



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

B-331583

November 20, 2019

The Honorable Roger Wicker  
Chairman  
The Honorable Maria Cantwell  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Frank Pallone, Jr.  
Chairman  
The Honorable Greg Walden  
Ranking Member  
Committee on Energy and Commerce  
House of Representative

Subject: *Federal Communications Commission: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (Commission) entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment” (WT Docket No. 17-79). We received the rule on October 25, 2019. It was published in the *Federal Register* as a final rule on November 5, 2019. 84 Fed. Reg. 59567. The effective date of the rule is December 5, 2019.

The final rule repeals a section of the Commission’s rules implementing the small wireless facilities exemption and deletes a cross-reference to that section contained elsewhere in the Commission’s rules.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). Here, the Commission identified good cause to waive the 60-day delay because, according to the Commission, this ministerial order merely implements the mandate of the United States Court of Appeals for the District of Columbia Circuit, and the Commission lacks discretion to depart from this mandate.

Enclosed is our assessment of the Commission'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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Amy Brett  
Associate Division Chief, CIPD/WTB  
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
“ACCELERATING WIRELESS BROADBAND DEPLOYMENT  
BY REMOVING BARRIERS TO INFRASTRUCTURE INVESTMENT”  
(WT DOCKET NO. 17-79)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (Commission) stated it was not required to prepare a cost-benefit analysis.

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

The Commission did not address the Act in the final rule. In its submission to us, the Commission indicated the Act was not applicable.

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

As an independent regulatory agency, the Commission is not subject to the Act.

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

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

The Commission identified good cause to waive the notice-and-comment process under 5 U.S.C. § 553(b)(3)(B). According to the Commission, this ministerial order merely implements the mandate of the United States Court of Appeals for the District of Columbia Circuit, and the Commission lacks discretion to depart from this mandate.

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

The Commission did not address the Act in the final rule. In its submission to us, the Commission indicated the Act was not applicable.

Statutory authorization for the rule

The Commission stated it promulgated the final rule pursuant to sections 154, 155, 303, and 309 of title 47, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.