



441 G St. N.W.
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B-333978

February 14, 2022

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury: Coronavirus State and Local Fiscal Recovery Funds*

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 the Treasury (Treasury) entitled "Coronavirus State and Local Fiscal Recovery Funds" (RIN: 1505-AC77). We received the rule on January 27, 2022. It was published in the *Federal Register* as a final rule on January 27, 2022. 87 Fed. Reg. 4338. The effective date is April 1, 2022.

According to Treasury, it is adopting, as final, the interim final rule published on May 17, 2021, with amendments. 86 Fed. Reg. 26786. Treasury stated that this rule implements the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act of 2021. Pub. L. No. 117-2, 135 Stat. 4 (Mar. 11, 2021).

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 House received the rule on February 8, 2022. 168 Cong. Rec. H1111 (daily ed. Feb. 9, 2022). The final rule has an effective date of April 1, 2022. Therefore, based on the date the House received the rule, the final rule does not have the required 60-day delay.

Enclosed is our assessment of Treasury'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: Heidi Cohen
Senior Legal Advisor for Regulatory Affairs
Department of the Treasury

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY
ENTITLED
“CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS”
(RIN: 1505-AC77)

(i) Cost-benefit analysis

The Department of the Treasury (Treasury) prepared an analysis of the costs and benefits of this final rule. Treasury stated that relative to a pre-statutory baseline, the State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, provides a combined \$350 billion to state, local, and tribal governments for fiscal relief and support for costs incurred responding to the coronavirus disease 2019 (COVID-19) pandemic. American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (Mar. 11, 2021). Treasury also stated that it believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Treasury stated further that the rule will generate administrative costs relative to a pre-statutory baseline. According to Treasury, it expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that many recipients receive direct or indirect funding from federal government programs and that many have familiarity with how to administer and report on federal funds or grant funding provided by other entities.

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

Treasury stated that it is not required to conduct a regulatory flexibility analysis because this rule is exempt from the notice and comment requirements of the Administrative Procedure Act.

(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, Treasury indicated that an Unfunded Mandates Reform Act analysis is not applicable to this final rule.

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

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

Treasury published an interim final rule (IFR) on May 17, 2021. 86 Fed. Reg. 26786. Treasury stated that the IFR was issued without prior notice and comment procedures because the Act does not apply to the extent there is involved a matter relating to agency grants and the IFR implemented statutory conditions for grants. Treasury also stated that it received over 1,500 comments spanning nearly all aspects of the IFR. Treasury stated further that the final rule considers and responds to comments, provides clarification to many aspects of the IFR, and makes several changes to eligible uses under the program.

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

Treasury stated that the information collection associated with the final rule has been reviewed and approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 1505-0271. Treasury estimates the total burden hours imposed by the rule to be 236,735 and the total cost to be \$11,552,619.

Statutory authorization for the rule

Treasury promulgated this final rule pursuant to sections 802 and 803 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

Treasury determined that this final rule is a significant regulatory action under the Order and stated that OMB has reviewed the final rule.

Executive Order No. 13132 (Federalism)

Treasury stated that this final rule does not have Federalism implications within the meaning of the Order and does not impose substantial, direct compliance costs on state, local, and tribal governments, or preempt state law within the meaning of the Order.