

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.

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## 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

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## 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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