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B-337008

January 30, 2025

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

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Guidance on Clean Electricity Low-Income Communities Bonus Credit Amount 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 Department of the Treasury, Internal Revenue Service (IRS) entitled “Guidance on Clean Electricity Low-Income Communities Bonus Credit Amount Program” (RIN: 1545-BR26). We received the rule on January 10, 2025. It was published in the *Federal Register* on January 13, 2025. 90 Fed. Reg. 2842. The stated effective date of the rule is January 13, 2025.

According to IRS, this rule concerns the program to allocate clean electricity low-income communities bonus credit amounts established under the Inflation Reduction Act of 2022 for calendar years 2025 and succeeding years. IRS states that the rule provides definitions and requirements that are applicable for the program.

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 rule was published in the *Federal Register* on January 13, 2025. 90 Fed. Reg. 2842. The *Congressional Record* reflects that the Senate received the rule on January 13, 2025, and the House of Representatives received the rule on January 15, 2025. 171 Cong. Rec. S224 (daily ed. Jan. 16, 2025); 171 Cong. Rec. H231 (daily ed. Jan. 20, 2025). The rule has a stated effective date of January 13, 2025. IRS stated that the rule applies to applicable facilities placed in service after December 31, 2024, and during taxable years ending on or after January 13, 2025. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

Enclosed is our assessment of IRS’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 Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Kalle L. Wardlow
Federal Register Liaison
Internal Revenue Service

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
ENTITLED
“GUIDANCE ON CLEAN ELECTRICITY LOW-INCOME COMMUNITIES
BONUS CREDIT AMOUNT PROGRAM”
(RIN: 1545-BR26)

(i) Cost-benefit analysis

The Department of the Treasury (Treasury), Internal Revenue Service (IRS) prepared an analysis of the impact of this rule. 90 Fed. Reg. 2842, 2860 (Jan. 13, 2025). IRS stated that recordkeeping and reporting requirements would increase for applicants participating in the Clean Electricity Low-Income Communities Bonus Credit Amount Program. *Id.* at 2860. IRS further stated it and Treasury lack sufficient data to determine precisely the likely extent of the increased costs of compliance, but the total estimated burden hours would be 210,000 burden hours. *Id.* at 2859, 2860.

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

IRS prepared a Final Regulatory Flexibility Analysis. See 90 Fed. Reg. at 2859. IRS stated that a determination of whether this rule will likely have a significant economic impact on a substantial number of small entities requires further study. *Id.*

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

IRS determined that this rule does not include a mandate that may result in expenditures by state, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. 90 Fed. Reg. at 2860.

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

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

On September 3, 2024, IRS published a notice of proposed rulemaking. 89 Fed. Reg. 71193. IRS corrected this notice on September 23, 2024. 89 Fed. Reg. 77467. On September 27, 2024, Treasury held a consultation with Tribal leaders on the proposed rule. 90 Fed. Reg. at 2843. On October 17, 2024, Treasury held a public hearing. *Id.* IRS stated that it and Treasury received 45 written comments on the proposed rule. 90 Fed. Reg. at 2843. IRS summarized the comments and explained its revisions to the proposed rule in this rule. See *id.* at 2843–2859.

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

IRS determined that this rule contains information collection requirements under the Act. See 90 Fed. Reg. at 2859.

Statutory authorization for the rule

IRS promulgated this rule pursuant to sections 48E(i) and 7805 of title 26, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

According to IRS, the tax regulatory actions it issues are not subject to the requirements of the Order. 90 Fed. Reg. at 2859.

Executive Order No. 13132 (Federalism)

IRS determined that this rule does not have federalism implications. 90 Fed. Reg. at 2860.