

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4377

To provide for improved coordination of agency actions in the preparation and adoption of environmental documents for permitting determinations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2012

Mr. ROSS of Florida (for himself, Mr. SMITH of Texas, Mr. COBLE, and Mr. PETERSON) introduced the following bill; which was referred to the Committee on the Judiciary, 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

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## A BILL

To provide for improved coordination of agency actions in the preparation and adoption of environmental documents for permitting determinations, 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 “Responsibly And Pro-  
5 fessionally Invigorating Development Act of 2012” or as  
6 the “RAPID Act”.

1 **SEC. 2. COORDINATION OF AGENCY ADMINISTRATIVE OP-**  
 2 **ERATIONS FOR EFFICIENT DECISIONMAKING.**

3 (a) IN GENERAL.—Part I of chapter 5 of title 5,  
 4 United States Code, is amended by inserting after sub-  
 5 chapter II the following:

6 “SUBCHAPTER IIA—INTERAGENCY  
 7 COORDINATION REGARDING PERMITTING

“560. Coordination of agency administrative operations for efficient decision-  
 making.

8 **“§ 560. Coordination of agency administrative oper-**  
 9 **ations for efficient decisionmaking**

10 “(a) CONGRESSIONAL DECLARATION OF PURPOSE.—  
 11 The purpose of this subchapter is to establish a framework  
 12 and procedures to streamline, increase the efficiency of,  
 13 and enhance coordination of agency administration of the  
 14 regulatory review, environmental decisionmaking, and per-  
 15 mitting process for projects undertaken, reviewed, or fund-  
 16 ed by Federal agencies. This subchapter will ensure that  
 17 agencies administer the regulatory process in a manner  
 18 that is efficient so that citizens are not burdened with reg-  
 19 ulatory excuses and time delays.

20 “(b) DEFINITIONS.—For purposes of this sub-  
 21 chapter, the term—

22 “(1) ‘agency’ means any agency, department, or  
 23 other unit of Federal, State, local, or Indian tribal  
 24 government;

1           “(2) ‘category of projects’ means 2 or more  
2 projects related by project type, potential environ-  
3 mental impacts, geographic location, or another  
4 similar project feature or characteristic;

5           “(3) ‘environmental assessment’ means a con-  
6 cise public document for which a Federal agency is  
7 responsible that serves to—

8           “(A) briefly provide sufficient evidence and  
9 analysis for determining whether to prepare an  
10 environmental impact statement or a finding of  
11 no significant impact;

12           “(B) aid an agency’s compliance with  
13 NEPA when no environmental impact state-  
14 ment is necessary; and

15           “(C) facilitate preparation of an environ-  
16 mental impact statement when one is necessary;

17           “(4) ‘environmental impact statement’ means  
18 the detailed statement of significant environmental  
19 impacts required to be prepared under NEPA;

20           “(5) ‘environmental review’ means the Federal  
21 agency procedures for preparing an environmental  
22 impact statement, environmental assessment, cat-  
23 gorical exclusion, or other document under NEPA;

24           “(6) ‘environmental decisionmaking process’  
25 means the Federal agency procedures for under-

1 taking and completion of any environmental permit,  
2 decision, approval, review, or study under any Fed-  
3 eral law other than NEPA for a project subject to  
4 an environmental review;

5 “(7) ‘environmental document’ means an envi-  
6 ronmental assessment or environmental impact  
7 statement;

8 “(8) ‘finding of no significant impact’ means a  
9 document by a Federal agency briefly presenting the  
10 reasons why a project, not otherwise subject to a  
11 categorical exclusion, will not have a significant ef-  
12 fect on the human environment and for which an en-  
13 vironmental impact statement therefore will not be  
14 prepared;

15 “(9) ‘lead agency’ means the Federal agency  
16 preparing or responsible for preparing the environ-  
17 mental document;

18 “(10) ‘NEPA’ means the National Environ-  
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

20 “(11) ‘project’ means major Federal actions  
21 that are construction activities undertaken with Fed-  
22 eral funds or that require approval by a permit or  
23 regulatory decision issued by a Federal agency;

24 “(12) ‘project sponsor’ means the agency or  
25 other entity, including any private or public-private

1 entity, that seeks approval for a project or is other-  
2 wise responsible for undertaking a project; and

3 “(13) ‘record of decision’ means a document  
4 prepared by a lead agency under NEPA following an  
5 environmental impact statement that states the lead  
6 agency’s decision, identifies the alternatives consid-  
7 ered by the agency in reaching its decision and  
8 states whether all practicable means to avoid or min-  
9 imize environmental harm from the alternative se-  
10 lected have been adopted, and if not, why they were  
11 not adopted.

12 “(c) ROLE OF PROJECT SPONSOR.—

13 “(1) PREPARATION OF ENVIRONMENTAL DOCU-  
14 MENTS.—Upon the request of any project sponsor to  
15 the lead agency, the project sponsor shall be author-  
16 ized to prepare any document for purposes of an en-  
17 vironmental review required in support of any  
18 project or approval by the lead agency if the lead  
19 agency furnishes oversight in such preparation and  
20 independently evaluates such document and the doc-  
21 ument is approved and adopted by the lead agency  
22 prior to taking any action or making any approval  
23 based on such document.

24 “(2) AUTHORITY TO ACCEPT CONTRIBUTIONS  
25 OF FUNDS.—A lead agency is authorized to accept

1 voluntary contributions of funds from a project  
2 sponsor, which the lead agency shall use solely to  
3 undertake an environmental review or make a deci-  
4 sion under an environmental law for a project for  
5 which a Federal agency is undertaking an environ-  
6 mental review.

7 “(d) ADOPTION AND USE OF DOCUMENTS.—

8 “(1) DOCUMENTS PREPARED UNDER NEPA.—

9 “(A) Not more than 1 environmental im-  
10 pact statement and 1 environmental assessment  
11 shall be prepared under NEPA for a project,  
12 and, except as otherwise provided by law, the  
13 lead agency shall prepare the environmental im-  
14 pact statement or environmental assessment.  
15 After the lead agency issues a record of deci-  
16 sion, no Federal agency responsible for making  
17 any approval for that project may rely on a doc-  
18 ument other than the environmental document  
19 prepared by the lead agency.

20 “(B) Lead agencies shall adopt, use, or  
21 rely upon secondary and cumulative impact  
22 analyses included in any environmental docu-  
23 ment prepared under NEPA for projects in the  
24 same geographic area where the secondary and  
25 cumulative impact analyses provide information

1 and data that pertains to the NEPA decision  
2 for the project under review.

3 “(2) STATE ENVIRONMENTAL DOCUMENTS;  
4 SUPPLEMENTAL DOCUMENTS.—

5 “(A) Upon the request of a project spon-  
6 sor, a lead agency shall adopt a document that  
7 has been prepared for a project under State  
8 laws and procedures as the environmental im-  
9 pact statement or environmental assessment for  
10 the project, provided that the State laws and  
11 procedures under which the document was pre-  
12 pared provide environmental protection and op-  
13 portunities for public involvement that are sub-  
14 stantially equivalent to NEPA.

15 “(B) An environmental document adopted  
16 under subparagraph (A) is deemed to satisfy  
17 the lead agency’s obligation under NEPA to  
18 prepare an environmental impact statement or  
19 environmental assessment.

20 “(C) In the case of a document described  
21 in subparagraph (A), during the period after  
22 preparation of the document but before its  
23 adoption by the lead agency, the lead agency  
24 shall prepare and publish a supplement to that  
25 document if the lead agency determines that—

1           “(i) a significant change has been  
2           made to the project that is relevant for  
3           purposes of environmental review of the  
4           project; or

5           “(ii) there have been significant  
6           changes in circumstances or availability of  
7           information relevant to the environmental  
8           review for the project.

9           “(D) If the agency prepares and publishes  
10          a supplemental document under subparagraph  
11          (C), the lead agency may solicit comments from  
12          agencies and the public on the supplemental  
13          document for a period of not more than 30  
14          days beginning on the date of the publication of  
15          the supplement.

16          “(E) A lead agency shall issue its record of  
17          decision or finding of no significant impact, as  
18          appropriate, based upon the document adopted  
19          under subparagraph (A), and any supplements  
20          thereto.

21          “(3) CONTEMPORANEOUS PROJECTS.—If the  
22          lead agency determines that there is a reasonable  
23          likelihood that the project will have similar environ-  
24          mental impacts as a similar project in geographical  
25          proximity to the project, and that similar project



1 was subject to environmental review or similar State  
2 procedures within the 5 year period immediately pre-  
3 ceding the date that the lead agency makes that de-  
4 termination, the lead agency may adopt the environ-  
5 mental document that resulted from that environ-  
6 mental review or similar State procedure. The lead  
7 agency may adopt such an environmental document,  
8 if it is prepared under State laws and procedures  
9 only upon making a favorable determination on such  
10 environmental document pursuant to paragraph  
11 (2)(A).

12 “(e) PARTICIPATING AGENCIES.—

13 “(1) IN GENERAL.—The lead agency shall be  
14 responsible for inviting and designating participating  
15 agencies in accordance with this subsection. The  
16 lead agency shall provide the invitation or notice of  
17 the designation in writing.

18 “(2) FEDERAL PARTICIPATING AGENCIES.—Any  
19 Federal agency that is required to adopt the envi-  
20 ronmental document of the lead agency for a project  
21 shall be designated as a participating agency and  
22 shall collaborate on the preparation of the environ-  
23 mental document, unless the Federal agency informs  
24 the lead agency, in writing, by a time specified by

1 the lead agency in the designation of the Federal  
2 agency that the Federal agency—

3 “(A) has no jurisdiction or authority with  
4 respect to the project;

5 “(B) has no expertise or information rel-  
6 evant to the project; and

7 “(C) does not intend to submit comments  
8 on the project.

9 “(3) INVITATION.—The lead agency shall iden-  
10 tify, as early as practicable in the environmental re-  
11 view for a project, any agencies other than an agen-  
12 cy described in paragraph (2) that may have an in-  
13 terest in the project, including, where appropriate,  
14 Governors of affected States, and shall invite such  
15 identified agencies and Governors to become partici-  
16 pating agencies in the environmental review for the  
17 project. The invitation shall set a deadline of 30  
18 days for responses to be submitted, which may only  
19 be extended by the lead agency for good cause  
20 shown. Any agency that fails to respond prior to the  
21 deadline shall be deemed to have declined the invita-  
22 tion.

23 “(4) EFFECT OF DECLINING PARTICIPATING  
24 AGENCY INVITATION.—

1           “(A) Any agency that declines a designa-  
2           tion or invitation by the lead agency to be a  
3           participating agency shall be precluded from  
4           submitting comments on or taking any meas-  
5           ures to oppose—

6                     “(i) the project;

7                     “(ii) any document prepared under  
8           NEPA for that project; and

9                     “(iii) any permit, license, or approval  
10          related to that project.

11          “(B) A lead agency shall disregard and  
12          shall not respond to or include in any document  
13          prepared under NEPA, any comment submitted  
14          by an agency that has declined an invitation or  
15          designation by the lead agency to be a partici-  
16          pating agency.

17          “(5) EFFECT OF DESIGNATION.—Designation  
18          as a participating agency under this subsection does  
19          not imply that the participating agency—

20                     “(A) supports a proposed project; or

21                     “(B) has any jurisdiction over, or special  
22          expertise with respect to evaluation of, the  
23          project.

24          “(6) COOPERATING AGENCY.—A participating  
25          agency may also be designated by a lead agency as

1 a ‘cooperating agency’ under the regulations con-  
2 tained in part 1500 of title 40, Code of Federal Reg-  
3 ulations, as in effect on January 1, 2011. Designa-  
4 tion as a cooperating agency shall have no effect on  
5 designation as participating agency. No agency that  
6 is not a participating agency may be designated as  
7 a cooperating agency.

8 “(7) CONCURRENT REVIEWS.—Each Federal  
9 agency shall—

10 “(A) carry out obligations of the Federal  
11 agency under other applicable law concurrently  
12 and in conjunction with the review required  
13 under NEPA; and

14 “(B) in accordance with the rules made by  
15 the Council on Environmental Quality pursuant  
16 to subsection (n)(1), make and carry out such  
17 rules, policies, and procedures as may be rea-  
18 sonably necessary to enable the agency to en-  
19 sure completion of the environmental review  
20 and environmental decisionmaking process in a  
21 timely, coordinated, and environmentally re-  
22 sponsible manner.

23 “(8) COMMENTS.—Each participating agency  
24 shall limit its comments on a project to areas that  
25 are within the authority and expertise of such par-

1 participating agency. Each participating agency shall  
2 identify in such comments the statutory authority of  
3 the participating agency pertaining to the subject  
4 matter of its comments. The lead agency shall not  
5 act upon, respond to or include in any document  
6 prepared under NEPA, any comment submitted by  
7 a participating agency that concerns matters that  
8 are outside of the authority and expertise of the  
9 commenting participating agency.

10 “(f) PROJECT INITIATION REQUEST.—

11 “(1) NOTICE.—A project sponsor shall provide  
12 the Federal agency responsible for undertaking a  
13 project with notice of the initiation of the project by  
14 providing a description of the proposed project, the  
15 general location of the proposed project, and a state-  
16 ment of any Federal approvals anticipated to be nec-  
17 essary for the proposed project, for the purpose of  
18 informing the Federal agency that the environmental  
19 review should be initiated.

20 “(2) LEAD AGENCY INITIATION.—The agency  
21 receiving a project initiation notice under paragraph  
22 (1) shall promptly identify the lead agency for the  
23 project, and the lead agency shall initiate the envi-  
24 ronmental review within a period of 45 days after  
25 receiving the notice required by paragraph (1) by in-

1 viting or designating agencies to become partici-  
2 pating agencies, or, where the lead agency deter-  
3 mines that no participating agencies are required for  
4 the project, by taking such other actions that are  
5 reasonable and necessary to initiate the environ-  
6 mental review.

7 “(g) ALTERNATIVES ANALYSIS.—

8 “(1) PARTICIPATION.—As early as practicable  
9 during the environmental review, but no later than  
10 during scoping for a project requiring the prepara-  
11 tion of an environmental impact statement, the lead  
12 agency shall provide an opportunity for involvement  
13 by cooperating agencies in determining the range of  
14 alternatives to be considered for a project.

15 “(2) RANGE OF ALTERNATIVES.—Following  
16 participation under paragraph (1), the lead agency  
17 shall determine the range of alternatives for consid-  
18 eration in any document which the lead agency is re-  
19 sponsible for preparing for the project, subject to the  
20 following limitations:

21 “(A) NO REQUIREMENT TO EVALUATE  
22 CERTAIN ALTERNATIVES.—No Federal agency  
23 shall be required to evaluate any alternative  
24 that was identified but not carried forward for  
25 detailed evaluation in an environmental docu-

1           ment or evaluated and not selected in any envi-  
2           ronmental document prepared under NEPA for  
3           the same project.

4           “(B) ONLY FEASIBLE ALTERNATIVES  
5           EVALUATED.—Where a project is being con-  
6           structed, managed, funded, or undertaken by a  
7           project sponsor that is not a Federal agency,  
8           cooperating agencies shall only be required to  
9           evaluate alternatives that the project sponsor  
10          could feasibly undertake, including alternatives  
11          that can actually be undertaken by the project  
12          sponsor, and are technically and economically  
13          feasible.

14          “(3) METHODOLOGIES.—

15                 “(A) IN GENERAL.—The lead agency shall  
16                 determine, in collaboration with cooperating  
17                 agencies at appropriate times during the envi-  
18                 ronmental review, the methodologies to be used  
19                 and the level of detail required in the analysis  
20                 of each alternative for a project. The lead agen-  
21                 cy shall include in the environmental document  
22                 a description of the methodologies used and  
23                 how the methodologies were selected.

24                 “(B) NO EVALUATION OF INAPPROPRIATE  
25                 ALTERNATIVES.—When a lead agency deter-

1           mines that an alternative does not meet the  
2           purpose and need for a project, that alternative  
3           is not required to be evaluated in detail in an  
4           environmental document.

5           “(4) PREFERRED ALTERNATIVE.—At the dis-  
6           cretion of the lead agency, the preferred alternative  
7           for a project, after being identified, may be devel-  
8           oped to a higher level of detail than other alter-  
9           natives in order to facilitate the development of miti-  
10          gation measures or concurrent compliance with other  
11          applicable laws if the lead agency determines that  
12          the development of such higher level of detail will  
13          not prevent the lead agency from making an impar-  
14          tial decision as to whether to accept another alter-  
15          native which is being considered in the environ-  
16          mental review.

17          “(5) EMPLOYMENT ANALYSIS.—The evaluation  
18          of each alternative in an environmental impact state-  
19          ment or an environmental assessment shall identify  
20          the potential effects of the alternative on employ-  
21          ment, including potential short-term and long-term  
22          employment increases and reductions and shifts in  
23          employment.

24          “(h) COORDINATION AND SCHEDULING.—

25                 “(1) COORDINATION PLAN.—



1           “(A) IN GENERAL.—The lead agency shall  
2 establish and implement a plan for coordinating  
3 public and agency participation in and comment  
4 on the environmental review for a project or  
5 category of projects to facilitate the expeditious  
6 resolution of the environmental review.

7           “(B) SCHEDULE.—

8           “(i) IN GENERAL.—The lead agency  
9 shall establish as part of the coordination  
10 plan for a project, after consultation with  
11 each participating agency and, where appli-  
12 cable, the project sponsor, a schedule for  
13 completion of the environmental review.  
14 The schedule shall include deadlines, con-  
15 sistent with subsection (i), for decisions  
16 under any other Federal laws (including  
17 the issuance or denial of a permit or li-  
18 cense) relating to the project that is cov-  
19 ered by the schedule.

20           “(ii) FACTORS FOR CONSIDER-  
21 ATION.—In establishing the schedule, the  
22 lead agency shall consider factors such  
23 as—

1           “(I) the responsibilities of par-  
2           ticipating agencies under applicable  
3           laws;

4           “(II) resources available to the  
5           participating agencies;

6           “(III) overall size and complexity  
7           of the project;

8           “(IV) overall schedule for and  
9           cost of the project;

10          “(V) the sensitivity of the natural  
11          and historic resources that could be  
12          affected by the project; and

13          “(VI) the extent to which similar  
14          projects in geographic proximity were  
15          recently subject to environmental re-  
16          view or similar State procedures.

17          “(iii) COMPLIANCE WITH THE SCHED-  
18          ULE.—

19                 “(I) All participating agencies  
20                 shall comply with the time periods es-  
21                 tablished in the schedule or with any  
22                 modified time periods, where the lead  
23                 agency modifies the schedule pursuant  
24                 to subparagraph (D).

1           “(II) The lead agency shall dis-  
2 regard and shall not respond to or in-  
3 clude in any document prepared under  
4 NEPA, any comment or information  
5 submitted or any finding made by a  
6 participating agency that is outside of  
7 the time period established in the  
8 schedule or modification pursuant to  
9 subparagraph (D) for that agency’s  
10 comment, submission or finding.

11           “(III) If a participating agency  
12 fails to object in writing to a lead  
13 agency decision, finding or request for  
14 concurrence within the time period es-  
15 tablished under law or by the lead  
16 agency, the agency shall be deemed to  
17 have concurred in the decision, finding  
18 or request.

19           “(C) CONSISTENCY WITH OTHER TIME PE-  
20 RIODS.—A schedule under subparagraph (B)  
21 shall be consistent with any other relevant time  
22 periods established under Federal law.

23           “(D) MODIFICATION.—The lead agency  
24 may—

1                   “(i) lengthen a schedule established  
2                   under subparagraph (B) for good cause;  
3                   and

4                   “(ii) shorten a schedule only with the  
5                   concurrence of the cooperating agencies.

6                   “(E) DISSEMINATION.—A copy of a sched-  
7                   ule under subparagraph (B), and of any modi-  
8                   fications to the schedule, shall be—

9                   “(i) provided within 15 days of com-  
10                  pletion or modification of such schedule to  
11                  all participating agencies and to the  
12                  project sponsor; and

13                  “(ii) made available to the public.

14                  “(F) ROLES AND RESPONSIBILITY OF  
15                  LEAD AGENCY.—With respect to the environ-  
16                  mental review for any project, the lead agency  
17                  shall have authority and responsibility to take  
18                  such actions as are necessary and proper, with-  
19                  in the authority of the lead agency, to facilitate  
20                  the expeditious resolution of the environmental  
21                  review for the project.

22                  “(i) DEADLINES.—The following deadlines shall  
23                  apply to any project subject to review under NEPA and  
24                  any decision under any Federal law relating to such

1 project (including the issuance or denial of a permit or  
2 license or any required finding):

3 “(1) ENVIRONMENTAL REVIEW DEADLINES.—

4 The lead agency shall complete the environmental  
5 review within the following deadlines:

6 “(A) ENVIRONMENTAL IMPACT STATE-  
7 MENT PROJECTS.—For projects requiring prep-  
8 aration of an environmental impact statement—

9 “(i) the lead agency shall issue a  
10 record of decision within 2 years after the  
11 earlier of the date the lead agency receives  
12 the project initiation request or a Notice of  
13 Intent to Prepare an Environmental Im-  
14 pact Statement is published in the Federal  
15 Register; and

16 “(ii) in circumstances where the lead  
17 agency has prepared an environmental as-  
18 sessment and determined that an environ-  
19 mental impact statement will be required,  
20 the lead agency shall issue a record of de-  
21 cision within 2 years after the date of pub-  
22 lication of the Notice of Intent to Prepare  
23 an Environmental Impact Statement in the  
24 Federal Register.

1           “(B) ENVIRONMENTAL ASSESSMENT  
2 PROJECTS.—For projects requiring preparation  
3 of an environmental assessment, the lead agen-  
4 cy shall issue a finding of no significant impact  
5 or publish a Notice of Intent to Prepare an En-  
6 vironmental Impact Statement in the Federal  
7 Register within 1 year after the earlier of the  
8 date the lead agency receives the project initi-  
9 ation request, makes a decision to prepare an  
10 environmental assessment, or sends out partici-  
11 pating agency invitations.

12           “(2) EXTENSIONS.—

13           “(A) REQUIREMENTS.—The environmental  
14 review deadlines may be extended only if—

15                   “(i) a different deadline is established  
16 by agreement of the lead agency, the  
17 project sponsor, and all participating agen-  
18 cies; or

19                   “(ii) the deadline is extended by the  
20 lead agency for good cause.

21           “(B) LIMITATION.—The environmental re-  
22 view shall not be extended by more than 1 year  
23 for a project requiring preparation of an envi-  
24 ronmental impact statement or by more than

1 180 days for a project requiring preparation of  
2 an environmental assessment.

3 “(3) ENVIRONMENTAL REVIEW COMMENTS.—

4 “(A) COMMENTS ON DRAFT ENVIRON-  
5 MENTAL IMPACT STATEMENT.—For comments  
6 by agencies and the public on a draft environ-  
7 mental impact statement, the lead agency shall  
8 establish a comment period of not more than 60  
9 days after publication in the Federal Register  
10 of notice of the date of public availability of  
11 such document, unless—

12 “(i) a different deadline is established  
13 by agreement of the lead agency, the  
14 project sponsor, and all participating agen-  
15 cies; or

16 “(ii) the deadline is extended by the  
17 lead agency for good cause.

18 “(B) OTHER COMMENTS.—For all other  
19 comment periods for agency or public comments  
20 in the environmental review process, the lead  
21 agency shall establish a comment period of no  
22 more than 30 days from availability of the ma-  
23 terials on which comment is requested, unless—

24 “(i) a different deadline is established  
25 by agreement of the lead agency, the

1 project sponsor, and all participating agen-  
2 cies; or

3 “(ii) the deadline is extended by the  
4 lead agency for good cause.

5 “(4) DEADLINES FOR DECISIONS UNDER  
6 OTHER LAWS.—Notwithstanding any other provision  
7 of law, in any case in which a decision under any  
8 other Federal law relating to the undertaking of a  
9 project being reviewed under NEPA (including the  
10 issuance or denial of a permit or license) is required  
11 to be made, the following deadlines shall apply:

12 “(A) DECISIONS PRIOR TO RECORD OF DE-  
13 CISION OR FINDING OF NO SIGNIFICANT IM-  
14 PACT.—If a Federal agency is required to ap-  
15 prove, or make a determination or finding re-  
16 garding, a project prior to the record of deci-  
17 sion or finding of no significant impact, such  
18 Federal agency shall make such determination,  
19 finding, or approval not later than 90 days  
20 after the lead agency publishes a notice of the  
21 availability of the final environmental impact  
22 statement or issuance of other final environ-  
23 mental documents, or no later than such other  
24 date that is otherwise required by law, which-  
25 ever event occurs first.



1           “(B) OTHER DECISIONS.—With regard to  
2 any determination, approval, or finding of a  
3 Federal agency that is not subject to subpara-  
4 graph (A), each Federal agency shall make any  
5 required determination or finding or otherwise  
6 approve or disapprove the project not later than  
7 180 days after the lead agency issues the record  
8 of decision or finding of no significant impact,  
9 unless a different deadline is established by  
10 agreement of the Federal agency, lead agency,  
11 and the project sponsor, where applicable, or  
12 the deadline is extended by the Federal agency  
13 for good cause, provided that such extension  
14 shall not extend beyond a period that is 1 year  
15 after the lead agency issues the record of deci-  
16 sion or finding of no significant impact.

17           “(C) FAILURE TO ACT.—In the event that  
18 any Federal agency fails to approve or dis-  
19 approve the project, or make a required finding  
20 or determination, within the applicable deadline  
21 described in subparagraphs (A) and (B), the  
22 project shall be deemed approved by such agen-  
23 cy and such agency shall issue any required  
24 permit or make any required finding or deter-  
25 mination authorizing the project to proceed

1           within 30 days of the applicable deadline de-  
2           scribed in subparagraph (A) and (B).

3           “(D) FINAL AGENCY ACTION.—Any ap-  
4           proval, determination, finding, or issuance of a  
5           permit under subparagraph (C), is deemed to  
6           be final agency action, and may not be reversed  
7           by any agency. In any action under chapter 7  
8           seeking review of such a final agency action, the  
9           court may not set aside such agency action by  
10          reason of that agency action having occurred  
11          under this paragraph.

12          “(j) ISSUE IDENTIFICATION AND RESOLUTION.—

13                 “(1) COOPERATION.—The lead agency and the  
14                 participating agencies shall work cooperatively in ac-  
15                 cordance with this section to identify and resolve  
16                 issues that could delay completion of the environ-  
17                 mental review or could result in denial of any ap-  
18                 provals required for the project under applicable  
19                 laws.

20                 “(2) LEAD AGENCY RESPONSIBILITIES.—The  
21                 lead agency shall make information available to the  
22                 participating agencies as early as practicable in the  
23                 environmental review regarding the environmental,  
24                 historic, and socioeconomic resources located within  
25                 the project area and the general locations of the al-

1       ternatives under consideration. Such information  
2       may be based on existing data sources, including ge-  
3       ographic information systems mapping.

4           “(3) PARTICIPATING AGENCY RESPONSIBIL-  
5       ITIES.—Based on information received from the lead  
6       agency, participating agencies shall identify, as early  
7       as practicable, any issues of concern regarding the  
8       project’s potential environmental, historic, or socio-  
9       economic impacts. In this paragraph, issues of con-  
10      cern include any issues that could substantially delay  
11      or prevent an agency from granting a permit or  
12      other approval that is needed for the project.

13           “(4) ISSUE RESOLUTION.—

14           “(A) MEETING OF PARTICIPATING AGEN-  
15      CIES.—At any time upon request of a project  
16      sponsor, the lead agency shall promptly convene  
17      a meeting with the relevant participating agen-  
18      cies and the project sponsor, to resolve issues  
19      that could delay completion of the environ-  
20      mental review or could result in denial of any  
21      approvals required for the project under applic-  
22      able laws.

23           “(B) NOTICE THAT RESOLUTION CANNOT  
24      BE ACHIEVED.—If a resolution cannot be  
25      achieved within 30 days following such a meet-

1           ing and a determination by the lead agency that  
2           all information necessary to resolve the issue  
3           has been obtained, the lead agency shall notify  
4           the heads of all participating agencies, the  
5           project sponsor, and the Council on Environ-  
6           mental Quality for further proceedings in ac-  
7           cordance with section 204 of NEPA, and shall  
8           publish such notification in the Federal Reg-  
9           ister.

10          “(k) REPORT TO CONGRESS.—The head of each Fed-  
11       eral agency shall report annually to Congress—

12               “(1) the projects for which the agency initiated  
13               preparation of an environmental impact statement or  
14               environmental assessment;

15               “(2) the projects for which the agency issued a  
16               record of decision or finding of no significant impact  
17               and the length of time it took the agency to com-  
18               plete the environmental review for each such project;

19               “(3) the filing of any lawsuits against the agen-  
20               cy seeking judicial review of a permit, license, or ap-  
21               proval issued by the agency for an action subject to  
22               NEPA, including the date the complaint was filed,  
23               the court in which the complaint was filed, and a  
24               summary of the claims for which judicial review was  
25               sought; and

1           “(4) the resolution of any lawsuits against the  
2 agency that sought judicial review of a permit, li-  
3 cense, or approval issued by the agency for an action  
4 subject to NEPA.

5           “(1) LIMITATIONS ON CLAIMS.—

6           “(1) IN GENERAL.—Notwithstanding any other  
7 provision of law, a claim arising under Federal law  
8 seeking judicial review of a permit, license, or ap-  
9 proval issued by a Federal agency for an action sub-  
10 ject to NEPA shall be barred unless—

11           “(A) in the case of a claim pertaining to  
12 project for which an environmental review was  
13 conducted, the claim is filed by a party that  
14 submitted a comment during the environmental  
15 review on the issue on which the party seeks ju-  
16 dicial review, and such comment was suffi-  
17 ciently detailed to put the lead agency on notice  
18 of the issue upon which the party seeks judicial  
19 review; and

20           “(B) filed within 180 days after publica-  
21 tion of a notice in the Federal Register an-  
22 nouncing that the permit, license, or approval is  
23 final pursuant to the law under which the agen-  
24 cy action is taken, unless a shorter time is spec-

1           ified in the Federal law pursuant to which judi-  
2           cial review is allowed.

3           “(2) NEW INFORMATION.—The preparation of  
4           a supplemental environmental impact statement,  
5           when required, is deemed a separate final agency ac-  
6           tion and the deadline for filing a claim for judicial  
7           review of such action shall be 180 days after the  
8           date of publication of a notice in the Federal Reg-  
9           ister announcing the record of decision for such ac-  
10          tion. Any claim challenging agency action on the  
11          basis of information in a supplemental environ-  
12          mental impact statement shall be limited to chal-  
13          lenges on the basis of that information.

14          “(3) RULE OF CONSTRUCTION.—Nothing in  
15          this subsection shall be construed to create a right  
16          to judicial review or place any limit on filing a claim  
17          that a person has violated the terms of a permit, li-  
18          cense, or approval.

19          “(m) CATEGORIES OF PROJECTS.—The authorities  
20          granted under this subchapter may be exercised for an in-  
21          dividual project or a category of projects.

22          “(n) EFFECTIVE DATE.—The requirements of this  
23          subchapter shall apply only to environmental reviews and  
24          environmental decisionmaking processes initiated after the  
25          date of enactment of this subchapter.

1       “(o) APPLICABILITY.—This subchapter applies, ac-  
2 cording to the provisions thereof, to all projects for which  
3 a Federal agency is required to undertake an environ-  
4 mental review or make a decision under an environmental  
5 law for a project for which a Federal agency is under-  
6 taking an environmental review.”.

7       (b) TECHNICAL AMENDMENT.—The table of chapters  
8 for chapter 5 of title 5, United States Code, is amended  
9 by inserting after the item relating to subchapter II the  
10 following:

“SUBCHAPTER IIA—INTERAGENCY COORDINATION REGARDING  
PERMITTING”.

11       (c) REGULATIONS.—

12           (1) COUNCIL ON ENVIRONMENTAL QUALITY.—

13       Not later than 180 days after the date of enactment  
14 of this Act, the Council on Environmental Quality  
15 shall amend the regulations contained in part 1500  
16 of title 40, Code of Federal Regulations, to imple-  
17 ment the provisions of this Act and the amendments  
18 made by this Act, and shall by rule designate States  
19 with laws and procedures that satisfy the criteria  
20 under section 560(d)(2)(A) of title 5, United States  
21 Code.

22           (2) FEDERAL AGENCIES.—Not later than 120

23 days after the date that the Council on Environ-  
24 mental Quality amends the regulations contained in

1 part 1500 of title 40, Code of Federal Regulations,  
2 to implement the provisions of this Act and the  
3 amendments made by this Act, each Federal agency  
4 with regulations implementing the National Environ-  
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
6 shall amend such regulations to implement the pro-  
7 visions of this subchapter.

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