

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

B-333520

August 30, 2021

The Honorable Maria Cantwell
Chair
The Honorable Roger F. 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: 911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008*

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 (FCC) entitled “911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008” (FCC 21-80). We received the rule on July 22, 2021. It was published in the *Federal Register* as a final rule on August 17, 2021. 86 Fed. Reg. 45892. The effective date is October 18, 2021.

On December 27, 2020, the Don't Break Up the T-Band Act of 2020 became law as part of the Consolidated Appropriations Act, 2021. FCC stated section 902 of the new legislation requires it to help address the diversion of 911 fees by states and other jurisdictions for purposes unrelated to 911. Public Law 116–260. In particular, FCC stated the Act directs it to issue final rules, not later than 180 days after the date of enactment of section 902 (*i.e.*, June 25, 2021), designating the uses of 911 fees by states and taxing jurisdictions that constitute 911 fee diversion for purposes of 47 U.S.C. § 615a-1, as amended by section 902. FCC stated the final rule adopts new rules implementing section 902 as proposed in its February 17, 2021, Notice of Proposed Rulemaking, with minor modifications and clarifications.

Enclosed is our assessment of FCC'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: David L. Furth
Deputy Bureau Chief, Public Safety and
Homeland Security Bureau
Federal Communication Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“911 FEE DIVERSION; NEW AND EMERGING TECHNOLOGIES
911 IMPROVEMENT ACT OF 2008”
(FCC 21-80)

(i) Cost-benefit analysis

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

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

FCC prepared a Final Regulatory Flexibility Analysis. The analysis included (1) a statement of the need for and objectives of the rule; (2) a description of significant issues raised by public comments; (3) a description of the response to comments filed by the Chief Counsel for Advocacy of the Small Business Administration; (4) a description of the small entities subject to the rule; (5) a description of the projected reporting, recordkeeping, and other compliance requirements; and (6) a description of agency actions to minimize effects on small entities.

(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, FCC 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.*

On March 3, 2021, FCC published a proposed rule. 86 Fed. Reg. 12399. FCC received 28 comments, nine reply comments, and five *ex parte* filings from state and local emergency management and telephone agencies, groups representing consumers, emergency management personnel, and wireless carriers, and T-Mobile. FCC responded to comments in this final rule.

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

FCC determined that this final rule contains information collection requirements (ICRs) under the Act. The ICRs are associated with Office of Management and Budget Control Number 3060-1122. FCC described the burden for the ICR in the Final Regulatory Flexibility Analysis.

Statutory authorization for the rule

FCC promulgated this rule pursuant to sections 151-154, 152, 155, 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251, 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a-1, 616, 620, 621, 623, 623 note, 721, and 1471 of title 47, United States Code and Public Law 116-260.

Executive Order No. 12866 (Regulatory Planning and Review)

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

Executive Order No. 13132 (Federalism)

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