

115TH CONGRESS
1ST SESSION

S. 302

AN ACT

To enhance tribal road safety, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “John P. Smith Act”.

3 **SEC. 2. DEFINITION OF SECRETARY.**

4 In this Act, the term “Secretary” means the Sec-
5 retary of the Interior.

6 **SEC. 3. APPLICATION OF CATEGORICAL EXCLUSIONS TO**
7 **CERTAIN TRIBAL TRANSPORTATION FACILI-**
8 **TIES.**

9 (a) **DEFINITION OF TRIBAL TRANSPORTATION SAFE-**
10 **TY PROJECT.—**

11 (1) **IN GENERAL.—**In this section, the term
12 “tribal transportation safety project” means a
13 project described in paragraph (2) that is eligible for
14 funding under section 202 of title 23, United States
15 Code, and that—

16 (A) corrects or improves a hazardous road
17 location or feature; or

18 (B) addresses a highway safety problem.

19 (2) **PROJECTS DESCRIBED.—**A project de-
20 scribed in this paragraph is a project for one or
21 more of the following:

22 (A) An intersection safety improvement.

23 (B) Pavement and shoulder widening (in-
24 cluding the addition of a passing lane to remedy
25 an unsafe condition).

1 (C) Installation of rumble strips or another
2 warning device, if the rumble strips or other
3 warning devices do not adversely affect the
4 safety or mobility of bicyclists and pedestrians,
5 including persons with disabilities.

6 (D) Installation of a skid-resistant surface
7 at an intersection or other location with a high
8 frequency of crashes.

9 (E) An improvement for pedestrian or bi-
10 cyclist safety or the safety of persons with dis-
11 abilities.

12 (F) Construction and improvement of a
13 railway-highway grade crossing safety feature,
14 including the installation of protective devices.

15 (G) The conduct of a model traffic enforce-
16 ment activity at a railway-highway crossing.

17 (H) Construction of a traffic calming fea-
18 ture.

19 (I) Elimination of a roadside hazard.

20 (J) Installation, replacement, and other
21 improvements of highway signage and pavement
22 markings or a project to maintain minimum
23 levels of retroreflectivity that addresses a high-
24 way safety problem consistent with a State
25 strategic highway safety plan.

1 (K) Installation of a priority control sys-
2 tem for emergency vehicles at signalized inter-
3 sections.

4 (L) Installation of a traffic control or other
5 warning device at a location with high crash po-
6 tential.

7 (M) Transportation safety planning.

8 (N) Collection, analysis, and improvement
9 of safety data.

10 (O) Planning integrated interoperable
11 emergency communications equipment, oper-
12 ational activities, or traffic enforcement activi-
13 ties (including police assistance) relating to
14 work zone safety.

15 (P) Installation of guardrails, barriers (in-
16 cluding barriers between construction work
17 zones and traffic lanes for the safety of road
18 users and workers), and crash attenuators.

19 (Q) The addition or retrofitting of struc-
20 tures or other measures to eliminate or reduce
21 crashes involving vehicles and wildlife.

22 (R) Installation of yellow-green signs and
23 signals at pedestrian and bicycle crossings and
24 in school zones.

1 (S) Construction and operational improve-
2 ments on a high risk rural road (as defined in
3 section 148(a) of title 23, United States Code).

4 (T) Geometric improvements to a road for
5 the purposes of safety improvement.

6 (U) A road safety audit.

7 (V) Roadway safety infrastructure im-
8 provements consistent with the recommenda-
9 tions included in the publication of the Federal
10 Highway Administration entitled “Handbook
11 for Designing Roadways for the Aging Popu-
12 lation” (FHWA-SA-14-015), dated June 2014
13 (or a revised or updated publication).

14 (W) Truck parking facilities eligible for
15 funding under section 1401 of MAP-21 (23
16 U.S.C. 137 note; Public Law 112-141).

17 (X) Systemic safety improvements.

18 (Y) Installation of vehicle-to-infrastructure
19 communication equipment.

20 (Z) Pedestrian hybrid beacons.

21 (AA) Roadway improvements that provide
22 separation between pedestrians and motor vehi-
23 cles, including medians and pedestrian crossing
24 islands.

1 (BB) A physical infrastructure safety
2 project not described in subparagraphs (A)
3 through (AA).

4 (b) NEW CATEGORICAL EXCLUSIONS.—

5 (1) REVIEW OF EXISTING CATEGORICAL EXCLU-
6 SIONS.—The Secretary shall review the categorical
7 exclusions under section 771.117 of title 23, Code of
8 Federal Regulations (or successor regulations), to
9 determine which, if any, are applicable for use by
10 the Secretary in review of projects eligible for assist-
11 ance under section 202 of title 23, United States
12 Code.

13 (2) REVIEW OF TRIBAL TRANSPORTATION
14 SAFETY PROJECTS.—The Secretary shall identify
15 tribal transportation safety projects that meet the
16 requirements for categorical exclusions under sec-
17 tions 1507.3 and 1508.4 of title 40, Code of Federal
18 Regulations.

19 (3) PROPOSAL.—The Secretary shall issue a
20 proposed rule, in accordance with sections 1507.3
21 and 1508.4 of title 40, Code of Federal Regulations,
22 to propose any categorical exclusions identified
23 under paragraphs (1) and (2).

24 (4) DEADLINE.—Not later than 180 days after
25 the date of enactment of this Act, and after consid-

1 ering any comments on the proposed rule issued
2 under paragraph (3), the Secretary shall promulgate
3 a final rule for the categorical exclusions, in accord-
4 ance with sections 1507.3 and 1508.4 of title 40,
5 Code of Federal Regulations.

6 (5) TECHNICAL ASSISTANCE.—The Secretary of
7 Transportation shall provide technical assistance to
8 the Secretary in carrying out this subsection.

9 (c) REVIEWS OF TRIBAL TRANSPORTATION SAFETY
10 PROJECTS.—

11 (1) IN GENERAL.—The Secretary or the head of
12 another Federal agency responsible for a decision re-
13 lated to a tribal transportation safety project shall
14 complete any approval or decision for the review of
15 the tribal transportation safety project required
16 under the National Environmental Policy Act of
17 1969 (42 U.S.C. 4321 et seq.) or any other applica-
18 ble Federal law on an expeditious basis using the
19 shortest existing applicable process.

20 (2) REVIEW OF APPLICATIONS.—Not later than
21 45 days after the date of receipt of a complete appli-
22 cation by an Indian tribe for approval of a tribal
23 transportation safety project, the Secretary shall—

24 (A) take final action on the application; or

(B) provide the Indian tribe a schedule for completion of the review described in paragraph (1), including the identification of any other Federal agency that has jurisdiction with respect to the project.

(3) DECISIONS UNDER OTHER FEDERAL LAWS.—In any case in which a decision under any other Federal law relating to a tribal transportation safety project (including the issuance or denial of a permit or license) is required, not later than 45 days after the Secretary has made all decisions of the lead agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project, the head of the Federal agency responsible for the decision shall—

(A) make the applicable decision; or

(B) provide the Indian tribe a schedule for making the decision.

(4) EXTENSIONS.—The Secretary or the head of an applicable Federal agency may extend the period under paragraph (2) or (3), as applicable, by an additional 30 days by providing the Indian tribe notice of the extension, including a statement of the need for the extension.

(5) NOTIFICATION AND EXPLANATION.—In any case in which a required action is not completed by the deadline under paragraph (2), (3), or (4), as applicable, the Secretary or the head of a Federal agency, as applicable, shall—

(A) notify the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives of the failure to comply with the deadline; and

(B) provide to the Committees described in subparagraph (A) a detailed explanation of the reasons for the failure to comply with the deadline.

SEC. 4. PROGRAMMATIC AGREEMENTS FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—The Secretary shall enter into programmatic agreements with Indian tribes that establish efficient administrative procedures for carrying out environmental reviews for projects eligible for assistance under section 202 of title 23, United States Code.

(b) INCLUSIONS.—A programmatic agreement under subsection (a)—

(1) may include an agreement that allows an Indian tribe to determine, on behalf of the Secretary, whether a project is categorically excluded

1 from the preparation of an environmental assess-
2 ment or environmental impact statement under the
3 National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.); and

5 (2) shall—

6 (A) require that the Indian tribe maintain
7 adequate capacity in terms of personnel and
8 other resources to carry out applicable agency
9 responsibilities pursuant to section 1507.2 of
10 title 40, Code of Federal Regulations (or suc-
11 cessor regulations);

12 (B) set forth the responsibilities of the In-
13 dian tribe for making categorical exclusion de-
14 terminations, documenting the determinations,
15 and achieving acceptable quality control and
16 quality assurance;

17 (C) allow—

18 (i) the Secretary to monitor compli-
19 ance of the Indian tribe with the terms of
20 the agreement; and

21 (ii) the Indian tribe to execute any
22 needed corrective action;

23 (D) contain stipulations for amendments,
24 termination, and public availability of the agree-

1 ment once the agreement has been executed;
2 and
3 (E) have a term of not more than 5 years,
4 with an option for renewal based on a review by
5 the Secretary of the performance of the Indian
6 tribe.

Passed the Senate November 29, 2017.

Attest:

Secretary.

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