



H.R. 348—Responsibly and Professionally Invigorating Development Act of 2015 (RAPID Act) (Marino, R-PA)

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FLOOR SCHEDULE:

SCHEDULED FOR CONSIDERATION ON SEPTEMBER 25, 2015, SUBJECT TO A STRUCTURED [RULE](#).

TOPLINE SUMMARY:

[H.R. 348](#) would amend the [Administrative Procedures Act](#) (APA) to provide for expedited review of construction projects paid for with federal funds or that require federal permitting or approval. This legislation specifically streamlines the [National Environmental Policy Act](#) (NEPA) and its review process by requiring agencies to conduct reviews in a timely fashion and by limiting the potential scope of litigation after review.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 348 would cost \$5 million over the next five years due to the agencies' additional administrative costs. The CBO, however, expects the bill will reduce time needed to commence and complete construction projects, saving money over the long run.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

The Administrative Procedures Act governs the federal agency decision-making process, specifically how agencies propose and enact regulation and legislation. Prior to taking regulatory action, including permitting decisions, NEPA requires agencies to assess the environmental impacts of major construction activities that are reviewed, funded, or undertaken by federal agencies and to propose alternatives.

Many Members of Congress and outside industries have complained that NEPA review has become intractable, reducing the ability of private firms and local governments from developing projects and supporting economic growth. One [recent study](#) found that the time to complete NEPA review has increased by an average of 37 days per year from 1998 through 2006, with an average completion time of 3.4 years.

Further, many observers have indicated that even after completion of a costly and lengthy NEPA review, follow-on dilatory litigation continues to prevent projects from moving forward.

For regulations that require NEPA approval, this legislation would:

- Set maximum deadlines for the release of an Environmental Impact Statement (EIS), not to exceed 36 months, including any possible extension and maximum deadlines for Environmental Assessments (EA), not to exceed 18 months, including any possible extension.
- Allow lead agencies to control the environmental review of projects.
- Allow lead agencies to use the environmental review of a substantially similar project, if the environmental effects are expected to be the same.
- Require agencies to engage in a multiagency process for reviews or be prohibited from commenting on or opposing a construction project at a future time.
- Allow sponsors of privately funded construction projects to prepare the documents necessary for environmental review, so long as the lead agency approves and adopts them prior to taking any action.
- Require only one EIS and one EA to be prepared under NEPA, with exception for special circumstances, such as documents prepared under court order.
- Establish a 180-day deadline to file a lawsuit challenging the finality of a NEPA approval, license, or permit.
- Establish criteria a lead agency can use in evaluating alternatives for a project.

An identical bill, [H.R. 2641](#) was introduced in the 113th Congress, and passed the House of Representatives on March 6, 2014 by a recorded [vote of 229-179](#). The legislative bulletin for this bill can be found [here](#). A committee report for H.R. 348 can be found [here](#).

AMENDMENTS:

1. [Goodlatte \(R-VA\)](#) –Manager’s Amendment; This amendment would clarify that H.R. 348 is not intended to allow for duplicative agency review, project notification, or initiation of review procedures. This amendment also clarifies that this legislation does not allow for challenges to permitting decisions in court by those who were not also parties to the administrative proceeding which gave way to the challenged decision.
2. [Peters \(D-CA\)](#), [Polis \(D-CO\)](#), [Lowenthal \(D-CA\)](#), [Lieu \(D-CA\)](#) – This amendment would strike a provision from H.R. 348 that would prohibit agencies from applying the social cost of carbon during an environmental decision making.
3. [Jackson Lee \(D-TX\)](#) – This amendment would strike from the bill a provision that would deem approved any project for which an agency does not issue a permit or license within 90-120 days.
4. [Jackson Lee \(D-TX\)](#) – This amendment would maintain current law pertaining to permitting projects that are potential targets for terrorist attacks or those that involve chemical facilities and critical infrastructure.
5. [Johnson, Hank \(D-GA\)](#) – This amendment would add a rule of construction to the text to clarify that nothing in the legislation would change or limit laws or regulations requiring agencies to engage in public comment or participation in the decision-making process.
6. [Dingell \(D-MI\)](#) – This amendment would prevent approval of a project if the project would limit access to hunting or fishing opportunities or impact endangered or threatened species per the [Endangered Species Act](#).
7. [Gallego \(D-AZ\)](#) – This amendment would allow for deadline extensions of the review process if state/local elected officials or local tribal officials so request.
8. [Grijalva \(D-AZ\)](#) – This amendment would require environmental impact statements or assessments of all alternative projects, in order to identify possible effects on low-income and minority communities.
9. [Lowenthal \(D-CA\)](#) - This amendment would prohibit further evaluation or adoption of any alternative that does not address risks associated with wildfires, flooding, and climate change.

10. [Gosar](#) (R-AZ) – This amendment would prevent agencies from following “[the Revised Draft Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate change in NEPA reviews.](#)”

COMMITTEE ACTION:

H.R. 348 was introduced on January 14, 2015 and was referred to the House Committees on the Judiciary and Natural Resources. It was reported favorably out of the House Committee on the Judiciary on July 27, 2015 by the yeas and nays, [15-11](#).

ADMINISTRATION POSITION:

According to the White House [Statement of Administration Policy](#), the Administration “strongly opposes H.R. 348,” and “if the President were presented with H.R. 348, his senior advisors would recommend that he veto the bill.”

CONSTITUTIONAL AUTHORITY:

Congress has the power to enact this legislation pursuant to the following: Article I, Section 1 of the United States Constitution, in that the legislation concerns the exercise of legislative powers generally granted to Congress by that section, including the exercise of those powers when delegated by Congress to the Executive; Article I, Section 8, clause 18 of the United States Constitution, in that the legislation exercises legislative power granted to Congress by that clause “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof,” and Article III, in that the legislation defines or affects powers of the Judiciary that are subject to legislation by Congress.

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