



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

B-335321

May 26, 2023

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

The Honorable Glenn Thompson  
Chairman  
The Honorable David Scott  
Ranking Member  
Committee on Agriculture  
House of Representatives

Subject: *Department of Agriculture, Rural Utilities Service: Notice of Funding Opportunity for the Powering Affordable Clean Energy (PACE) 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, Rural Utilities Service (RUS) entitled "Notice of Funding Opportunity for the Powering Affordable Clean Energy (PACE) Program" (RUS-23-ELECTRIC-0003). We received the rule on May 17, 2023. It was published in the *Federal Register* as a notice on May 16, 2023. 88 Fed. Reg. 31232. RUS has indicated that letters of interest may be submitted beginning on June 30, 2023. However, RUS has further indicated that it will not take action on any such letters of interest until the later of 60 days following notification to Congress or July 17, 2023.

The notice, according to RUS, solicits letters of interest for loan applications, announces the application process for those loans, and provides deadlines for applications from eligible entities under the PACE Program. RUS stated that loan funds will be made to qualified PACE applicants to finance power generation projects for renewable energy resource systems or energy storage systems that support renewable energy resource projects. RUS further stated that the PACE Program has \$1,000,000,000 available in appropriated funds under the Inflation Reduction Act of 2022. Pub. L. No. 117-169, 136 Stat. 1818 (Aug. 16, 2022).

Enclosed is our assessment of RUS'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.

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  
“NOTICE OF FUNDING OPPORTUNITY  
FOR THE POWERING AFFORDABLE CLEAN ENERGY (PACE) PROGRAM”  
(RUS-23-ELECTRIC-0003)

(i) Cost-benefit analysis

In its submission to us, the Department of Agriculture, Rural Utilities Service (RUS) indicated that it considered the preparation of an analysis of the costs and benefits of this notice to be not applicable.

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

The notice does not discuss the RFA. In its submission to us, RUS indicated that it considered preparation of an RFA analysis for this notice to be not applicable.

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

The notice does not discuss the Unfunded Mandates Reform Act of 1995 (UMRA). In its submission to us, RUS indicated that it considered preparation of a UMRA analysis for this notice to be not applicable.

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

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

RUS stated that the notice is issued without advance rulemaking or public comment. RUS explained that the Administrative Procedure Act has several exemptions to rulemaking requirements, one of which is an exception for a matter relating to loans, grants, benefits, or contracts.

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

RUS determined that this notice contains an information collection requirement (ICR) under PRA. The ICR in the notice is assigned Office of Management and Budget (OMB) Control Number 0572-NEW. RUS estimates the total annual burden hours imposed by the ICR in the notice to be 18,010. RUS further stated that it requested that OMB conduct an emergency review of the ICR in the notice.

Statutory authorization for the rule

RUS promulgated this notice pursuant to section 22001 of Public Law 117-169, and sections 940g and 8103 of title 7, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

The notice does not discuss the Order. In its submission to us, RUS indicated that it considered the Order's requirements to be not applicable to the notice.

Executive Order No. 13132 (Federalism)

The notice does not discuss the Order. In its submission to us, RUS indicated that it considered the Order's requirements to be not applicable to the notice.