

04.19.23 Staff Documents for the Record

Majority

1. A memorandum for the heads of executive departments and agencies from March 6, 2023
2. A letter from the President and CEO of the Fiber Broadband Association on April 19, 2023
3. A letter from the US Chamber of Commerce on April 18, 2023
4. Report on the status and implementation of Mobile Act Now
5. State of New Jersey Bill on small wireless facility deployment
6. A letter to Committee leadership from APPA, NRECA, and UTC from April 18, 2023
7. A letter from Connect the Future on 4.19.23

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8. A letter from local government organizations to Chairman Latta, Vice Chairman Carter, and Ranking Member Matsui from April 19, 2023
9. A letter from Members of Congress to Secretary Buttigieg, Assistant Secretary Davidson, and Secretary Granholm from August 5, 2022 (from Rep. Matsui)
10. A letter from NATE to Lizzie Fletcher on April 14, 2023
11. A statement from INCOMPAS CEO Chip Pickering on Lizzie Fletcher's Broadband Incentives for Communities Act
12. CCA Statement on Congresswoman Fletcher's Reintroduction of Legislation to Help Communities Expand Broadband Infrastructure



March 6, 2023

M-23-14

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

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SUBJECT: Implementation Guidance for the Biden-Harris Permitting Action Plan

The Biden-Harris Permitting Action Plan¹ (Action Plan) outlines the Administration’s strategies to strengthen and accelerate Federal environmental review and permitting,² and ensure the timely and sound delivery of much-needed upgrades to America’s infrastructure. The Action Plan states that Federal environmental reviews and permitting processes will be effective, efficient, and transparent, guided by the best available science to promote positive environmental and community outcomes, and shaped by early and meaningful public engagement. The Action Plan leverages the permitting provisions provided in the Infrastructure Investment and Jobs Act (referred to as the Bipartisan Infrastructure Law) and the Creating Helpful Incentives to Produce Semiconductors and Science Act, the important resources provided in the Inflation Reduction Act, and regular agency appropriations as well as interagency coordination and collaboration efforts.

The Action Plan includes the Office of Management and Budget (OMB), in consultation with the Council on Environmental Quality (CEQ), providing guidance to agencies on carrying out Action Plan initiatives.³ The Action Plan additionally includes the Federal Permitting

¹ *The Biden-Harris Permitting Action Plan to Rebuild America’s Infrastructure, Accelerate the Clean Energy Transition, Revitalize Communities, and Create Jobs* (Action Plan) (May 11, 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/05/Biden-Harris-Permitting-Action-Plan.pdf>.

² “Federal environmental review and permitting” throughout this guidance includes environmental review pursuant to the National Environmental Policy Act and authorizations, licenses, permits, approvals, funding, administrative decisions, and interagency consultations required under Federal laws They include, at a minimum, those identified in the Federal Environmental Review and Authorization Inventory, <https://www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory>.

³ Action Plan at 2.

Improvement Steering Council (Permitting Council) Executive Director, OMB, and CEQ providing guidance to agencies on which infrastructure projects should be added to the Federal Permitting Dashboard in the interest of transparency.⁴ This memorandum provides implementation guidance to agencies on carrying out the initiatives of the Action Plan, and the Appendix to this memorandum provides guidance to agencies and the sector-specific teams on which infrastructure projects should be recommended to the Executive Director to consider for addition to the Federal Permitting Dashboard in the interest of transparency.

Section 1. Accelerating Smart Permitting through Early Cross-Agency Coordination

1.1 What is the Federal Permitting Improvement Steering Council's role in implementing the Action Plan?

Established in 2015 by Title 41 of the Fixing America's Surface Transportation Act (FAST-41), the Permitting Council is composed of the Executive Director, who is the Permitting Council Chair, 13 Federal agency council members, the CEQ Chair, and the OMB Director.⁵ The Permitting Council, in cooperation with the National Economic Council, the White House Climate Policy Office, the White House Infrastructure Implementation Team, and the White House Clean Energy Innovation and Implementation Team, will serve as the primary center for permitting excellence to improve coordination among agencies, facilitate sound and efficient permitting, and help resolve issues consistent with climate, economic, and equity goals. Under the Permitting Action Plan, the Permitting Council will serve as the primary interagency body to facilitate cross-cutting Federal permitting issues and opportunities across all types of infrastructure projects, not only FAST-41 "covered projects." The Permitting Council should use its convening function to: (1) discuss strategies to foster early and improved interagency coordination on infrastructure project review and permitting; (2) provide advanced training, enhanced support for agency project managers, and avenues for sharing lessons learned to improve infrastructure-related environmental review and permitting; and (3) identify and help address pressing environmental review and permitting issues, including potential schedule delays, bottlenecks, capacity and resource limitations, process challenges, and conflicts.

The Executive Director, CEQ and OMB will lead discussions and facilitate information exchange among relevant Permitting Council member agencies. In addition, to the extent authorized by law, the Permitting Council will work with agencies and sponsors of infrastructure projects to identify and resolve key issues that cause project review delays, bottlenecks, redundancies, and inefficiencies. The Permitting Council will develop expedited contracting mechanisms and other tools to assist Federal agencies and affected stakeholders in identifying and obtaining the resources necessary to improve and accelerate the environmental review and permitting process for infrastructure in the United States. The Executive Director will provide

⁴ *Id.* at 5; 42 U.S.C. § 4370m-2(b)(2)(a)(iii).

⁵ The 13 Federal agency Permitting Council members include designees of the Secretaries of Agriculture, Army, Commerce, the Interior, Energy, Transportation, Defense, Homeland Security, and Housing and Urban Development, the Administrator of the Environmental Protection Agency, and the Chairs of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation. 42 U.S.C. § 4170m-1(b)(2)(B).

progress reports on Permitting Council efforts in the report that the Executive Director submits to Congress each April.⁶

1.2 What is the role of the sector-specific teams?

The Administration has convened sector-specific teams of experts that are advancing the responsible build-out and modernization of U.S. infrastructure by facilitating interagency coordination on siting, permitting, supply chain, and related issues for offshore wind energy and transmission, onshore renewable energy and transmission, broadband, production and processing of critical minerals, and transportation.

Sector-specific teams should identify for the Permitting Council:

- General permitting issues—whether related to personnel, budget, processes, administration, or legislative considerations, policies, or otherwise—that should be addressed to reduce bottlenecks and facilitate the successful and timely review of permit applications for projects in their respective sectors;
- Large, complex, or significant⁷ projects in their respective sectors to be considered for addition to the Federal Permitting Dashboard (Dashboard) pursuant to the Executive Director’s authority to add projects to the Dashboard in the interests of transparency;⁸
- Strategies to address disputes or complicated issues, including opportunities to prepare new programmatic analyses and approaches; and
- Any other pertinent issues as determined by the teams.

1.3 The Action Plan directs sector-specific teams to identify and provide regular updates to the Permitting Council on the status of large, complex, or significant projects. What factors should sector-specific teams consider when identifying these projects?

Sector-specific teams are responsible for identifying large, complex, or significant infrastructure projects that may warrant the attention of senior agency officials and the Permitting Council to facilitate the completion of environmental review and permitting. Agency staff participating in sector-specific teams should coordinate with other senior agency officials to determine which projects would benefit from this additional attention and transparency. When determining which projects to identify, sector-specific teams should consider a project’s:

- Size, including the total investment and cost, geographic scope, and magnitude in comparison to other projects within the sector or within agency portfolios;
- Complexity, including whether the project will require the development of an environmental impact statement or environmental assessment that involve multiple agencies or raise complex issues under relevant statutes, multiple authorizations by

⁶ See 42 U.S.C. § 4370m-7(a)(1)(A).

⁷ Identifying a project as “significant” for this purpose is not a factual or legal determination that the proposed major Federal action(s) may have significant effects on the quality of the human environment under the National Environmental Policy Act (NEPA).

⁸ 42 U.S.C. § 4370m-2(b)(2)(A)(iii).

Federal agencies to proceed with the project, or will involve new technology, materials, or other unique characteristics; and

- Significance or importance, including the project’s economic impact and potential to address, either alone or in combination with other projects, the Administration’s goals, such as rebuilding the country’s infrastructure, reducing greenhouse gas emissions and addressing the climate crisis, revitalizing communities, creating well-paying, union jobs, achieving environmental justice, building climate resiliency, and improving community and environmental outcomes.

The teams should identify projects that would benefit from additional coordination, transparency, and oversight during the permitting and environmental review process. Consistent with the Action Plan, sector-specific teams must submit their list of large, complex, or significant projects to OMB, CEQ, and the Permitting Council Executive Director. Sector-specific teams should submit their initial list of projects to OMB, CEQ, and the Executive Director by April 5, 2023. OMB, CEQ, and the Executive Director will review and consult with sector teams on these projects to determine which projects should be posted to the Dashboard for transparency purposes (transparency projects).⁹ Sector teams should finalize their lists by May 5, 2023. Sector teams should review and update their project list on at least a quarterly basis thereafter.

1.4 What other activities should the sector-specific teams report on a regular basis?

Sector-specific teams should report on initiatives and strategies to address complicated matters, disputes, resource constraints, and other issues that warrant the Permitting Council’s attention as they arise and on at least a quarterly basis to the Permitting Council Executive Director, CEQ, and OMB. For example, sector-specific teams should report on progress in the development of programmatic reviews and other programmatic approaches to facilitate efficient and effective environmental reviews and permitting of projects within the sectors. The teams also should report to the Permitting Council on situations where lack of interagency coordination, staffing limitations, implementation or operational challenges, or legal or policy issues may hinder timely delivery of specific infrastructure projects. In addition, the teams should identify for Permitting Council consideration potential mechanisms to advance innovation, including technological innovation and interoperability, to make permitting and environmental reviews more efficient and effective. As relevant, the sector-specific teams should also identify and report on issues and areas that may require special attention during the implementation and operation of infrastructure projects.

1.5 What actions should agencies take to accelerate smart permitting through early cross-agency coordination?

Agencies should identify approaches to execute their environmental review and permitting responsibilities for infrastructure projects that are collaborative and seek to harmonize their approach to implementing statutory requirements. These efforts should seek to deconflict requirements such that they prevent process bottlenecks; build common understanding; and contribute to effective, efficient, timely, inclusive, and sound scoping of infrastructure projects. Agencies also should identify, design, and execute programmatic efforts to address common

⁹ See Section 2.2 for more information about transparency projects.

issues, reduce duplication, and resolve resource conflicts while also working jointly with agency partners at the Federal, Tribal, State, territorial, and local levels to advance cross-cutting programmatic efforts. These efforts could include identification of internal- or cross-agency automation of application information, compensatory mitigation requirements and credit availability, and improved community outcomes.

Section 2. Establishing Clear Timeline Goals and Tracking Key Project Information

2.1 The Action Plan directs lead agencies, in coordination with cooperating agencies, to establish and post project permitting schedules with clear timeline goals that are both ambitious and realistic, contain relevant milestones, and meet all requirements in applicable law to complete environmental review and permitting in a sound and timely manner. What factors should agencies consider when establishing permitting schedules?

Agencies should ensure that permitting schedules include the relevant actions and milestone completion dates for each agency involved in any Federal environmental review or permitting required for the project and Tribal, State, territorial, and local reviews required for the project, to the maximum extent possible. Permitting schedules should reflect the use of the most sound, efficient, and expeditious applicable processes, including the coordination and alignment of Federal reviews of projects and Tribal and state reviews, consideration of best practices for public participation, and the reduction of permitting and project delivery time. For FAST-41 covered projects, agencies must use the relevant Recommended Performance Schedules established by the Permitting Council Executive Director as a starting point to develop their project-specific permitting timetables,¹⁰ and make appropriate modifications to account for the unique circumstances and needs of the project. For non-FAST-41 covered projects, agencies should set ambitious and realistic permitting schedules, consistent with applicable laws and regulations, that account for the unique circumstances and needs for the project. Initial schedules may be established for categories of similar projects to reduce duplication and enhance efficiency in the delivery of sound and complete environmental review and permitting decision making.

When establishing permitting schedules, consistent with applicable law, agencies should consider factors such as the project's overall size and complexity, the project's regional or national economic significance, the project's environmental and climate benefits, the sensitivity of the natural or historic resources that the project may affect, impacts on communities with environmental justice concerns, and the overall cost and financing plan for the project. Agencies also should consider the needs and priorities of affected communities following proactive, early, and continuous engagement. Additionally, agencies should consider the extent to which the project can rely on, adopt, or incorporate by reference components of any high quality NEPA or similar state or Tribal analyses completed for other geographically proximate or similar projects.

As appropriate and consistent with applicable law, agencies should prioritize resources and set highly ambitious schedules, particularly for projects likely to advance significant benefits to the public consistent with the Administration's goals.

¹⁰ 42 U.S.C. § 4370m-2(c)(2)(B).

Agencies should seek to reduce duplication, enhance effective, efficient, and informed decision making, and avoid or reduce environmental harm. Agencies also should consider the staffing and resources available to the lead, cooperating, and participating agencies involved in the environmental review and permitting process. Agencies should consider the project’s potential to advance the Administration’s goals, as described in section 1.3, when considering how to allocate staff and resources to establish ambitious and realistic schedules for each project.

Pursuant to the Bipartisan Infrastructure Law, schedules for transportation projects meeting the definition of “major project” under 23 U.S.C. § 139 should be consistent with an agency average of not more than 2 years, to the maximum extent practicable and consistent with applicable Federal law. Permitting timetables for FAST-41 covered projects and transparency projects must comply with the requirements of FAST-41.¹¹

A Chief Environmental Review and Permitting Officer (CERPO) for each agency, including sub-agencies of a department, where appropriate, should review and approve each project’s permitting schedule, permitting timetable, and related plans for quality assurance. The quality assurance plans should establish how the agency is completing its environmental review and permitting decision making for infrastructure projects in a sound and timely manner. Agencies are expected to establish internal systems, tools, and processes to track key project information and data, including the ongoing management of permitting schedules and plans.

2.2 Which projects must be posted on the Permitting Dashboard?

The following projects must be posted on the Federal Permitting Dashboard:¹²

- FAST-41 Covered Projects: Projects identified as “covered” projects under Title 41 of the Fixing America’s Surface Transportation (FAST) Act; and
- Department of Transportation (DOT) Projects: DOT highway, public transportation, railroad, and multimodal projects subject to 23 U.S.C. § 139 and requiring an environmental assessment or an environmental impact statement.

The Bipartisan Infrastructure Law gives the Permitting Council Executive Director new authority to direct an agency to add a project that is not a FAST-41 covered project to the Dashboard in the interest of transparency (transparency projects).¹³ Appendix A contains guidance to Permitting Council agencies on which projects should be added to the Dashboard pursuant to this new authority, including those initially identified by sector-specific teams.

2.3 Should Agencies track key environmental review and permitting information of infrastructure projects that are not posted on the Permitting Dashboard?

¹¹ 42 U.S.C. § 4370m-2(c).

¹² <https://www.permits.performance.gov/>

¹³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 § 70801(c)(2)(A); 42 U.S.C. § 4370m-2(b)(2)(A)(iii)(I).

Yes. The Permitting Action Plan emphasizes accountability, tracking, and transparency for infrastructure projects. Agencies should ensure they have systems and processes in place to track all infrastructure-related environmental impact statements, environmental assessments, and categorical exclusions the agency is responsible for, at a minimum including project name, sector, and timeframe for completion for all individual reviews and decisions. Agencies should include a plan and timeline for developing these systems and processes in their action plans. Agencies should use data and information from these projects internally and in collaborative, cross-agency efforts to refine processes to enhance effective decision making, improve responsiveness to affected communities, identify opportunities for programmatic analyses, and identify and measure improved environmental and community outcomes.

Section 3. Engaging in Early and Meaningful Outreach and Communication with Tribal Nations, States, Territories, and Local Communities

3.1 What actions can agencies take to provide early and meaningful engagement to Tribal Nations, States, territories, and local communities?

Proactive, early, and continuing engagement with the public and Tribal, State, local, and territorial partners is fundamental to sound and efficient environmental review and permitting processes that consider the needs and priorities of communities. Effective stakeholder engagement involves the identification of the relevant parties and interests that the project may affect, early and meaningful communication about the project and its impacts, and open discussion about how to address affected parties' interests to the extent possible. Because engagement needs and the techniques to meet them vary by community, agencies should tailor community outreach to address any unique engagement needs of potentially affected communities. Agencies should consider identifying a chief public engagement officer, or otherwise dedicate specific staffing, and partnering with trusted local messengers to enhance the effectiveness and efficiency of public participation and conduct proactive outreach to diverse community members. In projects that may have Tribal implications, agencies should hold consultations with Tribal Nations, in alignment with Executive Order 13175¹⁴ and the Presidential Memorandum on Uniform Standards for Tribal Consultation.¹⁵ Agencies also should coordinate with their environmental justice and public outreach teams, and those of any cooperating and participating agencies, to maximize efficient and effective community engagement. Agencies should empower and equip their field offices, and provide appropriate oversight and accountability, to ensure field offices deliver coordinated, proactive cross-agency outreach and stakeholder engagement that serves the needs of potentially affected communities. Some examples of early and meaningful stakeholder outreach can be found in:

¹⁴ Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
<https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>

¹⁵ Presidential Memorandum on Uniform Standards for Tribal Consultation (Nov. 30, 2022),
<https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/30/memorandum-on-uniform-standards-for-tribal-consultation/>

- Principles for Effective Stakeholder Engagement in Infrastructure Permitting and Review Processes;¹⁶
- Suggested Best Practices for Industry Outreach Programs to Stakeholders;¹⁷
- Early Coordination with Indian Tribes During Pre-Application Processes;¹⁸
- American Indian/Alaska Native (AI/AN) Outreach Responsibilities;¹⁹
- Collaboration in NEPA: A Handbook for NEPA Practitioners;²⁰
- Promising Practices for EJ Methodologies in NEPA reviews;²¹ and
- Procedures for Consultations with Indian Tribes.²²

For all projects published on the Permitting Dashboard, agencies should post and maintain information on the Dashboard about public engagement opportunities²³ and the status of mitigation measures agreed to as part of the environmental review and permitting process²⁴ to the extent available.

Section 4. Improving Responsiveness, Technical Assistance, and Support

4.1 How should agencies share resources, trainings, and tools to assist project sponsors, permit applicants, affected communities, Tribal Nations, and other stakeholders to navigate the environmental review and permitting process effectively and efficiently?

Agencies should post information about their resources, trainings, and tools, including programmatic solutions and ongoing opportunities, on an accessible public webpage designed to foster public, sponsor, and community understanding of requirements and opportunities to engage and improve participation in Federal processes. DOT²⁵ should update the Dashboard to include a central resources page with links to each agency's webpages with resources, trainings, and tools. Agencies should provide DOT with their webpage information and provide updates

¹⁶ Udall Foundation, *Principles for Effective Stakeholder Engagement in Infrastructure Permitting and Review Processes*, Udall Foundation, available at https://udall.gov/documents/Institute/Udall-InfrastructureStakeholderEngagementPrinciples_Final.pdf.

¹⁷ Federal Energy Regulatory Commission, *Suggested Best Practices for Industry Outreach Programs to Stakeholders* (July 2015), <https://www.ferc.gov/sites/default/files/2020-04/stakeholder-brochure.pdf>.

¹⁸ Advisory Council on Historic Preservation, *Early Coordination with Indian Tribes During Pre-Application Processes*, https://www.achp.gov/sites/default/files/documents/2019-10/EarlyCoordinationHandbook_102819_highRes.pdf.

¹⁹ Farm Serv. Agency, *American Indian/Alaska Native (AI/AN) Outreach Responsibilities*, https://www.fsa.usda.gov/Internet/FSA_Notice/ao_1803.pdf.

²⁰ CEQ, *Collaboration in NEPA: A Handbook for NEPA Practitioners* (Oct. 2007), https://ceq.doe.gov/docs/get-involved/Collaboration_in_NEPA_Oct2007.pdf.

²¹ Federal Interagency Working Group on Environmental Justice & NEPA Committee, *Promising Practices for EJ Methodologies in NEPA Reviews* (Mar. 2016), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

²² Department of the Interior, *Procedures for Consultations with Indian Tribes* (Nov. 9, 2015), <https://www.boem.gov/sites/default/files/documents/about-boem/Chapter%205%20DOI%20Procedures%20for%20Consultation%20with%20Indian%20Tribes.pdf>.

²³ See also 42 U.S.C. § 4370m-2(b)(2)(A)(iii)(II)(dd), (3)(A)(iii).

²⁴ See also 42 U.S.C. § 4370m-2(b)(3)(A)(i)(II)(bb) & (V).

²⁵ The Permitting Dashboard is administered by DOT.

when changes are made to the weblinks to ensure the central resources page remains up to date. Agencies should directly engage with each other and with project sponsors, permit applicants, potentially affected communities, Tribal Nations, and other stakeholders to ensure these resources are widely disseminated and shared. Additionally, agencies should seek opportunities to provide jointly developed information, training materials, and joint training or outreach sessions, project information, and materials to assist project sponsors, permit applicants, potentially affected communities, Tribal Nations, and other stakeholders when navigating the Federal environmental review and permitting processes. To successfully deliver these joint agency products and trainings, agencies should develop regionally tailored materials, sessions, and information aimed at improving the environmental review and permitting process, outcomes, and experience. The Permitting Council Executive Director additionally can assist in facilitating discussions and sharing information among agencies to identify and resolve key issues that will smooth project delivery and foster a sound and efficient environmental review and permitting process with reduced delays and redundancies.

4.2 What types of actions can agencies take to make changes to environmental review and permitting information collection requirements that can be consolidated, clarified, simplified, or collected more efficiently?

Agencies should share information collected as part of the environmental review and authorization process, as appropriate, to minimize duplication and maximize use of technology for all environmental review and permitting-related information collection requests. This includes increasing the use and development of centralized and interoperable datasets and systems to inform environmental reviews and permit evaluations, cross-agency data-sharing, and collaboration with project sponsors, stakeholders, and interested parties to identify project-specific data needs to facilitate effective, timely, and informed reviews. Where feasible, agencies should collaborate on data centralization to facilitate more robust, standardized environmental reviews. Agencies also should consider engaging their stakeholders on improving the efficiency and effectiveness of information collection requests.

Section 5. Adequately Resourcing Agencies and Using the Environmental Review Process to Improve Environmental and Community Outcomes

5.1 What actions should agencies take to ensure adequate resources are available to implement the initiatives of the Action Plan?

Agencies should prioritize available resources to address workforce needs and use existing resources as efficiently as possible to facilitate efficient environmental review and permitting processes, including achieving permitting objectives and advancing the Administration's goals. Agencies also should identify and use any hiring, funding, and transfer authorities that can be applied to support effective and timely environmental reviews and permitting for infrastructure projects, including funding liaison positions, developing reimbursable agreements with permitting agencies or recipients, and establish interagency protocols to facilitate interagency communication about permitting actions.

Agency leadership should work to ensure not only that staffing levels are adequate to address anticipated environmental review and permitting-related workloads in a timely manner, but also that employees who conduct work on environmental review and permitting are provided with opportunities to build their expertise and for advancement within their respective agencies. To avoid mid-project staffing changes that cause delay, agency leadership also should work to mitigate staff turnover and implement strategies to increase retention to build environmental review and permitting expertise. Additionally, agencies' budget submissions should identify and prioritize funding needed to address workforce needs to implement the initiatives of the Permitting Action Plan. The Permitting Council Executive Director will continue ongoing consultations with OMB and the Office of Personnel Management (OPM) to identify additional opportunities and strategies to support agencies with adequate resourcing and staffing. Agencies also should notify the Executive Director of any urgent resource constraints that are likely to cause significant delays on a permitting timetable so that the Executive Director can raise the issue to the Permitting Council, as needed.

5.2 How can agencies use the environmental review process to help deliver improved environmental and community outcomes?

The Permitting Action Plan states that agencies should use the environmental review and permitting process to help deliver improved environmental and community outcomes. These outcomes are the real world physical, environmental, and social effects, both beneficial and adverse, of a project over its lifetime. Agencies should follow best practices for assessing and disclosing these outcomes in environmental reviews, including analyzing reasonable alternatives. These outcomes include qualitative and quantitative descriptions of a project's environmental and community effects over the lifetime of the project and processes and mitigation measures developed to address those effects, including measures that are community-led or based. Environmental outcomes refer to the effects of a project on ecological (including natural resources), aesthetic, and cultural resources, as well as on public health. Community outcomes include the effects of a project on community indicators such as employment, public safety, community cohesion, business displacement, community facility displacements, and residential displacement. Community outcomes also include any disproportionately high and adverse effects on communities with environmental justice concerns²⁶ including communities of color, Tribal and Indigenous communities, low-income communities, and other vulnerable populations in the area affected by a project.²⁷

²⁶ See, e.g., <https://www.epa.gov/environmentaljustice>

²⁷ See Exec. Order No. 12898, *Federal Actions to Address Environmental Justice in Minority and Low-Income Populations*, 59 Fed. Reg. 7629 (Feb. 16, 1994), <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf> (“Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts.”); CEQ, *Environmental Justice Guidance Under the National Environmental Policy Act* (Dec. 1997), <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf>; Federal Interagency Working Group on Environmental Justice & NEPA Committee, *Promising Practices for EJ Methodologies in NEPA Reviews* (March 2016), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

Agencies can leverage the Permitting Dashboard and related guidance to summarize and communicate this type of information for projects included on the Dashboard, including transparency projects. Agencies should rely on information from completed reviews and are encouraged to provide entries that link to relevant environmental review sections describing improved environmental and community outcomes, provide summary data on key indicators of environmental quality, community impact, or public health; or summarize outcomes in plain language.

5.3 What information on greenhouse gas emissions will agencies need to post on the Permitting Dashboard?

The Permitting Action Plan states that the Permitting Council will explore using the Dashboard or another platform to provide access to information on greenhouse gas (GHG) emissions or emissions reductions associated with projects, consistent with the Administration's commitment to addressing climate change. CEQ's updated NEPA Guidance on Consideration of Greenhouse Gas Emissions and Climate Change, published on January 9, 2023 (88 FR 1196), provides updated best practices for analyzing and disclosing GHG emissions and climate change effects. With CEQ's GHG emissions guidance in effect, CEQ and OMB plans to provide further assistance to agencies on posting clear and succinct information on GHG emissions associated with projects to the Dashboard or another platform.

Section 6. Agency Action Plans

6.1 What information should be included in the Agency Action Plans and when should they be submitted?

At a minimum, all Agency Action Plans should include:

- Key strategies, processes, milestones, and deadlines the agency will use to implement each of the five key elements of the Permitting Action Plan:
 - Accelerating smart permitting through early cross-agency coordination, including at the field level, to appropriately scope reviews, reduce bottlenecks, develop programmatic solutions, and use the expertise of sector-specific teams;
 - Establishing clear timeline goals and tracking key project information to improve transparency and accountability and provide increased certainty for project sponsors and the public. This information should include a description and examples of the systems, tools, and processes agencies plan to use to manage key project information and data, ensure the development of comprehensive and coordinated project timetables and schedules, deploy programmatic solutions to enhance and accelerate delivery of sound and informed decisions, and complete environmental review and permitting in a sound and timely manner consistent with law and the Action Plan;
 - Engaging in early and meaningful engagement and communication with Tribal Nations, States, territories, and local communities, including processes to ensure effective community engagement and sound and effective permitting consistent

with this Administration’s environmental and community values and commitment to advancing environmental justice;

- Improving agency responsiveness, technical assistance, and support to navigate the environmental review and permitting process effectively and efficiently; and
 - Adequately prioritizing agency resources to offices engaged in the environmental review and permitting process and using this process to improve environmental and community outcomes, including how the agency plans to prioritize available resources to address workforce needs and implementation of the initiatives in the Action Plan to include processes to internally disseminate information and provide training and support to field offices.
- Key performance measures and data the agency will track to monitor performance, including a description of the mechanisms the agency has in place to track the implementation of mitigation measures; and
 - Processes for addressing and elevating issues, including schedule delays, disputes, and other issues impacting the environmental and permitting process, to senior agency officials and the Permitting Council, as appropriate.

Agencies should submit their final Agency Action Plans to OMB, CEQ, and the Executive Director for review by April 5, 2023.

6.2 How should agencies track performance and monitor progress?

Agencies should identify performance measures and data that are meaningful for analyzing progress in advancing decision making for infrastructure project environmental review and permitting and identifying ways to improve internal agency performance and cross-agency collaboration. Accurate and timely data should inform decision making, identify areas for process improvements and increased collaboration, identify resource needs, and drive progress towards improved outcomes.

For the Permitting Action Plan, agencies should establish performance goals that include performance indicators and targets in order to actively monitor progress related to the timely completion of environmental reviews and authorization decisions, increased coordination and transparency, and improved environmental and community outcomes, including public engagement opportunities and implemented mitigation measures. Starting with the 2024 Agency Performance Plan, agencies should incorporate these performance goals and indicators into their annual agency performance plans, and begin reporting progress against achieving those goals in the annual 2023 Agency Performance Report. Agencies should use information posted to the Permitting Dashboard to inform such measures and as a basis for establishing how to track performance. Agencies should use information from the Permitting Dashboard’s Data Portal, internal agency tracking systems, and historical data to establish baseline data and set benchmarks and targets for future performance to drive agency decision-making and progress.

6.3 What should be addressed in agency elevation and issue resolution plans?

To enable project sponsors, elected representatives, and affected communities to know where to go to get up-to-date information on project status and engage, agencies should identify and make available to the public specific agency-wide points of contact for all relevant environmental

review and permitting processes to facilitate contact from external entities, including affected communities. This can be a specific individual or email address that is frequently checked with timely responses provided. Similarly, agencies should maintain such a list for use internally by the agency and other Federal agencies. Agencies should keep these communication lists up-to-date and include points of contact both at the Department-level, where applicable, as well as across sub-agencies and bureaus. Agencies should have such points of contact in place by the end of 2022.

Agencies should develop and implement an internal issue identification and resolution process, so that issues identified by field or regional offices are resolved promptly or elevated swiftly. This process should include feedback from the relevant permitting and environmental review points of contact and be informed by the key project information tracked via the internal system(s) of record to ensure internal sub-agency issues and bottlenecks on projects are avoided or resolved rapidly. These established mechanisms may then be deployed as the foundation for the department-wide issue and dispute resolution procedures, involving the CERPO and Permitting Council member, to ensure that fully informed, Department-level issues and concerns are brought forward for interagency dispute resolution.

ATTACHMENT

Appendix A: Guidance on Adding Infrastructure Projects to the Permitting Dashboard in the Interests of Transparency

APPENDIX A

**Office of Management and Budget
Council on Environmental Quality
Federal Permitting Improvement Steering Council Executive Director**

Guidance on Adding Infrastructure Projects to the Permitting Dashboard to Promote Transparency

Enacted in November 2021, Infrastructure Investment and Jobs Act (referred to as the Bipartisan Infrastructure Law) amended Title 41 of the Fixing America’s Surface Transportation Act (FAST-41). The Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) can now direct lead agencies for National Environmental Policy Act (NEPA) reviews to post to the Federal Permitting Dashboard (Dashboard) projects other than FAST-41 “covered” projects if the Executive Director determines that posting such projects is “in the interests of transparency.”²⁸ Lead agencies must post such “transparency projects” on the Dashboard within 14 days of the Executive Director directing them to do so, and must include the following information:

1. A comprehensive permitting timetable that contains all environmental reviews and authorizations needed for the project;
2. The status of the compliance of each lead agency, cooperating agency, and participating agency with the permitting timetable;
3. Any modifications of the permitting timetable, including a narrative explaining why the permitting timetable was modified; and
4. As it becomes available, information about project-related public meetings, public hearings, and public comment periods, posted in English and the predominant language of the community or communities that would be most affected by the project.

The lead agency for each transparency project should keep the project timetable current and post a written explanation for any pause in the Federal environmental review or permitting process.

The Permitting Action Plan directs the Executive Director to periodically identify projects that should be posted to the Dashboard as transparency projects. In consultation with the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ), the Executive Director has identified the following project types that may be suitable for posting to the Dashboard in the interests of transparency. The Executive Director will coordinate with lead agencies before directing them to post projects to the Dashboard.

²⁸ Pub. L. No. 117-58 § 70801(c)(2)(A); 42 U.S.C. § 4370m-2(b)(2)(A)(iii).

Within 30 days of the issuance of this guidance, lead agencies should identify for the Executive Director all infrastructure projects for which the lead agency is preparing an environmental impact statement in the following sectors:

- Renewable or conventional energy production/generation;
- Electricity transmission;
- Surface transportation (including roads, bridges, tunnels, and railroads);
- Aviation;
- Ports and waterways;
- Water resource projects;
- Broadband;
- Pipelines;
- Manufacturing;
- Carbon capture;
- Critical minerals mining or processing;
- Stormwater and sewer infrastructure; and
- Drinking water infrastructure.

The FAST Act excludes certain projects from FAST-41, and agencies do not need to submit these projects to the Executive Director as potential transparency projects. Specifically, these include infrastructure projects administered by the U.S. Department of Transportation; (ii) infrastructure projects administered by another agency pursuant to title 49 of the U.S. Code; and (iii) infrastructure projects that are subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. § 2348).²⁹

The Biden-Harris Permitting Action Plan additionally directs sector-specific teams to identify and provide regular updates to the Permitting Council on the status of “large, complex, or significant” projects. Consistent with the Permitting Action Plan Implementation Guidance, each team must submit a proposed list of these projects to OMB, CEQ, and the Executive Director for review and potential addition to the Dashboard as transparency projects. Each team also should identify any additional projects that, in the team’s view, would benefit from transparency during the environmental review and permitting process. If the Executive Director determines that a Dashboard entry for any submitted project is in the interests of transparency, the Executive Director will direct the lead agency for that project to add the project to the Dashboard as a FAST-41 transparency project.

In addition to the information required to be posted to the Dashboard for FAST-41 transparency projects outlined above, for each project posted under this guidance, OMB, in consultation with CEQ, additionally requires lead agencies to post the status of mitigation measures agreed to as part of the environmental review and permitting process to the extent possible, including whether and when the mitigation measures have been fully implemented. Additionally, Section 5 of the Permitting Action Plan Guidance provides information on how agencies can use the environmental review process to improve environmental and community outcomes. Agencies are encouraged to leverage the Permitting Dashboard to share and publicly communicate

²⁹ Pub. L. 114–94 § 11503(b), 129 Stat. 1312, 1692 (Dec. 4, 2015).

information about how their projects improved these outcomes, including by linking to information in the relevant NEPA reviews. Agencies may contact OMB or CEQ for questions regarding the posting of such information on the Dashboard.

April 19, 2023

The Honorable Bob Latta
Chair, Communications & Technology
Subcommittee
U.S. House of Representatives
Washington, DC 20510-4105

The Honorable Doris Matsui
Ranking Member, Communications & Technology
Subcommittee
U.S. House of Representatives
Washington, DC 20510-4105

The Honorable Cathy McMorris Rodgers
Chair, Energy & Commerce Committee
U.S. House of Representatives
Washington, DC 20510-4105

The Honorable Frank Pallone
Ranking Member, Energy & Commerce Committee
U.S. House of Representatives
Washington, DC 20510-4105

Re: Letter for the Record, April 19, 2023, Hearing on
"Breaking Barriers: Streamlining Permitting To Expedite Broadband Deployment."

Dear Chairman Latta and Ranking Member Matsui,

The Fiber Broadband Association (FBA) strongly supports streamlining the process for fiber broadband service providers and their contractors to gain access to public and private rights-of-way and infrastructure, enabling the expeditious deployment of their networks. For this reason, we applaud you and other members of the House Energy & Commerce Subcommittee on Communications & Technology for holding a hearing to "break barriers" and find solutions to facilitate permitting.

We are at a critical and historical moment in our nation's deployment of essential fiber infrastructure. Not only is the private sector continuing to invest more than \$75 billion annually overall in broadband facilities, but through the bipartisan leadership of Congress, the federal government is ensuring that all Americans will soon have access to reliable, high-speed broadband service. As a result, ~68.3 million U.S. homes have access to fiber, that is nearly half of U.S. households, and with coordinated, thoughtful planning, we are on track to reach well over 100 million homes by 2030¹. However, to make this happen, broadband service providers, contractors, vendors, and government agencies must work together on all aspects of deployment. This is especially important to guarantee taxpayer dollars are used most effectively.

Gaining access to public right-of-ways and infrastructure has often posed challenges for broadband deployment. FBA service provider and contractor members have found that obtaining permits from government agencies can take anywhere from three to seven years. This timeline slows private sector

¹RVA, LLC. and Fiber Broadband Association, "2022 North American Fiber Status." December, 2022.

builds, and it is certainly a concern for the Broadband Equity, Access, and Deployment (BEAD) program, where recipients of grants need to build to unserved and underserved locations within four-years.

To address this problem, FBA suggests that the Committee should consider a variety of solutions so broadband can be deployed expeditiously, including implementing shot clocks; improving communication and coordination among government permitting agencies and stakeholders; having agencies establish a single point of contact to handle applications; ensuring there is enough staff to quickly process permitting applications; standardizing applications and the review processes; implementing fair and reasonable permitting requirements; and increasing transparency.

We look forward to working with the Committee and stand ready to assist to support this shared goal in ensuring all Americans have access to fiber broadband networks.

Sincerely,



Gary Bolton
President and CEO



April 18, 2023

The Honorable Robert Latta
Chair
Subcommittee on
Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Doris Matsui
Ranking Member
Subcommittee on
Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Latta and Ranking Member Matsui:

The U.S. Chamber of Commerce respectfully submits the following statement for the record for the House Energy and Commerce's upcoming Subcommittee on Communications and Technology hearing entitled "*Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment*." We commend the Subcommittee for holding this critical hearing to examine barriers to broadband deployment as well as solutions like modernized permitting.

The United States needs infrastructure improvements to remain competitive, support long-term economic growth, address the digital divide, and to support the communities that need infrastructure investment the most. Unfortunately, uncertainty and delays in broadband permitting processes increases the cost of deployment and limit the impact of federal and private sector investments and innovation. A more efficient permitting process is needed for timely upgrades to America's communications infrastructure. Earlier this month, the Chamber launched the *Permit America to Build* [campaign](#), which calls on Congress to enact meaningful, durable legislation to modernize America's permitting processes before the end of the summer.

The Chamber encourages Congress and the Subcommittee to consider the following policies to improve permitting to spur broadband deployment:

- **Improve Access to Federally Managed Lands:** Congress should examine how to best effectuate deployment on lands managed by federal agencies (e.g., Department of Interior, Bureau of Land Management, Bureau of Indian Affairs, U.S. Forest Service). These updates will be particularly important in the coming months and years as projects financed by the Infrastructure Investment and Jobs Act and other broadband programs may be located on or cross federal lands.
- **Facilitate Timely and Transparent NEPA Processes:** Although the Chamber fully supports the environmental stewardship goals of the National Environmental Policy Act (NEPA), infrastructure projects of all kinds are often subject to endless delays and litigation, broadband is no different. The permitting process suffers from multiple agency roadblocks including lack of transparency and timely reviews, and numerous opportunities for project opponents to make challenges.

As a result, many in the private sector are reluctant to tie up capital in projects that must navigate the burdensome federal permitting process, costing jobs and the public benefits associated with better infrastructure.

Timely, transparent NEPA processes are needed to encourage investment that is needed to sustain and grow our economy. Moreover, Congress should seek to exclude certain broadband infrastructure project approvals and siting decisions from NEPA review processes entirely, such as expanding and clarifying where NEPA is not required for temporary uses, or where new licensing would not substantially alter existing facilities.

- **Streamline Other Federal Requirements:** Congress should consider solutions to addressing other federal barriers to deployment such as clarifying that the National Historic Preservation Act is not required for certain temporary uses or where new licensing would not substantially alter existing facilities.
- **Address State and Local Barriers to Deployment.** Congress should also consider the impact of state and local permitting requirements on the deployment of broadband infrastructure. Specifically, these requirements include cable system transfers, franchise terms and termination, notification of road changes, unreasonable street restoration fees, municipal and cooperative pole attachment, requests for access, required franchises agreements or similar approvals as a prerequisite for permitting, mandatory “in-kind” compensation to municipalities, onerous liability provisions, and excessive and arbitrary fees.

State and local permitting requirements often hinder the deployment of broadband and thus may require federal action through preemption, shot clocks, and other policies. Congress should also leverage existing and future federal broadband dollars to incentivize states to pursue permitting reforms at the state and local levels. Finally, reforms should not only focus on modernizing procedures for new sites but also streamlining procedures for colocation, modifications, and upgrades to existing facilities.

The United States has a unique opportunity to help close the digital divide and bring internet access to millions of Americans. Modernizing broadband permitting will be necessary to achieve this objective. The Chamber looks forward to working with Congress on this issue and other policy solutions to connect all Americans.

Sincerely,

A handwritten signature in black ink, appearing to read 'TK' followed by a long, sweeping horizontal stroke.

Tom Quaadman

Executive Vice President
Chamber Technology Engagement Center
U.S. Chamber of Commerce

cc: Members of the Subcommittee on Communications and Technology

FINAL REPORT ON STATUS OF IMPLEMENTATION OF MOBILE NOW ACT SECTION 606(c) REQUIREMENTS

INTRODUCTION

On March 23, 2018, the Consolidated Appropriations Act 2018 was signed into law, which provided appropriations through fiscal year 2018.¹ Division P, the RAY BAUM’s Act of 2018, contains several Titles that provide directions regarding communications, networks, mobile service, Wi-Fi, and broadband.² Title VI of Division P, the Making Opportunities for Broadband Investment and Limiting Excessive and Needless Obstacles to Wireless Act (MOBILE NOW Act), has 23 sections that specifically focus on mobile or fixed wireless broadband spectrum, broadband infrastructure, and communications facility installations.³

Section 606 of the MOBILE NOW Act contains several provisions intended to facilitate the deployment of communications facility installations on federal property. Section 606(c), in particular, directs the National Telecommunications and Information Administration (NTIA) to coordinate with the Department of the Interior (DOI), the Department of Agriculture (USDA), the Department of Defense (DOD), the Department of Transportation (DOT), the Office of Management and Budget (OMB), and the General Services Administration (GSA) to develop recommendations for streamlining processes when considering applications to locate broadband facilities on federal property within two years from the date of enactment (March 23, 2020).⁴

The MOBILE NOW Act directs NTIA, within two years of developing these recommendations to streamline application processes, to report to Congress on the status of their implementation and any process improvements resulting from such recommendations.⁵ In 2020, NTIA delivered the first report to Congress, as directed, which outlined measures being taken to streamline Federal permitting of broadband projects.⁶ This report follows up on the measures described in the NTIA 2020 report to Congress and the progress made to implement the provisions found in the MOBILE NOW Act.

¹ Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 348 (2018), *available at* <https://www.congress.gov/115/plaws/publ141/PLAW-115publ141.pdf>.

² *Id.* at Division P, tit. VI, MOBILE NOW Act, 132 Stat. 1097.

³ Section 606(d) of the MOBILE NOW Act defines a communications facility installation as: “(A) any infrastructure, including any transmitting device, tower, or support structure, and any equipment, switches, wiring, cabling, power sources, shelters, or cabinets, associated with the licensed or permitted unlicensed wireless or wireline transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds; and (B) any antenna or apparatus that—(i) is designed for the purpose of emitting radio frequency; (ii) is designed to be operated, or is operating, from a fixed location pursuant to authorization by the Federal Communications Commission or is using duly authorized devices that do not require individual licenses; and (iii) is added to a tower, building, or other structure.” 47 U.S.C. § 1455(d)(1).

⁴ MOBILE NOW Act § 606(c)(2)(A)-(B), 132 Stat. 1103.

⁵ *Id.* at § 606(c)(2)(C).

⁶ See National Telecommunications and Information Administration (NTIA), *Implementation of Mobile Now Act Section 606(c) Requirements* (Oct. 2020) (MOBILE NOW Report), *available at* <https://www.ntia.doc.gov/report/2020/ntia-report-section-606c-mobile-now-act>.



BACKGROUND

Prior to the passage of the MOBILE NOW Act, the American Broadband Initiative (ABI) was established to stimulate increased private investment in broadband infrastructure and services to fill broadband connectivity gaps in America. Since its formation, the ABI has been working diligently to fulfill its mission of ensuring that government processes are clear and responsive to stakeholders, that government assets provide the greatest possible benefit to the public, and that the government is performing its duties as a steward of taxpayer funds. In February 2019, the ABI published its Milestones Report, outlining a vision for how the federal government can encourage the expansion of broadband access and actions that agencies are taking to increase private-sector investment in broadband. On June 25, 2020, the ABI released a Progress Report to provide an update on its work to date in fulfilling the commitments described in the Milestones Report.⁷ The ABI is comprised of two major workstreams: Streamlining Federal Permitting (SFP) and Maximizing the Impact of Federal Funding. Each of these workstreams is led by and comprised of agencies with particular equities and expertise in that area.

The ABI's Streamlining Federal Permitting workstream is striving to make government processes clear, transparent, and responsive to stakeholders. By reducing permitting delays, minimizing paperwork, and designating clear federal points of contact, federal agencies will enable broadband providers to focus on building broadband networks more quickly. The Department of Homeland Security (DHS) and DOI co-chair this workstream. The other workstream member agencies include: USDA, Department of Commerce (NTIA and the First Responder Network Authority (FirstNet Authority)), DOD, DOT, GSA, OMB, the Department of Veterans Affairs, the Advisory Council on Historic Preservation (ACHP), and the Council on Environmental Quality (CEQ). The Federal Communications Commission (FCC), as an independent regulatory agency, participates in this workstream as a consulting member.

To date, the ABI's Streamlining Federal Permitting Workstream has served as the vehicle to implement section 606(c) of the MOBILE NOW Act because the agencies enumerated in the statute and tasked with developing recommendations are all members of this workstream.

Pursuant to the MOBILE NOW Act's provisions, the Streamlining Federal Permitting Workstream focused on the following elements to develop the recommendations called for under section 606(c):

1. Procedures for tracking broadband facility applications;
2. Methods to reduce application review and approval timelines;
3. Policies expediting renewals of easements, licenses or other authorizations for broadband facility installations; and

⁷ On February 13, 2019, the ABI was launched with the release of the Milestones Report. *See American Broadband Initiative (ABI), Milestones Report* (Feb. 2019), *available at*: https://www.ntia.doc.gov/files/ntia/publications/american_broadband_initiative_milestones_report.pdf. On June 25, 2020, the ABI released a Progress Report to provide an update on its work to date in fulfilling the commitments described in the Milestones Report. *See ABI, Progress Report* (June 2020), *available at*: https://www.ntia.doc.gov/report/2020/ABI_Progress_Report.



4. Policies prioritizing or streamlining construction permits in previously disturbed rights-of-way.

Using these elements as a guide, the Streamlining Federal Permitting Workstream developed the following recommended agency actions, which were shared in the MOBILE NOW Report, which NTIA transmitted to Congress on October 27, 2020.⁸ Some of these activities have already been implemented or are currently in progress as noted below. The Streamlining Federal Permitting Workstream has continued to examine the feasibility of implementing the remaining recommended actions and continues to monitor the status of these actions. NTIA received updates through the workstream as to the process improvements.

Updates to Agency Actions Recommended in 2020 MOBILE NOW Report

1. Procedures for the tracking of applications

- a) Executive Order 13821, Streamlining and Expediting Requests to Locate Broadband Facilities in Rural America, requires GSA to collect data and compile reports on Agency permitting timeframes, including the number of applications received, the number approved, the number rejected, the basis for any rejection, and the number of working days each application was pending before being approved or rejected. Since December 2018, GSA has submitted thirteen quarterly reports to OMB. The most recently submitted report for Q4 FY 2021 (submitted in January 2022) featured several key improvements to enhance readability, such as, redesigning the table of contents to include a “List of Figures” and a “List of Appendices” to improve the organization within the report, and the inclusion of two new graphs to convey data. It is also important to note that in FY 2021, 530 applications for broadband siting permits were approved by federal property managing agencies with an average time below the 270-day statutory requirement contained in the MOBILE NOW Act. GSA and the workstream members continuously work to improve the data collection process and facilitate the tracking of permit applications.
- b) On December 20, 2018, the Agriculture Improvement Act of 2018 (the Farm Bill) became law.⁹ Title VIII, Subtitle G, Section 8705, of the Farm Bill directs the USDA’s Forest Service (USFS) to issue regulations that streamline the process for evaluating applications for communications facilities on National Forest System (NFS) lands. As a result of the Farm Bill, USFS amended its regulations at 36 CFR § 251.54(g)(4) in April 2020, to add a new subparagraph to its regulations establishing a process for tracking applications for communications uses that: (a) identifies the number of applications received, approved, and denied; (b) for applications that are denied, describing the reasons for the denial; and (c) describing the amount of time between receipt of an application and grant or denial of the application.¹⁰

⁸ MOBILE NOW Report, *supra* note 6.

⁹ Agriculture Improvement Act of 2018, Pub. L. 115-334, 132 Stat. 4490 (2018), *available at* <https://www.congress.gov/115/plaws/publ334/PLAW-115publ334.pdf>.

¹⁰ *See* 36 CFR § 251.54(g)(4)(iii) (2020).



- c) USFS revised its directives at Forest Service Handbook (FSH) 2709.11, Chapter 90 in October 2020, to establish responsibility for a tracking system for communications use applications and to establish procedures for inputting data needed to track communications use applications.
- d) GSA created a national antenna application-tracking sheet that it distributed to its regional offices for use in January 2020. The tracking sheet measures the amount of time it takes for GSA regions to reject or approve and then process antenna-siting applications, ensuring compliance with the 270-day statutory requirement for processing of telecommunications applications.
- e) The Federal Permitting Improvement Steering Council (FPISC) maintains the Federal Infrastructure Permitting Dashboard, an online tool for Federal agencies, project developers, and interested members of the public to track the Federal government’s environmental review and authorization process for large or complex infrastructure projects, part of a government-wide effort to improve coordination, transparency, and accountability.¹¹ SFP members have explored the feasibility of leveraging this online tool to track applications for siting communications facilities on federal property. Further coordination with DOT and the Federal Permitting Improvement Steering Council (FPISC) leadership is needed to determine how best to implement this recommendation.
- f) DOI’s Bureau of Land Management (BLM) is taking steps to update its LR2000 tracking system and transition to a new system, the Mineral and Lands Record System (MLRS). Additionally, on April 14, 2020, BLM launched an online system for the filing of a Standard Form (SF)-299 for communications uses that will further assist in the tracking of applications. SFP members will explore the feasibility of expanding an application tracking system to other DOI bureaus and other federal property-managing agencies.

2. Methods to reduce the amount of time between the receipt of an application and the issuance of a final decision on an application (270 days or less)

- a) Establish the SF-299 as the Common Form – In February 2020, USFS, working with GSA and other SFP workstream members, obtained OMB approval of revisions to the SF-299 to make it the common application form used by the private sector to seek permission to deploy communications infrastructure on federal property. The SF-299 is the standard form to be used by the federal property managing agencies that use an application to initiate the siting process, including DOI and GSA. The form can be accessed on the USFS website and NTIA’s BroadbandUSA website.¹²

¹¹ See Federal Infrastructure Projects, *Permitting Dashboard*, available at: www.permits.performance.gov. The FPISC dashboard is administered and maintained by the Department of Transportation.

¹² See USFS, *Special Uses – Communications Uses*, available at: https://www.fs.fed.us/specialuses/special_comm.shtml; see also BroadbandUSA, *Federal Permitting*, available at: <https://broadbandusa.ntia.doc.gov/resources/federal/federal-permitting>.



- Agencies believe that stakeholders have benefited from having a common application form that all agencies authorizing communications facilities or uses on federal assets accept by reducing costs and processing times. By using the common form, the application information provided by the stakeholders is the same for all agencies, providing government-wide consistency.
 - Agencies continue to further improve their processes by exploring methods to accept the SF-299 electronically.
- b) Federal property-managing agencies will establish the 270-day standard per the MOBILE NOW Act.
- In 2018, USFS amended its directives at FSH 2709.11, Chapter 90 to provide that within 270 days of acceptance of an application for a new communications facility or communications use in or on a facility managed by the USFS, the authorized officer must grant or deny the application and notify the applicant in writing of the grant or denial. In 2020, USDA issued a Final Rule to amend USFS regulations to integrate the 270-day timeframe for responding to applications for a new communications facility or communications use in or on a facility managed by the USFS with the requirements in USFS directives.¹³
 - BLM proposes changing its rule to implement the 270-day customer service standard consistent with the MOBILE NOW Act. The proposed rule is planned to be published in the *Federal Register* during the third quarter of 2022.
 - BLM has established training opportunities for its realty staff to assist with processing broadband projects on public lands. Additionally, BLM is developing training opportunities for its stakeholders regarding the submittal of complete SF-299 applications to site broadband communications facilities.
- c) GSA updated the standardized U.S. Government Lease of Real Property for Communications Space in Fiscal Year 2020, including adding references to the term “Communications Facility Installation” as defined in the MOBILE NOW Act. GSA posted the revised templates to the telecommunications page of its website.¹⁴
- d) The federal property-managing agencies explored the feasibility of accepting electronic filings of the SF-299, including attachments.
- BLM is currently drafting a rule change to accept the electronic filing of the SF-299 application.
 - BLM is currently drafting a rule change to require the inclusion of geographic information system (GIS) information with applications.

¹³ See USFS Streamlining Final Rule, 85 Fed. Reg. 19660 (Apr. 8, 2020).

¹⁴ See GSA, *Wireless Telecommunications Installation*, available at: <https://www.gsa.gov/real-estate/real-estate-services/for-businesses-seeking-opportunities/wireless-telecommunications-installation>.



- e) USFS collected, verified, and mapped its communications sites and publicly released its Communications Sites Map Viewer in October 2019 for use by internal and external customers. This mapping tool provides basic information on USFS communications sites, including their geographical location, site designation, and local contact information.
 - o This information will enable the public and stakeholders to locate communications sites on NFS lands and complete an initial feasibility assessment prior to submitting a proposal and application to site facilities on NFS lands.
 - o USFS published the dataset to the Forest Service Geodata Clearinghouse.¹⁵

3. Policies to expedite renewals of an easement, license, or other authorization to locate communications facility installations on federal lands

- a) Federal property-managing agencies have considered the feasibility of allowing automatic renewals unless changed conditions or circumstances exist.
- b) BLM is currently drafting a rule requiring the agency to notify the applicant of renewal decisions within 60 days prior to the end of the current authorization. Additionally, when a renewal application is filed timely, and the authorization is in compliance with all of the terms and conditions, the authorization would remain valid until the agency has made a decision on the renewal application.
- c) BLM has allocated additional appropriated funding to the various State Offices to assist with broadband deployment.
- d) Federal property-managing agencies have considered standardizing longer terms, e.g., 25 to 30 years, for communications use authorizations.
 - o BLM is drafting a proposed rule for public comment that would establish a standard 30-year term.
 - o USFS amended its regulations at 36 CFR § 251.54(g)(5) and revised its directives at FSH 2709.11, Chapter 90, to establish a term of 30-years for communications use authorizations, unless case-specific circumstances warrant a shorter term.¹⁶

4. Policies prioritizing or streamlining construction permits in previously disturbed rights-of-way

- a) Federal property-managing agencies apply National Environmental Policy Act (NEPA) categorical exclusions to streamline and expedite environmental reviews when warranted. Categorical exclusions are categories of actions that the agency has determined do not have a significant impact on the environment absent extraordinary circumstances. The use of categorical exclusions can shorten the timeframe for environmental analyses compared with the development of more

¹⁵ See USFS, *Download National Datasets*, available at: <https://data.fs.usda.gov/geodata/edw/datasets.php?xmlKeyword=communications+sites>.

¹⁶ See *id.* at 19661-62.



resource-intensive Environmental Assessments (EAs) or Environmental Impact Statements (EISs).

- Agencies develop categorical exclusions as part of their NEPA implementing procedures based on their experience and expertise. CEQ maintains a comprehensive list of federal agencies' categorical exclusions.¹⁷
 - CEQ is working with several federal agencies to develop broadband-related categorical exclusions.
- b) On February 1, 2018, the FirstNet Authority updated its NEPA implementing procedures and revised its list of categorical exclusions and extraordinary circumstances. This will ensure that such procedures align with the FirstNet Authority's statutory mission and activities related to the deployment of the nationwide public safety broadband network and assist FirstNet in complying with NEPA, as well as CEQ and FCC regulations. As both an independent federal authority within NTIA and a licensee of the FCC, the FirstNet Authority must satisfy its own NEPA obligations as well as comply with FCC-promulgated NEPA procedures. These revisions will facilitate more efficient, effective, and timely NEPA reviews by simplifying and streamlining duplicative requirements.
- c) In November 2020, USFS amended its NEPA regulations at 36 CFR Part 220 to increase efficiency in its environmental analysis while meeting NEPA's requirements and fully honoring its environmental stewardship responsibilities.¹⁸
- The amended rule facilitates reliance on a categorical exclusion for special use authorizations, including authorizations for communications uses.
 - The amended rule expands the categorical exclusion for special use authorizations from 5 to 20 acres and removes the qualifying words "contiguous" and "minor" in reference to additional facilities.
 - The amended rule establishes a new categorical exclusion that does not require a project or case file and decision memo for reissuance of special use authorizations, which will simplify reliance on a categorical exclusion.
- d) USFS regulations at 36 CFR § 251.54(g)(4) that pre-date the MOBILE NOW Act provide for streamlining evaluation of applications for communications uses on previously disturbed NFS lands.
- USFS may evaluate groups of applications for similar uses having minor environmental impacts with one analysis and approve them in one decision.¹⁹
- e) Section 607 of the Mobile Now Act, Broadband Infrastructure Deployment, required the Secretary of Transportation to promulgate regulations to facilitate broadband infrastructure deployment. The Federal Highway Administration

¹⁷ See NEPA, *Categorical Exclusions*, available at: <https://ceq.doe.gov/nepa-practice/categorical-exclusions.html>.

¹⁸ See USFS NEPA Compliance Final rule, 85 Fed. Reg. 73620 (Nov. 19, 2020).

¹⁹ See Streamlining, *supra* note 11 at 19666.



(FHWA) began the rulemaking process in June of 2019 to modify 23 CFR part 645—Utilities to include the Section 607 requirements. The rule was finalized in December of 2021 with an Effective date of March 3, 2022. In general, the Final Rule requires state DOTs to:

- Identify a broadband utility coordinator;
- Establish a process to register broadband entities;
- Establish a process to electronically notify such entities of the Statewide Transportation Improvement Program (STIP) on an annual basis and provide additional notifications as necessary to achieve the goals of this section; and
- Coordinate these initiatives with telecommunication and broadband plans and State and local transportation and land use plans, including strategies to minimize repeated excavations.

CONCLUSION

With the passage of the Infrastructure Investment and Jobs Act (IIJA), which authorized \$65 billion in new federal funding dedicated to broadband, it is imperative that federal permitting policies and procedures are effective, efficient, transparent, and streamlined to the greatest extent possible. While NTIA produced this report to provide an update on actions taken by agencies, we believe that leveraging the Federal Permitting Improvement Steering Council could greatly assist in addressing remaining broadband permitting challenges. FPISC includes senior agency leadership and is tasked by Congress to identify root causes in pain points, recommend policies and guidance to resolve the issues, and provide an escalation and coordination mechanism. The Department of Commerce, through its participation in FPISC and the Infrastructure Implementation Task Force, is committed to supporting these efforts to help realize the Biden-Harris Administration’s goal of closing the digital divide and ensuring that all Americans have access to reliable, affordable, high-speed broadband.



[Second Reprint]

SENATE, No. 2674

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 6, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Provides for uniform regulation of small wireless facility deployment in this State.

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2021.



1 AN ACT concerning deployment of small wireless facilities and
2 supplementing Title 40 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. The Legislature finds and declares that:

8 a. The deployment of small wireless facilities and other next-
9 generation wireless and broadband network facilities is a matter of
10 federal and statewide concern and interest;

11 b. Wireless and broadband products and services are a significant
12 and continually growing part of the State's economy and encouraging
13 the development of strong and robust wireless and broadband
14 communications networks throughout the State is integral to the
15 State's economic competitiveness;

16 c. Rapid deployment of small wireless facilities will serve
17 important Statewide goals, such as: meeting the growing consumer
18 demand for wireless data; increasing competitive options for
19 communications services available to the State's residents; promoting
20 the ability of the State's residents to communicate with their neighbors
21 and with their State and local governments; and promoting public
22 safety;

23 d. Small wireless facilities, including facilities commonly referred
24 to as small cells and distributed antenna systems, are ¹most cost-
25 effective for a wireless service provider when¹ deployed ¹most
26 effectively¹ in ¹right-of-way rights-of-way¹;

27 e. To meet the key objectives of federal law and
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 wireless providers ¹need to have must be granted¹ access to ¹the
30 right-of-way rights-of-way¹ and ¹have¹ the ability to attach to
31 infrastructure in ¹the right-of-way rights-of-way on a competitively
32 neutral basis¹ to densify wireless networks and to provide next-
33 generation wireless services;

34 f. Rates and fees for the permitting and deployment of small
35 wireless facilities in ¹right-of-way rights-of-way¹ and on authority
36 infrastructure, including utility poles, throughout the State, consistent
37 with federal law, is reasonable and will encourage the development of
38 robust next-generation wireless and broadband networks for the
39 benefit of residents throughout the State;

40 ¹g. Authorities actively manage rights-of-way, acting as trustees of
41 this limited public asset, to protect residents' safety, preserve the
42 character of communities, and maintain availability for current and
43 future uses;¹ and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted June 15, 2021.

²Senate floor amendments adopted June 21, 2021.

1 ¹**[g.] h.**¹ The procedures, rates, and fees established in P.L. , c.
2 (C.) (pending before the Legislature as this bill) should be
3 consistent with federal law and are fair, reasonable, and further the
4 State's interest in facilitating and supporting a robust, reliable, and
5 technologically-advanced wireless and broadband network and reflect
6 a balancing of the interests of the wireless providers deploying new
7 small wireless facilities and the interests of authorities in ¹managing
8 and¹ recovering the cost of managing ¹**[access to the right-of-way]**
9 the rights-of-way¹.

10

11 2. As used in P.L. , c. (C.) (pending before the
12 Legislature as this bill):

13 "Antenna" means an apparatus designed for the purpose of
14 emitting radio frequency, to be operated or operating from a fixed
15 location pursuant to Federal Communications Commission
16 authorization, for the provision of personal wireless service and any
17 commingled information services. ¹**[“Antenna” shall not include an**
18 **unintentional radiator, mobile station, or device authorized pursuant**
19 **to 47 C.F.R. Part 15.]**¹

20 “Antenna equipment” means equipment, switches, wiring,
21 cabling, power sources, shelters, or cabinets associated with an
22 antenna, located at the same fixed location as the antenna, and,
23 when collocated on a structure, is mounted or installed at the same
24 time as the antenna.

25 “Antenna facility” means an antenna and associated antenna
26 equipment. ²**[¹Antenna facility]** “Antenna facility”² includes small
27 wireless facilities. ²[An antenna facility] “Antenna facility”² shall
28 not include:

29 a. the structure or improvements on, under, or within which the
30 equipment is located;

31 b. wireline backhaul facilities; or

32 c. coaxial or fiber optic cables that are not immediately adjacent
33 to or directly associated with a particular antenna.¹

34 “Applicable codes” means uniform building, fire, electrical,
35 plumbing, or mechanical codes adopted by the Commissioner of the
36 Department of Community Affairs pursuant to P.L.1975, c.217
37 (C.52:27D-119 et seq.) ¹, or authority amendments to those codes
38 that are of general application¹ and are consistent with P.L. , c.
39 (C.) (pending before the Legislature as this bill).

40 "Applicant" means any person who submits an application and is
41 a wireless provider.

42 "Application" means a request submitted by an applicant to an
43 authority for a permit to: collocate a small wireless facility; install,
44 modify, or replace a pole on which a small wireless facility will be
45 collocated, mounted, or installed; mount or install a small wireless
46 facility on a new or replacement pole; or install associated antenna

1 equipment adjacent to a structure on which a small wireless facility
2 is or will be collocated, mounted, or installed.

3 "Authority" means ¹**[a]** the State and any¹ unit of local
4 government, and any board, commission, committee, authority,
5 agency, office, officer, or employee thereof, which has jurisdiction
6 and control over the use of a ¹**[public]**¹ right-of-way for the
7 placement of a wireless facility within the ¹**[public]**¹ right-of-way
8 or has zoning or land use control for the placement of a wireless
9 facility not within a ¹**[public]**¹ right-of-way. "Authority" shall not
10 mean a State court having jurisdiction over an authority.

11 "Authority pole" means a pole or utility pole owned or operated
12 by an authority in a ¹**[public]**¹ right-of-way.

13 "Collocate" or "collocation" means: mounting or installing an
14 antenna facility on a pre-existing structure; or modifying a structure
15 for the purpose of mounting or installing an antenna facility on that
16 structure.

17 "Communications facility" means the equipment and network
18 components that provide communications services, including wires,
19 cables, and associated facilities used by: a cable operator, as
20 defined in 47 U.S.C. s.522; a telecommunications carrier, as defined
21 in 47 U.S.C. s.153; a provider of an information service, as defined
22 in 47 U.S.C. s.153; or a wireless service provider, as defined
23 pursuant to this section.

24 "Communications service" means: cable service, as defined
25 pursuant to 47 U.S.C. s.522, as amended; information service, as
26 defined pursuant to 47 U.S.C. s.153, as amended;
27 telecommunications service, as defined in 47 U.S.C. s.153, as
28 amended; mobile service, as defined pursuant to 47 U.S.C. s.153, as
29 amended; or wireless service other than mobile service.

30 "Communications service provider" means: a cable operator, as
31 defined pursuant to 47 U.S.C. s.522, as amended; a provider of
32 information service, as defined pursuant to ¹**[24 of]**¹ 47 U.S.C.
33 s.153, as amended; a telecommunications carrier, as defined
34 pursuant to 47 U.S.C. s.153, as amended; or a wireless service
35 provider as defined pursuant to this section.

36 "Decorative pole" means an authority pole ¹, or a pole that is
37 subsidized by an authority,¹ that is specially designed and placed
38 for aesthetic purposes ¹**[and on which no appurtenances or**
39 **attachments, other than a small wireless facility, lighting, specially**
40 **designed informational or directional signage, or temporary holiday**
41 **or special event attachments, have been placed or are permitted to**
42 **be placed according to non-discriminatory authority rules or**
43 **codes]**¹.

44 "Facility" means an antenna facility or a structure that is used for
45 the provision of personal wireless service, whether the personal
46 wireless service is provided on a stand-alone basis or comingled
47 with other wireless communications services.

1 "FCC" means the Federal Communications Commission of the
2 United States.

3 "Fee" means a one-time, nonrecurring charge.

4 "Historic district" or "historic landmark" means a building,
5 property, or site, or group of buildings, properties, or sites that are
6 either:

7 a. listed on the National Register of Historic Places or formally
8 determined eligible for listing by the keeper of the National
9 Register of Historic Places, the individual who has been delegated
10 the authority by the federal agency to list properties and determine
11 their eligibility for the National Register of Historic Places,
12 pursuant to 47 C.F.R. Part 1, Appendix C; or

13 b. **1** **[Listed]** listed¹ on the New Jersey Register of Historic
14 Places 1 or identified in an authority's master plan adopted pursuant
15 to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-
16 1 et seq.)¹.

17 "Law" means a federal or State statute, common law, code, rule,
18 regulation, order, or local ordinance, or resolution.

19 "Make-ready work" means the process of ensuring that an
20 authority pole is in suitable condition to receive a small wireless
21 facility and associated antenna equipment.

22 "Micro wireless facility" means an antenna facility that is not
23 larger in dimension than 24 inches in length, 15 inches in width,
24 and 12 inches in height, and that has an exterior antenna, if any, no
25 longer than 11 inches.

26 "Permit" means 1 an¹ authorization **1** **[, written or otherwise,]**¹
27 required by an authority to perform an action or initiate, continue,
28 or complete a project for the deployment of antenna facilities at a
29 specified location in a right-of-way.

30 "Person" means an individual, corporation, limited liability
31 company, partnership, association, trust, or other entity or
32 organization, including an authority.

33 "Personal wireless service" means "commercial mobile service,"
34 "unlicensed wireless services," and "common carrier wireless
35 exchange access services," as those terms are defined pursuant to 47
36 U.S.C. s.332, **1** **[and]**¹ "commercial mobile data service," as defined
37 pursuant to 47 U.S.C. s.1401 ¹, and information service provided
38 through wireless fidelity or similar technologies utilizing unlicensed
39 spectrum¹.

40 "Pole" means a pole in the right-of-way that is or may be used in
41 whole or in part by or for wireline communications, electric
42 distribution, lighting, traffic control, signage, or a similar function,
43 or for the collocation of small wireless facilities. "Pole" shall not
44 mean a: tower, either guyed or self-supporting, built for the sole or
45 primary purpose of supporting wireless equipment other than a
46 small wireless facility; building; billboard; or electric transmission
47 structure.

1 "Public utility" shall have the same meaning as provided in
2 R.S.48:2-13.

3 "Rate" means a recurring charge.

4 "Right-of-way" means the area on, below, or above a public
5 roadway, highway, street, public sidewalk, alley, or utility easement
6 dedicated for compatible use, but shall not include a federal
7 interstate highway.

8 "Small wireless facility" means a facility that meets each of the
9 following conditions: the facility is mounted on a structure 50 feet
10 or less in height, including the antenna or is mounted on a structure
11 no more than 10 percent taller than other adjacent structures or does
12 not extend existing structures on which they are located to a height
13 of more than 50 feet or by more than 10 percent, whichever is
14 greater; each antenna associated with the deployment, excluding
15 associated antenna equipment, is no more than three cubic feet in
16 volume; all other wireless equipment associated with the structure,
17 including wireless equipment associated with the antenna and any
18 pre-existing associated ¹antenna¹ equipment on the structure, is no
19 more than 28 cubic feet in volume; the facility does not require
20 antenna structure registration under 47 C.F.R. Part 17; the facility is
21 not located on tribal lands, as defined pursuant to 36 C.F.R.
22 s.800.16; and the facility does not result in human exposure to radio
23 frequency in excess of the applicable safety standards specified
24 pursuant ¹to¹ 47 C.F.R. s.1.1307.

25 "Structure" means a pole, tower, base station, as defined
26 pursuant ¹to¹ 47 C.F.R. s.1.6100, or other building, whether or not
27 it has an existing antenna facility, which is used or is to be used for
28 the provision of personal wireless service.

29 "Technically feasible" means that, by virtue of engineering or
30 spectrum usage, the proposed placement for a small wireless
31 facility, or its design, concealment measures, or site location can be
32 implemented without a ¹material¹ reduction in the functionality of
33 the small wireless facility.

34 "Tower" shall have the same meaning as defined pursuant to 47
35 C.F.R. ¹s.¹1.6100.

36 "Wireless infrastructure provider" means any person, including a
37 person authorized to provide telecommunications service in the
38 State, that builds or installs facilities for the provision of wireless
39 service, but that is not a wireless service provider.

40 "Wireless provider" means a wireless infrastructure provider or a
41 wireless service provider.

42 "Wireless service" means any services provided to the general
43 public and made available on a non-discriminatory basis using
44 licensed or unlicensed spectrum, whether at a fixed location or
45 mobile, provided using ¹an antenna facility¹.

46 "Wireless service provider" means a person who provides
47 wireless services.

1 "Wireline backhaul facility" means ¹[an above-ground or
2 underground wireline facility used to transport communications
3 data or other electric communications from an antenna facility to a
4 communications network] a physical transmission path, all or part
5 of which is within the right-of-way, used for the transport of
6 communications services or other electronic communications by
7 wire from an antenna facility to a communications network¹.

8
9 3. a. An authority may not enter into an exclusive arrangement
10 with any person or entity for the use of the right-of-way for:

11 (1) ¹the¹ collocation of a small wireless facility;

12 (2) the mounting or installation of a small wireless facility on new
13 or replacement poles;

14 (3) the installation of associated antenna equipment adjacent to a
15 structure on which a small wireless facility is or will be collocated,
16 mounted, or installed; or

17 (4) the installation, operation, marketing, modification,
18 maintenance, or replacement of associated poles.

19 b. Subject to the provisions of this section, a wireless provider
20 shall have the right, as a permitted use not subject to zoning review or
21 approval, and without the need for ¹[municipal] authority¹ consent,
22 ¹[pursuant to R.S.48:3-19,]¹ to:

23 (1) collocate small wireless facilities;

24 (2) mount or install small wireless facilities on new or replacement
25 poles;

26 (3) install associated antenna equipment adjacent to a structure on
27 which a small wireless facility is or will be collocated, mounted, or
28 installed; or

29 (4) install, modify, or replace its own poles, or, with the
30 permission of the owner, a third party's poles, associated with a small
31 wireless facility, along, across, upon, and under the right-of-way.

32 Small wireless facilities, antenna equipment, and poles collocated
33 or installed pursuant to this section shall be installed and maintained as
34 not to obstruct or hinder the usual travel or public safety in a right-of-
35 way or obstruct the legal use of a right-of-way by a public utility.
36 Construction and maintenance by wireless providers shall comply
37 with the National Electrical Safety Code, published by the Institute of
38 Electrical and Electronics Engineers, and all applicable laws and
39 regulations for the protection of underground and overhead public
40 utility facilities.¹

41
42 4. a. A new, replaced, or modified pole installed in a right-of-
43 way after the effective date of P.L. , c. (C.) (pending
44 before the Legislature as this bill) for the purpose of collocating,
45 mounting, or installing a small wireless facility shall not exceed 50
46 feet in height above ground level or ¹[ten] 10¹ percent taller than
47 the tallest existing pole in place as of the effective date of P.L. , c.

1 (C.) (pending before the Legislature as this bill) in the same
2 right-of-way within 500 feet of the new, replaced, or modified pole,
3 whichever is greater.

4 b. A new small wireless facility installed in a right-of-way after
5 the effective date of P.L. , c. (C.) (pending before the
6 Legislature as this bill) may not extend more than 10 percent above
7 the existing structure on which they are located or 50 feet above
8 ground level, whichever is greater.

9 c. A wireless provider shall have the right to collocate, mount,
10 or install a small wireless facility and install, maintain, modify, and
11 replace a pole that exceeds the height limits pursuant to subsections
12 a. and b. of this section along, across, upon, and under the right-of-
13 way, subject to section 3 of P.L. , c. (C.) (pending before
14 the Legislature as this bill) and applicable zoning regulations.

15 ¹d. A wireless provider shall not apply to install a new pole
16 unless it has determined after diligent investigation that it cannot
17 meet its ²[wireless]² service objectives by collocating on ²[a pre-
18 existing]² an existing² pole or other structure on which:

19 (1) the wireless provider has the right to collocate subject to
20 reasonable terms and conditions, including the right to ²pole² mount
21 antenna equipment ²[on a pre-existing pole]²; and

22 (2) that collocation would not impose technical limitations or
23 significant additional costs. The wireless provider shall certify that
24 it has made such a determination in good faith, based on the
25 assessment of a licensed engineer, and shall provide a written
26 summary of the basis for that determination.

27 e. For applications for new poles in the right-of-way in areas
28 zoned for residential use, the authority may propose an alternate
29 location in the right-of-way within 100 feet of the location set forth
30 in the application, and the wireless provider shall use the authority's
31 proposed alternate location unless the location imposes technical
32 limits or significant additional costs. The wireless provider shall
33 certify that it has made the determination in good faith, based on the
34 assessment of a licensed engineer, and it shall provide a written
35 summary of the basis for that determination.¹

36

37 5. a. An authority may adopt aesthetics requirements governing
38 the deployment of small wireless facilities and associated antenna
39 equipment and poles in a right-of-way, ¹which may include pre-
40 approved designs for new poles in specified areas,¹ subject to the
41 following:

42 (1) the aesthetic requirements shall be reasonable, in that they are
43 technically feasible and reasonably directed at avoiding or remedying
44 unsightly or out-of-character deployments, are no more burdensome
45 than those applied to ¹[other types of] functionally equivalent¹
46 infrastructure deployments, and are ¹[objective and]¹ published in
47 advance;

1 (2) any design or concealment measures are not considered a part
2 of the small wireless facility for purposes of the size parameters in the
3 definition of small wireless facility; ¹and¹

4 (3) an authority may deny an application for not complying with
5 an aesthetic requirement only if the authority finds that the denial does
6 not prohibit or have the effect of prohibiting the provision of wireless
7 service ¹[;]¹

8 b. Aesthetic requirements applicable to deployment of small
9 wireless facilities on decorative poles and in historic districts shall, in
10 addition to the requirements of subsection a. of this section, comply
11 with the following:

12 (1) a wireless provider shall be permitted to collocate small
13 wireless facilities on, ¹or¹ modify ¹[.]¹ or replace ¹,¹ decorative poles
14 when necessary to deploy a small wireless facility ¹[. An]¹, provided
15 that ¹an¹ authority may require the collocation or decorative pole
16 replacement to reasonably conform to the design aesthetics of the
17 original decorative pole or poles ¹[, provided the aesthetic
18 requirements are technically feasible]¹.

19 (2) an authority may adopt aesthetic requirements applicable in
20 historic districts that comply with this section.

21
22 6. a. A wireless provider shall comply with undergrounding
23 requirements that are consistent with subsection a. of section 5
24 of P.L. , c. (C.) (pending before the Legislature as this bill)
25 when:

26 (1) the authority has required all electric and telecommunications
27 lines to be placed underground by a date certain that is three months
28 prior to the submission of the application;

29 (2) a pole the authority allows to remain shall be made available to
30 wireless providers for the collocation of small wireless facilities, and a
31 pole may be modified or replaced by a wireless provider to
32 accommodate the collocation, mounting, or installation of small
33 wireless facilities, in compliance with P.L. , c. (C.) (pending
34 before the Legislature as this bill); and

35 (3) ¹subject to the application process established pursuant to
36 section 11 of P.L. , c. (C.) (pending before the Legislature as
37 this bill),¹ a wireless provider may install a new pole in the designated
38 area that otherwise complies with P.L. , c. (C.) (pending
39 before the Legislature as this bill) when the wireless provider is not
40 able to provide wireless service by collocating on a remaining
41 structure.

42 b. For small wireless facilities installed before an authority adopts
43 requirements that electric and telecommunications lines be placed
44 underground, an authority adopting these requirements shall permit:

45 (1) a wireless provider to maintain the small wireless facilities in
46 place on any pole not required to be removed, subject to any
47 applicable pole attachment agreement with the pole owner; or

1 (2) a wireless provider to replace an existing pole within 50 feet of
2 the prior location.

3
4 7. ~~1~~ **1** ~~【The authority may require a】~~ A¹ wireless provider ~~1~~ **1** ~~【to】~~
5 shall¹ repair all damage to a right-of-way caused by the activities of
6 the wireless provider and ~~1~~ **1** ~~【to】~~ return the right-of-way to its
7 functional and aesthetic¹ equivalence before the damage, pursuant to
8 the competitively neutral, reasonable requirements and specifications
9 of the authority. If the wireless provider fails to make the repairs
10 required by the authority within a reasonable time after written notice,
11 the authority may make those repairs and charge the applicable party
12 the reasonable, documented cost of the repairs.

13
14 8. A wireless provider shall not be required to replace or
15 upgrade an existing pole except for reasons of structural necessity
16 or compliance with applicable codes. A wireless provider may, with
17 the permission of the pole owner, replace or modify the existing
18 pole, but any replacement or modification shall be consistent with
19 the design aesthetics of the pole being modified or replaced.

20
21 9. A wireless provider ~~1~~ **1** ~~【is required to】~~ shall¹ notify the authority
22 at least 30 days before the abandonment of a small wireless facility.
23 Following receipt of the notice, the authority shall direct the wireless
24 provider to remove all or any portion of the small wireless facility and
25 associated antenna equipment that the authority determines would be
26 in the best interest of the¹ public ~~1~~ **1** ~~【safety】~~¹. If the wireless provider
27 fails to remove the abandoned small wireless facility within 90 days
28 after the notice, the authority may undertake to remove the small
29 wireless facility and recover the actual and reasonable expenses of the
30 removal from the wireless provider, its successors, or assigns.

31
32 10. Except as provided in P.L. , c. (C.) (pending before
33 the Legislature as this bill), an authority may not prohibit, regulate,
34 or charge for the collocation, mounting, or installation of a small
35 wireless facility on a new, modified, or replacement pole, or the
36 installation, modification, or replacement of an associated pole or
37 antenna equipment that may be permitted in P.L. , c. (C.)
38 (pending before the Legislature as this bill).

39
40 11. a. An authority may require an applicant to obtain a permit
41 for:

42 (1) the collocation of a small wireless facility not subject to the
43 provisions of P.L.2011, c.199 (C.40:55D-46.2);

44 (2) the¹ mounting or installation of a small wireless facility on a
45 new, modified, or replacement pole; or

1 (3) the installation, modification, or replacement of ¹an
2 associated] a¹ pole or antenna equipment as provided in section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4 Each permit issued pursuant to this section shall be of general
5 applicability and shall not apply exclusively to a small wireless
6 facility. Only one application shall be required for all activities
7 associated with a permit issued pursuant to this section.

8 b. An authority shall receive and process applications subject to
9 the following requirements:

10 (1) small wireless facilities shall be classified as permitted uses
11 and not subject to zoning review or approval if they are located in the
12 right-of-way in any zone;

13 (2) an authority may not directly or indirectly require an applicant
14 to perform services or provide goods unrelated to the permit, such as
15 in-kind contributions to the authority including, but not limited to,
16 reserving fiber, conduit, or pole space for the authority;

17 (3) an applicant shall not be required to provide additional
18 information to obtain a permit than communications service providers
19 that are not wireless providers, provided that an applicant may be
20 required to include construction and engineering drawings and
21 information demonstrating compliance with the criteria in paragraph
22 (9) of this subsection;

23 (4) an authority may not require:

24 (a) the collocation, mounting, or installation of a small wireless
25 facility on any specific pole or category of poles or require multiple
26 antenna facilities on a single pole;

27 (b) the use of specific pole types or configurations when installing
28 a new or replacement pole; or

29 (c) the underground placement of a small wireless facility or
30 antenna equipment that is or are designated in an application to be
31 pole-mounted or ground-mounted ¹, provided that an authority may:

32 (i) require, pursuant to section 6 of P.L. , c. (C.) (pending
33 before the Legislature as this bill), that a wireless provider place
34 underground fiber that is part of a small wireless facility and not in or
35 on a pole; or

36 (ii) prohibit, pursuant to section 6 of P.L. , c. (C.) (pending
37 before the Legislature as this bill), ground-mounted antenna
38 equipment¹;

39 (5) ¹subject to the provisions of subparagraph (d) of paragraph (9)
40 of subsection b. of this section,¹ an authority may not limit the
41 collocation of a small wireless facility or the mounting or installation
42 of a small wireless facility on a new ¹[, modified,]¹ or replacement
43 pole by minimum horizontal separation distance requirements from an
44 existing small wireless facility ¹[or structure]¹;

45 (6) the authority may require an applicant to include an attestation
46 that the small wireless facility ¹[will] shall¹ be operational for use by
47 a wireless service provider within one year after the permit issuance

1 date, unless the authority and the applicant agree to extend this period
2 or a delay is caused by lack of commercial power, communications
3 **1** **transport** **1** facilities to the site, or any other factors outside of the
4 applicant's control;

5 (7) within **1** **ten** **10** days of receiving an application, an authority
6 shall determine and notify the applicant in writing whether the
7 application is complete. If an application is incomplete, an authority
8 shall specifically identify the missing information in writing. The
9 processing deadline provided in paragraph (8) of this subsection shall
10 restart on the date the applicant provides the missing information to
11 complete the application;

12 (8) an authority shall process an application in a non-
13 discriminatory manner and the application shall be deemed approved if
14 the authority fails to approve or deny the application within:

15 (a) 60 days of receipt of an application for a permit involving
16 collocation of a small wireless facility using an existing structure; and

17 (b) 90 days for an application for a permit involving deployment of
18 a small wireless facility using a new or replacement pole.

19 **1** If an authority provides written notification to the applicant within
20 10 days of receiving an application certifying that it is experiencing an
21 unusually high overall level of permitting activity or other
22 circumstances beyond the authority's control that prevents the
23 authority from reviewing and processing the application by the
24 deadline, the processing deadline may be extended automatically for
25 up to 30 days.¹

26 The processing deadline may be tolled by agreement of the
27 applicant and the authority;

28 (9) an authority may deny the application for collocation,
29 mounting, or installation of a small wireless facility on a new or
30 replacement pole, or the installation or replacement of an associated
31 pole or antenna equipment that meets the requirements in section 4 of
32 P.L. , c. (C.) (pending before the Legislature as this bill), if
33 the authority finds that the proposed work:

34 (a) **1** **materially** **1** interferes with the safe operation of traffic
35 control equipment;

36 (b) **1** **materially** **1** interferes with sight lines or clear zones for
37 transportation or pedestrians;

38 (c) **1** **materially** **1** interferes with compliance with the federal
39 "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.),
40 or similar federal or State standards regarding pedestrian access or
41 movement;

42 (d) fails to comply with reasonable and non-discriminatory
43 horizontal spacing requirements of general application adopted by
44 ordinance that concern the location of ground-mounted antenna
45 equipment and new poles and which shall not prevent a wireless
46 provider from serving any location;

1 (e) ¹designates the location of a new pole for the purpose of
2 mounting or installing a small wireless facility within seven feet in any
3 direction of an electrical conductor, unless the wireless provider
4 obtains the written consent of the public utility that owns or manages
5 the electrical conductor;

6 (f) ¹ fails to comply with applicable codes; or

7 ¹(g) (f) ¹ fails to comply with sections 4, 5, or 6 of P.L. , c.
8 (C.) (pending before the Legislature as this bill);

9 (10) the authority shall document the basis for an application
10 denial, including the specific code, rule, or statutory provisions on
11 which the denial was based, and send the documentation to the
12 applicant on or before the day the authority denies an application. The
13 applicant may cure the deficiencies identified by the authority and
14 resubmit the application within 30 days of the denial without paying
15 an additional application fee. The authority shall approve or deny the
16 revised application within 30 days of resubmission and limit its review
17 to the deficiencies cited in the denial;

18 (11) an applicant seeking to collocate, mount, or install more than
19 one small wireless facility within the jurisdiction of a single authority
20 may file a consolidated application for small wireless facilities and
21 associated poles and antenna equipment and receive a single permit for
22 the collocation, mounting, or installation of ¹multiple up to 25¹
23 small wireless facilities and the placement of associated poles and
24 antenna equipment ¹;;¹ provided ¹[, however,] that all small
25 wireless facilities within the consolidated application are substantially
26 the same type and proposed for collocation on substantially the same
27 types of structures;

28 (12) an applicant shall not file within a 60-day period, three
29 consolidated applications; or multiple applications that collectively
30 seek permits for a combined total of more than 75 small wireless
31 facilities and associated poles and antenna equipment;

32 (13)¹ the denial of one or more small wireless facilities in a
33 consolidated application shall not delay processing of any other small
34 wireless facilities, poles, or antenna equipment in the same
35 consolidated application. A consolidated application shall be
36 collectively processed in accordance with the procedures in this
37 section. A consolidated application that includes a new or replacement
38 pole deployment shall be subject to a 90-day timeframe for approval;

39 ¹(12) (14)¹ installations, mountings, modifications,
40 replacements, and collocations for which a permit is granted pursuant
41 to this section shall be completed by the applicant within one year after
42 the permit issuance date unless the authority and the applicant agree to
43 extend this period, or a delay is caused by the lack of commercial
44 power or communications facilities at the site ¹.;¹

45 ¹(13) (15)¹ approval of an application authorizes the applicant
46 to:

1 (a) undertake the installation, modification, replacement or
2 collocation of the approved small wireless facility and any associated
3 pole and antenna equipment; and

4 (b) subject to applicable relocation requirements and the
5 applicant's right to terminate at any time, operate and maintain the
6 small wireless facility and any associated pole and antenna equipment
7 covered by the permit for a period of not less than 10 years, which
8 must be renewed for equivalent durations so long as the facilities
9 comply with the criteria set forth in paragraph (9) of this subsection;

10 ¹~~[(13)]~~ (16)¹ an authority may not institute, either expressly or de
11 facto, a moratorium on:

12 (a) filing, receiving, or processing applications; or

13 (b) issuing permits or other required approvals, if any, for the
14 collocation, mounting, or installing of a small wireless facility or the
15 installation, modification, or replacement of associated antenna
16 equipment or poles.

17 ¹If the State or another authority has declared an emergency and
18 the State or another authority institutes a temporary moratorium that is
19 generally applicable and competitively neutral, is necessary to address
20 the emergency, disaster, or related public safety needs within the
21 authority's jurisdiction, is targeted to those geographic areas that are
22 affected by the disaster or emergency, and applies only for the duration
23 of declaration of emergency, then the provisions of subparagraphs (a)
24 and (b) of this paragraph shall not apply.¹

25 c. An authority shall not require an application for:

26 (1) routine maintenance;

27 (2) the replacement of a small wireless facility or antenna
28 equipment ¹~~[with a]~~ . provided the replacement¹ small wireless
29 facility or antenna equipment ¹~~[that]~~¹ is substantially similar ¹~~to~~¹ or
30 the same size ¹~~as~~¹ or smaller ¹~~[as the replacement]~~ than the original
31 small wireless facility or antenna equipment and continues to meet all
32 other requirements of the original permit¹; or

33 (3) the installation, placement, maintenance, operation, or
34 replacement of a micro wireless facility that is suspended on cables
35 that are strung between existing poles, in compliance with the
36 applicable codes.

37 An authority may require a permit for work pursuant to subsection
38 a. of this section that requires excavation or closure of sidewalks or
39 vehicular lanes within the right-of-way and the permit shall be issued
40 to the applicant on a non-discriminatory basis upon terms and
41 conditions applied to any other person's activities in the right-of-way
42 that require excavation, closing of sidewalks, or vehicular lanes.

43
44 12. A person owning, managing, or controlling an authority pole
45 in the right-of-way may not enter into an exclusive arrangement
46 with any person for the right to attach to the pole. A person who
47 purchases or otherwise acquires an authority pole is subject to the

1 requirements of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3
4 13. An authority shall allow the collocation of a small wireless
5 facility and the installation of associated antenna equipment on an
6 existing authority pole, ¹and¹ the mounting or installation of a small
7 wireless facility and the installation of associated antenna equipment
8 on a replacement authority ¹[poles] pole,¹ on non-discriminatory
9 terms and conditions using the standards in section 5 of P.L. , c.
10 (C.) (pending before the Legislature as this bill) and the
11 application requirements in section 11 of P.L. , c. (C.)
12 (pending before the Legislature as this bill).

13
14 14. a. The rates, fees, and terms and conditions for any make-
15 ready work to collocate, mount, or install a small wireless facility
16 on an authority pole and to install associated antenna equipment
17 shall be non-discriminatory, competitively neutral, commercially
18 reasonable, and shall comply with P.L. , c. (C.) (pending
19 before the Legislature as this bill).

20 b. The authority shall provide a good faith estimate for any
21 make-ready work necessary to enable the authority pole to support
22 the requested collocation, mounting, or installation by a wireless
23 provider, including authority pole replacement if necessary, within
24 60 days after receipt of a complete application. Make-ready work
25 including any authority pole replacement shall be completed within
26 60 days of written acceptance of the good faith estimate by the
27 applicant. An authority may require replacement of the authority
28 pole only if it demonstrates that the collocation would make the
29 authority pole structurally unsound.

30 c. The person owning, managing, or controlling the authority
31 pole shall not require more make-ready work than required to meet
32 applicable codes or industry standards. Fees for make-ready work
33 shall not include costs related to pre-existing or prior damage or
34 noncompliance. Fees for make-ready work, including any pole
35 replacement, shall not exceed either actual costs or the amount
36 charged to other communications service providers for similar work
37 and shall not include any revenue or contingency-based consultant's
38 fees or expenses.

39
40 15. a. All rates and fees established pursuant to subsection b. of
41 this section shall be a reasonable approximation of the authority's
42 reasonable costs, and shall be applied by the authority in a non-
43 discriminatory manner. An authority may not require a wireless
44 provider to pay any rates, fees, or compensation to the authority or
45 other person other than what is expressly authorized by
46 P.L. , c. (C.) (pending before the Legislature as this bill) for
47 the right to use or occupy the right-of-way for the collocation,
48 mounting, or installation of a small wireless facility on a pole in the

1 right-of-way, or for the installation, maintenance, modification, or
2 replacement of associated antenna equipment or a pole in the right-of-
3 way.

4 b. Application fees for any permit issued pursuant to P.L. , c.
5 (C.) (pending before the Legislature as this bill) shall not exceed:

6 (1) \$500 for a single up-front application for collocation of a small
7 wireless facility that includes up to five small wireless facilities, with
8 an additional \$100 for each small wireless facility included in the same
9 application thereafter;

10 (2) \$250 for the modification or replacement of an existing pole,
11 together with the mounting or installation of an associated small
12 wireless facility in the right-of-way; ¹and¹

13 (3) \$1,000 for the installation of a new pole, together with the
14 mounting or installation of an associated small wireless facility in the
15 right of way ¹]; and

16 (4) subject to subsection a. of this section, if].

17 c. Notwithstanding the provisions of any law, rule, regulation, or
18 order to the contrary,¹ an authority ¹[elects] may elect¹ to charge for
19 use of the right-of-way or the collocation of a small wireless facility on
20 an authority pole in the right-of-way, ¹provided, however, that¹ the
21 rate ¹for that use¹ shall not exceed ¹[\$20] \$200¹ per small wireless
22 facility per year for right-of-way access and ¹[\$100] \$70¹ per
23 authority pole per year for a small wireless facility collocated,
24 mounted, or installed on an authority pole. The rates established
25 pursuant to this paragraph, together with a one-time application fee,
26 shall be the total compensation that the wireless provider is required to
27 pay the authority for the deployment of each small wireless facility in
28 the right-of-way and any associated antenna equipment or pole.

29
30 16. a. An authority shall not have or exercise any jurisdiction
31 or authority over the design, engineering, construction, installation,
32 or operation of a small wireless facility located in an interior
33 structure or upon the site of a campus, stadium, or athletic facility
34 not owned or controlled by the authority, other than to require
35 compliance with applicable codes.

36 b. Except as it relates to small wireless facilities subject to the
37 permit and fee requirements established pursuant to
38 P.L. , c. (C.) (pending before the Legislature as this bill) or
39 otherwise specifically authorized by State or federal law, an
40 authority shall not adopt or enforce any regulations or requirements
41 on the placement or operation of communications facilities in the
42 right-of-way by a communications service provider authorized by
43 federal, State, or local law to operate in a right-of-way, regulate any
44 communications services, or impose or collect any tax, fee, rate, or
45 charge for the provision of additional communications service over
46 the communications service provider's communications facilities in
47 a right-of-way.

1 17. a. An authority may adopt an ordinance that makes available
2 to wireless providers rates, fees, and other terms and conditions that
3 comply with P.L. , c. (C.) (pending before the Legislature as
4 this bill). ¹**【Pursuant to the provisions of this section, in】** In¹ the
5 absence of an ordinance ¹**【that fully complies with**
6 P.L. , c. (C.) (pending before the Legislature as this bill) and
7 until a compliant ordinance is adopted¹, a wireless provider may
8 install and operate a small wireless facility and any associated poles
9 and antenna equipment under the requirements of P.L. , c.
10 (C.) (pending before the Legislature as this bill). An authority
11 may not require a wireless provider to enter into an agreement to
12 implement P.L. , c. (C.) (pending before the Legislature as
13 this bill), but agreements are permissible if voluntary and non-
14 discriminatory.

15 b. An ordinance or agreement ¹or any provision thereof¹ that does
16 not ¹**【fully】**¹ comply with P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall apply only to small wireless facilities and
18 any associated poles and antenna equipment that were operational
19 before the effective date of P.L. , c. (C.) (pending before the
20 Legislature as this bill) and shall be deemed invalid and unenforceable
21 beginning on the 181st day after the effective date of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 unless amended to ¹**【fully】**¹ comply with P.L. , c. (C.)
24 (pending before the Legislature as this bill). If an ordinance or
25 agreement ¹or any provision thereof¹ is invalid pursuant to this
26 subsection, small wireless facilities and associated poles and antenna
27 equipment that became operational before the effective date of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), pursuant to
29 the ordinance or agreement, may remain installed and be operated
30 under the requirements of ¹the remaining valid portions of the
31 ordinance or agreement or¹ P.L. , c. (C.) (pending before the
32 Legislature as this bill) ¹, as applicable¹.

33 c. ¹**【An】** Any provision of an¹ agreement or ordinance that
34 applies to small wireless facilities and associated poles and antenna
35 equipment that becomes operational on or after the effective date of
36 P.L. , c. (C.) (pending before the Legislature as this bill) is
37 invalid and unenforceable unless it ¹**【fully】**¹ complies with P.L. , c.
38 (C.) (pending before the Legislature as this bill). In the absence of
39 an ordinance or agreement that ¹**【fully】**¹ complies with P.L. , c.
40 (C.) (pending before the Legislature as this bill), a wireless
41 provider may install and operate a small wireless facility and
42 associated poles and antenna equipment in a right-of-way pursuant to
43 the requirements of ¹the remaining valid portions of the ordinance or
44 agreement or¹ P.L. , c. (C.) (pending before the Legislature as
45 this bill) ¹, as applicable¹.

1 18. a. An authority may adopt reasonable indemnification,
2 insurance, and bonding requirements related to a small wireless
3 facility and associated pole permits and antenna equipment pursuant
4 to the requirements of this section and section 6 of P.L. , c.
5 (C.) (pending before the Legislature as this bill).

6 b. ¹ [An authority shall not require a wireless provider to
7 indemnify and hold the authority and its officers and employees
8 harmless against any claims, lawsuits, judgments, costs, liens,
9 losses, expenses, or fees, except when a court of competent
10 jurisdiction has found that the negligence of the wireless provider
11 while installing, repairing, or maintaining a small wireless facility
12 or associated poles and antenna equipment caused the harm that
13 created the claims, lawsuits, judgments, costs, liens, losses,
14 expenses, or fees] ² [A] Any² wireless provider that owns or
15 operates small wireless facilities or ² [public]² utility poles in the
16 right-of-way shall indemnify, protect, defend, and hold the
17 authority and its elected officials, officers, employees, agents, and
18 volunteers harmless against any and all claims, lawsuits, judgments,
19 costs, liens, losses, expenses, fees including reasonable attorney
20 fees and costs of defense, proceedings, actions, demands, causes of
21 action, liability, and suits of any kind and nature, including, but not
22 limited to, personal or bodily injury or death, property damage or
23 other harm for which recovery of damages is sought, to the extent
24 that it is caused by the negligence of the wireless provider who
25 owns or operates small wireless facilities or ² [public]² utility poles
26 in the right-of-way, any agent, officer, director, representative,
27 employee, affiliate, or subcontractor of the wireless provider, or
28 their respective officers, agents, employees, directors, or
29 representatives while installing, repairing, operating, or maintaining
30 facilities in rights-of-way¹.

31 c. ¹ [An authority may require a wireless provider to have in
32 effect insurance coverage consistent with this section, so long as the
33 authority imposes similar requirements on other right-of-way users
34 and the requirements are reasonable and non-discriminatory.

35 (1) An authority may not require a wireless provider to obtain
36 insurance naming the authority or its officers and employees an
37 additional insured.

38 (2) An authority may require a wireless provider to furnish
39 proof of insurance, if required, prior to the effective date of any
40 permit issued for a small wireless facility work] Except for a
41 wireless provider with an existing agreement to occupy and operate
42 in the rights-of-way, during the period in which the wireless
43 provider's facilities are located on the ² [authority's] authority²
44 improvements or rights-of-way, the authority may require the
45 wireless provider to carry, at the wireless provider's own cost and
46 expense, the following insurance:

1 (a) property insurance for its property's replacement cost
2 against all risks;

3 (b) workers' compensation insurance, as required by law; or

4 (c) commercial general liability insurance with respect to its
5 activities on the authority improvements or rights-of-way to afford
6 minimum protection limits consistent with its requirements of other
7 users of authority improvements or rights-of-way, including
8 coverage for bodily injury and property damage. An authority may
9 require a wireless provider to include the authority as an additional
10 insured on the commercial general liability policy and provide
11 certification and documentation of inclusion of the authority in a
12 commercial general liability policy as reasonably required by the
13 authority.

14 A wireless provider may self-insure all or a portion of the
15 insurance coverage and limit requirements required by an authority.
16 A wireless provider that self-insures is not required, to the extent of
17 the self-insurance, to comply with the requirement for the naming
18 of additional insureds under this section. A wireless provider that
19 elects to self-insure shall provide to the authority evidence
20 sufficient to demonstrate its financial ability to self-insure the
21 insurance coverage and limits required by the authority¹.

22 d. ¹【An authority may adopt bonding requirements for small
23 wireless facilities if the authority imposes similar requirements in
24 connection with permits issued for other right-of-way users.

25 (1) The purpose of the bonds shall be to:

26 (a) provide for the removal of abandoned or improperly
27 maintained small wireless facilities, including those that an
28 authority determines need to be removed to protect public health,
29 safety, or welfare;

30 (b) restoration of the right-of-way in connection with removals
31 as provided for in P.L. , c. (C.) (pending before the
32 Legislature as this bill); or

33 (c) recoup rates or fees that have not been paid by a wireless
34 provider in over 12 months, so long as the wireless provider has
35 received reasonable notice from the authority of any non-
36 compliance pursuant to P.L. , c. (C.) (pending before the
37 Legislature as this bill) and given a reasonable opportunity to cure.

38 (2) Bonding requirements may not exceed \$200 per small
39 wireless facility. For wireless providers with multiple small
40 wireless facilities within the jurisdiction of a single authority, the
41 total bond amount across all facilities may not exceed \$10,000,
42 which may be combined into one bond instrument】 An authority
43 may impose reasonable and non-discriminatory requirements for
44 bonds, escrow deposits, letters of credit, or any other type of
45 financial surety to ensure removal of abandoned or unused wireless
46 facilities or damage to the right-of-way or authority property caused
47 by the wireless provider or its agent¹.

1 19. a. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall be construed to allow any person or
3 entity to provide cable services regulated pursuant to 47 U.S.C.
4 s.521 through 47 U.S.C. s.573 without compliance with all laws
5 applicable to those cable operators, nor shall it be interpreted to
6 impose any new requirements on cable operators for the provision
7 of cable service in this State.

8 b. Nothing in P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be construed to allow any entity to
10 provide communications services without compliance with all laws
11 applicable to communications service providers, nor shall it be
12 construed to authorize the collocation, installation, placement,
13 maintenance, or operation of any communications facility,
14 including a wireline backhaul facility, in the right-of-way, other
15 than a small wireless facility.

16 c. Nothing in P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall authorize the State or any political
18 subdivision thereof, including an authority, to require small wireless
19 facility deployment or to regulate wireless service.

20 d. Nothing in P.L. , c. (C.) (pending before the
21 Legislature as this bill) shall ¹【apply to poles owned by an investor-
22 owned public utility, except as it concerns a wireless provider's
23 access to a right-of-way and permits for the collocation, mounting,
24 or installation of a small wireless facility on investor-owned public
25 utility poles pursuant to a pole attachment agreement between the
26 wireless provider and the investor-owned public utility】 authorize a
27 person to collocate a small wireless facility on property owned by a
28 public utility without consent of the public utility nor be construed
29 to impact, modify, or supersede any construction standard,
30 engineering practice, tariff provision, collective bargaining
31 agreement, contractual obligation or right, or federal or State law or
32 regulation relating to facilities or equipment owned or controlled by
33 a public utility or its affiliate, an electric cooperative, or an
34 independent electric transmission company, that is not a wireless
35 provider^{1 2}, nor shall P.L. , c. (C.) (pending before the
36 Legislature as this bill) be construed to apply to a public utility's
37 use of its own poles, facilities, or both for communications
38 associated with its public utility operations².

39
40 20. A court of competent jurisdiction shall have jurisdiction to
41 determine disputes arising pursuant to P.L. , c. (C.)
42 (pending before the Legislature as this bill). Pending resolution of a
43 dispute concerning rates for collocation, mounting, and installation
44 of small wireless facilities on authority poles in the right-of-way
45 and the installation of associated antenna equipment, the authority
46 owning or controlling the pole shall allow the collocating person or
47 entity to collocate at annual rates established pursuant to section 15
48 of P.L. , c. (C.) (pending before the Legislature as this

1 bill), with rates to be reconciled upon final resolution of the dispute.
2 A dispute shall be pursued in accordance with accelerated docket or
3 complaint procedures, where available.

4

5 21. This act shall take effect on the first day of the seventh
6 month next following enactment.



April 18, 2023

The Honorable Cathy McMorris Rodgers
Chairman
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
House Energy & Commerce Committee
2123 Rayburn House Office Building
Washington, DC 20515

The Honorable Bob Latta
Chairman
Subcommittee on Telecommunications
& Technology
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Doris Matsui
Ranking Member
Subcommittee on Telecommunications &
& Technology
House Energy & Commerce Committee
2123 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Rodgers, Ranking Member Pallone, Chairman Latta, and Ranking Member Matsui:

On behalf of the American Public Power Association (APPA), National Rural Electric Cooperative Association (NRECA), and Utilities Technology Council (UTC), we write to express our opposition to the draft proposal being discussed by the committee, titled the "Fair Access to Internet Ready Poles (FAIR Poles) Act." APPA, NRECA, and UTC believe that this proposal is a thinly veiled attempt to have not-for-profit electric utilities subsidize for-profit entities' infrastructure.

APPA is the national trade organization representing the interests of the nation's 2,000 not-for-profit, community-owned electric utilities. Public power utilities are located in every state except Hawaii. They collectively serve over 49 million people. Public power utilities are load-serving entities, with the primary goal of providing the communities they serve with safe, reliable electric service at the lowest reasonable cost, consistent with good environmental stewardship.

NRECA is the national trade association representing nearly 900 local electric cooperatives and other rural electric utilities. America's not-for-profit electric cooperatives are owned by the people that they serve and comprise a unique sector of the electric industry. From growing regions to remote farming communities, electric cooperatives power 1 in 8 Americans and serve as engines of economic development for 42 million Americans across 56 percent of the nation's landscape.

UTC is the international trade association for the telecommunications and information technology interests of electric, gas, and water utilities and other critical infrastructure industries. UTC's members own, maintain, and operate extensive communications systems that they use to support the safe, reliable, and secure delivery of essential energy and water services. UTC advocates for policies to promote utilities' communications systems and protect utility critical infrastructure.

This draft proposal would amend section 224 of the Communications Act to provide that the current exemption public power utilities and electric cooperatives have from Federal Communications Commission (FCC) jurisdiction over pole attachments would not apply to entities that receive certain federal broadband assistance. The narrative for offering this proposal is that broadband attachers are

having difficulty spending federal broadband funding they have recently received because attachment rates are making deployment costs too high or that utilities are making access to poles too difficult by requiring recovery of pole replacement costs. These assertions are false and essentially imply that not-for-profit electric utilities are making it difficult for their communities to receive broadband service. That premise couldn't be further from the truth given such not-for-profit utilities are owned by their customers and want them to have essential broadband services.

Congress first addressed pole attachments in the Pole Attachment Act of 1978, which added section 224 to the Communications Act, to require the FCC to establish subsidized rates for pole attachments for the then-new cable industry. Under the law, public power utilities and rural electric cooperatives were exempted from this requirement "because the pole attachment rates charged by municipally owned and cooperative utilities [were] already subject to a decision-making process based upon constituent needs and interests." This exemption continued through multiple telecommunications law reform efforts, including the enactment of the Telecommunications Act of 1996, because Congress maintained that the existing process is appropriate and adequate.

Public power utilities and electric cooperatives were created to serve communities that were hard to reach, impoverished, or were too expensive to be served by for-profit entities with reliable electric service. That same dynamic exists now in broadband deployment for our communities. The economics of deploying broadband infrastructure in rural areas with low population densities and difficult terrain is cost-intensive and presents little opportunity for return on investment. APPA, NRECA, and UTC strongly support the goals of ensuring every American has access to broadband service. However, this legislation would ask not-for-profit electric utilities and their customers to subsidize for-profit companies' infrastructure build-out.

Electric utilities must balance their own need to maintain and operate their utility systems in a safe, reliable, and affordable manner while also addressing the often-competing needs of a variety of attaching communications entities. Congress has repeatedly recognized that federal pole attachment regulation is unnecessary for public power and electric cooperative pole owners because they are owned by their customers, the same customers that would benefit from communications services provided over the facilities attached to their poles. Not-for-profit electric utilities have every incentive to apportion the costs of constructing and maintaining the pole attachments in an equitable manner among attaching entities.

This legislative proposal is nothing more than an effort to weaken or eliminate the exemption in section 224 of the Communications Act. Modifying or eliminating the exemption will not result in any significant increases in broadband deployment, adoption, and use. Instead, it will merely result in not-for-profit electric utility customers subsidizing for-profit telecommunications and cable companies.

Thus, APPA, NRECA, and UTC oppose this draft legislation, which would weaken or eliminate the exemption in section 224 for consumer-owned poles.

Thank you for your time and consideration.

Sincerely,



Desmarie Waterhouse
Senior Vice President of Advocacy and
Communications & General Counsel
American Public Power Association



Louis Finkel
Senior Vice President of Government
Relations
National Rural Electric Cooperative
Association



Brett Killbourne
Senior Vice President Policy & General
Counsel
Utilities Technology Council

The Honorable Cathy McMorris Rodgers

Chairman
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Bob Latta

Chairman
Subcommittee on Telecommunications
& Technology
House Energy & Commerce Committee
2125 Rayburn House Office Building
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The Honorable Frank Pallone

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2123 Rayburn House Office Building
Washington, DC 20515

The Honorable Doris Matsui

Ranking Member
Subcommittee on Telecommunications
& Technology
House Energy & Commerce Committee
2123 Rayburn House Office Building
Washington, DC 20515

April 19, 2023

Dear Chairman Rodgers, Ranking Member Pallone, Chairman Latta, and Ranking Member Matsui:

As you may know, Connect the Future (CTF) works closely with a wide range of rural leaders in communications, small business, tele-medicine, precision agriculture, distance learning, and other fields to drive progress on broadband deployment and access. We appreciate the ongoing work by members of the Energy & Commerce Committee to address obstacles – such as limitations on access to utility poles – that [stand in the way of swift broadband deployment](#) to communities that remain unserved.

Unfortunately, some utility pole owners have sought to defend the status quo by mischaracterizing efforts to address pole-related barriers as an unfair subsidy for rural broadband projects. That premise could not be further from the truth. In reality, the outdated process of adding new broadband infrastructure to existing poles is creating needless hurdles that drive up [costs](#) and [impede broadband deployment](#) to the communities that need it most.

While some pole owners are great partners that want to accelerate broadband construction to their communities, others impose unnecessary delays and costs into the process used to attach broadband lines to poles. This behavior undermines predictability, slows progress, and can allow one party to use its monopoly on pole ownership to thwart competition. It also can lead to disputes that further slow and shift resources away from deploying broadband, or even derail projects entirely (See: [Fights Over Rural America's Phone Poles Slow Internet Rollout](#), *Wall Street Journal*, March 12, 2023).

While the Federal Communications Commission (FCC) has authority to guarantee predictable access to poles as it relates to investor-owned utilities, the same standards do not apply to municipalities and cooperatives, who control access to many rural poles.

That is why we support the Committee's [consideration of solutions](#), including the Fair Access to Internet Ready Poles (FAIR Poles) Act, that would help to standardize permitting timelines, and accelerate the resolution of pole attachment disputes to speed broadband deployment and focus government funding on building broadband networks.

Again, thank you for your time and attention on this important issue. CTF looks forward to following your efforts, and we stand ready to serve as a resource as you continue the important work of expanding rural broadband access and bridging our nation's digital divide.

Sincerely,

A handwritten signature in cursive script that reads "Zachary Cikaneck". The signature is written in a dark brown or black ink on a white background.

Zach Cikaneck, Connect the Future



THE UNITED STATES
CONFERENCE OF MAYORS



April 19, 2023

The Honorable Bob Latta
Chairman, Communications and Technology Subcommittee
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Latta, Vice Chairman Carter, and Ranking Member Matsui:

On behalf of the nation's counties, cities, towns and villages, the National League of Cities, United States Conference of Mayors, National Association of Counties and the National Association of Telecommunications Officers and Advisors thank the Committee for its attention to the matter of removing barriers to broadband deployment. As the national associations representing elected and appointed local government officials, we appreciate the opportunity to provide input on this important topic.

As our federal agencies embark on the most ambitious one-time federal investment ever made in broadband infrastructure and adoption through the programs created by COVID relief programs and the Bipartisan Infrastructure Law, it is critical that we ensure the value of these funds is maximized.

Local leaders are eager to partner with state and federal agencies to realize our shared goal of affordable, high-quality broadband access for every household, community anchor, and business. We are committed to assisting Congress in the successful deployment of broadband infrastructure and services throughout this nation, and we stand willing to provide its assistance and support as a resource in this regard.

Local governments have been partners with both the wireline and wireless industries in local infrastructure deployment successfully through decades of evolving technical deployments. We continue to be the industries' partner in bringing about such deployments. Congress need not act in this area, and certainly not before local government is given the opportunity to show why such actions are both unnecessary and unconstitutional.

We support legislation to remove barriers to local investment in broadband infrastructure, such as the Community Broadband Act (H.R. 2552). Residents in every state deserve the opportunity to decide locally whether public investment in or ownership of broadband infrastructure is the right choice for their community. Having these options available ensures that federal, state, and local infrastructure investments promote consumer choice, competition, and innovation.

We also support efforts to appropriately speed infrastructure deployment on federal lands and minimize red tape for projects requiring federal permits, an issue that impacts rural communities and gateway communities to natural recreation areas in particular. We applaud ongoing and future efforts to promote interagency coordination and collaboration on program requirements and

application processes, which can help smaller, less-resourced communities apply for and successfully obtain federal funding and financing opportunities.

As the level of government closest to the people, we oppose heavy-handed federal overreach into local land use, permitting, and franchise negotiation decisions. Many of the bills the Subcommittee will consider during this hearing would preempt or undermine the property rights of local governments and local governments' police powers to protect and preserve the safety, well-being, and aesthetics of their communities, which Congress and the Constitution have long recognized. Congress has historically recognized these rights in Sections 224, 253 and 332 of the Telecommunications Act.

These authorities are critical to conduct responsible stewardship of public property, protect public safety, and preserve the rights of residents as consumers of broadband services and neighbors to the infrastructure that makes connectivity possible. We fear the unintended consequence of some of these bills will be to impose costs on local governments, burdens on our taxpayers, interference with public safety and otherwise harm local protections that are the heart of localism without substantively improving broadband deployment.

We look forward to partnering with the members of the Committee to eliminate the digital divide. The future social and economic success of our communities depends on our collective efforts.

Sincerely,



Clarence Anthony
CEO and Executive Director
National League of Cities



Tom Cochran
CEO and Executive Director
The United States Conference of Mayors



Matthew D. Chase
CEO/Executive Director
National Association of Counties



Tonya Rideout
Executive Director
The National Association of Telecommunications
Officers and Advisors

Cc: Members of the House Energy and Commerce Committee

If you have any questions, please contact:

The **National League of Cities (NLC)** is the voice of America's cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions. Contact: Angelina Panettieri, Legislative Director for Information Technology and Communications, at 202-626-3196 or panettieri@nlc.org.

The **National Association of Counties (NACo)** provides essential services to the nation's 3,069 counties, serving nearly 40,000 county elected officials and 3.6 million county employees. Since 1935, NACo unites county officials to advocate county priorities in federal policymaking and optimize county and taxpayer resources and cost savings while promoting exemplary county policies and practices. Contact: Seamus Dowdall, Assoc. Legislative Director, Telecommunications & Technology at 202-942-4212 or sdowdall@naco.org.

The **United States Conference of Mayors (USCM)** is the official nonpartisan organization of cities with populations of 30,000 or more. There are 1,400 such cities in the country today. Each city is represented in the Conference by its chief elected official, the mayor. The Conference's Task Forces examine and act on issues that demand special attention such as civic innovation, exports, hunger and homelessness, and brownfields, transportation and technology. Contact: David W. Burns, Assistant Executive Director, at 202-861-6765 or dburns@usmayors.org.

The **National Association of Telecommunications Officers and Advisors' (NATOA)** 400 members are local government staff and their advisors offering a wealth of experience and expertise on public rights-of-way management telecom work and communications issues on behalf of local government related to broadband, wireless, cable television, public, educational, and government (PEG) access, public safety communications, consumer protection and PROW management. Contact: Mike Lynch, Legislative Affairs Director, 703-519-8035, x202 or MLynch@NATOA.org.



THE COMMUNICATIONS INFRASTRUCTURE
CONTRACTORS ASSOCIATION

April 14, 2023

Honorable Lizzie Fletcher
Member of Congress
346 Cannon House Office Building
Washington, DC 20515

Dear Congresswoman Fletcher:

On behalf of NATE: The Communications Infrastructure Contractors Association, we are writing to commend you for introducing H.R. 1241, the “Broadband Incentives for Communities Act”. NATE is pleased to support this legislation.

NATE is a non-profit trade association dedicated to providing a unified voice for companies in the diverse tower and communications infrastructure industries. Today the Association represents over 1,145 member companies that construct, service, or maintain hundreds of thousands of communications towers and next generation wireless and broadband networks throughout the United States. NATE represents over 139 member companies in the state of Texas, including locations in the 7th District, which employ skilled workers and communications professionals and support the vital communications and public safety needs throughout their communities.

NATE member contractors cannot build or deploy until they get the green light, and the “Broadband Incentives for Communities Act” would play a vital role in expediting the review and approval of zoning or permitting applications that facilitate the deployment of broadband infrastructure. Through an NTIA established grant program, local and tribal governments would be provided more resources and technology to facilitate the processing of applications more efficiently.

NATE encourages members of the House Energy & Commerce Committee to support the “Broadband Incentives for Communities Act” to move this needed legislation forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Schlekeway".

Todd Schlekeway
NATE President & CEO



www.natehome.com

INCOMPAS CEO Chip Pickering released the following statement in support of Congresswoman Lizzie Fletcher's Broadband Incentives for Communities Act.

We live in a world where people are more reliant on connectivity than ever before. The internet allows you to get a checkup from the doctor in the comfort of your living room, enables students to learn and get an education at the click of a button, allows small businesses to sell their goods across the globe, and so much more. The possibilities are endless. Connectivity is no longer a luxury, it is a necessity.

With the historic infusion of resources to connect America, it is critical that Congress passes common sense solutions to ensure taxpayer dollars are used effectively and efficiently. Congresswoman Fletcher's bill is the type of legislation that we need to support local officials as they begin to deploy future-focused, competitive networks.

By providing the experts in the state broadband offices with the resources they need to build out their offices, they will be better equipped to facilitate and expedite the deployment process. This bill will not only maximize the impact of federal dollars, but it will also ensure Americans across the country have access to competitive, fast networks. INCOMPAS fully supports this critical piece of legislation and looks forward to continuing to work with Congress and state and local officials to streamline the deployment of broadband networks and bridge the digital divide.

About INCOMPAS

INCOMPAS, the internet and competitive networks association, is the leading trade group advocating for competition policy across all networks. INCOMPAS represents Internet, streaming, communications and technology companies large and small, advocating for laws and policies that promote competition, innovation and economic development. Learn more at

www.incompas.org or follow us on Twitter [@INCOMPAS](https://twitter.com/INCOMPAS) or [@ChipPickering](https://twitter.com/ChipPickering).

FOR IMMEDIATE RELEASE



CCA Statement on Congresswoman Fletcher’s Reintroduction of Legislation to Help Communities Expand Broadband Infrastructure

Washington, D.C., April 19, 2023 – Congresswoman Lizzie Fletcher (TX-07) has reintroduced H.R. 1241, the Broadband Incentives for Communities Act, which would create a grant program to provide local governments with the resources to facilitate, modernize, and streamline their permitting processes to promote broadband upgrades and deployment.

CCA President & CEO Tim Donovan released the below statement on the reintroduction of the act:

“I thank Congresswoman Lizzie Fletcher for her leadership and introducing the Broadband Incentives for Communities Act. Creating a program to help local officials increase their capacity to process applications for wireless deployments can go a long way to support bridging the digital divide and expanding and upgrading wireless networks. Moreover, with new broadband funding programs online or becoming available moving forward, it is important to make sure that permitting issues can be addressed in a timely manner. I commend the reintroduction of the Broadband Incentives for Communities Act and urge lawmakers to support efforts to improve the permitting process that lead to positive outcomes for local officials, industry, and ultimately consumers.”

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About Competitive Carriers Association

Competitive Carriers Association (CCA) is the leading association for competitive wireless providers and stakeholders across the United States. Members range from small, rural carriers serving fewer than 5,000 customers to regional and nationwide providers serving millions of customers, as well as vendors and suppliers that provide products and services throughout the wireless communications ecosystem. Visit CCA on the web at [ccamobile.org](https://www.ccamobile.org).

Media Contact

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Competitive Carriers Association
202-747-0745
dsump@ccamobile.org

OLD COPY <https://www.ccamobile.org/cca-statement-on-legislation-to-help-communities-expand-broadband-infrastructure>