

Union Calendar No. 303

119TH CONGRESS
1ST SESSION

H. R. 689

[Report No. 119–351]

To require each agency to evaluate the permitting system of the agency, to consider whether permitting by rule could replace that system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 23, 2025

Ms. MALOY (for herself, Mr. FINSTAD, Mr. MOORE of Utah, Mr. VALADAO, Mr. ARRINGTON, Mr. OWENS, Mr. PFLUGER, Mr. CISCOMANI, Mr. STAUBER, Mrs. FISCHBACH, Mr. NEWHOUSE, Mr. COLLINS, Mr. MOYLAN, Mr. YAKYM, Mr. FONG, Mr. GOSAR, Mr. FULCHER, and Mr. KENNEDY of Utah) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

OCTOBER 28, 2025

Additional sponsors: Ms. HAGEMAN and Mr. HURD of Colorado

OCTOBER 28, 2025

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 23, 2025]

A BILL

To require each agency to evaluate the permitting system of the agency, to consider whether permitting by rule could replace that system, 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 “Full Responsibility and*
5 *Expedited Enforcement Act” or the “FREE Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 (1) *Agencies near unanimously operate under a*
9 *permitting system that gives agencies broad discretion*
10 *and requires the Government to review each permit-*
11 *ting application.*

12 (2) *Agencies near unanimously operate under a*
13 *permitting system that either does not have time con-*
14 *straints, or has time constraints that agencies do not*
15 *follow.*

16 (3) *The combination of broad discretion and the*
17 *lack of time constraints often results in a tedious,*
18 *time consuming, and often expensive permitting sys-*
19 *tem for the Government and applicants. Moreover,*
20 *agencies will sometimes use their discretion and the*
21 *time consuming nature of permitting to stall or dis-*
22 *courage permit issuance.*

23 (4) *There is a compelling interest in avoiding*
24 *unnecessary delay and expense in Federal permitting.*

1 (5) *Permit by rule is a process that seeks to over-*
2 *come agency delay and the cumbersome cost of agency*
3 *review to Government and private interests.*

4 (6) *Permit by rule is a process of permitting*
5 *that includes specific written standards for obtaining*
6 *a permit, a simple requirement for an applicant to*
7 *certify compliance with each of the standards, and a*
8 *streamlined approval process with a prompt deadline*
9 *for agency action on applications that only allows the*
10 *Government to verify that all conditions are met. The*
11 *Government retains the right and responsibility to*
12 *audit and enforce compliance with permitting re-*
13 *quirements. Focusing upon permittees who are vio-*
14 *lating the law or standards rather than gatekeeping*
15 *will make permitting more efficient while allowing an*
16 *agency to protect the compelling interests for which*
17 *permitting systems are intended.*

18 **SEC. 3. PERMITTING BY RULE.**

19 (a) *OFFICE OF MANAGEMENT AND BUDGET GUID-*
20 *ANCE.—Not later than 120 days after the date of the enact-*
21 *ment of this Act, the Director of the Office of Management*
22 *and Budget shall issue a memorandum to the head of each*
23 *agency that establishes guidance for the implementation of*
24 *the requirements of this section, including on the meaning*
25 *of the terms “permitting by rule” and “permit”.*

1 ***(b) REPORT TO CONGRESS REQUIRED.—***

2 ***(1) SUBMISSION OF REPORT.—****Not later than*
3 *240 days after the date on which the guidance re-*
4 *quired under subsection (a) is issued, the head of each*
5 *agency shall submit to Congress, including any com-*
6 *mittee of Congress with jurisdiction over permits for*
7 *that agency, and the Comptroller General a report on*
8 *the following:*

9 ***(A)*** *A list and description of each type of*
10 *permit issued by the agency.*

11 ***(B)*** *The statutory and regulatory require-*
12 *ments for obtaining each such type of permit.*

13 ***(C)*** *For each type of permit issued by the*
14 *agency, a specific description of each step the*
15 *agency follows to review a permit application.*

16 ***(D)*** *For each type of permit issued by the*
17 *agency, an estimate of the time the agency typi-*
18 *cally takes to review an application, beginning*
19 *on the date on which an application is submitted*
20 *and ending on the date on which a successful ap-*
21 *plication is granted.*

22 ***(E)*** *For each type of permit issued by the*
23 *agency, a description of each action typically*
24 *taken for a case in which an application is*

1 *found not to meet statutory or regulatory re-*
2 *quirements for the issuance of a permit.*

3 *(F) A list of primary interests that each*
4 *type of permit is intended to foster or protect.*

5 *(G) An individual determination for each*
6 *type of permit issued by the agency of whether*
7 *permitting by rule could in whole or in part re-*
8 *place the current system for issuing the type of*
9 *permit.*

10 *(H) For each type of permit issued by the*
11 *agency for which permitting by rule could in*
12 *whole or in part replace the current system for*
13 *issuing the type of permit, an identification of*
14 *any administrative or other practical challenges*
15 *the head of the agency anticipates in*
16 *transitioning to permitting by rule for the type*
17 *of permit.*

18 *(I) An identification of each type of permit*
19 *for which the head of the agency has determined*
20 *the agency could not reasonably, in whole or in*
21 *part, issue permits by rule under current facts*
22 *and circumstances, describing with particularity*
23 *each reason why permitting by rule could not*
24 *reasonably be used for any such permit and*

1 *what legal or practical measures could be pur-*
2 *sued to eliminate or mitigate said reason.*

3 (2) *PUBLIC COMMENT.*—*In preparing the report*
4 *required pursuant to paragraph (1), the head of an*
5 *agency may solicit and consider public comment re-*
6 *garding the report.*

7 (3) *EXTENSION OF SUBMISSION DEADLINE.*—*In*
8 *the case that the head of an agency is not able to sub-*
9 *mit the report required pursuant to paragraph (1),*
10 *the deadline to submit the report shall be extended by*
11 *an additional 90 days if the head of the agency sub-*
12 *mits to Congress, including any committee of Con-*
13 *gress with jurisdiction over permits for that agency,*
14 *and the Comptroller General a notification of the in-*
15 *tended extension of the deadline under this para-*
16 *graph.*

17 (4) *ATTORNEY FEES.*—*If the head of an agency*
18 *does not file the report required pursuant to para-*
19 *graph (1) by the applicable deadline under this sub-*
20 *section, the agency shall pay, from any funds made*
21 *available to the agency by appropriation or otherwise,*
22 *the attorney fees and costs of an applicant for a claim*
23 *filed by the applicant for the failure or delay of the*
24 *agency to take action with respect to an application*

1 *for a permit submitted to the agency by the applicant*
2 *if—*

3 *(A) the claim is filed against the agency in*
4 *an appropriate United States district court dur-*
5 *ing the period beginning on the expiration of the*
6 *applicable deadline under this subsection and*
7 *ending on the date on which the agency files the*
8 *report;*

9 *(B) the court determines that the agency*
10 *unreasonably delayed such action; and*

11 *(C) the applicant prevails in the claim.*

12 *(c) ESTABLISHMENT OF PROCESSES FOR PERMITTING*
13 *BY RULE.—*

14 *(1) APPLICATION FOR AND APPROVAL OF PER-*
15 *MITS.—Not later than 12 months after the date on*
16 *which the report is submitted pursuant to subsection*
17 *(b), for each type of permit issued by the agency for*
18 *which the head of the agency determined under sub-*
19 *section (b)(1)(G) that permitting by rule could in*
20 *whole or in part replace the current system for*
21 *issuing the type of permit, the head of each agency*
22 *shall establish by rule a permitting by rule applica-*
23 *tion process that does the following:*

24 *(A) Specifies in writing each requirement*
25 *and substantive standard that must be certified*

1 to be met by an applicant who files an applica-
2 tion to qualify for a permit under permitting by
3 rule.

4 (B) Allows an applicant to file an applica-
5 tion that contains only each required certifi-
6 cation described in subparagraph (A) and any
7 supporting documentation the applicant chooses
8 to submit in support of each such certification.

9 (C) Deems an application for a permit
10 under permitting by rule granted if—

11 (i) the application contains each cer-
12 tification described in subparagraph (A);
13 and

14 (ii) a period of 180 days after the date
15 on which the completed application was
16 submitted has expired and the head of the
17 agency has not otherwise approved or dis-
18 approved the application.

19 (2) CORRECTION OF APPLICATION.—The head of
20 an agency shall contact an applicant within 7 days
21 after the date on which an application is submitted
22 under paragraph (1) if any required certification is
23 missing from the application.

24 (3) AUDIT OF APPLICATION.—The head of an
25 agency may audit an application for a permit under

1 *permitting by rule and verify certifications of compli-*
 2 *ance with requirements and substantive standards for*
 3 *permitting by rule and may include reasonable re-*
 4 *quests for documentation.*

5 (4) *DISAPPROVAL OF APPLICATION AND EN-*
 6 *FORCEMENT.—*

7 (A) *REASON FOR DISAPPROVAL.—The head*
 8 *of an agency may only disapprove an applica-*
 9 *tion submitted for a permit under permitting by*
 10 *rule if the head of the agency identifies a re-*
 11 *quirement or substantive standard described in*
 12 *paragraph (1)(A) that was not met by the appli-*
 13 *cation, informs the applicant of how to correct*
 14 *the application, provides a reasonable oppor-*
 15 *tunity for the applicant to make such correction*
 16 *before the final action of the agency on the appli-*
 17 *cation, and states with particularity in any*
 18 *final action disapproving the application the*
 19 *facts and reasoning for such denial.*

20 (B) *AUDIT OF COMPLIANCE AND ENFORCE-*
 21 *MENT FOLLOWING GRANT OF A PERMIT UNDER*
 22 *PERMITTING BY RULE.—*

23 (i) *AUDIT.—The head of an agency*
 24 *may audit a permit granted under permit-*
 25 *ting by rule and verify compliance with re-*

1 *quirements and substantive standards for*
2 *permitting by rule, which may include rea-*
3 *sonable requests for documentation.*

4 *(ii) ENFORCEMENT.—The head of an*
5 *agency may require corrective action, sus-*
6 *pend, or revoke a permit granted under per-*
7 *mitting by rule at any time if the head of*
8 *the agency finds that a requirement or sub-*
9 *stantive standard under permitting by rule*
10 *is not being met by the recipient of the per-*
11 *mit.*

12 *(C) DIRECT APPEAL.—An applicant whose*
13 *application for a permit under permitting by*
14 *rule is disapproved, of whom corrective action is*
15 *required under a permit granted under permit-*
16 *ting by rule, or whose permit granted under per-*
17 *mitting by rule is suspended or revoked may ap-*
18 *peal such disapproval, corrective action, suspen-*
19 *sion, or revocation in an appropriate United*
20 *States district court.*

21 *(D) BURDEN OF PROOF.—In an appeal*
22 *under subparagraph (C), the agency shall bear*
23 *the burden of proof to show that an application*
24 *was lawfully disapproved or that the agency*

1 *lawfully required corrective action or suspended*
2 *or revoked a permit.*

3 (E) *ATTORNEY FEES.*—*If the court finds for*
4 *the applicant or permit holder under this para-*
5 *graph and that the agency was not substantially*
6 *justified in disapproving, requiring corrective*
7 *action under, suspending, or revoking a permit,*
8 *the agency shall pay the attorney fees and costs*
9 *of the applicant from any funds made available*
10 *to the agency by appropriation or otherwise.*

11 (d) *CONGRESSIONAL OVERSIGHT.*—*Not later than 2*
12 *years after the date on which the report is submitted pursu-*
13 *ant to subsection (b), the head of each agency shall submit*
14 *to Congress a report on the implementation by the agency*
15 *of permitting by rule for each type of permit issued by the*
16 *agency for which the head of the agency determined under*
17 *subsection (b)(1)(G) that permitting by rule could in whole*
18 *or in part replace the current system for issuing the type*
19 *of permit.*

20 (e) *CONCURRENT USE OF PREVIOUS PERMITTING SYS-*
21 *TEM.*—*If the head of the agency determines in the report*
22 *submitted pursuant to subsection (b) that the permitting*
23 *system in effect at the agency before the date of the enact-*
24 *ment of this Act for any type of permit provides value that*
25 *permitting by rule does not, but that permitting by rule*

1 *could in whole or in part replace the current system for*
2 *issuing the type of permit, the head of the agency may*
3 *maintain for that type of permit both the permitting system*
4 *previously in effect and permitting by rule, and the appli-*
5 *cant may choose which system to use to apply for a permit*
6 *of that type from the agency.*

7 (f) *GAO REPORTS.—*

8 (1) *REPORT ON ACCURACY OF AGENCY RE-*
9 *PORTS.—Not later than 90 days after the expiration*
10 *of the deadline to submit the reports required under*
11 *subsection (b), the Comptroller General shall submit*
12 *to Congress a report on the completeness and accu-*
13 *racy of the reports, including the recommendations of*
14 *the Comptroller General concerning legal or practical*
15 *measures that could be pursued to eliminate or miti-*
16 *gate any legal or practical challenges to the transition*
17 *by agencies to permitting by rule for any type of per-*
18 *mit.*

19 (2) *REPORT ON PROGRESS BY AGENCIES.—Not*
20 *later than 180 days after submission by the agencies*
21 *of the reports required under subsection (c), the*
22 *Comptroller General shall submit to Congress a report*
23 *on the progress by agencies in the implementation of*
24 *this Act, including any recommendation concerning*
25 *legal or practical measures that could be pursued to*

1 *eliminate or mitigate any remaining legal or prac-*
 2 *tical challenges to the transition by agencies to*
 3 *issuance of permits under permitting by rule for any*
 4 *type of permit.*

5 (3) *SUPPLEMENTS TO THE REPORTS.—The*
 6 *Comptroller General may submit supplements to the*
 7 *report described in paragraph (1) or (2) with regard*
 8 *to a report submitted by the head of an agency after*
 9 *the Comptroller General submits the report required*
 10 *pursuant to paragraph (1) or (2).*

11 (g) *DEFINITIONS.—In this section:*

12 (1) *AGENCY; RULE.—The terms “agency” and*
 13 *“rule” have the meaning given those terms in section*
 14 *551 of title 5, United States Code.*

15 (2) *COMPLETED APPLICATION.—The term “com-*
 16 *pleted application” means an application submitted*
 17 *under subsection (c) that contains certifications that*
 18 *the applicant meets each requirement and substantive*
 19 *standard specified under subsection (c)(1)(A).*

20 (3) *DIRECTOR.—The term “Director” means the*
 21 *Director of the Office of Management and Budget.*

22 (4) *PERMIT.—The term “permit” has the mean-*
 23 *ing given the term “license” in section 551 of title 5,*
 24 *United States Code, and as further elucidated by the*
 25 *Director in the guidance issued under subsection (a).*

1 (5) *PERMITTING BY RULE.*—The term “permit-
2 ting by rule” means the application process that an
3 agency establishes by rule for granting a certain type
4 of permit described in subsection (b), as further eluci-
5 dated by the Director in the guidance issued under
6 subsection (a).

7 (6) *SUBSTANTIVE STANDARD.*—The term “sub-
8 stantive standard” means all qualities, statuses, ac-
9 tions, benchmarks, measurements, or other written de-
10 scriptions that would qualify a party to perform the
11 permitted action.

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