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United States General Accounting Office
Washington, DC 20548

B-290985

July 25, 2002

The Honorable Ernest F. Hollings
Chairman
The Honorable John McCain
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable W.J. "Billy" Tauzin
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: Federal Communications Commission: Ultra-Wideband Transmission Systems

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 "Ultra-Wideband Transmission Systems" (ET Docket No. 98-153; FCC 02-48). We received the rule on July 11, 2002. It was published in the Federal Register as a final rule on May 16, 2002. 67 Fed. Reg. 34852.

The final rule revises the FCC's rules to permit the marketing and operation of certain types of new products incorporating ultra-wideband technology.

The final rule has an announced effective date of July 15, 2002. The Congressional Review Act 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 Senate did not receive the rule until July 11, 2002. Therefore, the rule does not have the required 60-day delay in its effective date for congressional review.

Enclosed is our assessment of the 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.

Our review indicates that, with the exception of the 60-day delay in the effective date, the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is John Anderson, Managing Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Geraldine Matisse
Deputy Chief, Policy and Rules Division
Federal Communications Commission

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"ULTRA-WIDEBAND TRANSMISSION SYSTEMS"
(ET DOCKET NO. 98-153; FCC 02-48)

(i) Cost-benefit analysis

The FCC's submission to our Office stated that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

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

The FCC has certified that the final rule will not have a significant economic impact on a substantial number of 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, the FCC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

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

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

The FCC promulgated the final rule using the notice and comment procedures found at 5 U.S.C. 553. A notice of proposed rulemaking was published in the Federal Register on June 14, 2000. 65 Fed. Reg. 37332. In response to the notice, the FCC received 159 comments and 80 reply comments, which comments were considered in the issuance of the final rule.

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

The information collection contained in the final rule has been approved by the Office of Management and Budget and assigned OMB Control No. 3060-1015.

Statutory authorization for the rule

The final rule is issued pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), 303(r), 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), 303(r), 304, and 307.

Executive Order No. 12866

As the rule is promulgated by an independent regulatory agency, it is not subject to the review requirements of the order.