To direct the Secretary of the Army to establish a process to expedite the consideration of applications submitted by States and municipalities for permits in connection with public safety projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Mr. BILIRAKIS introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, 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 direct the Secretary of the Army to establish a process to expedite the consideration of applications submitted by States and municipalities for permits in connection with public safety projects, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Public Infrastructure Modernization Act of 2013”.

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SEC. 2. EXPEDITED PROCESS FOR CONSIDERATION OF APPLICATIONS TO CONDUCT PUBLIC SAFETY PROJECTS.

(a) Approval and disapproval of permits.—

(1) Deadline.—The Secretary of the Army shall approve or disapprove a covered permit application for a public safety project on or before the last day of the 2-year period beginning on the date of submission of the application.

(2) Failure to meet deadline.—If the Secretary does not approve or disapprove a covered permit application for a public safety project on or before the last day specified in paragraph (1)—

(A) the application shall be considered under the expedited process established under subsection (b); unless

(B) the Governor of the State in which the project is to be located issues a declaration of emergency with respect to the project under subsection (c), in which case the requirements of subsection (c) shall apply to the application.

(b) Expedited process.—

(1) In general.—The Secretary shall establish, by regulation, a process to expedite the consideration of a covered permit application for a public safety project.

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(2) Specifications for expedited process.—The expedited process shall provide for the following:

(A) In complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project, the Secretary shall—

(i) prepare an environmental assessment or an environmental impact statement in accordance with paragraph (3);

(ii) weigh the public safety aspects of the project as greater than the environmental costs; and

(iii) complete consultation with other agencies, as necessary, not later than 6 months after the last day specified in subsection (a)(1).

(B) In issuing a permit under the expedited process, the Secretary may not require mitigation costs in an amount that exceeds 20 percent of the total cost of the project.

(C) In issuing a permit under the expedited process, the Secretary may implement species relocation for the project, as described in subsection (d).
(3) **Environmental Assessment or Impact Statement.**—In preparing an environmental assessment or an environmental impact statement under paragraph (2)(A)—

(A) the Secretary shall study, develop, and describe the proposed action and the alternative of no action; but

(B) the Secretary is not required to study, develop, or describe any alternative actions to the proposed agency action unless the municipality in which is the project is to be located submits an alternative action.

(4) **Judicial Review.**—A person may obtain judicial review of any determination made for a public safety project under the expedited process only in the United States district court for the judicial district in which the project is to be located.

(c) **Emergency Declaration.**—

(1) In general.—If the Secretary has not approved or disapproved a covered permit application for a public safety project on or before the last day specified in subsection (a)(1), the Governor of the State in which the project is to be located may issue a declaration of emergency with respect to the project.
(2) ALTERNATIVE ARRANGEMENTS.—If the Governor of a State issues a declaration of emergency with respect to a public safety project under paragraph (1), the State or municipality that submitted a covered permit application for the project may request that—

(A) the application be considered under the expedited process established under subsection (b); or

(B) the President, acting through the Council on Environmental Quality, establish alternative arrangements for conducting the project.

(3) DEADLINE.—Pursuant to a request received under paragraph (2)(B), the Council on Environmental Quality, on or before the last day of the 90-day period beginning on the date of the request shall—

(A) create an alternative to the proposed public safety project; or

(B) approve the project.

(4) FAILURE TO MEET DEADLINE.—If, after receiving a request under paragraph (2)(B), the Council on Environmental Quality does not establish alternate procedures for conducting a public safety
project or disapprove the project on or before the
last day specified in paragraph (3)—

(A) the covered permit application sub-
mitted for the project shall be deemed ap-
proved; and

(B) the requirements of the National Envi-
et seq.) relating to the project shall be deemed
satisfied.

(5) JUDICIAL REVIEW.—The deemed approval
of a covered permit application pursuant to para-
graph (4)(A) shall not be subject to judicial review.

(6) RELATIONSHIP TO OTHER LAWS.—Any al-
ternative arrangements established for a public safe-
ty project under paragraph (2)—

(A) shall be deemed to satisfy the require-
ments of section 404 of the Federal Water Pol-
lution Control Act (33 U.S.C. 1344) and the
National Environmental Policy Act of 1969 (42
U.S.C. 4321 et seq.) with respect to the project;
and

(B) shall not be subject to judicial review.

(d) SPECIES RELOCATIONS.—In the case of a covered
permit application for a public safety project that author-
izes species relocation pursuant to subsection (b)(2)(C),
the Secretary, acting through the United States Fish and Wildlife Service, any Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, shall relocate from the project any the members of a threatened or endangered species of plant or animal that the relevant Federal agencies determine would be taken in the course of the project.

(e) Applicability.—This section shall apply to a covered permit application for a public safety project submitted after the date of enactment of this Act.

(f) Report to Congress.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the implementation of this section.

(g) Definitions.—In this section, the following definitions apply:

(1) Covered permit application.—The term “covered permit application” means an application for a permit to discharge dredge or fill material submitted by a State or municipality under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

(2) Municipality.—The term “municipality” has the meaning given that term in section 502 of
the Federal Water Pollution Control Act (33 U.S.C. 1362).

(3) **PERSON.**—The term “person” has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

(4) **PUBLIC SAFETY PROJECT.**—The term “public safety project” means a project that has one of the following as its primary purpose:

(A) The construction of a levee, self-closing flood barrier, seawall, or flood gate.

(B) Slough and stream construction and dredging for flood control.

(C) The construction of a retention pond for a residential area.

(D) The construction of a road or bridge to be used for evacuation purposes in the case of a hurricane, wildfire, or other extreme weather event.

(E) The construction of a storm water conveyance facility.