

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

B-333170

April 16, 2021

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

The Honorable Frank Pallone, Jr.  
Chairman  
The Honorable Cathy McMorris Rodgers  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Federal Communications Commission: Emergency Broadband Benefit 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 Federal Communications Commission (Commission) entitled "Emergency Broadband Benefit Program" (FCC 21-29). We received the rule on March 1, 2021. It was published in the *Federal Register* as a final rule on April 13, 2021. 86 Fed. Reg. 19532. The effective date is April 13, 2021.

According to the Commission, the final rule establishes the Emergency Broadband Benefit (EBB) Program to support broadband services and devices to help low-income households. The Commission stated that the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, title IX, § 904, 134 Stat. 1182 (2020), (CAA) established an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States for the fiscal year 2021, to remain available until expended. The Commission stated CAA directed it to use the fund to establish the EBB Program, under which eligible low-income households may receive a discount off the cost of broadband service and certain connected devices during an emergency period related to the COVID-19 pandemic.

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). The Commission determined it had good cause to waive the 60-day delay because Congress exempted the rule from notice and comment procedures in CAA. Pub. L. No. 116-260, div. N, title IX, § 904(h).

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 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 style with a large initial 'S' and 'J'.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Trent Harkrader  
Deputy Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL COMMUNICATIONS COMMISSION  
ENTITLED  
“EMERGENCY BROADBAND BENEFIT PROGRAM”  
(RIN: FCC 21-29)

(i) Cost-benefit analysis

In its submission to us, the Federal Communications Commission (Commission) indicated that it did not prepare an analysis of the costs and benefits of the final rule.

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

The Commission determined the final rule was not subject to the Act because the final rule was exempted from notice and comment procedures.

(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 requirements of 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 waived notice and comment procedures for good cause. The Commission determined it had good cause because Congress exempted the rule from notice and comment procedures in CAA. Pub. L. No. 116-260, div. N, title IX, § 904(h).

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

The Commission determined the final rule contained no information collection requirements subject to the Act.

Statutory authorization for the rule

The Commission promulgated the final rule pursuant to sections 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303, 403, 1004, 1302, and 1601-1609 of title 47, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

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