

119TH CONGRESS
1ST SESSION

S. _____

To modernize and streamline the permitting process for broadband infrastructure on Federal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To modernize and streamline the permitting process for broadband infrastructure on Federal land, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Closing Long Overdue
5 Streamlining Encumbrances to Help Expediently Gen-
6 erate Approved Permits Act” or the “CLOSE THE GAP
7 Act”.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

1 (1) COMMUNICATIONS FACILITY.—The term
2 “communications facility” has the meaning given the
3 term in section 8705(a) of the Agriculture Improve-
4 ment Act of 2018 (43 U.S.C. 1761a(a)).

5 (2) COMMUNICATIONS SITE.—The term “com-
6 munications site” means an area of Federal land
7 available for communications use.

8 (3) COMMUNICATIONS USE.—The term “com-
9 munications use” has the meaning given the term in
10 section 8705(a) of the Agriculture Improvement Act
11 of 2018 (43 U.S.C. 1761a(a)).

12 (4) COMMUNICATIONS USE AUTHORIZATION.—
13 The term “communications use authorization”
14 means an easement, right-of-way, lease, license, or
15 other authorization granted by the Secretary con-
16 cerned to locate or modify a communications facility
17 on Federal land for the primary purpose of author-
18 izing the occupancy and use of the Federal land for
19 communications use.

20 (5) COST RECOVERY FEE.—The term “cost re-
21 covery fee” means any fee collected by a Federal
22 land management agency related to—

23 (A) an application for a communications
24 use authorization; or

1 (B) the occupancy and use authorized by a
2 communications use authorization pursuant to
3 and consistent with authorizing law.

4 (6) ELECTRONIC SF-299.—The term “electronic
5 SF-299” means a version of Standard Form 299, or
6 a substantially similar form, that has been digitally
7 modified for online interaction.

8 (7) FEDERAL LAND.—The term “Federal land”
9 means land under the jurisdiction and management
10 of a Federal land management agency.

11 (8) FEDERAL LAND MANAGEMENT AGENCY.—
12 The term “Federal land management agency”
13 means—

14 (A) the National Park Service;

15 (B) the Bureau of Land Management;

16 (C) the Bureau of Reclamation;

17 (D) the United States Fish and Wildlife
18 Service;

19 (E) the Bureau of Indian Affairs; and

20 (F) the Forest Service.

21 (9) ORGANIZATIONAL UNIT.—The term “orga-
22 nizational unit” means—

23 (A) with respect to Federal land adminis-
24 tered by the Secretary of the Interior—

25 (i) a State office;

1 (ii) a district office;

2 (iii) a field office; or

3 (iv) a regional office; and

4 (B) with respect to the Forest Service—

5 (i) a regional office;

6 (ii) the headquarters;

7 (iii) an administrative unit; or

8 (iv) a ranger district office.

9 (10) PREVIOUSLY ANALYZED FEDERAL
10 LAND.—The term “previously analyzed Federal
11 land” means any Federal land with respect to which
12 the Secretary concerned has—

13 (A) granted a communications use author-
14 ization; and

15 (B) conducted sufficient environmental or
16 historical reviews, as determined by the Sec-
17 retary concerned.

18 (11) SECRETARY CONCERNED.—The term
19 “Secretary concerned” means—

20 (A) the Secretary of the Interior, with re-
21 spect to Federal land under the jurisdiction and
22 management of the Secretary of the Interior,
23 acting through, as applicable—

24 (i) the Commissioner of Reclamation;

1 (ii) the Director of the National Park
2 Service;

3 (iii) the Director of the United States
4 Fish and Wildlife Service;

5 (iv) the Director of the Bureau of
6 Land Management; and

7 (v) the Director of the Bureau of In-
8 dian Affairs; and

9 (B) the Secretary of Agriculture, with re-
10 spect to National Forest System land, acting
11 through the Chief of the Forest Service.

12 (12) STANDARD FORM 299.—The term “Stand-
13 ard Form 299” means the form developed by the
14 Administrator of General Services under section
15 6409(b)(2)(A) of the Middle Class Tax Relief and
16 Job Creation Act of 2012 (47 U.S.C. 1455(b)(2)(A))
17 or any successor form.

18 **SEC. 3. TRACKING AND IMPROVING PROCESSING TIMES**

19 **FOR COMMUNICATIONS USE APPLICATIONS.**

20 Section 6409(b)(3) of the Middle Class Tax Relief
21 and Job Creation Act of 2012 (47 U.S.C. 1455(b)(3)) is
22 amended by adding at the end the following:

23 “(E) TRACKING AND IMPROVING PROC-
24 ESSING TIMES.—

1 “(i) DATA CONTROLS.—An executive
2 agency shall develop controls to ensure
3 that data is sufficiently accurate and com-
4 plete to track the processing time for each
5 application described in subparagraph (A).

6 “(ii) REQUIREMENT TO ANALYZE, AD-
7 DRESS, AND REPORT ON DELAY FAC-
8 TORS.—With respect to the factors that
9 contribute to delays in processing applica-
10 tions described in subparagraph (A), an
11 executive agency shall—

12 “(I) analyze the factors as the
13 delays are occurring;

14 “(II) take actions to address the
15 factors; and

16 “(III) provide an annual report
17 on the factors to—

18 “(aa) the Committee on
19 Commerce, Science, and Trans-
20 portation of the Senate;

21 “(bb) the Committee on En-
22 ergy and Natural Resources of
23 the Senate;

1 “(cc) the Committee on En-
2 ergy and Commerce of the House
3 of Representatives;

4 “(dd) the Committee on
5 Natural Resources of the House
6 of Representatives; and

7 “(ee) each committee of
8 Congress with jurisdiction over
9 the executive agency.

10 “(iii) METHOD FOR ALERTING STAFF
11 TO AT-RISK APPLICATIONS.—An executive
12 agency shall establish a method to alert
13 employees of the executive agency to any
14 application described in subparagraph (A)
15 with respect to which the executive agency
16 is at risk of failing to meet the 270-day
17 deadline under that subparagraph.”.

18 **SEC. 4. ONLINE TRACKING OF APPLICATION PROGRESS.**

19 Section 41001(6)(A) of the FAST Act (42 U.S.C.
20 4370m(6)(A)) is amended—

21 (1) in clause (iii)(III), by striking “or” at the
22 end;

23 (2) by redesignating clause (iv) as clause (v);

24 and

25 (3) by inserting after clause (iii) the following:

1 “(iv)(I) is subject to NEPA;
2 “(II) involves the construction of in-
3 frastructure for broadband; and
4 “(III) is likely to require a total in-
5 vestment of more than \$10,000,000; or”.

6 **SEC. 5. IMPROVING PUBLIC SAFETY ON FEDERAL LAND.**

7 Not later than 30 days after the date of enactment
8 of this Act, the Secretary concerned shall direct the head
9 of each Federal land management agency under the juris-
10 diction of the Secretary concerned—

11 (1) to establish a new categorical exclusion
12 from the requirements of title I of the National En-
13 vironmental Policy Act of 1969 (42 U.S.C. 4331 et
14 seq.) for projects involving an existing communica-
15 tions facility that would improve public safety on
16 Federal land, such as—

17 (A) providing backup power for the com-
18 munications facility;

19 (B) improving supporting infrastructure at
20 the communications facility; or

21 (C) providing more reliable or redundant
22 connection capabilities using the communica-
23 tions facility; or

24 (2) to adopt an existing categorical exclusion
25 from another agency under section 109 of that Act

1 (42 U.S.C. 4336c) applicable to projects described in
2 paragraph (1).

3 **SEC. 6. PREVIOUSLY ANALYZED FEDERAL LAND.**

4 (a) NONAPPLICABILITY OF CERTAIN REVIEW RE-
5 QUIREMENTS.—The review requirements of the National
6 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.) and division A of subtitle III of title 54, United
8 States Code, shall not apply to an application for a com-
9 munications use authorization on Federal land (including
10 Federal land on which authorized utilities, communica-
11 tions facilities, powerline facilities, or roads have been in-
12 stalled), if—

13 (1) the communications equipment is located in
14 or on existing infrastructure; or

15 (2) the communications facility is located on
16 previously analyzed Federal land.

17 (b) NO ADDITIONAL CONSULTATION REQUIRED
18 UNDER CERTAIN CIRCUMSTANCES.—Notwithstanding
19 any other provision of law, the Secretary concerned shall
20 not be required to reinitiate consultation under the re-
21 quirements of the National Environmental Policy Act of
22 1969 (42 U.S.C. 4321 et seq.) or division A of subtitle
23 III of title 54, United States Code, for an application for
24 a communications use authorization on previously ana-
25 lyzed Federal land, regardless of whether new information

1 concerning the previously analyzed Federal land becomes
2 available.

3 **SEC. 7. ESTABLISHMENT OF ONLINE PORTALS.**

4 (a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this Act, each Federal land manage-
6 ment agency shall establish an online portal to accept an
7 electronic SF-299.

8 (b) COORDINATION.—The Federal land management
9 agencies shall coordinate with each other to establish uni-
10 form versions of the online portal required under sub-
11 section (a).

12 **SEC. 8. COLLECTION AND RETENTION OF COST RECOVERY**
13 **FEEES.**

14 (a) COLLECTION AND RETENTION OF COST RECOV-
15 ERY FEEES ASSOCIATED WITH COMMUNICATIONS USE AU-
16 THORIZATIONS ON FEDERAL LAND AND FEDERAL LAND
17 MANAGEMENT AGENCY SUPPORT FOR COMMUNICATIONS
18 SITE PROGRAMS.—

19 (1) SPECIAL ACCOUNT REQUIRED.—The Sec-
20 retary of the Treasury shall establish a special ac-
21 count in the Treasury for each Federal land man-
22 agement agency for the deposit of cost recovery fees
23 received by the Federal land management agency re-
24 lating to communications use authorizations grant-

1 ed, issued, or executed by the Federal land manage-
2 ment agency.

3 (2) REQUIREMENTS FOR COST RECOVERY
4 FEES.—Notwithstanding any other provision of law,
5 any cost recovery fees collected by a Federal land
6 management agency pursuant to this section shall
7 be—

8 (A) collected only to the extent provided in
9 advance in an appropriations Act;

10 (B) calculated and assessed on an annual
11 basis;

12 (C) based solely on costs incurred by orga-
13 nizational units in processing applications for
14 communications use authorizations and over-
15 seeing any applicable construction activities re-
16 lating to the communications use authoriza-
17 tions; and

18 (D) imposed on a competitively neutral,
19 technology-neutral, and nondiscriminatory basis
20 with respect to other uses of the applicable
21 communications site.

22 (3) DEPOSIT AND RETENTION OF COST RECOV-
23 ERY FEES.—Cost recovery fees received by a Federal
24 land management agency shall—

1 (A) be deposited in the special account es-
2 tablished for that Federal land management
3 agency under paragraph (1); and

4 (B) remain available for expenditure under
5 paragraph (4), to the extent and in such
6 amounts as are provided in advance in appro-
7 priations Acts.

8 (4) EXPENDITURE OF RETAINED FEES.—
9 Amounts deposited in the special account established
10 for a Federal land management agency under para-
11 graph (1) shall be used by the Federal land manage-
12 ment agency for activities relating to communica-
13 tions use authorizations or communications sites, in-
14 cluding the following:

15 (A) Administering communications use au-
16 thorizations, including through cooperative
17 agreements under subsection (b).

18 (B) Preparing needs assessments or other
19 programmatic analyses necessary to establish
20 communications sites and authorize communica-
21 tions uses on or adjacent to Federal land.

22 (C) Developing management plans for the
23 placement of communications sites on or adja-
24 cent to Federal land on a competitively neutral,
25 technology-neutral, nondiscriminatory basis.

1 (D) Training for management of commu-
2 nications sites on or adjacent to Federal land.

3 (E) Obtaining, improving access to, or es-
4 tablishing communications sites on or adjacent
5 to Federal land.

6 (F) Hiring and training personnel to per-
7 form duties that will help—

8 (i) to streamline permitting processes
9 associated with communications use au-
10 thorizations and the use of communica-
11 tions sites for communications use on Fed-
12 eral land; and

13 (ii) to reduce the time it takes for per-
14 mits relating to communications use au-
15 thorizations and the use of communica-
16 tions sites for communications use on Fed-
17 eral land to be approved.

18 (5) NO EFFECT ON OTHER FEE RETENTION AU-
19 THORITIES.—This subsection shall not limit or oth-
20 erwise affect fee retention by a Federal land man-
21 agement agency under any other authority.

22 (b) COOPERATIVE AGREEMENT AUTHORITY.—The
23 Secretary of the Interior may enter into cooperative agree-
24 ments to carry out the activities described in subsection
25 (a)(4).