

116TH CONGRESS  
2D SESSION

# H. R. 8365

To study the effects of new construction of obstructions on accurate weather forecasting, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2020

Mr. THORNBERRY introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To study the effects of new construction of obstructions on accurate weather forecasting, 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 “Accurate Weather for  
5 Public Safety Act”.

6 **SEC. 2. STRUCTURES INTERFERING WITH AIR COMMERCE**

7                   **OR NATIONAL SECURITY.**

8       Section 44718(a) of title 49, United States Code, is  
9 amended—

1           (1) in paragraph (2) by striking “; or” and in-  
2           serting a semicolon;

3           (2) by redesignating paragraph (3) as para-  
4           graph (4); and

5           (3) by inserting after paragraph (2) the fol-  
6           lowing:

7           “(3) the ability of any Federal agency engaged  
8           in meteorological or atmospheric observations to ac-  
9           curately forecast weather; or”.

10 **SEC. 3. STUDY ON EFFECTS OF NEW CONSTRUCTION OF OB-**  
11 **STRUCTIONS ON ACCURATE WEATHER OB-**  
12 **SERVATIONS AND FORECASTING.**

13           (a) **OBJECTIVE.**—It shall be an objective of the De-  
14           partment of Commerce to ensure that the robust develop-  
15           ment of renewable energy sources and the increased resil-  
16           iency of the commercial electrical grid may move forward  
17           in the United States, while minimizing or mitigating any  
18           adverse impacts on accurate weather forecasting and en-  
19           suring public safety.

20           (b) **DESIGNATION OF SENIOR OFFICIAL AND LEAD**  
21 **ORGANIZATION.**—

22           (1) **DESIGNATION.**—Not later than 30 days  
23           after the date of the enactment of this Act, the Sec-  
24           retary of Commerce shall designate a senior official

1 of the National Weather Service, and a lead organi-  
2 zation of the National Weather Service, to—

3 (A) serve as the executive agent to carry  
4 out the review required by subsection (d);

5 (B) serve as a clearinghouse to coordinate  
6 Department of Commerce review of applications  
7 for projects filed with the Secretary of Trans-  
8 portation on and after the date of enactment of  
9 this Act and pursuant to section 44718 of title  
10 49, United States Code, and received by the  
11 Department of Commerce from the Secretary of  
12 Transportation; and

13 (C) accelerate the development of planning  
14 tools necessary to determine the acceptability to  
15 the National Weather Service of proposals in-  
16 cluded in an application for a project submitted  
17 pursuant to such section.

18 (2) RESOURCES.—The Secretary shall ensure  
19 that the senior official and lead organization des-  
20 ignated under paragraph (1) are assigned such per-  
21 sonnel and resources as the Secretary considers ap-  
22 propriate to carry out this section.

23 (c) INITIAL ACTIONS.—Not later than 180 days after  
24 the date of the enactment of this Act, the Secretary of

1 Commerce, acting through the senior official and lead or-  
2 ganization designated pursuant to subsection (b), shall—

3           (1) conduct a preliminary review of each appli-  
4 cation for a project filed with the Secretary of  
5 Transportation pursuant to section 44718 of title  
6 49, United States Code, that may have an adverse  
7 impact on accurate weather observations or fore-  
8 casting and public safety, unless such project has  
9 been granted a determination of no hazard, which  
10 shall, at a minimum include for each such project—

11                   (A) assess the likely scope of any adverse  
12 impact of such project on accurate weather ob-  
13 servations or forecasting and public safety; and

14                   (B) identify any corrective action plan and  
15 feasible mitigation actions that could be taken  
16 in the immediate future by the National Weath-  
17 er Service, the developer of such project, or oth-  
18 ers to mitigate such adverse impact and to min-  
19 imize risks to the ability of any Federal agency  
20 engaged in meteorological or atmospheric obser-  
21 vations to accurately forecast weather and to  
22 ensure public safety, while allowing such project  
23 to proceed with development;

24           (2) develop, in coordination with other depart-  
25 ments and agencies of the Federal Government, an

1 integrated review process to ensure timely notifica-  
2 tion and consideration of projects filed with the Sec-  
3 retary of Transportation pursuant to section 44718  
4 of title 49, United States Code, that may have an  
5 adverse impact on accurate weather observations or  
6 forecasting and public safety;

7 (3) establish procedures for the National  
8 Weather Service for the coordinated consideration of  
9 and response to a request for a review received from  
10 State and local officials or the developer of a renew-  
11 able energy development or other energy project, in-  
12 cluding guidance to personnel at each local National  
13 Weather Services facility in the United States on  
14 how to initiate such procedures and ensure a coordi-  
15 nated agency response while seeking to fulfil the ob-  
16 jective under subsection (a); and

17 (4) develop procedures for conducting early out-  
18 reach to parties carrying out projects filed with the  
19 Secretary of Transportation pursuant to section  
20 44718 of title 49, United States Code, that could  
21 have an adverse impact on accurate weather obser-  
22 vations and forecasting and public safety, and to the  
23 general public, to clearly communicate notice on ac-  
24 tions being taken by the National Weather Service

1 under this section and to receive comments from  
2 such parties and the general public on such actions.

3 (d) COMPREHENSIVE REVIEW.—

4 (1) STRATEGY REQUIRED.—Not later than 270  
5 days after the date of the enactment of this Act, the  
6 Secretary of Commerce, acting through the senior  
7 official and lead organization designated pursuant to  
8 subsection (b), shall develop a comprehensive strat-  
9 egy for addressing the weather forecasting and pub-  
10 lic safety impacts of projects filed with the Secretary  
11 of Transportation pursuant to section 44718 of title  
12 49, United States Code.

13 (2) ELEMENTS.—In developing the strategy re-  
14 quired by paragraph (1), the Secretary of Commerce  
15 shall—

16 (A) assess of the magnitude of interference  
17 posed by projects filed with the Secretary of  
18 Transportation pursuant to section 44718 of  
19 title 49, United States Code;

20 (B) identify geographic areas selected as  
21 proposed locations for projects filed, or which  
22 may be filed in the future, with the Secretary  
23 of Transportation pursuant to section 44718 of  
24 title 49, United States Code, where such  
25 projects could have an adverse impact on accu-

1 rate weather forecasting and public safety, and  
2 categorize the risk of adverse impact in such  
3 areas as high, medium, or low for the purpose  
4 of informing early outreach efforts under sub-  
5 section (c)(4) and preliminary assessments  
6 under subsection (e); and

7 (C) specifically identify a corrective action  
8 plan and feasible mitigation longterm actions  
9 that may be taken to mitigate adverse impacts  
10 of projects filed, or which may be filed in the  
11 future, with the Secretary of Transportation  
12 pursuant to section 44718 of title 49, United  
13 States Code, on accurate weather observations  
14 and forecasting and public safety.

15 (e) NATIONAL WEATHER SERVICE HAZARD ASSESS-  
16 MENT.—

17 (1) PRELIMINARY ASSESSMENT.—The proce-  
18 dures established pursuant to subsection (c) shall  
19 ensure that not later than 60 days after receiving a  
20 proper application for a project filed with the Sec-  
21 retary of Transportation pursuant to section 44718  
22 of title 49, United States Code, the Secretary of  
23 Commerce shall review the project and provide a  
24 preliminary assessment of the level of risk of adverse  
25 impact on accurate weather observations or fore-

1 casting and public safety that would arise from the  
2 project and the extent of mitigation that may be  
3 needed to address such risk.

4 (2) DETERMINATION OF UNACCEPTABLE  
5 RISK.—The procedures established pursuant to sub-  
6 section (c) shall ensure that the Secretary of Com-  
7 merce does not object to a project filed with the Sec-  
8 retary of Transportation pursuant to section 44718  
9 of title 49, United States Code, except in a case in  
10 which the Secretary of Commerce determines, after  
11 giving full consideration to mitigation actions identi-  
12 fied pursuant to this section, that such project would  
13 result in an unacceptable risk to the ability of mete-  
14 orological agencies to accurately observe and forecast  
15 weather and ensure public safety.

16 (3) CONGRESSIONAL NOTICE REQUIREMENT.—  
17 Not later than 30 days after making a determination  
18 of unacceptable risk under paragraph (2), the Sec-  
19 retary of Commerce shall submit to the Committee  
20 on Energy and Commerce of the House of Rep-  
21 resentatives and the Committee on Energy and Nat-  
22 ural Resources and the Committee on Commerce,  
23 Science, and Transportation of the Senate a report  
24 on such determination and the basis for such deter-  
25 mination. Such a report shall include an explanation



1 of the operational impact that led to the determina-  
2 tion, a discussion of the mitigation options consid-  
3 ered, and an explanation of why the mitigation op-  
4 tions were not feasible or did not resolve the conflict.

5 (f) REPORTS.—

6 (1) REPORT TO CONGRESS.—Not later than  
7 March 15 each year following the year of the date  
8 of enactment of this Act through 2025, the Sec-  
9 retary of Commerce shall submit to the Committee  
10 on Energy and Commerce of the House of Rep-  
11 resentatives and the Committee on Energy and Nat-  
12 ural Resources and the Committee on Commerce,  
13 Science, and Transportation of the Senate a report  
14 on the actions taken by the Department of Com-  
15 merce during the preceding year to implement this  
16 section and the comprehensive strategy developed  
17 pursuant to this section.

18 (2) CONTENTS OF REPORT.—Each report sub-  
19 mitted under paragraph (1) shall include—

20 (A) the results of a review carried out by  
21 the National Weather Service of any projects  
22 filed with the Secretary of Transportation pur-  
23 suant to section 44718 of title 49, United  
24 States Code—

1 (i) that the Secretary of Commerce  
2 has determined would result in an unac-  
3 ceptable risk to the ability of any Federal  
4 agency engaged in meteorological or at-  
5 mospheric observations to accurately ob-  
6 serve and forecast weather and ensure  
7 public safety; and

8 (ii) for which the Secretary of Com-  
9 merce has recommended to the Secretary  
10 of Transportation that a hazard deter-  
11 mination be issued;

12 (B) an assessment of the risk to accurate  
13 weather observations and forecasting and en-  
14 sure public safety, and a quantification of such  
15 risk; and

16 (C) mitigation options, which the National  
17 Oceanic and Atmospheric Administration and  
18 the National Weather Service have researched  
19 and analyzed, and the results of such research  
20 and analysis.

21 (g) AUTHORITY TO ACCEPT CONTRIBUTIONS OF  
22 FUNDS.—The Secretary of Commerce is authorized to ac-  
23 cept a voluntary contribution of funds from an applicant  
24 for a project filed with the Secretary of Transportation  
25 pursuant to section 44718 of title 49, United States Code.

1 Amounts so accepted shall be available for the purpose of  
2 offsetting the cost of measures undertaken by the Sec-  
3 retary of Commerce to mitigate adverse impacts of such  
4 project on accurate weather observations and forecasting  
5 and public safety.

6 (h) EFFECT OF DEPARTMENT OF COMMERCE HAZ-  
7 ARD ASSESSMENT.—An action taken pursuant to this sec-  
8 tion shall not be considered to be a substitute for any as-  
9 sessment or determination required of the Secretary of  
10 Transportation under section 44718 of title 49, United  
11 States Code.

12 (i) SAVINGS PROVISION.—Nothing in this section  
13 shall be construed to affect or limit the application of, or  
14 any obligation to comply with, any environmental law, in-  
15 cluding the National Environmental Policy Act of 1969  
16 (42 U.S.C. 4321 et seq.).

17 (j) DEFINITIONS.—In this section:

18 (1) ACCURATE WEATHER FORECASTING.—The  
19 term “accurate weather forecasting” means the abil-  
20 ity of any person, piece of equipment, computer,  
21 building, or other asset of the National Weather  
22 Service that when utilized correctly and unimpeded  
23 is able to provide timely and accurate predictions of  
24 weather within the established range of that Na-  
25 tional Weather Service asset.

1           (2) PUBLIC SAFETY.—The term “public safety”  
2           means the prevention and protection of the general  
3           public from dangers affecting safety, such as disas-  
4           ters that are both man-made and those that are nat-  
5           urally occurring.

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