

113TH CONGRESS
1ST SESSION

H. R. 2641

To provide for improved coordination of agency actions in the preparation and adoption of environmental documents for permitting determinations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2013

Mr. MARINO (for himself, Mr. BACHUS, Mr. COBLE, Mr. FRANKS of Arizona, Mr. SMITH of Texas, Mr. AMODEI, and Mr. OWENS) introduced the following bill; which was referred to the Committee on the Judiciary, 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 provide for improved coordination of agency actions in the preparation and adoption of environmental documents for permitting determinations, 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 “Responsibly And Pro-
5 fessionally Invigorating Development Act of 2013” or as
6 the “RAPID Act”.

1 **SEC. 2. COORDINATION OF AGENCY ADMINISTRATIVE OP-**
2 **ERATIONS FOR EFFICIENT DECISIONMAKING.**

3 (a) IN GENERAL.—Part I of chapter 5 of title 5,
4 United States Code, is amended by inserting after sub-
5 chapter II the following:

6 “SUBCHAPTER IIA—INTERAGENCY
7 COORDINATION REGARDING PERMITTING
8 “§ 560. Coordination of agency administrative oper-
9 ations for efficient decisionmaking

10 “(a) CONGRESSIONAL DECLARATION OF PURPOSE.—
11 The purpose of this subchapter is to establish a framework
12 and procedures to streamline, increase the efficiency of,
13 and enhance coordination of agency administration of the
14 regulatory review, environmental decisionmaking, and per-
15 mitting process for projects undertaken, reviewed, or fund-
16 ed by Federal agencies. This subchapter will ensure that
17 agencies administer the regulatory process in a manner
18 that is efficient so that citizens are not burdened with reg-
19 ulatory excuses and time delays.

20 “(b) DEFINITIONS.—For purposes of this sub-
21 chapter, the term—

22 “(1) ‘agency’ means any agency, department, or
23 other unit of Federal, State, local, or Indian tribal
24 government;

25 “(2) ‘category of projects’ means 2 or more
26 projects related by project type, potential environ-

1 mental impacts, geographic location, or another
2 similar project feature or characteristic;

3 “(3) ‘environmental assessment’ means a con-
4 cise public document for which a Federal agency is
5 responsible that serves to—

6 “(A) briefly provide sufficient evidence and
7 analysis for determining whether to prepare an
8 environmental impact statement or a finding of
9 no significant impact;

10 “(B) aid an agency’s compliance with
11 NEPA when no environmental impact state-
12 ment is necessary; and

13 “(C) facilitate preparation of an environ-
14 mental impact statement when one is necessary;

15 “(4) ‘environmental impact statement’ means
16 the detailed statement of significant environmental
17 impacts required to be prepared under NEPA;

18 “(5) ‘environmental review’ means the Federal
19 agency procedures for preparing an environmental
20 impact statement, environmental assessment, cat-
21 egorical exclusion, or other document under NEPA;

22 “(6) ‘environmental decisionmaking process’
23 means the Federal agency procedures for under-
24 taking and completion of any environmental permit,
25 decision, approval, review, or study under any Fed-

1 eral law other than NEPA for a project subject to
2 an environmental review;

3 “(7) ‘environmental document’ means an envi-
4 ronmental assessment or environmental impact
5 statement, and includes any supplemental document
6 or document prepared pursuant to a court order;

7 “(8) ‘finding of no significant impact’ means a
8 document by a Federal agency briefly presenting the
9 reasons why a project, not otherwise subject to a
10 categorical exclusion, will not have a significant ef-
11 fect on the human environment and for which an en-
12 vironmental impact statement therefore will not be
13 prepared;

14 “(9) ‘lead agency’ means the Federal agency
15 preparing or responsible for preparing the environ-
16 mental document;

17 “(10) ‘NEPA’ means the National Environ-
18 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

19 “(11) ‘project’ means major Federal actions
20 that are construction activities undertaken with Fed-
21 eral funds or that are construction activities that re-
22 quire approval by a permit or regulatory decision
23 issued by a Federal agency;

24 “(12) ‘project sponsor’ means the agency or
25 other entity, including any private or public-private

1 entity, that seeks approval for a project or is other-
2 wise responsible for undertaking a project; and

3 “(13) ‘record of decision’ means a document
4 prepared by a lead agency under NEPA following an
5 environmental impact statement that states the lead
6 agency’s decision, identifies the alternatives consid-
7 ered by the agency in reaching its decision and
8 states whether all practicable means to avoid or min-
9 imize environmental harm from the alternative se-
10 lected have been adopted, and if not, why they were
11 not adopted.

12 “(c) PREPARATION OF ENVIRONMENTAL DOCU-
13 MENTS.—Upon the request of the lead agency, the project
14 sponsor shall be authorized to prepare any document for
15 purposes of an environmental review required in support
16 of any project or approval by the lead agency if the lead
17 agency furnishes oversight in such preparation and inde-
18 pendently evaluates such document and the document is
19 approved and adopted by the lead agency prior to taking
20 any action or making any approval based on such docu-
21 ment.

22 “(d) ADOPTION AND USE OF DOCUMENTS.—

23 “(1) DOCUMENTS PREPARED UNDER NEPA.—

24 “(A) Not more than 1 environmental im-
25 pact statement and 1 environmental assessment

1 shall be prepared under NEPA for a project
2 (except for supplemental environmental docu-
3 ments prepared under NEPA or environmental
4 documents prepared pursuant to a court order),
5 and, except as otherwise provided by law, the
6 lead agency shall prepare the environmental im-
7 pact statement or environmental assessment.
8 After the lead agency issues a record of deci-
9 sion, no Federal agency responsible for making
10 any approval for that project may rely on a doc-
11 ument other than the environmental document
12 prepared by the lead agency.

13 “(B) Upon the request of a project spon-
14 sor, a lead agency may adopt, use, or rely upon
15 secondary and cumulative impact analyses in-
16 cluded in any environmental document prepared
17 under NEPA for projects in the same geo-
18 graphic area where the secondary and cumu-
19 lative impact analyses provide information and
20 data that pertains to the NEPA decision for the
21 project under review.

22 “(2) STATE ENVIRONMENTAL DOCUMENTS;
23 SUPPLEMENTAL DOCUMENTS.—

24 “(A) Upon the request of a project spon-
25 sor, a lead agency may adopt a document that

1 has been prepared for a project under State
2 laws and procedures as the environmental im-
3 pact statement or environmental assessment for
4 the project, provided that the State laws and
5 procedures under which the document was pre-
6 pared provide environmental protection and op-
7 portunities for public involvement that are sub-
8 stantially equivalent to NEPA.

9 “(B) An environmental document adopted
10 under subparagraph (A) is deemed to satisfy
11 the lead agency’s obligation under NEPA to
12 prepare an environmental impact statement or
13 environmental assessment.

14 “(C) In the case of a document described
15 in subparagraph (A), during the period after
16 preparation of the document but before its
17 adoption by the lead agency, the lead agency
18 shall prepare and publish a supplement to that
19 document if the lead agency determines that—

20 “(i) a significant change has been
21 made to the project that is relevant for
22 purposes of environmental review of the
23 project; or

24 “(ii) there have been significant
25 changes in circumstances or availability of

1 information relevant to the environmental
2 review for the project.

3 “(D) If the agency prepares and publishes
4 a supplemental document under subparagraph
5 (C), the lead agency may solicit comments from
6 agencies and the public on the supplemental
7 document for a period of not more than 45
8 days beginning on the date of the publication of
9 the supplement.

10 “(E) A lead agency shall issue its record of
11 decision or finding of no significant impact, as
12 appropriate, based upon the document adopted
13 under subparagraph (A), and any supplements
14 thereto.

15 “(3) CONTEMPORANEOUS PROJECTS.—If the
16 lead agency determines that there is a reasonable
17 likelihood that the project will have similar environ-
18 mental impacts as a similar project in geographical
19 proximity to the project, and that similar project
20 was subject to environmental review or similar State
21 procedures within the 5-year period immediately pre-
22 ceding the date that the lead agency makes that de-
23 termination, the lead agency may adopt the environ-
24 mental document that resulted from that environ-
25 mental review or similar State procedure. The lead

1 agency may adopt such an environmental document,
2 if it is prepared under State laws and procedures
3 only upon making a favorable determination on such
4 environmental document pursuant to paragraph
5 (2)(A).

6 “(e) PARTICIPATING AGENCIES.—

7 “(1) IN GENERAL.—The lead agency shall be
8 responsible for inviting and designating participating
9 agencies in accordance with this subsection. The
10 lead agency shall provide the invitation or notice of
11 the designation in writing.

12 “(2) FEDERAL PARTICIPATING AGENCIES.—Any
13 Federal agency that is required to adopt the envi-
14 ronmental document of the lead agency for a project
15 shall be designated as a participating agency and
16 shall collaborate on the preparation of the environ-
17 mental document, unless the Federal agency informs
18 the lead agency, in writing, by a time specified by
19 the lead agency in the designation of the Federal
20 agency that the Federal agency—

21 “(A) has no jurisdiction or authority with
22 respect to the project;

23 “(B) has no expertise or information rel-
24 evant to the project; and

1 “(C) does not intend to submit comments
2 on the project.

3 “(3) INVITATION.—The lead agency shall iden-
4 tify, as early as practicable in the environmental re-
5 view for a project, any agencies other than an agen-
6 cy described in paragraph (2) that may have an in-
7 terest in the project, including, where appropriate,
8 Governors of affected States, and heads of appro-
9 priate tribal and local (including county) govern-
10 ments, and shall invite such identified agencies and
11 officials to become participating agencies in the envi-
12 ronmental review for the project. The invitation shall
13 set a deadline of 30 days for responses to be sub-
14 mitted, which may only be extended by the lead
15 agency for good cause shown. Any agency that fails
16 to respond prior to the deadline shall be deemed to
17 have declined the invitation.

18 “(4) EFFECT OF DECLINING PARTICIPATING
19 AGENCY INVITATION.—Any agency that declines a
20 designation or invitation by the lead agency to be a
21 participating agency shall be precluded from submit-
22 ting comments on any document prepared under
23 NEPA for that project or taking any measures to
24 oppose, based on the environmental review, any per-
25 mit, license, or approval related to that project.

1 “(5) EFFECT OF DESIGNATION.—Designation
2 as a participating agency under this subsection does
3 not imply that the participating agency—

4 “(A) supports a proposed project; or

5 “(B) has any jurisdiction over, or special
6 expertise with respect to evaluation of, the
7 project.

8 “(6) COOPERATING AGENCY.—A participating
9 agency may also be designated by a lead agency as
10 a ‘cooperating agency’ under the regulations con-
11 tained in part 1500 of title 40, Code of Federal Reg-
12 ulations, as in effect on January 1, 2011. Designa-
13 tion as a cooperating agency shall have no effect on
14 designation as participating agency. No agency that
15 is not a participating agency may be designated as
16 a cooperating agency.

17 “(7) CONCURRENT REVIEWS.—Each Federal
18 agency shall—

19 “(A) carry out obligations of the Federal
20 agency under other applicable law concurrently
21 and in conjunction with the review required
22 under NEPA; and

23 “(B) in accordance with the rules made by
24 the Council on Environmental Quality pursuant
25 to subsection (n)(1), make and carry out such

1 rules, policies, and procedures as may be rea-
2 sonably necessary to enable the agency to en-
3 sure completion of the environmental review
4 and environmental decisionmaking process in a
5 timely, coordinated, and environmentally re-
6 sponsible manner.

7 “(8) COMMENTS.—Each participating agency
8 shall limit its comments on a project to areas that
9 are within the authority and expertise of such par-
10 ticipating agency. Each participating agency shall
11 identify in such comments the statutory authority of
12 the participating agency pertaining to the subject
13 matter of its comments. The lead agency shall not
14 act upon, respond to or include in any document
15 prepared under NEPA, any comment submitted by
16 a participating agency that concerns matters that
17 are outside of the authority and expertise of the
18 commenting participating agency.

19 “(f) PROJECT INITIATION REQUEST.—

20 “(1) NOTICE.—A project sponsor shall provide
21 the Federal agency responsible for undertaking a
22 project with notice of the initiation of the project by
23 providing a description of the proposed project, the
24 general location of the proposed project, and a state-
25 ment of any Federal approvals anticipated to be nec-

1 essary for the proposed project, for the purpose of
2 informing the Federal agency that the environmental
3 review should be initiated.

4 “(2) LEAD AGENCY INITIATION.—The agency
5 receiving a project initiation notice under paragraph
6 (1) shall promptly identify the lead agency for the
7 project, and the lead agency shall initiate the envi-
8 ronmental review within a period of 45 days after
9 receiving the notice required by paragraph (1) by in-
10 viting or designating agencies to become partici-
11 pating agencies, or, where the lead agency deter-
12 mines that no participating agencies are required for
13 the project, by taking such other actions that are
14 reasonable and necessary to initiate the environ-
15 mental review.

16 “(g) ALTERNATIVES ANALYSIS.—

17 “(1) PARTICIPATION.—As early as practicable
18 during the environmental review, but no later than
19 during scoping for a project requiring the prepara-
20 tion of an environmental impact statement, the lead
21 agency shall provide an opportunity for involvement
22 by cooperating agencies in determining the range of
23 alternatives to be considered for a project.

24 “(2) RANGE OF ALTERNATIVES.—Following
25 participation under paragraph (1), the lead agency

1 shall determine the range of alternatives for consid-
2 eration in any document which the lead agency is re-
3 sponsible for preparing for the project, subject to the
4 following limitations:

5 “(A) NO EVALUATION OF CERTAIN ALTER-
6 NATIVES.—No Federal agency shall evaluate
7 any alternative that was identified but not car-
8 ried forward for detailed evaluation in an envi-
9 ronmental document or evaluated and not se-
10 lected in any environmental document prepared
11 under NEPA for the same project.

12 “(B) ONLY FEASIBLE ALTERNATIVES
13 EVALUATED.—Where a project is being con-
14 structed, managed, funded, or undertaken by a
15 project sponsor that is not a Federal agency,
16 Federal agencies shall only be required to evalu-
17 ate alternatives that the project sponsor could
18 feasibly undertake, consistent with the purpose
19 of and the need for the project, including alter-
20 natives that can be undertaken by the project
21 sponsor and that are technically and economi-
22 cally feasible.

23 “(3) METHODOLOGIES.—

24 “(A) IN GENERAL.—The lead agency shall
25 determine, in collaboration with cooperating

1 agencies at appropriate times during the envi-
2 ronmental review, the methodologies to be used
3 and the level of detail required in the analysis
4 of each alternative for a project. The lead agen-
5 cy shall include in the environmental document
6 a description of the methodologies used and
7 how the methodologies were selected.

8 “(B) NO EVALUATION OF INAPPROPRIATE
9 ALTERNATIVES.—When a lead agency deter-
10 mines that an alternative does not meet the
11 purpose and need for a project, that alternative
12 is not required to be evaluated in detail in an
13 environmental document.

14 “(4) PREFERRED ALTERNATIVE.—At the dis-
15 cretion of the lead agency, the preferred alternative
16 for a project, after being identified, may be devel-
17 oped to a higher level of detail than other alter-
18 natives in order to facilitate the development of miti-
19 gation measures or concurrent compliance with other
20 applicable laws if the lead agency determines that
21 the development of such higher level of detail will
22 not prevent the lead agency from making an impar-
23 tial decision as to whether to accept another alter-
24 native which is being considered in the environ-
25 mental review.

1 “(5) EMPLOYMENT ANALYSIS.—The evaluation
2 of each alternative in an environmental impact state-
3 ment or an environmental assessment shall identify
4 the potential effects of the alternative on employ-
5 ment, including potential short-term and long-term
6 employment increases and reductions and shifts in
7 employment.

8 “(h) COORDINATION AND SCHEDULING.—

9 “(1) COORDINATION PLAN.—

10 “(A) IN GENERAL.—The lead agency shall
11 establish and implement a plan for coordinating
12 public and agency participation in and comment
13 on the environmental review for a project or
14 category of projects to facilitate the expeditious
15 resolution of the environmental review.

16 “(B) SCHEDULE.—

17 “(i) IN GENERAL.—The lead agency
18 shall establish as part of the coordination
19 plan for a project, after consultation with
20 each participating agency and, where appli-
21 cable, the project sponsor, a schedule for
22 completion of the environmental review.
23 The schedule shall include deadlines, con-
24 sistent with subsection (i), for decisions
25 under any other Federal laws (including

1 the issuance or denial of a permit or li-
2 cense) relating to the project that is cov-
3 ered by the schedule.

4 “(ii) FACTORS FOR CONSIDER-
5 ATION.—In establishing the schedule, the
6 lead agency shall consider factors such
7 as—

8 “(I) the responsibilities of par-
9 ticipating agencies under applicable
10 laws;

11 “(II) resources available to the
12 participating agencies;

13 “(III) overall size and complexity
14 of the project;

15 “(IV) overall schedule for and
16 cost of the project;

17 “(V) the sensitivity of the natural
18 and historic resources that could be
19 affected by the project; and

20 “(VI) the extent to which similar
21 projects in geographic proximity were
22 recently subject to environmental re-
23 view or similar State procedures.

24 “(iii) COMPLIANCE WITH THE SCHED-
25 ULE.—

1 “(I) All participating agencies
2 shall comply with the time periods es-
3 tablished in the schedule or with any
4 modified time periods, where the lead
5 agency modifies the schedule pursuant
6 to subparagraph (D).

7 “(II) The lead agency shall dis-
8 regard and shall not respond to or in-
9 clude in any document prepared under
10 NEPA, any comment or information
11 submitted or any finding made by a
12 participating agency that is outside of
13 the time period established in the
14 schedule or modification pursuant to
15 subparagraph (D) for that agency’s
16 comment, submission or finding.

17 “(III) If a participating agency
18 fails to object in writing to a lead
19 agency decision, finding or request for
20 concurrence within the time period es-
21 tablished under law or by the lead
22 agency, the agency shall be deemed to
23 have concurred in the decision, finding
24 or request.

1 “(C) CONSISTENCY WITH OTHER TIME PE-
2 RIODS.—A schedule under subparagraph (B)
3 shall be consistent with any other relevant time
4 periods established under Federal law.

5 “(D) MODIFICATION.—The lead agency
6 may—

7 “(i) lengthen a schedule established
8 under subparagraph (B) for good cause;
9 and

10 “(ii) shorten a schedule only with the
11 concurrence of the cooperating agencies.

12 “(E) DISSEMINATION.—A copy of a sched-
13 ule under subparagraph (B), and of any modi-
14 fications to the schedule, shall be—

15 “(i) provided within 15 days of com-
16 pletion or modification of such schedule to
17 all participating agencies and to the
18 project sponsor; and

19 “(ii) made available to the public.

20 “(F) ROLES AND RESPONSIBILITY OF
21 LEAD AGENCY.—With respect to the environ-
22 mental review for any project, the lead agency
23 shall have authority and responsibility to take
24 such actions as are necessary and proper, with-
25 in the authority of the lead agency, to facilitate

1 the expeditious resolution of the environmental
2 review for the project.

3 “(i) DEADLINES.—The following deadlines shall
4 apply to any project subject to review under NEPA and
5 any decision under any Federal law relating to such
6 project (including the issuance or denial of a permit or
7 license or any required finding):

8 “(1) ENVIRONMENTAL REVIEW DEADLINES.—
9 The lead agency shall complete the environmental
10 review within the following deadlines:

11 “(A) ENVIRONMENTAL IMPACT STATE-
12 MENT PROJECTS.—For projects requiring prep-
13 aration of an environmental impact statement—

14 “(i) the lead agency shall issue an en-
15 vironmental impact statement within 2
16 years after the earlier of the date the lead
17 agency receives the project initiation re-
18 quest or a Notice of Intent to Prepare an
19 Environmental Impact Statement is pub-
20 lished in the Federal Register; and

21 “(ii) in circumstances where the lead
22 agency has prepared an environmental as-
23 sessment and determined that an environ-
24 mental impact statement will be required,
25 the lead agency shall issue the environ-

1 mental impact statement within 2 years
2 after the date of publication of the Notice
3 of Intent to Prepare an Environmental Im-
4 pact Statement in the Federal Register.

5 “(B) ENVIRONMENTAL ASSESSMENT
6 PROJECTS.—For projects requiring preparation
7 of an environmental assessment, the lead agen-
8 cy shall issue a finding of no significant impact
9 or publish a Notice of Intent to Prepare an En-
10 vironmental Impact Statement in the Federal
11 Register within 1 year after the earlier of the
12 date the lead agency receives the project initi-
13 ation request, makes a decision to prepare an
14 environmental assessment, or sends out partici-
15 pating agency invitations.

16 “(2) EXTENSIONS.—

17 “(A) REQUIREMENTS.—The environmental
18 review deadlines may be extended only if—

19 “(i) a different deadline is established
20 by agreement of the lead agency, the
21 project sponsor, and all participating agen-
22 cies; or

23 “(ii) the deadline is extended by the
24 lead agency for good cause.

1 “(B) LIMITATION.—The environmental re-
2 view shall not be extended by more than 1 year
3 for a project requiring preparation of an envi-
4 ronmental impact statement or by more than
5 180 days for a project requiring preparation of
6 an environmental assessment.

7 “(3) ENVIRONMENTAL REVIEW COMMENTS.—

8 “(A) COMMENTS ON DRAFT ENVIRON-
9 MENTAL IMPACT STATEMENT.—For comments
10 by agencies and the public on a draft environ-
11 mental impact statement, the lead agency shall
12 establish a comment period of not more than 60
13 days after publication in the Federal Register
14 of notice of the date of public availability of
15 such document, unless—

16 “(i) a different deadline is established
17 by agreement of the lead agency, the
18 project sponsor, and all participating agen-
19 cies; or

20 “(ii) the deadline is extended by the
21 lead agency for good cause.

22 “(B) OTHER COMMENTS.—For all other
23 comment periods for agency or public comments
24 in the environmental review process, the lead
25 agency shall establish a comment period of no

1 more than 30 days from availability of the ma-
2 terials on which comment is requested, unless—

3 “(i) a different deadline is established
4 by agreement of the lead agency, the
5 project sponsor, and all participating agen-
6 cies; or

7 “(ii) the deadline is extended by the
8 lead agency for good cause.

9 “(4) DEADLINES FOR DECISIONS UNDER
10 OTHER LAWS.—Notwithstanding any other provision
11 of law, in any case in which a decision under any
12 other Federal law relating to the undertaking of a
13 project being reviewed under NEPA (including the
14 issuance or denial of a permit or license) is required
15 to be made, the following deadlines shall apply:

16 “(A) DECISIONS PRIOR TO RECORD OF DE-
17 CISION OR FINDING OF NO SIGNIFICANT IM-
18 PACT.—If a Federal agency is required to ap-
19 prove, or otherwise to act upon, a permit, li-
20 cense, or other similar application for approval
21 related to a project prior to the record of deci-
22 sion or finding of no significant impact, such
23 Federal agency shall approve or otherwise act
24 not later than the end of a 90-day period begin-
25 ning—

1 “(i) after all other relevant agency re-
2 view related to the project is complete; and

3 “(ii) after the lead agency publishes a
4 notice of the availability of the final envi-
5 ronmental impact statement or issuance of
6 other final environmental documents, or no
7 later than such other date that is otherwise
8 required by law, whichever event occurs
9 first.

10 “(B) OTHER DECISIONS.—With regard to
11 any approval or other action related to a project
12 by a Federal agency that is not subject to sub-
13 paragraph (A), each Federal agency shall ap-
14 prove or otherwise act not later than the end of
15 a period of 180 days beginning—

16 “(i) after all other relevant agency re-
17 view related to the project is complete; and

18 “(ii) after the lead agency issues the
19 record of decision or finding of no signifi-
20 cant impact, unless a different deadline is
21 established by agreement of the Federal
22 agency, lead agency, and the project spon-
23 sor, where applicable, or the deadline is ex-
24 tended by the Federal agency for good
25 cause, provided that such extension shall

1 not extend beyond a period that is 1 year
2 after the lead agency issues the record of
3 decision or finding of no significant im-
4 pact.

5 “(C) FAILURE TO ACT.—In the event that
6 any Federal agency fails to approve, or other-
7 wise to act upon, a permit, license, or other
8 similar application for approval related to a
9 project within the applicable deadline described
10 in subparagraph (A) or (B), the permit, license,
11 or other similar application shall be deemed ap-
12 proved by such agency and the agency shall
13 take action in accordance with such approval
14 within 30 days of the applicable deadline de-
15 scribed in subparagraph (A) or (B).

16 “(D) FINAL AGENCY ACTION.—Any ap-
17 proval under subparagraph (C) is deemed to be
18 final agency action, and may not be reversed by
19 any agency. In any action under chapter 7 seek-
20 ing review of such a final agency action, the
21 court may not set aside such agency action by
22 reason of that agency action having occurred
23 under this paragraph.

24 “(j) ISSUE IDENTIFICATION AND RESOLUTION.—

1 “(1) COOPERATION.—The lead agency and the
2 participating agencies shall work cooperatively in ac-
3 cordance with this section to identify and resolve
4 issues that could delay completion of the environ-
5 mental review or could result in denial of any ap-
6 provals required for the project under applicable
7 laws.

8 “(2) LEAD AGENCY RESPONSIBILITIES.—The
9 lead agency shall make information available to the
10 participating agencies as early as practicable in the
11 environmental review regarding the environmental,
12 historic, and socioeconomic resources located within
13 the project area and the general locations of the al-
14 ternatives under consideration. Such information
15 may be based on existing data sources, including ge-
16 ographic information systems mapping.

17 “(3) PARTICIPATING AGENCY RESPONSIBIL-
18 ITIES.—Based on information received from the lead
19 agency, participating agencies shall identify, as early
20 as practicable, any issues of concern regarding the
21 project’s potential environmental, historic, or socio-
22 economic impacts. In this paragraph, issues of con-
23 cern include any issues that could substantially delay
24 or prevent an agency from granting a permit or
25 other approval that is needed for the project.

1 “(4) ISSUE RESOLUTION.—

2 “(A) MEETING OF PARTICIPATING AGEN-
3 CIES.—At any time upon request of a project
4 sponsor, the lead agency shall promptly convene
5 a meeting with the relevant participating agen-
6 cies and the project sponsor, to resolve issues
7 that could delay completion of the environ-
8 mental review or could result in denial of any
9 approvals required for the project under appli-
10 cable laws.

11 “(B) NOTICE THAT RESOLUTION CANNOT
12 BE ACHIEVED.—If a resolution cannot be
13 achieved within 30 days following such a meet-
14 ing and a determination by the lead agency that
15 all information necessary to resolve the issue
16 has been obtained, the lead agency shall notify
17 the heads of all participating agencies, the
18 project sponsor, and the Council on Environ-
19 mental Quality for further proceedings in ac-
20 cordance with section 204 of NEPA, and shall
21 publish such notification in the Federal Reg-
22 ister.

23 “(k) REPORT TO CONGRESS.—The head of each Fed-
24 eral agency shall report annually to Congress—

1 “(1) the projects for which the agency initiated
2 preparation of an environmental impact statement or
3 environmental assessment;

4 “(2) the projects for which the agency issued a
5 record of decision or finding of no significant impact
6 and the length of time it took the agency to com-
7 plete the environmental review for each such project;

8 “(3) the filing of any lawsuits against the agen-
9 cy seeking judicial review of a permit, license, or ap-
10 proval issued by the agency for an action subject to
11 NEPA, including the date the complaint was filed,
12 the court in which the complaint was filed, and a
13 summary of the claims for which judicial review was
14 sought; and

15 “(4) the resolution of any lawsuits against the
16 agency that sought judicial review of a permit, li-
17 cense, or approval issued by the agency for an action
18 subject to NEPA.

19 “(1) LIMITATIONS ON CLAIMS.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, a claim arising under Federal law
22 seeking judicial review of a permit, license, or ap-
23 proval issued by a Federal agency for an action sub-
24 ject to NEPA shall be barred unless—

1 “(A) in the case of a claim pertaining to
2 a project for which an environmental review
3 was conducted and an opportunity for comment
4 was provided, the claim is filed by a party that
5 submitted a comment during the environmental
6 review on the issue on which the party seeks ju-
7 dicial review, and such comment was suffi-
8 ciently detailed to put the lead agency on notice
9 of the issue upon which the party seeks judicial
10 review; and

11 “(B) filed within 180 days after publica-
12 tion of a notice in the Federal Register an-
13 nouncing that the permit, license, or approval is
14 final pursuant to the law under which the agen-
15 cy action is taken, unless a shorter time is spec-
16 ified in the Federal law pursuant to which judi-
17 cial review is allowed.

18 “(2) NEW INFORMATION.—The preparation of
19 a supplemental environmental impact statement,
20 when required, is deemed a separate final agency ac-
21 tion and the deadline for filing a claim for judicial
22 review of such action shall be 180 days after the
23 date of publication of a notice in the Federal Reg-
24 ister announcing the record of decision for such ac-
25 tion. Any claim challenging agency action on the

1 basis of information in a supplemental environ-
2 mental impact statement shall be limited to chal-
3 lenges on the basis of that information.

4 “(3) RULE OF CONSTRUCTION.—Nothing in
5 this subsection shall be construed to create a right
6 to judicial review or place any limit on filing a claim
7 that a person has violated the terms of a permit, li-
8 cense, or approval.

9 “(m) CATEGORIES OF PROJECTS.—The authorities
10 granted under this subchapter may be exercised for an in-
11 dividual project or a category of projects.

12 “(n) EFFECTIVE DATE.—The requirements of this
13 subchapter shall apply only to environmental reviews and
14 environmental decisionmaking processes initiated after the
15 date of enactment of this subchapter.

16 “(o) APPLICABILITY.—Except as provided in sub-
17 section (p), this subchapter applies, according to the provi-
18 sions thereof, to all projects for which a Federal agency
19 is required to undertake an environmental review or make
20 a decision under an environmental law for a project for
21 which a Federal agency is undertaking an environmental
22 review.

23 “(p) SAVINGS CLAUSE.—Nothing in this section shall
24 be construed to supersede, amend, or modify sections 134,
25 135, 139, 325, 326, and 327 of title 23, United States

1 Code, sections 5303 and 5304 of title 49, United States
2 Code, or subtitle C of title I of division A of the Moving
3 Ahead for Progress in the 21st Century Act and the
4 amendments made by such subtitle (Public Law 112–
5 141).”.

6 (b) TECHNICAL AMENDMENT.—The table of sections
7 for chapter 5 of title 5, United States Code, is amended
8 by inserting after the item relating to subchapter II the
9 following:

“SUBCHAPTER IIA—INTERAGENCY COORDINATION REGARDING PERMITTING
“560. Coordination of agency administrative operations for efficient decision-
making.”.

10 (c) REGULATIONS.—

11 (1) COUNCIL ON ENVIRONMENTAL QUALITY.—

12 Not later than 180 days after the date of enactment
13 of this title, the Council on Environmental Quality
14 shall amend the regulations contained in part 1500
15 of title 40, Code of Federal Regulations, to imple-
16 ment the provisions of this title and the amendments
17 made by this title, and shall by rule designate States
18 with laws and procedures that satisfy the criteria
19 under section 560(d)(2)(A) of title 5, United States
20 Code.

21 (2) FEDERAL AGENCIES.—Not later than 120

22 days after the date that the Council on Environ-
23 mental Quality amends the regulations contained in

1 part 1500 of title 40, Code of Federal Regulations,
2 to implement the provisions of this title and the
3 amendments made by this title, each Federal agency
4 with regulations implementing the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
6 shall amend such regulations to implement the pro-
7 visions of this subchapter.

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