

117TH CONGRESS  
1ST SESSION

# H. R. 4335

To amend the National Environmental Policy Act of 1969 to impose time limits on the completion of certain required actions under the Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2021

Mr. SCHWEIKERT (for himself, Mr. POSEY, Mr. NEWHOUSE, Mr. VALADAO, Mr. BUDD, Mr. NORMAN, and Mrs. BOEBERT) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To amend the National Environmental Policy Act of 1969 to impose time limits on the completion of certain required actions under the Act, 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 “NEPA Accountability  
5 and Enforcement Act”.

6 **SEC. 2. NATIONAL ENVIRONMENTAL POLICY ACT**  
7 **TIMELINES.**

8 Title I of the National Environmental Policy Act of  
9 1969 is amended—

1           (1) by redesignating section 105 (42 U.S.C.  
2           4335) as section 106; and

3           (2) by inserting after section 104 (42 U.S.C.  
4           4334) the following:

5   **“SEC. 105. APPLICABLE TIMELINES.**

6           “(a) DEFINITIONS.—In this section:

7           “(1) ENVIRONMENTAL IMPACT STATEMENT.—  
8           The term ‘environmental impact statement’ means a  
9           detailed statement required under section 102(2)(C).

10           “(2) FEDERAL AGENCY.—The term ‘Federal  
11           agency’ includes a State that has assumed responsi-  
12           bility under section 327 of title 23, United States  
13           Code.

14           “(3) HEAD OF A FEDERAL AGENCY.—The term  
15           ‘head of a Federal agency’ includes the governor or  
16           head of an applicable State agency of a State that  
17           has assumed responsibility under section 327 of title  
18           23, United States Code.

19           “(4) NEPA PROCESS.—

20           “(A) IN GENERAL.—The term ‘NEPA  
21           process’ means the entirety of every process,  
22           analysis, or other measure, including an envi-  
23           ronmental impact statement, required to be car-  
24           ried out by a Federal agency under this title be-  
25           fore the agency undertakes a proposed action.

1           “(B) PERIOD.—For purposes of subpara-  
2 graph (A), the NEPA process—

3           “(i) begins on the date on which the  
4 head of a Federal agency receives an appli-  
5 cation for a proposed action from a project  
6 sponsor; and

7           “(ii) ends on the date on which the  
8 Federal agency issues, with respect to the  
9 proposed action—

10           “(I) a record of decision, includ-  
11 ing, if necessary, a revised record of  
12 decision;

13           “(II) a finding of no significant  
14 impact; or

15           “(III) a categorical exclusion  
16 under this title.

17           “(5) PROJECT SPONSOR.—The term ‘project  
18 sponsor’ means a Federal agency or other entity, in-  
19 cluding a private or public-private entity, that seeks  
20 approval of a proposed action.

21           “(b) APPLICABLE TIMELINES.—

22           “(1) NEPA PROCESS.—

23           “(A) IN GENERAL.—The head of a Federal  
24 agency shall complete the NEPA process for a  
25 proposed action of the Federal agency, as de-

1           scribed in subsection (a)(4)(B)(ii), shall not  
2           take longer than 2 years from notice of intent  
3           to record of decision, or not longer than when  
4           the agency first received the project to notice of  
5           intent, whichever comes first.

6           “(B) ENVIRONMENTAL DOCUMENTS.—

7           Within the period described in subparagraph  
8           (A), not later than 1 year after the date de-  
9           scribed in subsection (a)(4)(B)(i), the head of  
10          the Federal agency shall, with respect to the  
11          proposed action—

12                 “(i) issue—

13                         “(I) a finding that a categorical  
14                         exclusion applies to the proposed ac-  
15                         tion; or

16                         “(II) a finding of no significant  
17                         impact; or

18                 “(ii) publish a notice of intent to pre-  
19                 pare an environmental impact statement in  
20                 the Federal Register.

21           “(C) ENVIRONMENTAL IMPACT STATE-

22           MENT.—If the head of a Federal agency pub-  
23           lishes a notice of intent described in subpara-  
24           graph (B)(ii), within the period described in  
25           subparagraph (A) and not later than 2 years

1 after the date on which the head of the Federal  
2 agency publishes the notice of intent, the head  
3 of the Federal agency shall complete the envi-  
4 ronmental impact statement and, if necessary,  
5 any supplemental environmental impact state-  
6 ment for the proposed action.

7 “(D) PENALTIES.—

8 “(i) DEFINITIONS.—In this subpara-  
9 graph:

10 “(I) DIRECTOR.—The term ‘Di-  
11 rector’ means the Director of the Of-  
12 fice of Management and Budget.

13 “(II) FEDERAL AGENCY.—The  
14 term ‘Federal agency’ does not in-  
15 clude a State.

16 “(III) FINAL NEPA COMPLIANCE  
17 DATE.—The term ‘final NEPA com-  
18 pliance date’, with respect to a pro-  
19 posed action, means the date by which  
20 the head of a Federal agency is re-  
21 quired to complete the NEPA process  
22 under subparagraph (A).

23 “(IV) HEAD OF A FEDERAL  
24 AGENCY.—The term ‘head of a Fed-  
25 eral agency’ does not include the gov-

1           ernor or head of a State agency of a  
2           State.

3           “(V) INITIAL EIS COMPLIANCE  
4           DATE.—The term ‘initial EIS compli-  
5           ance date’, with respect to a proposed  
6           action for which a Federal agency  
7           published a notice of intent described  
8           in subparagraph (B)(ii), means the  
9           date by which an environmental im-  
10          pact statement for that proposed ac-  
11          tion is required to be completed under  
12          subparagraph (C).

13          “(VI) INITIAL NEPA COMPLIANCE  
14          DATE.—The term ‘initial NEPA com-  
15          pliance date’, with respect to a pro-  
16          posed action, means the date by which  
17          the head of a Federal agency is re-  
18          quired to issue or publish a document  
19          described in subparagraph (B) for  
20          that proposed action under that sub-  
21          paragraph.

22          “(VII) INITIAL NONCOMPLIANCE  
23          DETERMINATION.—The term ‘initial  
24          noncompliance determination’ means  
25          a determination under clause

1 (ii)(I)(bb) that the head of a Federal  
2 agency has not complied with the re-  
3 quirements of subparagraph (A), (B),  
4 or (C).

5 “(ii) INITIAL NONCOMPLIANCE.—

6 “(I) DETERMINATION.—

7 “(aa) NOTIFICATION.—As  
8 soon as practicable after the date  
9 described in subsection  
10 (a)(4)(B)(i) for a proposed action  
11 of a Federal agency, the head of  
12 the Federal agency shall notify  
13 the Director that the head of the  
14 Federal agency is beginning the  
15 NEPA process for that proposed  
16 action.

17 “(bb) DETERMINATIONS OF  
18 COMPLIANCE.—

19 “(AA) INITIAL DETER-  
20 MINATION.—As soon as  
21 practicable after the initial  
22 NEPA compliance date for a  
23 proposed action, the Direc-  
24 tor shall determine whether,  
25 as of the initial NEPA com-

1                   pliance date, the head of the  
2                   Federal agency has complied  
3                   with subparagraph (B) for  
4                   that proposed action.

5                   “(BB)           ENVIRON-  
6                   MENTAL   IMPACT   STATE-  
7                   MENT.—With respect to a  
8                   proposed action of a Federal  
9                   agency in which the head of  
10                  the Federal agency publishes  
11                  a notice of intent described  
12                  in subparagraph (B)(ii), as  
13                  soon as practicable after the  
14                  initial EIS compliance date  
15                  for a proposed action, the  
16                  Director shall determine  
17                  whether, as of the initial  
18                  EIS compliance date, the  
19                  head of the Federal agency  
20                  has complied with subpara-  
21                  graph (C) for that proposed  
22                  action.

23                  “(CC) COMPLETION OF  
24                  NEPA PROCESS.—As soon as  
25                  practicable after the final



1 NEPA compliance date for a  
2 proposed action, the Direc-  
3 tor shall determine whether,  
4 as of the final NEPA com-  
5 pliance date, the head of the  
6 Federal agency has complied  
7 with subparagraph (A) for  
8 that proposed action.

9 “(II) IDENTIFICATION; PENALTY;  
10 NOTIFICATION.—If the Director  
11 makes an initial noncompliance deter-  
12 mination for a proposed action—

13 “(aa) the Director shall  
14 identify the account for the sala-  
15 ries and expenses of the office of  
16 the head of the Federal agency,  
17 or an equivalent account;

18 “(bb) beginning on the day  
19 after the date on which the Di-  
20 rector makes the initial non-  
21 compliance determination, the  
22 amount that the head of the Fed-  
23 eral agency may obligate from  
24 the account identified under item  
25 (aa) for the fiscal year during

1 which the determination is made  
2 shall be reduced by 0.5 percent  
3 from the amount initially made  
4 available for the account for that  
5 fiscal year; and

6 “(cc) the Director shall no-  
7 tify the head of the Federal  
8 agency of—

9 “(AA) the initial non-  
10 compliance determination;

11 “(BB) the account  
12 identified under item (aa);  
13 and

14 “(CC) the reduction  
15 under item (bb).

16 “(iii) CONTINUED NONCOMPLIANCE.—

17 “(I) DETERMINATION.—Every  
18 90 days after the date of an initial  
19 noncompliance determination, the Di-  
20 rector shall determine whether the  
21 head of the Federal agency has com-  
22 plied with the applicable requirements  
23 of subparagraphs (A) through (C) for  
24 the proposed action, until the date on  
25 which the Director determines that

1 the head of the Federal agency has  
2 completed the NEPA process for the  
3 proposed action.

4 “(II) PENALTY; NOTIFICATION.—

5 For each determination made by the  
6 Director under subclause (I) that the  
7 head of a Federal agency has not  
8 complied with a requirement of sub-  
9 paragraph (A), (B), or (C) for a pro-  
10 posed action—

11 “(aa) the amount that the  
12 head of the Federal agency may  
13 obligate from the account identi-  
14 fied under clause (ii)(II)(aa) for  
15 the fiscal year during which the  
16 most recent determination under  
17 subclause (I) is made shall be re-  
18 duced by 0.5 percent from the  
19 amount initially made available  
20 for the account for that fiscal  
21 year; and

22 “(bb) the Director shall no-  
23 tify the head of the Federal  
24 agency of—

1                   “(AA) the determina-  
2                   tion under subclause (I);  
3                   and

4                   “(BB) the reduction  
5                   under item (aa).

6                   “(iv) REQUIREMENTS.—

7                   “(I) AMOUNTS NOT RESTORED.—

8                   A reduction in the amount that the  
9                   head of a Federal agency may obligate  
10                  under clause (ii)(II)(bb) or  
11                  (iii)(II)(aa) during a fiscal year shall  
12                  not be restored for that fiscal year,  
13                  without regard to whether the head of  
14                  a Federal agency completes the  
15                  NEPA process for the proposed action  
16                  with respect to which the Director  
17                  made an initial noncompliance deter-  
18                  mination or a determination under  
19                  clause (iii)(I).

20                  “(II) REQUIRED TIMELINES.—

21                  The violation of subparagraph (B) or  
22                  (C), and any action carried out to re-  
23                  mediate or otherwise address the vio-  
24                  lation, shall not affect any other appli-

1 cable compliance date under subpara-  
2 graph (A), (B), or (C).

3 “(2) AUTHORIZATIONS AND PERMITS.—

4 “(A) IN GENERAL.—Not later than 90  
5 days after the date described in subsection  
6 (a)(4)(B)(ii), the head of a Federal agency shall  
7 issue—

8 “(i) any necessary permit or author-  
9 ization to carry out the proposed action; or

10 “(ii) a denial of the permit or author-  
11 ization necessary to carry out the proposed  
12 action.

13 “(B) EFFECT OF FAILURE TO ISSUE AU-  
14 THORIZATION OR PERMIT.—If a permit or au-  
15 thorization described in subparagraph (A) is  
16 not issued or denied within the period described  
17 in that subparagraph, the permit or authoriza-  
18 tion shall be considered to be approved.

19 “(C) DENIAL OF PERMIT OR AUTHORIZA-  
20 TION.—

21 “(i) IN GENERAL.—If a permit or au-  
22 thorization described in subparagraph (A)  
23 is denied, the head of the Federal agency  
24 shall describe to the project sponsor—

25 “(I) the basis of the denial; and

1           “(II) recommendations for the  
2           project sponsor with respect to how to  
3           address the reasons for the denial.

4           “(ii) RECOMMENDED CHANGES.—If  
5           the project sponsor carries out the rec-  
6           ommendations of the head of the Federal  
7           agency under clause (i)(II) and notifies the  
8           head of the Federal agency that the rec-  
9           ommendations have been carried out, the  
10          head of the Federal agency—

11           “(I) shall decide whether to issue  
12           the permit or authorization described  
13           in subparagraph (A) not later than 90  
14           days after date on which the project  
15           sponsor submitted the notification;  
16           and

17           “(II) shall not carry out the  
18           NEPA process with respect to the  
19           proposed action again.”.

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