



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

B-335320

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: *United States Department of Agriculture, Rural Utilities Service: Notice of Funding Opportunity for the Empowering Rural America (New ERA) 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 United States Department of Agriculture, Rural Utilities Service (RUS) entitled “Notice of Funding Opportunity for the Empowering Rural America (New ERA) Program” (RUS-23-ELECTRIC-0005). 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. 31218. RUS has indicated that Letters of Interest (LOI) can be submitted beginning on July 31, 2023, and until August 31, 2023. However, RUS has further indicated that it will not take action on any such LOI until 60 days following notification to Congress.

According to RUS, the agency is soliciting LOI for applications under the New ERA Program. In this notice, RUS announced the eligibility requirements, application process and deadlines, and the criteria that will be used by RUS to assess New ERA applications. RUS stated that the New ERA Program provides RUS with \$9.7 billion in appropriated loan and grant funds under the Inflation Reduction Act of 2022. Pub. L. No. 117-169, 136 Stat. 1818 (Aug. 16, 2022). RUS noted that in keeping with the statutory authority for the program, RUS will utilize the New ERA funds to assist Eligible Entities to achieve the greatest reduction in Greenhouse Gas (GHG) emissions while advancing the long-term resiliency, reliability, and affordability of rural electric systems. RUS clarified that all Eligible Entities are responsible for any expenses incurred in developing their LOI and New ERA Applications.

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.

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
United States Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
UNITED STATES DEPARTMENT OF AGRICULTURE,
RURAL UTILITIES SERVICE
ENTITLED
“NOTICE OF FUNDING OPPORTUNITY
FOR THE EMPOWERING RURAL AMERICA (NEW ERA) PROGRAM”
(RUS-23-ELECTRIC-0005)

(i) Cost-benefit analysis

In its submission to us, the United States Department of Agriculture, Rural Utilities Service (RUS) indicated that it considered 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

This notice did not discuss RFA. In its submission to us, RUS indicated that it considered the certification requirement under 5 U.S.C. § 605(b) and the requirement to prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a) to be not applicable to this notice.

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

In its submission to us, RUS indicated that it considered preparation of a written statement under section 202 of the Act to be not applicable to this notice.

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

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

According to RUS, this notice is being issued without advance rulemaking or public comment. RUS stated that the 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 information collection requirements under the Act. In accordance with the Act, RUS requested that the Office of Management and Budget (OMB) conduct an emergency review of a new information collection that contains the information collection and recordkeeping requirements contained in this notice. According to RUS, the title of the information collection is “Empowering Rural America (New ERA) Program” and has been assigned OMB Control Number 0572-NEW. RUS estimated the total annual burden in hours to be 185,514, representing the average over the first 3 years the program is in place.

Statutory authorization for the rule

RUS promulgated this notice pursuant to section 22004 of subtitle C of the Inflation Reduction Act of 2022. Pub. L. No. 117-169, subtitle C, § 22004, 136 Stat. 1818, 2020 (Aug. 16, 2022).

Executive Order No. 12866 (Regulatory Planning and Review)

In its submission to us, RUS indicated that it considered a discussion under the Order to be not applicable to this notice.

Executive Order No. 13132 (Federalism)

In its submission to us, RUS indicated that it considered a discussion under the Order to be not applicable to this notice.