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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2021

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

A BILL

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

Be it enacted by the Senate and House of Representa-
SECTION 1. SHORT TITLE.

This Act may be cited as the “Streamlining Permitting to Enable Efficient Deployment of Broadband Infrastructure Act of 2021”.

SEC. 2. EXEMPTION FROM REVIEW FOR CERTAIN COMMUNICATIONS FACILITIES.

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

“SEC. 14. EXEMPTION FROM REVIEW FOR CERTAIN COMMUNICATIONS FACILITIES.

“(a) For Permitting by Commission.—

“(1) In general.—Notwithstanding any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or division A of subtitle III of title 54, United States Code, the Commission shall not be required to perform, and may not require any entity regulated by the Commission to perform, any review under such Act or division as a condition of permitting the placement and installation of a communications facility if—

“(A) the new facility—

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

“(ii) is not more than 50 feet tall or 10 feet higher than any existing structure
in the public right-of-way, whichever is higher;

“(B) the new facility is—

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

“(ii) the same as, or substantially similar to (as such term is defined by the Commission), the communications facility that the new communications facility is replacing;

“(C) the new facility is a type of communications facility that—

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

“(ii) meets the size limitation of a small antenna established by the Commission; or

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

“(2) SAVINGS CLAUSE.—Nothing in this subsection shall be construed to affect—

“(A) the obligation of the Commission to evaluate radiofrequency exposure under the Na-
tional Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

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

“(C) the authority of a State or local government to apply and enforce the zoning and other land use regulations of the State or local government to the extent consistent with this subsection and sections 253, 332(c)(7), and 621; or

“(D) the authority or obligations established under section 20156(e) of title 49, United States Code.

“(b) For Grant of Easement on Federal Property.—No review shall be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or division A of subtitle III of title 54, United States Code, as a condition of granting a covered easement for a communications facility if a covered easement has been granted for another communications facility or a utility
facility with respect to the same building or other property
owned by the Federal Government.

“(c) DEFINITIONS.—In this section:

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

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

“(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 wire-
less or wireline transmission of writings, signs, signals, data, images, pictures, and sounds of all kinds; and

“(B) any antenna or apparatus—

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

“(ii) that—

“(I) is designed to be operated, or is operating, from a fixed location pursuant to authorization by the Commission; or
“(II) is using duly authorized de-
vice that do not require individual li-
censes; and
“(iii) that is added to a tower, build-
ing, support pole, or other structure.

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

“(4) PUBLIC RIGHT-OF-WAY.—The term ‘public
right-of-way’—
“(A) means—
“(i) the area on, below, or above a
public roadway, highway, street, sidewalk,
alley, or similar property; and
“(ii) any land immediately adjacent to
and contiguous with property described in
clause (i) that is within the right-of-way
grant; and
“(B) does not include a portion of the Interstate System (as such term is defined in section 101(a) of title 23, United States Code).

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

“(6) UTILITY FACILITY.—The term ‘utility facility’ means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

“(7) WIRELESS SERVICE.—The term ‘wireless service’ means the transmission by radio communication of voice, video, or data communications services, including Internet Protocol or any successor protocol-enabled services, or any combination of those services, whether provided on a licensed or permitted unlicensed basis.
“(8) WIRELESS SERVICE FACILITY.—The term ‘wireless service facility’ means a facility for the provision of wireless service.”