



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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

B-338008

January 23, 2026

The Honorable Mike Lee
Chairman
The Honorable Martin Heinrich
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Brett Guthrie
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Energy: Energy Dominance Financing Amendments*

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 Energy (DOE) titled “Energy Dominance Financing Amendments” (RIN: 1901-AB72). We received the rule on January 8, 2026. It was published in the *Federal Register* on October 28, 2025. 90 Fed. Reg. 48705. The stated effective date of the rule is October 28, 2025.

According to DOE, this rule amends its loan guarantee regulations to implement the Energy Dominance Financing provisions of the One Big Beautiful Bill Act.¹ The rule expands the definition, criteria, and requirements of certain eligible projects under the loan guarantee program, and makes revisions for clarity, organization, and conformance with the recent enactment.

The Congressional Review Act generally requires that a major rule may not take effect until 60 days after the later of its publication in the *Federal Register* or its receipt by Congress. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on October 28, 2025. 90 Fed. Reg. 48705. The House of Representatives received the rule on January 9, 2026, and the Senate received the rule on January 14, 2026. 172 Cong. Rec. H917, H918 (daily ed. Jan. 15, 2026); 172 Cong. Rec. S254, S255 (daily ed. Jan. 15, 2026). The stated effective date

¹ See generally, One Big Beautiful Bill Act, Pub. L. No. 119-21, sec. 50403, 139 Stat. 152, July 4, 2025.

of the rule is October 28, 2025. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.²

Enclosed is our assessment of DOE'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 me at (202) 512-8156.



Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ami Grace-Tardy
Assistant General Counsel for Legislation, Regulation, and Energy Efficiency
Department of Energy

² DOE stated that because the rule amends regulations concerning loan guarantees, it falls within the Administrative Procedure Act (APA) exemption for matters relating to public property, loans, grants, benefits, or contracts, and therefore is not subject to APA's notice-and-comment or delayed effective-date requirements. See generally, 5 U.S.C. § 553(a)(2). DOE stated further that, consistent with 5 U.S.C. § 808(2), the rule is effective upon publication based on good cause to waive CRA's 60-day delay. 90 Fed. Reg. at 48710. However, DOE did not cite 5 U.S.C. § 553(b)(B) nor include a finding or brief statement of reasons that notice and public procedure were impracticable, unnecessary, or contrary to the public interest. Because § 808(2) applies only when an agency invokes the good-cause exception in § 553(b)(B), the CRA exception does not apply here.

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF ENERGY
TITLED
“ENERGY DOMINANCE FINANCING AMENDMENTS”
(RIN: 1901-AB72)

(i) Cost-benefit analysis

The Department of Energy (DOE) stated in its submission to us that it did not prepare a cost-benefit analysis for this rule. In its analysis under Executive Order 12866, as amended, DOE explained that the rule materially expands the types of projects eligible for Title XVII loan guarantees. 90 Fed. Reg. 48705, 48708 (Oct. 28, 2025). DOE stated that this change may potentially affect up to \$250 billion in guarantees through September 30, 2028, which may alter the mix of projects and applicants seeking federal support. *Id.* DOE stated further that it does not anticipate increased credit risk because the criteria used to determine a project’s “reasonable prospect of repayment” remain unchanged. *Id.* DOE also identified cost savings from eliminating the requirement that applicants submit an analysis of community engagement and impacts, previously estimated at 14 hours per response for 89 annual respondents, and characterized removal of this requirement as the rule’s primary deregulatory effect under Executive Order 14192. *Id.*

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

According to DOE, RFA is not applicable to this rule because RFA applies when an agency is required to publish a general notice of proposed rulemaking, and DOE was not required to do so for this matter. 90 Fed. Reg. at 48708.

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

DOE stated that it is not required to publish a general notice of proposed rulemaking for this matter, which relates to public loans, under the Administrative Procedure Act. 90 Fed. Reg. at 48709. Even so, DOE also stated that the rule contains neither an intergovernmental mandate nor a mandate that would result in expenditures of \$100 million or more in any year by state, local, or tribal governments, in the aggregate, or by the private sector. *Id.* DOE stated further that because the rule establishes only requirements that are a condition of federal assistance or arise from participation in a voluntary program, it concluded that no additional assessment is required under the Act. *Id.*

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

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

DOE stated that section 553(a)(2) of the Act exempts rulemakings relating to public property, loans, grants, benefits, or contracts from notice-and-comment requirements, and therefore a notice of proposed rulemaking, comment period, or delayed effective date is not required for this

rule. 90 Fed. Reg. at 48708. DOE also stated that, notwithstanding this exemption, it has voluntarily elected to solicit public comment. *Id.* DOE stated further that it will accept and consider comments submitted. *Id.* DOE noted that it may issue a final rule or additional notice at a later date, including responses to comments and any insights gained from implementing the interim final rule. *Id.*

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

According to DOE, this rule contains information collection requirements under PRA, and DOE has submitted revisions to its existing information collection request to account for changes implemented by the rule. See 90 Fed. Reg. at 48708.

Statutory authorization for the rule

DOE promulgated this rule pursuant to sections 7254 and 16511–16517 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

According to DOE, the Office of Information and Regulatory Affairs has determined that this rule constitutes a significant regulatory action under section 3(f) of the Order, as amended. 90 Fed. Reg. at 48708.

Executive Order No. 13132 (Federalism)

DOE has determined that this rule will not preempt state law and will not have a substantial direct effect on the 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. 90 Fed. Reg. at 48709.