To amend titles 23 and 49, United States Code, to streamline the environmental review process for major projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2021

Mr. RODNEY DAVIS of Illinois (for himself, Mr. GRAVES of Missouri, Mr. GIBBS, Mr. BALDERSOHN, Mr. YOUNG, Mr. GRAVES of Louisiana, Mr. GALLAGHER, Mr. ROUZER, Mr. LAMALFA, Mr. WEBSTER of Florida, Mr. WEBER of Texas, Mr. BURCHETT, Mr. JOHNSON of South Dakota, Mr. BABIN, and Mr. PERRY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend titles 23 and 49, United States Code, to streamline the environmental review process for major projects, 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 “One Federal Decision
5 Act of 2021”.
6 SEC. 2. ENVIRONMENTAL REVIEWS FOR MAJOR PROJECTS.
7 Section 139 of title 23, United States Code, is
8 amended—
(1) in subsection (a)—

(A) in paragraph (3)(B), by striking “process for and completion of any environmental permit” and inserting “process and schedule, including a timetable for and completion of any environmental permit”;

(B) by redesignating paragraphs (5) through (8) as paragraphs (9) through (11);

(C) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6);

(D) by inserting after paragraph (1) the following:

“(2) AUTHORIZATION.—The term ‘authorization’ means any environmental license, permit, approval, finding, or other administrative decision related to an environmental review process that is required under Federal law to site, construct, or reconstruct a project.

“(3) ENVIRONMENTAL DOCUMENT.—The term ‘environmental document’ means an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”; and
(E) by inserting after paragraph (6), as redesignated, the following:

“(7) MAJOR PROJECT.—The term ‘major project’ means a project for which—

“(A) multiple permits, approvals, reviews, or studies are required under a Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(B) the project sponsor has identified the reasonable availability of funds sufficient to complete the project;

“(C) the project is not a covered project, as such term is defined in section 41001 of the FAST Act (42 U.S.C. 4370m); and

“(D) the head of the lead agency has determined that—

“(i) an environmental impact statement is required; or

“(ii) an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.”;

(2) in subsection (b)(1)—

(A) by inserting “, including major projects,” after “all projects”; and
(B) by inserting “, at the request of a project sponsor” after “be applied”;

(3) in subsection (c)—

(A) in paragraph (6)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; and”;

(iii) by adding at the end the following:

“(D) to calculate annually the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year.”; and

(B) by adding at the end the following:

“(7) PROCESS IMPROVEMENTS FOR PROJECTS.—

“(A) IN GENERAL.—The Secretary shall review existing practices, procedures, programmatic agreements, and applicable laws to identify potential changes that would facilitate an efficient environmental review process for projects.
“(B) Consultation.—In conducting the review required by subparagraph (A), the Secretary shall consult, as appropriate, with the heads of other Federal agencies that participate in the environmental review process.

“(C) Report.—Not later than 2 years after the date of enactment of the One Federal Decision Act of 2021, Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

“(i) the results of the review required by subparagraph (A); and

“(ii) an analysis of whether additional resources would help the Secretary meet the requirements applicable to the projects under this section.”;

(4) in subsection (d)—

(A) in paragraph (8)—

(i) in the heading, by striking “NEPA” and inserting “ENVIRONMENTAL”;

(ii) by amending subparagraph (A) to read as follows:
“(A) IN GENERAL.—Except as inconsistent with paragraph (7), and except as provided in subparagraph (D), to the maximum extent practicable and consistent with Federal law, all Federal authorizations and reviews for a project shall rely on a single environmental document for each type of environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under the leadership of the lead agency.”; and

(iii) by adding at the end the following:

“(D) EXCEPTION.—The lead agency may waive the application of subparagraph (A) with respect to a project if—

“(i) the project sponsor requests that agencies issue separate environmental documents;

“(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to such project; or
“(iii) the lead agency determines that such application would not facilitate completion of the environmental review process for such project within the timeline established under paragraph (10).”;

(B) by adding at the end the following:

“(10) TIMELY AUTHORIZATIONS FOR MAJOR PROJECTS.—

“(A) DEADLINE.—Except as provided in subparagraph (C), notwithstanding any other provision of law, all authorization decisions necessary for the construction of a major project shall be completed by not later than 90 days after the date of the issuance of a record of decision for the major project.

“(B) REQUIRED LEVEL OF DETAIL.—The final environmental impact statement for a major project shall include an adequate level of detail to inform decisions necessary for the role of the participating agencies in the environmental review process.

“(C) EXTENSION OF DEADLINE.—Not later than 180 days after the date of enactment of the One Federal Decision Act of 2021, the Secretary shall establish procedures for a lead
agency to extend a deadline under subparagraph (A) in cases in which—

“(i) Federal law prohibits the lead agency or another agency from issuing an approval or permit within the period described in such subparagraph;

“(ii) such an extension is requested by the project sponsor; or

“(iii) such extension would facilitate the completion of the environmental review and authorization process of the major project.”;

(5) in subsection (g)—

(A) in paragraph (1)(B)—

(i) by amending clause (ii)(IV) to read as follows:

“(IV) the overall time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of the project; and”; and

(ii) by adding at the end the following:
“(iii) MAJOR PROJECT SCHEDULE.—

To the maximum extent practicable and consistent with applicable Federal law, in the case of a major project, the lead agency shall develop, in consultation with the project sponsor, a schedule for the major project that is consistent with an agency average of not more than 2 years for the completion of the environmental review process for major projects. The time period measured, as applicable—

“(I) in the case of a project that requires an environmental impact statement, begins on the date of publication of a notice of intent to prepare an environmental impact statement and ends on the date of publication of a record of decision; or

“(II) in the case of a project which does not require an environmental impact statement, begins on the date of that the decision is made to prepare an environmental assessment and ends on the date of issuance of a finding of no significant impact.”;
(B) by redesignating subparagraph (E) as subparagraph (F);

(C) by inserting after subparagraph (D) the following:

“(E) FAILURE TO MEET DEADLINE.—If a Federal cooperating agency fails to meet a deadline established under subparagraph (D)(ii)(I)—

“(i) not later than 30 days after the date such agency failed to meet such deadline, such agency shall submit to the Secretary a report on why the deadline was not met; and

“(ii) not later than 30 days after the date on which a report is submitted under clause (i), the Secretary shall—

“(I) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of such report; and

“(II) make such report available to the public on the internet.”; and

(6) by adding at the end the following:
“(p) Accountability and Reporting for Major Projects.—

“(1) In General.—Not later than 180 days after the date of enactment of the One Federal Decision Act of 2021, the Secretary shall establish a performance accountability system to track each major project.

“(2) Requirements.—The performance accountability system required under paragraph (1) shall, for each major project, track—

“(A) the environmental review process for such project, including the project schedule required by subsection (g)(1)(B)(iii);

“(B) whether the lead agency, cooperating agencies, and participating agencies are meeting such schedule; and

“(C) the time taken to complete the environmental review process.

“(q) Development of Categorical Exclusions.—

“(1) In General.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall—

“(A) in consultation with the agencies described in paragraph (2), identify the categor-
ical exclusions established by the Federal Highway Administration that would accelerate delivery of a project if such categorical exclusions were available to such agencies;

“(B) collect existing documentation and substantiating information on the categorical exclusions described in subparagraph (A); and

“(C) provide to each agency described in paragraph (2) a list of the categorical exclusions identified under subparagraph (A) and the documentation and substantiating information collected under subparagraph (B).

“(2) AGENCIES DESCRIBED.—The following agencies are described in this paragraph—

“(A) The Departments of—

“(i) the Interior;

“(ii) Commerce;

“(iii) Agriculture;

“(iv) Energy; and

“(v) Defense, including the United States Army Corps of Engineers; and

“(B) any other Federal agency that has participated in an environmental review process for a major project, as determined by the Secretary.
“(3) Adoption of Categorical Exclusions.—

“(A) In general.—Not later than 1 year after the date on which the Secretary provides the list under paragraph (1)(C), an agency described in paragraph (2) shall publish a notice of proposed rulemaking to propose any categorical exclusions from the list applicable to the agency, subject to the condition that the categorical exclusion identified under paragraph (1)(A) meets the criteria for a categorical exclusion under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(B) Public comment.—In a notice of proposed rulemaking under subparagraph (A), the applicable agency shall solicit comments on whether any of the proposed new categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations).”.
SEC. 3. EFFICIENT ENVIRONMENTAL REVIEWS.

Section 24201(a)(4) of the title 49, United States Code, is amended by striking “, except that the limitation on claims of 150 days shall be 2 years”.