

115TH CONGRESS
2D SESSION

H. R. 4842

To amend the Communications Act of 1934 to provide that the Federal Communications Commission is not required to perform any review under the National Environmental Policy Act of 1969 or division A of subtitle III of title 54, United States Code, as a condition of permitting the placement and installation of a communications facility, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2018

Mr. SHIMKUS introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Communications Act of 1934 to provide that the Federal Communications Commission is not required to perform any review under the National Environmental Policy Act of 1969 or division A of subtitle III of title 54, United States Code, as a condition of permitting the placement and installation of a communications facility, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Streamlining Permit-
3 ting to Enable Efficient Deployment of Broadband Infra-
4 structure Act of 2018”.

5 **SEC. 2. EXEMPTION FROM REVIEW FOR CERTAIN COMMU-
6 NICATIONS FACILITIES.**

7 Title I of the Communications Act of 1934 (47
8 U.S.C. 151 et seq.) is amended by adding at the end the
9 following:

10 **“SEC. 13. EXEMPTION FROM REVIEW FOR CERTAIN COMMU-
11 NICATIONS FACILITIES.**

12 “(a) FOR PERMITTING BY COMMISSION.—

13 “(1) IN GENERAL.—Notwithstanding any provi-
14 sion of the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.) or division A of sub-
16 title III of title 54, United States Code, the Commis-
17 sion shall not be required to perform, and may not
18 require any entity regulated by the Commission to
19 perform, any review under such Act or division as a
20 condition of permitting the placement and installa-
21 tion of a communications facility if—

22 “(A) the new facility—

23 “(i) will be located within a public
24 right-of-way; and

25 “(ii) is not more than 50 feet tall or
26 10 feet higher than any existing structure

1 in the public right-of-way, whichever is
2 higher;

3 “(B) the new facility is—

4 “(i) a replacement for an existing
5 communications facility; and

6 “(ii) the same as, or substantially
7 similar to (as such term is defined by the
8 Commission), the communications facility
9 that the new communications facility is re-
10 placing;

11 “(C) the new facility is a type of commu-
12 nications facility that—

13 “(i) is described in subsection
14 (c)(2)(B); and

15 “(ii) meets the size limitation of a
16 small antenna established by the Commis-
17 sion; or

18 “(D) the placement and installation involve
19 the expansion of the site of an existing facility
20 not more than 30 feet in any direction.

21 “(2) SAVINGS CLAUSE.—Nothing in this sub-
22 section shall be construed to affect—

23 “(A) the obligation of the Commission to
24 evaluate radiofrequency exposure under the Na-

1 tional Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.);

3 “(B) except as explicitly provided in this
4 subsection, the obligation of any provider of a
5 communications service to comply with the Na-
6 tional Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.) or division A of subtitle
8 III of title 54, United States Code;

9 “(C) the authority of a State or local gov-
10 ernment to apply and enforce the zoning and
11 other land use regulations of the State or local
12 government to the extent consistent with this
13 subsection and sections 253, 332(c)(7), and
14 621; or

15 “(D) the authority or obligations estab-
16 lished under section 20156(e) of title 49,
17 United States Code.

18 “(b) FOR GRANT OF EASEMENT ON FEDERAL PROP-
19 erty.—No review shall be required under the National
20 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.) or division A of subtitle III of title 54, United States
22 Code, as a condition of granting a covered easement for
23 a communications facility if a covered easement has been
24 granted for another communications facility or a utility

1 facility with respect to the same building or other property
2 owned by the Federal Government.

3 “(c) DEFINITIONS.—In this section:

4 “(1) ANTENNA.—The term ‘antenna’ means
5 communications equipment that transmits or re-
6 ceives electromagnetic radio frequency signals used
7 in the provision of wireless services.

8 “(2) COMMUNICATIONS FACILITY.—The term
9 ‘communications facility’ includes—

10 “(A) any infrastructure, including any
11 transmitting device, tower, or support structure,
12 and any equipment, switches, wiring, cabling,
13 power sources, shelters, or cabinets, associated
14 with the licensed or permitted unlicensed wire-
15 less or wireline transmission of writings, signs,
16 signals, data, images, pictures, and sounds of
17 all kinds; and

18 “(B) any antenna or apparatus—

19 “(i) that is designed for the purpose
20 of emitting or receiving radio frequency;

21 “(ii) that—

22 “(I) is designed to be operated,
23 or is operating, from a fixed location
24 pursuant to authorization by the
25 Commission; or

1 “(II) is using duly authorized de-
2 vices that do not require individual li-
3 censes; and

4 “(iii) that is added to a tower, build-
5 ing, support pole, or other structure.

6 “(3) COVERED EASEMENT.—The term ‘covered
7 easement’ means an easement, right-of-way, or lease
8 to, in, over, or on a building or other property owned
9 by the Federal Government, excluding tribal land
10 held in trust by the Federal Government (unless the
11 tribal government of such land requests that the
12 Commission not exclude the land for purposes of
13 this definition), for the right to install, construct,
14 modify, or maintain a communications facility.

15 “(4) PUBLIC RIGHT-OF-WAY.—The term ‘public
16 right-of-way’—

17 “(A) means—

18 “(i) the area on, below, or above a
19 public roadway, highway, street, sidewalk,
20 alley, or similar property; and

21 “(ii) any land immediately adjacent to
22 and contiguous with property described in
23 clause (i) that is within the right-of-way
24 grant; and

1 “(B) does not include a portion of the
2 Interstate System (as such term is defined in
3 section 101(a) of title 23, United States Code).

4 “(5) SUPPORT POLE.—The term ‘support pole’
5 means an upright pole or structure used or capable
6 of being used to support a wireless service facility.

7 “(6) UTILITY FACILITY.—The term ‘utility fa-
8 cility’ means any privately, publicly, or cooperatively
9 owned line, facility, or system for producing, trans-
10 mitting, or distributing power, electricity, light, heat,
11 gas, oil, crude products, water, steam, waste, storm
12 water not connected with highway drainage, or any
13 other similar commodity, including any fire or police
14 signal system or street lighting system, that directly
15 or indirectly serves the public.

16 “(7) WIRELESS SERVICE.—The term ‘wireless
17 service’ means the transmission by radio commu-
18 nication of voice, video, or data communications
19 services, including Internet Protocol or any suc-
20 cessor protocol-enabled services, or any combination
21 of those services, whether provided on a licensed or
22 permitted unlicensed basis.

1 “(8) WIRELESS SERVICE FACILITY.—The term
2 ‘wireless service facility’ means a facility for the pro-
3 vision of wireless service.”.

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