterprises RMAP will support seems to us a less-than-optimal use of these funds if the intent is to make farm production loans. Funding production was never the intention of this program and we believe that that type of lending would minimize its usefulness. On the other hand, funding farm and food related value-adding enterprises that are microbusinesses is an excellent idea.

NSAC's comments concentrate on the issues we believe are most problematic in the interim rule: a misplaced emphasis on lending at the expense of training and technical assistance, unreasonable discrimination against MDOs with strong track records from expanding to serve rural communities, lack of understanding about how MDOs serve disadvantaged communities, and high potential interest rates and restrictions on MDO use of interest income.

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The interim final rule proposes to eliminate the "enhancement grant" category, a decision NSAC thinks would be a grave mistake. RMAP's goal is to create a strong network of MDOs in rural America to provide capital, business training and technical assistance to the very small businesses that can fuel economic regrowth in their communities. There are many rural areas that are completely unserved or underserved by MDOs. Section 6022(b)(4)(A)(II) authorizes USDA to provide funds to build capacity to nurture microenterprise development and the Agency should use those funds to support MDO capacity development. The original "enhancement grant" limitations seemed unwise to NSAC and we suggest that the concept be reintroduced allowing greater flexibility with these funds beyond simply staff training.

Thank you for your attention to these issues. We trust the final version of the rule will clear up these matters and provide for a stronger program.

Sincerely,

Ferd Hoefner

Ferd Hoefner
NSAC Policy Director

NSAC Detailed Comments on RMAP Interim Rule

4280.302 (a) Definitions – Agricultural producers

> ***Microenterprise***. *Microenterprise means:*
> *(ii) …Business types may also include* ***agricultural producers*** *provided they meet the stipulations in this definition.* ***(Emphasis added)***

NSAC has been involved in the idea of a rural microentrepreneur program to be administered by USDA's Rural Development Agency for several years and was intimately involved in crafting the legislation that established the program in the 2008 Farm Bill. RMAP was never conceived as a farm loan program. Supporting farm production lending was never considered as a likely or appropriate use of the funds, and we believe that it would not be the best use of the funds now. On the other hand, loans for value-adding agriculturally-related enterprises and for local and regional food enterprises that are micro-enterprises would be excellent uses of RMAP.

We support the inclusion of agricultural producers in the definition, but urge you to clarify in the final rule that this general eligibility does not extend to regular farm production operating loans.

USDA's Farm Service Agency (FSA) is the primary federal farm-lending agency. FSA has the local infrastructure, agricultural knowledge, and financial resources to be the appropriate USDA agency to lend to farmers for agricultural production. While demand for loans sometimes exceeds FSA's means, the few million dollars in the RMAP program would be a negligible addition to their resources and do nothing significant to stimulate agricultural production.

The Business and Cooperative Services program in Rural Development is the one area within USDA designed to provide grant and loan support for the panoply of enterprises that can build vibrant and sustainable rural economies, including non-agriculture businesses. RMAP was designed specifically to complement the suite of programs already offered including the Business and Industry Guaranteed Loan Program (B&I), and the Intermediary Relending Program (IRP). RMAP should be a funding source for very small rural businesses not reached by existing Rural Development programs or by the Small Business Administration's urban-centered microenterprise loans. It should be a dedicated funding stream for the small businesses that bring livability, jobs and larger economic activity to rural areas.

Investments in the commercial businesses to support local agricultural production or fill other vital community needs are the necessary catalysts for economic growth. Offering very small agricultural production loans that do not contain some additional value-added or local market development component, in contrast, would be minimizing the value of these few dollars and missing crucial opportunities to invest in rural economic development.

4280.302 (a) Definitions – Sole proprietorship

> ***Microenterprise***. *Microenterprise means:*
> *(i) A sole proprietorship located in a rural area;*

The microenterprise definition uses the term sole proprietorship without the same size limitations used in the definition for other business entities. A sole proprietorship, however, can be a very large company that should not be eligible to participate in RMAP. If the Agency's intention is to limit the program to businesses of fewer than ten employees and self-employed individuals without employees, then we suggest that you clearly say that rather using the term sole proprietorship.

4280.302 (a) Definitions – Technical assistance and training

> ***Technical assistance and training**. The provision of education, guidance, or instruction to one or more rural microentrepreneurs to prepare them for self-employment; to improve the state of their existing rural microenterprises; to increase their capacity in a specific technical aspect of the subject business; and, to assist the rural microentrepreneurs in achieving a degree of business preparedness and/or functioning that will allow them to obtain, or have the ability to obtain, one or more business loans of $50,000 or less, whether or not from program funds.*

In the definition section and elsewhere throughout the interim rule, technical assistance and training are treated as if they are synonymous. We believe, however, there are important distinctions between them that should be recognized in the rule and in program implementation. In the context of microenterprise development training refers to teaching generalized and broad based business skills in any one of a number of forums. Technical assistance generally refers to intensive one-on-one counseling with an individual entrepreneur on issues specific to his/her business. The rule should clarify the difference between the two necessary supports for rural business and identify that both are to be funded as they are both critical to ensuring long term business stability.

4280.311(d) Cost share

> ***(d) Cost share**. The Federal share of the eligible project cost of a **microborrower's** project funded under this section shall not exceed 75 percent. The cost share requirement shall be met by the microlender using either of the options identified in paragraphs (d)(1) and (2) of this section in establishing an RMRF. A microlender may establish multiple RMRFs utilizing either option. Whichever option is selected for an RMRF, it must apply to the entire RMRF and all microloans made with funds from that RMRF. **(Emphasis added)***

The interim final rule sets forth a limit of the federal share of "the eligible project cost of a **microborrower's** project funded under (RMAP) shall not exceed 75 percent." (*emphasis added)*

We believe this limitation is not authorized by the law. Section 6022(c)(1)(A) of the farm bill states that the 'Federal share of the cost of a project funded under this section shall not exceed 75 percent." This clearly refers to a project application of an MDO funded through RMAP, not an individual microenterprise assisted by an MDO. At no place in the statute does "project" refer to the microborrower's project. We urge you to rewrite this section in the final rule to conform to the law.

4280.311(e)(2) Loan terms and conditions for microlenders

> *(2) The RMRF account, including any interest earned on the account and the microloans made from the account, will be used to make fixed-rate microloans, to accept repayments from microborrowers and reimbursements from the LLRF, to repay the Agency and, with the advance written approval of the Agency, to supplement the LLRF with interest earnings (from payments received or from account earnings) from the RMRF.*

Section 4280.311(e)(2) of the interim final rule severely restricts the use of interest earnings accrued by the rural microloan revolving fund (RMRF). We believe this provision undermines MDO's ability to grow and increase lending and business support for rural America. Loan interest can be valuable discretionary funding for MDOs. It can be used to match other funding sources that will allow for increased lending or to expand the variety of business services MDOs can offer in rural areas. Penalizing the growth of MDOs will undermine the long term efficacy of the program. We urge you to remove the limitations on the use of interest income.

4280.311(e)(12) Interest rate

> *(12) Each loan made to a microlender during its first five years of participation in this program will bear an interest rate of 2 percent. After the fifth year of an MDO's continuous and satisfactory participation in this program, each new loan made to the microlender will bear an interest rate of 1 percent. Satisfactory participation requires a default rate of 5 percent or less and a pattern of delinquencies of 10 percent or less. Except in the case of liquidation or early repayment, loans to microlenders must fully amortize over the life of the loan.*

This section establishes an interest rate of two percent for all MDOs during their first five years participating in the program -- double the minimum rate established in Section 6022(b)(3)(B)(ii) of the authorizing statute. The presumption seems to be that lenders will incur losses and have to "earn" the one percent interest rate by demonstrating a successful track record.

This approach will increase the effective interest rates for all new rural microentrepreneurs that receive loans through the program when the clear intention of the farm bill is to increase the flow of low-interest loans to these borrowers. We suggest that the application process be thorough enough to ensure that MDOs are credit-worthy and we urge you to then provide funding at the statutory minimum interest rate of one percent.

Application Scoring

4280.316(b)(1)(ii)-(iv) Past rural experience

> *(ii) Number and amount of microloans made in rural areas in each of the three years prior to the year in which the application is submitted. If the history of providing microloans in rural areas shows:*

(A) More than the three consecutive years immediately prior to this application, 5 points will be awarded;
(B) At least two of the years but not more than the three consecutive years immediately prior to this application, 3 points will be awarded;
(C) At least 6 months, but not more than one year immediately prior to this application, 1 point will be awarded.

(iii) Percentage of number of loans made in rural areas. Calculate and enter the total number of microloans made in rural areas as a percentage of the total number of all microloans made for each of the past three Federal FYs. If the percentage of the total number of microloans made in rural areas is:
(A) 75 percent or more, 5 points will be awarded;
(B) At least 50 percent but less than 75 percent, 3 points will be awarded;
(C) At least 25 but less than 50 percent, 1 point will be awarded.

(iv) The percentage of dollar amount of loans made in rural areas. Enter the dollar amount of microloans made in rural areas as a percentage of the dollar amount of the total portfolio (rural and non-rural) of microloans made for each of the previous three Federal FYs. If percentage of the dollar amount of the microloans made in rural areas is:
(A) 75 percent or more of the total amount, 5 points will be awarded;
(B) At least 50 percent but less than 75 percent, 3 points will be awarded;
(C) At least 25 percent but less than 50 percent, 1 point will be awarded.

The scoring matrix outlined in this section puts experienced MDOs without rural-specific lending experience at a disadvantage when applying for funding. While the intention to support organizations with a rural track record is understandable, the result could well be that excellent urban-based MDOs that are willing to expand their services to needy rural communities will not be able to access RMAP simply because they have not served rural areas before. This may well leave many rural communities with no microenterprise lending services at all -- clearly not the intent of the program.

4280.316(b)(1)(v) Diversity

(v) Each applicant shall compare the diversity of its entire microloan portfolio to the demographic makeup of its service area (as determined by the latest applicable decennial census for the State) based on the number of microloans made during the three years preceding the subject application. Demographic groups shall include gender, racial and ethnic minority status, and disability (as defined in The Americans with Disabilities Act). Points will be awarded on the basis of how close the MDO's microloan portfolio matches the demographic makeup of its service area. A maximum of 5 points will be awarded.
(A) If at least one loan has been made to each demographic group and if the percentage of loans made to each demographic group is each within 5 or less percent of the demographic makeup, 5 points will be awarded.
(B) If at least one loan has been made to each demographic group and if the percentage of loans made to each demographic group is each within 10 or less percent of the demographic makeup, 3 points will be awarded.
(C) If at least one loan has been made to each demographic group and if the percentage of loans made to one or more of the demographic groups is greater

than 10 percent of the demographic makeup or if no loans have been made to one of the demographic groups and if the percentage of loans made to each of the other demographic groups is each within 10 or less percent of the demographic makeup, 1 point will be awarded.
(D) If no loans have been made to two or more demographic groups, no points will be awarded.

NSAC lauds Rural Development for its effort to ensure that historically underserved groups have access to RMAP, but requiring that an MDO's lending portfolio mirror the demographic make-up of the community may well result in limiting the availability of these funds to the groups that are doing most to help the underserved. Many MDOs are organized to serve specific communities. They are "specialists" in the area and can use this new tool to serve their clientele. MDOs should not be forced to become generalists, especially when doing so would result in less attention to underserved groups rather than more. We urge you to amend this section in the final rule to award points based on outreach and service to historically underserved populations.

4280.316(b)(3) Technical assistance

(3) History of provision of technical assistance. Each applicant's history of provision of technical assistance to microentrepreneurs and microenterprises, and their ability to reach diverse communities, will be scored based on the data specified in paragraphs (b)(3)(i) through (iv) of this section. Applicants may use a chart such as that suggested in Figure 1 as they deem appropriate. The maximum number of points under this criterion is 15.

(i) Provide the total number of rural and non-rural microentrepreneurs and microenterprises that received both microloans and TA services for each of the previous three Federal FYs.

(ii) Provide the percentage of the total number of only rural microentrepreneurs and rural microenterprises that received both microloans and TA services for each of the previous three Federal FYs (calculate this as the total number of rural microloans made each year divided by the total number of loans made during the past three Federal FYs). If provision of both microloans and technical assistance to rural microentrepreneurs and rural microenterprises is demonstrated at a rate of:

(A) 75 percent or more, 5 points will be awarded;
(B) At least 50 percent but less than 75 percent, 3 points will be awarded;
(C) At least 25 percent but less than 50 percent, 1 point will be awarded.

(iii) Provide the percentage of the total number of rural microentrepreneurs and rural microenterprises by racial and ethnic minority, disabled, and/or gender that received both microloans and TA services for each of the previous three Federal FYs. If the demonstrated provision of microloans and technical assistance to these rural microentrepreneurs and rural microenterprises is at a rate of:

(A) 75 percent or more, 5 points will be awarded;
(B) At least 50 percent but less than 75 percent, 3 points will be awarded;
(C) At least 25 percent but less than 50 percent, 1 point will be awarded.

(iv) Provide the ratio of TA clients that also received microloans during each of the previous three Federal FYs. If the ratio of clients receiving technical assistance to clients receiving microloans is:

(A) Between 1:1 and 1:5, 5 points will be awarded.
(B) Between 1:6 and 1:8, 3 points will be awarded.
(C) Either 1:9 or 1:10, 1 point will be awarded.

The rules Rural Development proposes to govern scoring of RMAP proposals discriminate against MDOs that offer training and/or technical assistance services as well as loans. NSAC pointed out in our comments on the proposed rule that experience has taught that providing loans to very small businesses without also providing the significant support services included in both general training and business-specific technical assistance is a recipe for failed loans. While USDA's desire to lend as much money as is possible is laudable, it is shortsighted to lend without a commensurate investment in the other critical supports MDOs offer their borrowers. NSAC urges that the final rule include alternative scoring criteria that reflect strong support of MDO training and technical assistance work.