AMENDMENT TO RULES COMMITTEE PRINT
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OFFERED BY MR. CURTIS OF UTAH

Division H, page 1668, after line 13, insert the following new title:

TITLE XII—TRIBAL BROADBAND

SEC. 71201. DEFINITIONS.
In this Act:

(1) BROADBAND PROJECT.—The term “broadband project” means an installation by a broadband provider of wireless or broadband infrastructure, including but not limited to, copper lines, fiber optic lines, communications towers, buildings, or other improvements on Federal land.

(2) BROADBAND PROVIDER.—The term “broadband provider” means a provider of wireless or broadband infrastructure that enables a user to originate and receive high-quality voice, data, graphics, and video telecommunications.

(3) INDIAN LANDS.—The term “Indian Lands” means—
(A) any land owned by an Indian Tribe, located within the boundaries of an Indian reservation, pueblo, or rancheria; or

(B) any land located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

(i) in trust by the United States for the benefit of an Indian Tribe or an individual Indian;

(ii) by an Indian Tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

(iii) by a dependent Indian community.

(4) INDIAN TRIBE.—The term “Indian Tribe” means a federally recognized Indian Tribe.

(5) OPERATIONAL RIGHT-OF-WAY.—The term “operational right-of-way” means all real property interests (including easements) acquired for the construction or operation of a project, including the locations of the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, copper and fiber optic lines, utility shelters, and broadband infrastructure as installed by
broadband providers, and any rest areas with direct access to a controlled access highway or the National Highway System.

(6) **SECRETARY CONCERNED.**—The term “Secretary concerned” means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to land managed by the Department of the Interior (including land held in trust for an Indian Tribe).

**SEC. 71202. STATE OR TRIBAL PERMITTING AUTHORITY.**

(a) **IN GENERAL.**—The Secretary concerned shall establish (or in the case where both Department of the Interior and National Forest System land would be affected, shall jointly establish) a voluntary program under which any State or Indian Tribe may offer, and the Secretary concerned may agree, to enter into a memorandum of understanding to allow for the State or Indian Tribe to prepare environmental analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the permitting of broadband projects within an operational right-of-way on National Forest System land, land managed by the Department of the Interior, and In-
dian Lands. Under such a memorandum of understanding,

an Indian Tribe or State may volunteer to cooperate with

the signatories to the memorandum in the preparation of

the analyses required under the National Environmental


(b) ASSUMPTION OF RESPONSIBILITIES.—

(1) IN GENERAL.—In entering into a memo-

randum of understanding under this section, the

Secretary concerned may assign to the State or In-

dian Tribe, and the State or Indian Tribe may agree

to assume, all or part of the responsibilities of the

Secretary concerned for environmental analyses

under the National Environmental Policy Act of

1969 (42 U.S.C. 4321 et seq.).

(2) STATE OR INDIAN TRIBE RESPONS-

IBILITY.—

(A) IN GENERAL.—A State or Indian

Tribe that assumes any responsibility under

paragraph (1) shall be subject to the same pro-

cedural and substantive requirements as would

apply if the responsibility were carried out by

the Secretary concerned.

(B) EFFECT OF ASSUMPTION OF RESPO-

NIBILITY.—A State or Indian Tribe that as-

sumes any responsibility, including financial re-
sponsibility, under paragraph (1) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary concerned, the responsibilities assumed under that paragraph until the date on which the program is terminated under subsection (g).

(C) ENVIRONMENTAL REVIEW.—A State or Indian Tribe that assumes any responsibility under paragraph (1) shall comply with the environmental review procedures under parts 1500–1508 of title 40, Code of Federal Regulations (or successor regulations), and the regulations of the Secretary concerned.

(3) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary concerned described in paragraph (1) that is not explicitly assumed by the State or Indian Tribe in the memorandum of understanding shall remain the responsibility of the Secretary concerned.

(e) OFFER AND NOTIFICATION.—A State or Indian Tribe that intends to offer to enter into a memorandum of understanding under this section shall provide to the Secretary concerned notice of the intent of the State or Indian Tribe not later than 90 days before the date on
which the State or Indian Tribe submits a formal written
offer to the Secretary concerned.

(d) TRIBAL CONSULTATION.—Within 90 days of en-
tering into any memorandum of understanding with a
State, the Secretary concerned shall initiate consultation
with relevant Indian Tribes.

(e) MEMORANDUM OF UNDERSTANDING.—A memo-
randum of understanding entered into under this section
shall—

(1) be executed by the Governor or the Gov-
ernor’s designee, or in the case of an Indian Tribe,
by an officer designated by the governing body of
the Indian Tribe;

(2) be for a term not to exceed 10 years;

(3) be in such form as the Secretary concerned
may prescribe;

(4) provide that the State or Indian Tribe—

(A) agrees to assume all or part of the re-
sponsibilities of the Secretary concerned de-
scribed in subsection (b)(1);

(B) expressly consents, including through
the adoption of express waivers of sovereign im-
munity, on behalf of the State or Indian Tribe,
to accept the jurisdiction of the Federal courts
for the compliance, discharge, and enforcement
of any responsibility of the Secretary concerned
assumed by the State or Indian Tribe;

(C) certify that State laws and regulations,
with respect to States, or Tribal laws and regu-
lations, with respect to Indian Tribes, are in ef-
fect that—

(i) authorize the State or Indian Tribe
to take the actions necessary to carry out
the responsibilities being assumed; and

(ii) are comparable to section 552 of
title 5, United States Code, including pro-
viding that any decision regarding the pub-
lic availability of a document under the
State laws is reviewable by a court of com-
petent jurisdiction;

(D) agrees to maintain the financial re-
sources necessary to carry out the responsibil-
ities being assumed;

(E) agrees to provide to the Secretary con-
cerned any information the Secretary concerned
cconsiders necessary to ensure that the State or
Indian Tribe is adequately carrying out the re-
sponsibilities assigned to and assumed by the
State or Indian Tribe;
(F) agrees to return revenues generated from the use of public lands authorized under this section to the United States annually, in accordance with the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) agrees to send a copy of all authorizing documents to the United States for proper notation and recordkeeping;

(5) prioritize and expedite any analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the memorandum of understanding;

(6) not be granted to a State on Indian Lands without the consent of the relevant Indian Tribe; and

(7) not be granted to an Indian Tribe on State lands without the consent of the relevant State.

(f) LIMITATION.—Nothing in this section permits a State or Indian Tribe to assume—

(1) any rulemaking authority of the Secretary concerned under any Federal law; and

(2) Federal Government responsibilities for government-to-government consultation with Indian Tribes.
(g) **TERMINATION.**—

(1) **TERMINATION BY THE SECRETARY.**—The Secretary concerned may terminate the participation of any State or Indian Tribe in the program established under this section if—

(A) the Secretary concerned determines that the State or Indian Tribe is not adequately carrying out the responsibilities assigned to and assumed by the State or Indian Tribe;

(B) the Secretary concerned provides to the State or Indian Tribe—

(i) notification of the determination of noncompliance; and

(ii) a period of at least 30 days during which to take such corrective action as the Secretary concerned determines is necessary to comply with the applicable agreement; and

(C) the State or Indian Tribe, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by the Secretary concerned.

(2) **TERMINATION BY THE STATE OR INDIAN TRIBE.**—A State or Indian Tribe may terminate the
participation of the State or Indian Tribe in the program established under this section at any time by providing to the Secretary concerned a notice of intent to terminate by not later than the date that is 90 days before the date of termination.

(3) Termination of Memorandum of Understanding with State or Indian Tribe.—A State or an Indian Tribe may terminate a joint memorandum of understanding under this section at any time by providing to the Secretary concerned a notice of intent to terminate by no later than the date that is 90 days before the date of termination.

SEC. 71203. FEDERAL BROADBAND PERMIT COORDINATION.

(a) Establishment.—The Secretary concerned shall establish a broadband permit streamlining team comprised of qualified staff under subsection (b)(4) in each State or regional office that has been delegated responsibility for issuing permits for broadband projects.

(b) Memorandum of Understanding.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary concerned, in consultation with the National Conference of State Historic Preservation Officers and the National Tribal Historic Preservation Officers Associa-
...tion, shall enter into a memorandum of understanding to carry out this section with—

(A) the Secretary of Agriculture or of the Interior, as appropriate;

(B) the Director of the Bureau of Indian Affairs; and

(C) the Director of the United States Fish and Wildlife Service.

(2) PURPOSE.—The purpose of the memorandum of understanding under paragraph (1) is to coordinate and expedite permitting decisions for broadband projects.

(3) STATE OR TRIBAL PARTICIPATION.—The Secretary concerned may request that the Governor of any State or the officer designated by the governing body of the Indian Tribe with one or more broadband projects be a party to the memorandum of understanding under paragraph (1).

(4) DESIGNATION OF QUALIFIED STAFF.—

(A) IN GENERAL.—Not later than 30 days after the date of entrance into the memorandum of understanding under paragraph (1), the head of each Federal agency that is a party to the memorandum of understanding (other than the Secretary concerned) may, if the head...
of the Federal agency determines it to be appropriate, designate to each State or regional office an employee of that Federal agency with expertise in regulatory issues relating to that Federal agency, including, as applicable, particular expertise in—


(ii) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or


(B) Duties.—Each employee designated under subparagraph (A) shall—

(i) be responsible for any issue relating to any broadband project within the jurisdiction of the State or regional office
under the authority of the Federal agency from which the employee is assigned;

(ii) participate as part of the team of personnel working on one or more proposed broadband projects, including planning and environmental analyses; and

(iii) serve as the designated point of contact with any applicable State or Indian Tribe that assumes any responsibility under section 71203(b)(1) relating to any issue described in clause (i).