

115TH CONGRESS
1ST SESSION

S. 1988

To streamline broadband infrastructure permitting on established public rights-of-way, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2017

Mr. WICKER (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To streamline broadband infrastructure permitting on established public rights-of-way, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Streamlining Permit-
5 ting to Enable Efficient Deployment of Broadband Infra-
6 structure Act of 2017” or the “SPEED Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act—

9 (1) the term “antenna” means communications
10 equipment that transmits or receives electromagnetic

1 radio frequency signals used in the provision of wire-
2 less services;

3 (2) the term “appropriate committees of Con-
4 gress” means—

5 (A) the Committee on Commerce, Science,
6 and Transportation of the Senate;

7 (B) the Committee on Energy and Natural
8 Resources of the Senate;

9 (C) the Committee on Energy and Com-
10 merce of the House of Representatives; and

11 (D) the Committee on Natural Resources
12 of the House of Representatives;

13 (3) the term “Commission” means the Federal
14 Communications Commission;

15 (4) the term “communications facility installa-
16 tion” includes—

17 (A) any infrastructure, including any
18 transmitting device, tower, or support structure,
19 and any equipment, switches, wiring, cabling,
20 power sources, shelters, or cabinets, associated
21 with the licensed or permitted unlicensed wire-
22 less or wireline transmission of writings, signs,
23 signals, data, images, pictures, and sounds of
24 all kinds; and

25 (B) any antenna or apparatus that—

1 (i) is designed for the purpose of
2 emitting or receiving radio frequency;

3 (ii)(I) is designed to be operated, or is
4 operating, from a fixed location pursuant
5 to authorization by the Commission; or

6 (II) is using duly authorized devices
7 that do not require individual licenses; and

8 (iii) is added to a tower, building, sup-
9 port pole, or other structure;

10 (5) the term “covered easement” means an
11 easement, right-of-way, or lease to, in, over, or on a
12 building or other property owned by the Federal
13 Government, excluding tribal land held in trust by
14 the Federal Government (unless the tribal govern-
15 ment of such land requests that the Commission not
16 exclude the land for purposes of this definition), for
17 the right to install, construct, modify, or maintain a
18 communications facility installation;

19 (6) the term “public right-of-way”—

20 (A) means—

21 (i) the area on, below, or above a pub-
22 lic roadway, highway, street, sidewalk,
23 alley, or similar property; and

24 (ii) any land immediately adjacent to
25 and contiguous with property described in

1 clause (i) that is within the right-of-way
2 grant; and

3 (B) does not include a Federal interstate
4 highway;

5 (7) the term “small wireless facility” means a
6 wireless service facility that meets the size limita-
7 tion, and any other applicable requirement, estab-
8 lished by the Commission;

9 (8) the term “Streamlining Federal Siting
10 Working Group” or “Working Group” means the
11 Streamlining Federal Siting Working Group of the
12 Broadband Deployment Advisory Committee;

13 (9) the term “support pole” means an upright
14 pole or structure used or capable of being used to
15 support a wireless service facility;

16 (10) the term “utility facility” means any pri-
17 vately, publicly, or cooperatively owned line, facility,
18 or system for producing, transmitting, or distrib-
19 uting power, electricity, light, heat, gas, oil, crude
20 products, water, steam, waste, storm water not con-
21 nected with highway drainage, or any other similar
22 commodity, including any fire or police signal system
23 or street lighting system, that directly or indirectly
24 serves the public;

1 (11) the term “wireless service” means the
2 transmission by radio communication of voice, video,
3 or data communications services, including Internet
4 Protocol or any successor protocol-enabled services,
5 or any combination of those services, whether pro-
6 vided on a licensed or permitted unlicensed basis;
7 and

8 (12) the term “wireless service facility” means
9 a facility for the provision of wireless service.

10 **SEC. 3. EXEMPTION FROM REVIEW FOR CERTAIN COMMU-**
11 **NICATIONS FACILITY INSTALLATIONS.**

12 No review shall be required under the National Envi-
13 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
14 or division A of subtitle III of title 54, United States Code,
15 as a condition of granting a covered easement for a com-
16 munications facility installation if a covered easement has
17 been granted for another communications facility installa-
18 tion or a utility facility with respect to the same building
19 or other property owned by the Federal Government.

20 **SEC. 4. REGULATORY TREATMENT OF CERTAIN WIRELESS**
21 **FACILITIES.**

22 (a) EXCLUSION OF SMALL CELLS FROM REVIEW.—
23 Notwithstanding any provision of the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or
25 division A of subtitle III of title 54, United States Code,

1 the Commission shall not be required to perform, and may
2 not require any entity regulated by the Commission to per-
3 form, any review under that Act or division as a condition
4 of permitting the placement and installation of a small
5 wireless facility if the new small wireless facility—

6 (1)(A) will be located within a public right-of-
7 way; and

8 (B) is not higher than, or not substantially
9 higher than (as that term is defined by the Commis-
10 sion), any existing structure in the public right of
11 way; or

12 (2) is—

13 (A) a replacement for an existing small
14 wireless facility; and

15 (B) the same as, or substantially similar to
16 (as that term is defined by the Commission),
17 the small wireless facility that the new small
18 wireless facility is replacing.

19 (b) EXCLUSION OF WIRELESS SERVICE FACILITIES
20 IN PUBLIC RIGHTS-OF-WAY FROM REVIEW.—Notwith-
21 standing any provision of the National Environmental Pol-
22 icy Act of 1969 (42 U.S.C. 4321 et seq.) or division A
23 of subtitle III of title 54, United States Code, the Commis-
24 sion shall not be required to perform, no Federal, State,
25 or local authority shall be required to perform, and no

1 Federal, State, or local authority may require any entity
2 to perform, any review under that Act or division as a
3 condition of permitting the placement and installation of
4 a wireless service facility if—

5 (1)(A) the wireless service facility will be lo-
6 cated in an existing public right-of-way; and

7 (B) any new ground disturbance from the in-
8 stallation of the wireless service facility is limited to
9 the existing public right-of-way; and

10 (2) the antenna tower or support pole—

11 (A) is not more than 50 feet tall or 10 feet
12 higher than any existing structure in the public
13 right-of-way, whichever is higher; and

14 (B) does not have guy wires.

15 (c) SAVINGS CLAUSE.—Nothing in this section shall
16 be construed to affect—

17 (1) the obligation of the Commission to evaluate
18 radiofrequency exposure under the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
20 seq.);

21 (2) except as explicitly provided in this section,
22 the obligation of any provider of wireless service to
23 comply with the National Environmental Policy Act
24 of 1969 (42 U.S.C. 4321 et seq.) or division A of
25 subtitle III of title 54, United States Code; or

1 (3) the authority of a State or local government
2 to apply and enforce the zoning and other land use
3 regulations of the State or local government to the
4 extent consistent with this section and sections 253,
5 332(c)(7), and 621 of the Communications Act of
6 1934 (47 U.S.C. 253, 332(c)(7), and 541).

7 **SEC. 5. GAO REPORT ON FEDERAL DELAYS IN SITING TELE-**
8 **COMMUNICATIONS EQUIPMENT ON FEDERAL**
9 **LAND.**

10 Not later than 1 year after the date of enactment
11 of this Act, the Comptroller General of the United States
12 shall conduct a study, and submit a report to the appro-
13 priate committees of Congress, that includes—

14 (1) an analysis of the challenges to and admin-
15 istrative delays in efficiently siting communications
16 facility installations on Federal land, including
17 whether, in order to increase the efficiency of such
18 siting, it is necessary to develop—

19 (A) standard procedures for communica-
20 tions facility installation siting, including a
21 standard duration of leases and easements;

22 (B) methods that Federal agencies may
23 use to identify and report on coverage gaps and
24 deficiencies in communications facility installa-
25 tion siting; and

1 (C) procedures for creating and maintain-
2 ing a publicly accessible inventory of space that
3 can be used to attach or install communications
4 facility installations; and

5 (2) recommendations, if any, for how Congress
6 and the Commission can address the challenges and
7 reduce the administrative delays identified under
8 paragraph (1).

9 **SEC. 6. STREAMLINING FEDERAL SITING WORKING GROUP**
10 **REPORT.**

11 (a) IN GENERAL.—Not later than 60 days after the
12 date of enactment of this Act, the Streamlining Federal
13 Siting Working Group shall submit a report to the appro-
14 priate committees of Congress that contains an analysis
15 of the challenges to and administrative delays in efficiently
16 siting communications facility installations on Federal
17 land, including whether, in order to increase the efficiency
18 of such siting, it is necessary to develop—

19 (1) standard procedures for communications fa-
20 cility installation siting, including a standard dura-
21 tion of leases and easements;

22 (2) methods that Federal agencies may use to
23 identify and report on coverage gaps and deficiencies
24 in communications facility installation siting; and

1 (3) procedures for creating and maintaining a
2 publicly accessible inventory of space that can be
3 used to attach or install communications facility in-
4 stallations.

5 (b) FINAL REPORT.—Not later than 120 days after
6 the date of enactment of this Act, the Working Group
7 shall submit a report to the appropriate committees of
8 Congress on the final findings and recommendations of
9 the Working Group described in subsection (a).

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