



U.S. Department of Transportation  
**Federal Highway Administration**  
**Office of Infrastructure**

# Broadband Infrastructure Deployment Final Rule

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*Images source: ;FHWA*

# Disclaimer

- Except for any statutes or regulations cited, the contents of this presentation do not have the force and effect of law and are not meant to bind the public in any way. This presentation is intended only to provide information regarding existing requirements under the law or agency policies.

# MOBILE NOW Act

- 2018 MOBILE NOW Act
  - Signed into law on March 23, 2018 as part of the Consolidated Appropriations Act, 2018 (Pub. L. 115-141)
  - Section 607 Broadband Infrastructure Deployment (47 U.S.C. 1504)
  - Requires FHWA to develop regulations
    - Notice of Proposed Rulemaking published August 13, 2020 (85 FR 49328)
    - Public comment period ended September 2020
    - Final Rule published December 3, 2021
    - Effective date is March 3, 2022

# 23 CFR 645 Subpart C

## **645.301 Purpose.**

To prescribe additional requirements to facilitate the installation of broadband infrastructure pursuant to 47 U.S.C. 1504.

## **645.303 Applicability.**

This subpart applies to each State that receives funds under Chapter 1 of Title 23 of the U.S.C. and only to activities for which Federal obligations or expenditures are initially approved on or after the effective date of this subpart.

# 645.305 Definitions

For purposes of this subpart, the terms defined in 47 U.S.C. 1504(a) shall have the same meaning where used in these regulations, notwithstanding other provisions of this part or Title 23 of the U.S.C.

# Definitions (1)

## **Appropriate State agency (47 U.S.C. 1504(a)(1))**

- The term "appropriate State agency" means a State governmental agency that is recognized by the executive branch of the State as having the experience necessary to evaluate and carry out projects relating to the proper and effective installation and operation of broadband infrastructure.

# Definitions (2)

## State (47 U.S.C. 1504(a)(4))

- The term "State" means-
  - (A) a State;
  - (B) the District of Columbia; and
  - (C) the Commonwealth of Puerto Rico.

# Definitions (3)

## **Broadband infrastructure (47 U.S.C. 1504(a)(2))**

- The term "broadband infrastructure" means any buried, underground, or aerial facility, and any wireless or wireline connection, that enables users to send and receive voice, video, data, graphics, or any combination thereof.

## **Broadband infrastructure entity (47 U.S.C. 1504(a)(3) and 23 CFR § 645.305)**

- The term "broadband infrastructure entity" means any entity that-
  - (A) installs, owns, or operates broadband infrastructure; and
  - (B) provides broadband services in a manner consistent with the public interest, convenience, and necessity, as determined by the State.



# 23 CFR 645.307 General Requirements

- (a) A State department of transportation, in consultation with appropriate State agencies, shall:
  - (1) Identify a broadband utility coordinator, whether in the State department of transportation or in another State agency, that is responsible for facilitating the broadband infrastructure right-of-way efforts within the State. The broadband utility coordinator may have additional responsibilities.
  - (2) Establish a process for the registration of broadband infrastructure entities that seek to be included in those broadband infrastructure right-of-way facilitation efforts within the State.

## 23 CFR 645.307(a) (cont.)

- (3) Establish a process to notify electronically broadband infrastructure entities identified under subsection (2) of the State transportation improvement program on an annual basis and provide additional notifications as necessary to achieve the goals of this subpart; and
- (4) Coordinate initiatives carried out under this subpart with other statewide telecommunication and broadband plans and State and local transportation and land use plans, including strategies to minimize repeated excavations that involve the installation of broadband infrastructure in a right-of-way.

## 23 CFR 645.307 (cont.)

- (b) If a State chooses to provide for the installation of broadband infrastructure in the right-of-way of an applicable Federal-aid highway project under this section, the State department of transportation shall carry out any appropriate measures to ensure that any existing broadband infrastructure entities are not disadvantaged, as compared to other broadband infrastructure entities, with respect to the program under this section.



# 23 CFR 645.309 Limitations

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- Nothing in this subpart establishes a mandate or requirement that a State install or allow the installation of broadband infrastructure in a highway right-of-way. Nothing in this subpart authorizes the Secretary to withhold or reserve funds or approval of a project under Title 23 of the U.S.C.

# Thank You

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