

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MR. BISHOP OF UTAH

Add at the end of division H the following:

1 **SEC. 40002. PERMITTING TIMETABLE FOR ENVIRON-**
2 **MENTAL REVIEW.**

3 With respect to any major Federal action, the lead
4 Federal agency shall, in consultation with cooperating and
5 participating agencies, develop a permitting timetable that
6 provides for completion of the environmental impact state-
7 ment required pursuant to the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.), and issuance
9 of a record of decision measured from the date of publica-
10 tion of a notice of intent to prepare an environmental im-
11 pact statement.

12 **SEC. 40003. DEVELOPMENT OF ENVIRONMENTAL IMPACT**
13 **STATEMENTS AND RECORDS OF DECISION.**

14 (a) IN GENERAL.—Subject to subsection (b), with re-
15 spect to a major Federal action, the lead Federal official
16 in coordination with all Federal agencies with authoriza-
17 tion responsibilities shall, with respect to all authoriza-
18 tions required by Federal law—

1 (1) prepare one environmental impact state-
2 ment; and

3 (2) prepare one record of decision.

4 (b) EXCEPTION.—The lead Federal official may
5 grant an exception to the requirement of one environ-
6 mental impact statement or one record of decision if—

7 (1) the project sponsor requests that agencies
8 issue separate environmental documents pursuant to
9 the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.);

11 (2) the obligations of a Federal cooperating or
12 participating agency pursuant to such Act have al-
13 ready been satisfied; or

14 (3) the lead Federal official determines that one
15 environmental document or one record of decision
16 would not facilitate timely completion of the
17 project’s environmental review process.

18 **SEC. 40004. FEDERAL AUTHORIZATION DECISIONS.**

19 (a) DEADLINE FOR AUTHORIZATIONS.—Any author-
20 ization necessary for the completion of a major Federal
21 action shall be completed not later than 90 days after the
22 date of issuance of a record of decision under the National
23 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
24 seq.) with respect to such major Federal action.

1 (b) EXTENSION OF DEADLINE FOR ISSUANCE OF AU-
2 THORIZATIONS.—The lead Federal official may extend the
3 deadline under subsection (a) if such official determines
4 that—

5 (1) Federal law prohibits issuing such author-
6 ization in the time period described in such sub-
7 section;

8 (2) the project sponsor requests a different
9 timeline; or

10 (3) the lead Federal official determines that the
11 final environmental impact statement does not in-
12 clude an adequate level of detail to inform agency
13 decisions pursuant to the specific statutory authori-
14 ties and requirements of such agency.

15 **SEC. 40005. STATE, TRIBAL AND LOCAL AUTHORIZATIONS**
16 **FOR MAJOR FEDERAL ACTIONS.**

17 With respect to each major Federal action, the lead
18 Federal official shall seek to obtain a commitment from
19 each State, Tribal, or local agency that will issue an au-
20 thorization under Federal law to comply with the permit-
21 ting timetable.

22 **SEC. 40006. ACCOUNTABILITY AND REPORTING.**

23 (a) IN GENERAL.—The Director of the Office of
24 Management and Budget shall establish a performance ac-
25 countability system, including a scoring mechanism, to

1 track each major Federal action. The performance ac-
2 countability system shall provide for reporting by agencies
3 and shall assess, with respect to such major Federal ac-
4 tion—

5 (1) whether a permitting timetable has been
6 prepared;

7 (2) whether agencies are meeting the milestones
8 in the permitting timetable; and

9 (3) the length of time taken to complete the
10 processing of authorizations.

11 (b) SCORECARDS.—Not less frequently than once per
12 quarter, the Director Office of Management and Budget
13 shall produce scorecards on agency performance with re-
14 spect to each agency that is headed by a lead Federal
15 official with respect to a major Federal action.

16 **SEC. 40007. PURPOSE AND STATEMENT OF POLICY.**

17 The National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) is amended—

19 (1) by amending section 2 to read as follows:

20 **“SEC. 2 PURPOSE.**

21 “The purposes of this Act are—

22 “(1) to declare a national policy which will en-
23 courage productive and enjoyable harmony between
24 humans and the environment;

1 “(2) to establish a procedural statute intended
2 to ensure Federal agencies consider the impacts of
3 agency actions in the decision-making process; and

4 “(3) to establish a Council on Environmental
5 Quality.”; and

6 (2) by amending section 101 to read as follows:

7 **“SEC. 2 CONGRESSIONAL DECLARATION OF PURPOSE.**

8 “(a) The Congress, recognizing the impact of human
9 activity on the environment, declares that it is the con-
10 tinuing policy of the Federal Government, in cooperation
11 with State and local governments, public and private orga-
12 nizations, and individuals, to use all practicable means and
13 measures to foster and promote the general welfare, create
14 and maintain conditions under which human activity and
15 nature can exist in productive harmony, and fulfill the so-
16 cial, economic, and other requirements of present and fu-
17 ture generations of Americans.

18 “(b) In order to carry out the policy set forth in this
19 Act, it is the continuing responsibility of the Federal Gov-
20 ernment to use all practicable means to ensure consistency
21 with other essential considerations of national policy and
22 the prerogatives of States, and for Federal agencies to in-
23 terpret the provisions of this Act as a supplement to exist-
24 ing authority, unless existing law applicable to the agen-

1 cy's operations expressly prohibits or makes compliance
2 impossible”.

3 **SEC. 40008. IDENTIFICATION OF ALTERNATIVES.**

4 Section 102(2)(C)(iii) of the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4332(2)(C)(iii)) is amended
6 to read as follows:

7 “(iii) reasonable alternatives to the
8 proposed action that are technically and
9 economically feasible, are within the juris-
10 diction of the agency, and meet the pur-
11 pose and need of the applicant,”.

12 **SEC. 40009. EXPANDED UTILITY OF CATEGORICAL EXCLU-
13 SIONS.**

14 Title I of the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.) is amended by adding at
16 the end the following:

17 **“SEC. 106. USE OF CATEGORICAL EXCLUSIONS BY MUL-
18 TIPLE AGENCIES.**

19 “(a) IN GENERAL.—If a categorical exclusion has
20 been established under section 102 with respect to a class
21 of actions, the head of a Federal agency may apply such
22 categorical exclusion to an action within such class of ac-
23 tions.

1 “(b) CLAIMS.—The establishment of a categorical ex-
2 clusion under section 102 shall not be subject to judicial
3 review.”.

4 **SEC. 40010. ASSIGNMENT TO STATES OF ENVIRONMENTAL**
5 **REVIEW RESPONSIBILITIES WITH RESPECT**
6 **TO CERTAIN MAJOR FEDERAL ACTIONS.**

7 Title I of the National Environmental Policy Act of
8 1969 (42 U.S.C. 4331 et seq.) is amended by adding at
9 the end the following:

10 **“SEC. 107. ASSIGNMENT TO STATES OF ENVIRONMENTAL**
11 **REVIEW RESPONSIBILITIES WITH RESPECT**
12 **TO CERTAIN MAJOR FEDERAL ACTIONS.**

13 “(a) ASSUMPTION OF RESPONSIBILITY.—

14 “(1) IN GENERAL.—Subject to the other provi-
15 sions of this section, with the written agreement of
16 a State, a lead Federal official may assign the re-
17 sponsibilities of such official under this Act with re-
18 spect to one or more covered Federal projects in
19 such State.

20 “(2) ADDITIONAL RESPONSIBILITY.—If a Fed-
21 eral official makes an assignment of responsibilities
22 to a State under paragraph (1), such official may
23 assign to the assignee State all or part of the re-
24 sponsibilities of the lead Federal official for environ-
25 mental review, consultation, or other action required

1 under any Federal environmental law pertaining to
2 the review or approval of covered projects.

3 “(3) PROCEDURAL AND SUBSTANTIVE RE-
4 QUIREMENTS.—A State that assumes responsibility
5 under this section shall perform such responsibilities
6 subject to the same procedural and substantive re-
7 quirements as would apply if that responsibility were
8 carried out by the lead Federal official.

9 “(4) FEDERAL RESPONSIBILITY.—Any respon-
10 sibility of the lead Federal official not explicitly as-
11 sumed by the State by written agreement under this
12 section shall remain the responsibility of the lead
13 Federal official.

14 “(5) NO EFFECT ON AUTHORITY.—Nothing in
15 this section preempts or interferes with any power,
16 jurisdiction, responsibility, or authority of an agen-
17 cy, other than the agency of the lead Federal official
18 under applicable law with respect to the action.

19 “(b) STATE PARTICIPATION.—

20 “(1) APPLICATION.—Not later than 180 days
21 after the date of enactment of this section, the lead
22 Federal official shall promulgate regulations that es-
23 tablish requirements relating to information required
24 to be contained in any application of a State to as-
25 sume responsibility under this section with respect

1 to a major Federal action the lead Federal official,
2 including, at a minimum—

3 “(A) the projects or classes of projects for
4 which the State anticipates exercising the au-
5 thority that may be granted under this section;

6 “(B) verification of the financial resources
7 necessary to carry out the authority that may
8 be assigned under this section; and

9 “(C) evidence of the notice and solicitation
10 of public comment by the State relating to as-
11 sumption of responsibility under this section by
12 the State, including copies of comments re-
13 ceived from that solicitation.

14 “(2) PUBLIC NOTICE.—

15 “(A) IN GENERAL.—Each State that sub-
16 mits an application under this subsection shall
17 give notice of the intent of the State to submit
18 such application not later than 30 days before
19 the date of submission of the application.

20 “(B) METHOD OF NOTICE AND SOLICITA-
21 TION.—The State shall provide notice and so-
22 licit public comment under this paragraph by
23 publishing the complete application of the State
24 in accordance with the appropriate public notice
25 law of the State.

1 “(3) SELECTION CRITERIA.—A lead Federal of-
2 ficial may approve the application of a State under
3 this section only if—

4 “(A) the regulatory requirements under
5 paragraph (2) have been met;

6 “(B) the lead Federal official determines
7 that the State has the capability, including fi-
8 nancial and personnel, to assume the responsi-
9 bility; and

10 “(C) the head of the State agency having
11 primary jurisdiction over covered projects with
12 respect to which responsibility would be as-
13 signed to the State pursuant to the application
14 enters into a written agreement with the lead
15 Federal official.

16 “(c) WRITTEN AGREEMENT.—A written agreement
17 under this section shall—

18 “(1) be executed by the Governor of the State
19 or the head of the State agency referred to in sub-
20 section (b)(3)(C);

21 “(2) be in such form as the lead Federal official
22 may prescribe; and

23 “(3) provide that the State—

24 “(A) agrees to assume all or part of the re-
25 sponsibilities of the lead Federal official.

1 “(B) expressly consents, on behalf of the
2 State, to accept the jurisdiction of the Federal
3 courts for the compliance, discharge, and en-
4 forcement of any responsibility of the lead Fed-
5 eral official assumed by the State;

6 “(C) certifies that State laws (including
7 regulations) are in effect that—

8 “(i) authorize the State to take the
9 actions necessary to carry out the respon-
10 sibilities being assumed; and

11 “(ii) are comparable to section 552 of
12 title 5, including providing that any deci-
13 sion regarding the public availability of a
14 document under those State laws is review-
15 able by a court of competent jurisdiction;
16 and

17 “(D) agrees to maintain the financial re-
18 sources necessary to carry out the responsibil-
19 ities being assumed.

20 “(d) JURISDICTION.—

21 “(1) IN GENERAL.—The United States district
22 courts shall have exclusive jurisdiction over any civil
23 action against a State for failure to carry out any
24 responsibility of the State under this section.

1 “(2) LEGAL STANDARDS AND REQUIRE-
2 MENTS.—A civil action under paragraph (1) shall be
3 governed by the legal standards and requirements
4 that would apply in such a civil action against the
5 lead Federal official had the lead Federal official
6 taken the actions in question.

7 “(3) INTERVENTION.—The lead Federal official
8 shall have the right to intervene in any action de-
9 scribed in paragraph (1).

10 “(e) EFFECT OF ASSUMPTION OF RESPONSI-
11 BILITY.—A State that assumes responsibility under sub-
12 section (a) shall be solely lead and solely liable for carrying
13 out, in lieu of the lead Federal official, the responsibilities
14 assumed under subsection (a), until the termination of
15 such assumption of responsibility.

16 “(f) LIMITATIONS ON AGREEMENTS.—Nothing in
17 this section permits a State to assume any rulemaking au-
18 thority of the lead Federal official under any Federal law.

19 “(g) AUDITS.—

20 “(1) IN GENERAL.—To ensure compliance by a
21 State with any agreement of the State under sub-
22 section (c) (including compliance by the State with
23 all Federal laws for which responsibility is assumed
24 under subsection (a)), for each State participating in

1 the program under this section, the lead Federal of-
2 ficial shall conduct—

3 “(A) semiannual audits during each of the
4 first 2 years of the effective period of the agree-
5 ment; and

6 “(B) annual audits during each subsequent
7 year of such effective period.

8 “(2) PUBLIC AVAILABILITY AND COMMENT.—

9 “(A) IN GENERAL.—An audit conducted
10 under paragraph (1) shall be provided to the
11 public for comment for a 30-day period.

12 “(B) RESPONSE.—Not later than 60 days
13 after the date on which the period for public
14 comment ends, the lead Federal official shall re-
15 spond to public comments received under sub-
16 paragraph (A).

17 “(h) REPORT TO CONGRESS.—Each lead Federal of-
18 ficial shall submit to Congress an annual report that de-
19 scribes the administration of this section by such official.

20 “(i) TERMINATION BY LEAD FEDERAL OFFICIAL.—
21 The lead Federal official with respect to an agreement
22 with a State under this section may terminate the agree-
23 ment and any responsibility or authority of the State
24 under this section with respect to such agreement, if—

1 “(1) the lead Federal official determines that
2 the State is not adequately carrying out the respon-
3 sibilities assumed by the State under this section;

4 “(2) the lead Federal official provides to the
5 State—

6 “(A) notification of the determination of
7 noncompliance; and

8 “(B) a period of at least 30 days during
9 which to take such corrective action as the lead
10 Federal official determines is necessary to com-
11 ply with the applicable agreement; and

12 “(3) the State, after the notification and period
13 provided under subparagraph (B), fails to take satis-
14 factory corrective action, as determined by the lead
15 Federal official.”.

16 **SEC. 40011. JUDICIAL REVIEW.**

17 Title I of the National Environmental Policy Act of
18 1969 (42 U.S.C. 4321 et seq.) is amended by adding at
19 the end the following:

20 **“SEC. 108. JUDICIAL REVIEW.**

21 “(a) LIMITATIONS ON CLAIMS.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of law, a claim arising under Federal law
24 seeking judicial review of an approval or other au-
25 thorization issued by a Federal agency for a Federal

1 action subject to section 102(2)(C) shall be barred
2 unless—

3 “(A) in the case of a claim pertaining to
4 a project for which an environmental review
5 was prepared and an opportunity for comment
6 was provided, the claim is filed by a party to
7 the administrative proceedings, and the party
8 submitted a comment during the environmental
9 review on the issue on which the party seeks ju-
10 dicial review, and such comment was suffi-
11 ciently detailed to put the lead Federal official
12 on notice of the issue upon which the party
13 seeks judicial review; and

14 “(B) is filed within 120 days after publica-
15 tion of a notice in the Federal Register pursu-
16 ant to the law under which the agency action
17 is taken.

18 “(2) NEW INFORMATION.—The preparation of
19 a supplemental environmental impact statement,
20 when required, is deemed a separate final agency ac-
21 tion and the deadline for filing a claim for judicial
22 review of such action shall be the applicable timeline
23 period specified in paragraph (1)(B) after the date
24 of publication of a notice in the Federal Register an-
25 nouncing the record of decision for such action. Any

1 claim challenging agency action on the basis of in-
2 formation in a supplemental environmental impact
3 statement shall be limited to challenges on the basis
4 of that information.

5 “(3) RULE OF CONSTRUCTION.—Nothing in
6 this subsection shall be construed to create a right
7 of judicial review or place any limit on filing a claim
8 that a person has violated the terms of a permit, li-
9 cense, or approval.”.

10 **SEC. 40012. FEDERAL PERMITTING IMPROVEMENT.**

11 (a) DEFINITIONS.—Section 41001 of the FAST Act
12 (42 U.S.C. 4370m) is amended—

13 (1) by amending paragraph (4) to read as fol-
14 lows:

15 “(4) The term ‘cooperating agency’ means any
16 Federal agency other than a lead agency which has
17 jurisdiction by law or special expertise with respect
18 to any environmental impact involved in a proposal
19 (or a reasonable alternative) for legislation or other
20 major Federal action significantly affecting the qual-
21 ity of the human environment. A State or local agen-
22 cy of similar qualifications or, when the effects are
23 on a reservation, an Indian Tribe, may by agreement
24 with the lead agency become a cooperating agency.”.

1 (2) in paragraph (5), by striking “Federal In-
2 frastructure Permitting Improvement Steering
3 Council” and inserting “Federal Permitting Im-
4 provement Steering Council”; and

5 (3) in paragraph (6)—

6 (A) in subparagraph (A), by inserting
7 “projects” after “infrastructure”; and

8 (B) by amending subparagraph (B) to read
9 as follows:

10 “(B) TREATMENT.—Section 553 of title 5,
11 United States Code, shall not apply to a major-
12 ity vote described in subparagraph (A).”.

13 (b) FEDERAL PERMITTING IMPROVEMENT COUN-
14 CIL.—Section 41002 of the FAST Act (42 U.S.C. 4370m-
15 1) is amended—

16 (1) in subsection (b)(2)(A)(i)—

17 (A) by striking “Each” and inserting the
18 following:

19 “(I) IN GENERAL.—Each”.

20 (B) by adding at the end the following:

21 “(II) REDESIGNATION.—If an in-
22 dividual listed in subparagraph (B)
23 designates a different member to
24 serve on the Council than the member
25 designated under subclause (I), the

1 individual shall notify the Executive
2 Director of the designation by not
3 later than 30 days after the date on
4 which the designation is made.”.

5 (2) in subsection (c)—

6 (A) in paragraph (2)—

7 (i) in subparagraph (B)—

8 (I) by striking “later than” and
9 all that follows through “practices
10 for” and inserting “less frequently
11 than annually, the Council shall issue
12 recommendations on the best practices
13 for improving the Federal permitting
14 process for covered projects, which
15 may include”;

16 (II) in clause (vii), by striking
17 “and” at the end;

18 (III) by redesignating clause
19 (viii) as clause (ix); and

20 (IV) by inserting after clause
21 (vii) the following:

22 “(viii) in coordination with the Execu-
23 tive Director, improving preliminary en-
24 gagement with project sponsors in devel-
25 oping coordinated project plans; and”;

1 (ii) by redesignating subparagraph
2 (C) as subparagraph (D); and

3 (iii) by inserting after subparagraph
4 (B) the following:

5 “(C) NOTIFICATION.—The Executive Di-
6 rector shall notify the Committees on Homeland
7 Security and Governmental Affairs and Envi-
8 ronment and Public Works of the Senate and
9 the Committees on Energy and Commerce and
10 Transportation and Infrastructure of the House
11 of Representatives if any agency fails to reason-
12 ably implement the recommended best prac-
13 tices.”; and

14 (B) in paragraph (3)(A), by inserting “,
15 including agency compliance with interim and
16 final completion dates described in coordinated
17 project plans” after “authorizations”; and
18 (3) in subsection (d)—

19 (A) by striking “The Director” and insert-
20 ing the following:

21 “(1) IN GENERAL.—The Director”; and

22 (B) by adding at the end the following:

23 “(2) SAVINGS PROVISION.—The designated
24 agency under paragraph (1) shall not—

1 “(A) participate in policy decisions or sub-
2 stantive management of the Council; or

3 “(B) require the Executive Director or the
4 Council to comply with agency policies in car-
5 rying out the duties of the Executive Director
6 or the Council, as applicable.”.

7 (c) PERMITTING PROCESS IMPROVEMENT.—Section
8 41003 of the FAST Act (42 U.S.C. 4370m–2) is amend-
9 ed—

10 (1) in subsection (a)(3)(A), in the matter pre-
11 ceding clause (i), by inserting “and the Executive
12 Director” after “as applicable,”;

13 (2) in subsection (b)(2)—

14 (A) by striking “14 days” each place it ap-
15 pears and inserting “14 business days”; and

16 (B) in subparagraph (A)(ii), by inserting
17 “completed” before “notice”;

18 (3) in subsection (c)—

19 (A) in paragraph (1)—

20 (i) in subparagraph (A), by inserting
21 “in coordination with the Executive Direc-
22 tor and” after “as applicable,”; and

23 (ii) in subparagraph (B), by adding at
24 the end the following:

1 “(v) A checklist to help project spon-
2 sors identify—

3 “(I) potential natural, cultural,
4 and historic resources in the area of
5 the project;

6 “(II) information needed to de-
7 termine the range of alternatives; and

8 “(III) agencies or organizations
9 that can provide information regard-
10 ing matter described in clause (I) or
11 (II).

12 “(vi) In the case of a tiered project
13 review, a description of the relationship be-
14 tween any applicable programmatic anal-
15 ysis and the planned tiered environmental
16 review.”; and

17 (B) in paragraph (2)—

18 (i) in subparagraph (A)—

19 (I) by striking “As part of the
20 coordination project plan” and insert-
21 ing the following:

22 “(i) IN GENERAL.—In accordance
23 with clause (ii) and as part of the coordi-
24 nated project plan”; and

1 (II) by adding at the end the fol-
2 lowing:

3 “(ii) GOAL.—

4 “(I) IN GENERAL.—The permit-
5 ting timetable established under
6 clause (i) shall provide for the comple-
7 tion of the permitting process within 2
8 years.

9 “(II) EXCEPTION.—If the facili-
10 tating agency or lead agency, as appli-
11 cable, determines that the permitting
12 process cannot be completed within 2
13 years, the coordinated project plan
14 under paragraph (1) shall include—

15 “(aa) the specific reasons
16 why the facilitating agency or
17 lead agency, as applicable, antici-
18 pates that the permitting process
19 will take longer than 2 years; and

20 “(bb) the specific efforts
21 that the facilitating agency or
22 lead agency, as applicable, each
23 coordinating and participating
24 agency, the project sponsor, and
25 any State in which the project is

1 located will take to reduce the
2 time needed to complete the per-
3 mitting process.”;

4 (ii) in subparagraph (D)(i)—

5 (I) by redesignating subclauses
6 (I) through (III) as subclauses (II)
7 through (IV), respectively;

8 (II) by inserting before subclause
9 (II) (as so redesignated) the following:

10 “(I) the facilitating or lead agen-
11 cy, as applicable, consults with the
12 Executive Director regarding the po-
13 tential modification not less than 15
14 days before engaging in the consulta-
15 tion under subclause (II);” and

16 (III) in subclause (II) (as so re-
17 designated), by inserting “, the Exec-
18 utive Director,” after “participating
19 agencies”; and

20 (iii) in subparagraph (F)—

21 (I) in clause (i)—

22 (aa) by inserting “interim
23 and final” before “completion
24 dates”; and

1 (bb) by inserting “interim or
2 final” before “completion date”;
3 and

4 (II) in clause (ii)—

5 (aa) in the matter preceding
6 subclause (I), by striking “a com-
7 pletion date for agency action on
8 a covered project or is at signifi-
9 cant risk of failing to conform
10 with” and inserting “an interim
11 or final completion date for agen-
12 cy action on a covered project or
13 reasonably believes the agency
14 will fail to conform with a com-
15 pletion date 30 days before”; and

16 (bb) in subclause (I), by
17 striking “significantly risking
18 failing to conform” and inserting
19 “reasonably believing the agency
20 will fail to conform”;

21 (4) in subsection (d)—

22 (A) by redesignating paragraphs (1)
23 through (3) as subparagraphs (A) through (C),
24 respectively, and indenting appropriately; and

1 (B) by striking the matter preceding sub-
2 paragraph (A) (as so redesignated) and insert-
3 ing the following:

4 “(1) IN GENERAL.—The facilitating or lead
5 agency, as applicable, shall provide an expeditious
6 process for potential or current project sponsors to
7 confer with each potential and identified cooperating
8 and participating agency involved.

9 “(2) PROVISION OF INFORMATION.—Not later
10 than 60 days after the date on which the potential
11 or current project sponsor submits a request under
12 this subsection, each agency that received such a re-
13 quest shall provide to the project sponsor informa-
14 tion concerning—”; and

15 (5) by striking subsection (f) and inserting the
16 following:

17 “(f) FACILITATION OF ENVIRONMENTAL REVIEW
18 AND AUTHORIZATION PROCESS OF ADDITIONAL
19 PROJECTS.—

20 “(1) IN GENERAL.—In the case of a project
21 that is not a covered project, at the request of an
22 individual described in section 41002(b)(2)(B) or the
23 project sponsor, the Executive Director may work
24 with the lead agency and any cooperating or partici-
25 pating agency to facilitate the environmental review

1 and authorization process in accordance with this
2 subsection, including by—

3 “(A) mediating and resolving disputes;

4 “(B) promoting early coordination among
5 the agencies; and

6 “(C) taking such actions as may be estab-
7 lished pursuant to paragraph (2).

8 “(2) ESTABLISHMENT OF POLICIES.—The Ex-
9 ecutive Director, in consultation with the Director of
10 the Office of Management and Budget and the Chair
11 of the Council on Environmental Quality, may estab-
12 lish policies and procedures as appropriate to carry
13 out the facilitation under paragraph (1).

14 “(3) COOPERATION REQUIRED.—If the Execu-
15 tive Director is facilitating the environmental review
16 and authorization process under paragraph (1), the
17 lead agency and any cooperating or participating
18 agency shall cooperate with the Executive Director
19 to the maximum extent practicable.

20 “(4) SAVINGS PROVISION.—Facilitation of a
21 project by the Executive Director under paragraph
22 (1) shall not subject the project to any provisions
23 under this title, other than as provided in this sub-
24 section.”.

1 (d) COORDINATION OF REQUIRED REVIEWS.—Sec-
2 tion 41005(b) of the FAST Act (42 U.S.C. 4370m–4(b))
3 is amended—

4 (1) by striking “(1) STATE ENVIRONMENTAL
5 DOCUMENTS; SUPPLEMENTAL DOCUMENTS.—”;

6 (2) by redesignating subparagraphs (A) through
7 (E) as paragraphs (1) through (5), respectively, and
8 indenting appropriately;

9 (3) in paragraph (1) (as so redesignated), by
10 redesignating clauses (i) and (ii) as subparagraphs
11 (A) and (B), respectively, and indenting appro-
12 priately;

13 (4) in paragraph (2) (as so redesignated), by
14 striking “subparagraph (A)” each place it appears
15 and inserting “paragraph (1)”;

16 (5) in paragraph (3) (as so redesignated)—

17 (A) in the matter preceding clause (i), by
18 striking “subparagraph (A)” and inserting
19 “paragraph (1)”;

20 (B) by redesignating clauses (i) and (ii) as
21 subparagraphs (A) and (B), respectively, and
22 indenting appropriately;

23 (6) in paragraph (4) (as so redesignated)—

1 (A) in the matter preceding clause (i), by
2 striking “subparagraph (C)” and inserting
3 “paragraph (3)”; and

4 (B) by redesignating clauses (i) and (ii) as
5 subparagraphs (A) and (B), respectively, and
6 indenting appropriately; and

7 (7) in paragraph (5) (as so redesignated)—

8 (A) by striking “subparagraph (A)” and
9 inserting “paragraph (1)”; and

10 (B) by striking “subparagraph (C)” and
11 inserting “paragraph (3)”.

12 (e) LITIGATION, JUDICIAL REVIEW, AND SAVINGS
13 PROVISION.—Section 41007 of the FAST Act (42 U.S.C.
14 4370m–6) is amended—

15 (1) in subsection (a)(1)—

16 (A) in subparagraph (A)—

17 (i) by striking “the action” and in-
18 sserting “the claim”; and

19 (ii) by striking “of the final record of
20 decision or approval or denial of a permit”
21 and inserting “of notice of final agency ac-
22 tion on the authorization”; and

23 (B) in subparagraph (B)(i), by striking
24 “the action” and inserting “the claim”; and

1 (2) in subsection (e), in the matter preceding
2 paragraph (1), by striking “this section” and insert-
3 ing “this title”.

4 (f) REPORTS.—Section 41008 of the FAST Act (42
5 U.S.C. 4370m–7) is amended—

6 (1) in subsection (a)(2)—

7 (A) in the matter preceding subparagraph
8 (A), by striking “based on” and all that follows
9 through “including” and inserting “, includ-
10 ing”;

11 (B) in subparagraph (A), by striking
12 “those best practices” and inserting “the best
13 practices described in section 41002(c)(2)(B)”;

14 (C) in subparagraph (B), by striking the
15 period at the end and inserting “; and”; and

16 (D) by adding at the end the following:

17 “(C) agency compliance with sections
18 41003 through 41006.”; and

19 (2) by adding at the end the following:

20 “(c) FEDERAL ENERGY REGULATORY COMMISSION
21 REPORT.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after the date of enactment of the Federal Permit-
24 ting Reform and Jobs Act, the Federal Energy Reg-
25 ulatory Commission shall submit to the Committees

1 on Homeland Security and Governmental Affairs
2 and Environment and Public Works of the Senate
3 and the Committees on Energy and Commerce and
4 Transportation and Infrastructure of the House of
5 Representatives a report that includes recommenda-
6 tions on ways to reconcile regulations of the Federal
7 Energy Regulatory Commission with requirements
8 under this title.

9 “(2) REVIEW.—In the first report under sub-
10 section (a) that is submitted after the date on which
11 the report under paragraph (1) is submitted, the Ex-
12 ecutive Director shall include a review of the rec-
13 ommendations in the report under that paragraph.”.

14 (g) FUNDING FOR GOVERNANCE, OVERSIGHT, AND
15 PROCESSING OF ENVIRONMENTAL REVIEWS AND PER-
16 MITS.—Section 41009 of the FAST Act (42 U.S.C.
17 4370m–8) is amended—

18 (1) by striking subsection (a) and inserting the
19 following:

20 “(a) IN GENERAL.—For the purpose of carrying out
21 this title, the Executive Director, in consultation with the
22 heads of the agencies listed in section 41002(b)(2)(B) and
23 with the guidance of the Director of the Office of Manage-
24 ment and Budget, may, after public notice and oppor-
25 tunity for comment, issue regulations establishing a fee

1 structure for sponsors of covered projects to reimburse the
2 United States for reasonable costs incurred in conducting
3 environmental reviews and authorizations for covered
4 projects.”;

5 (2) in subsection (b), by striking “and 41003”
6 and inserting “through 41008”; and

7 (3) by striking subsection (d)(3) and inserting
8 the following:

9 “(3) TRANSFER.—For the purpose of carrying
10 out this title, the Executive Director, with the ap-
11 proval of the Director of the Office of Management
12 and Budget, may transfer amounts in the Fund to
13 other Federal, State, Tribal, and local governments
14 to facilitate timely and efficient environmental re-
15 views and authorizations for proposed covered
16 projects and other projects under this title, including
17 direct reimbursement agreements with agency
18 CERPOs, reimbursable agreements, and approval
19 and consultation processes and staff for covered
20 projects.”.

21 (h) SUNSET.—

22 (1) REPEAL.—Section 41013 of the FAST Act
23 (42 U.S.C. 4370m–12) is repealed.

24 (2) CONFORMING AMENDMENT.—Section 1(b)
25 of the FAST Act (23 U.S.C. 101 note(b)) is amend-

1 ed in the table of contents by striking the item relat-
2 ing to section 41013.

3 (i) REPEAL OF CERTAIN EXCLUSIONS.—Section
4 11503(b) of the FAST Act (42 U.S.C. 4370m note; Public
5 Law 114–94) is repealed.

6 (j) TECHNICAL CORRECTION.—Section
7 41002(b)(2)(A)(ii) of the FAST Act (42 U.S.C. 4370m–
8 1(b)(2)(A)(ii)) is amended by striking “councilmem-ber”
9 and inserting “councilmember”.

10 **SEC. 40013. DEFINITIONS.**

11 (a) IN GENERAL.—In this division:

12 (1) AUTHORIZATION.—The term “authoriza-
13 tion” has the meaning given the term in 41001 of
14 the FAST Act (42 U.S.C. 4370m).

15 (2) COOPERATING AGENCY.—The term “cooper-
16 ating agency” means any agency that, with respect
17 to the environmental review of a major Federal ac-
18 tion, has—

19 (A) jurisdiction under Federal law; or

20 (B) special expertise as determined by the
21 lead agency or the statutory requirements of
22 such agency.

23 (3) LEAD FEDERAL OFFICIAL.—The term “lead
24 Federal official” has the meaning given the term in

1 section 3 of the National Environmental Policy Act
2 of 1969, as amended.

3 (4) MAJOR FEDERAL ACTION.—The term
4 “major Federal action” has the meaning given the
5 term in section 3 of the National Environmental
6 Policy Act of 1969, as amended.

7 (5) PARTICIPATING AGENCY.—The term “par-
8 ticipating agency” means an agency participating in
9 an environmental review or authorization of a major
10 Federal action.

11 (6) PERMITTING TIMETABLE.—The term “per-
12 mitting timetable” means an environmental review
13 and authorization schedule for a project or group of
14 projects that identifies milestones, including inter-
15 mediate and final completion dates for action by
16 each agency with respect to each authorization, that
17 is prepared by the lead Federal agency in consulta-
18 tion with all cooperating and participating agencies.

19 (b) ADDITIONAL DEFINITIONS IN THE NATIONAL
20 ENVIRONMENTAL POLICY ACT.—The National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is
22 amended by inserting after section 2 the following:

23 **“SEC. 3 DEFINITIONS.**

24 “(a) In this Act—

1 “(1) LEAD FEDERAL OFFICIAL.—The term
2 ‘lead Federal official’ means the head of a Federal
3 agency responsible for preparing statements under
4 section 102(2)(C) with respect to a major Federal
5 action.

6 “(2) MAJOR FEDERAL ACTION.—

7 “(A) IN GENERAL.—The term ‘major Fed-
8 eral action’ means an action that the agency
9 carrying out such action determines is subject
10 to Federal control and responsibility with ef-
11 fects that may be significant. Major Federal ac-
12 tion does not include non-discretionary decisions
13 made in accordance with the agency’s statutory
14 authority or activities that do not result in final
15 agency action under chapter 5 of title 5, United
16 States Code.

17 “(B) EXCLUSION.—The term ‘major Fed-
18 eral action’ does not include—

19 “(i) non-Federal projects with mini-
20 mal Federal funding or minimal Federal
21 involvement where the agency cannot con-
22 trol the outcome of the project.

23 “(ii) funding assistance solely in the
24 form of general revenue sharing funds with

1 no Federal agency control over the subse-
2 quent use of such funds;

3 “(iii) loans, loan guarantees, or other
4 forms of financial assistance where the
5 Federal agency does not exercise sufficient
6 control and responsibility over the effects
7 of the action;

8 “(iv) farm ownership and operating
9 loan guarantees by the Farm Service
10 Agency pursuant to sections 305 and 311
11 through 319 of the Consolidated Farmers
12 Home Administration Act of 1961 (7
13 U.S.C. 1925 and 1941 through 1949);

14 “(v) business loan guarantees by the
15 Small Business Administration pursuant to
16 section 7(a) or (b) and of the Small Busi-
17 ness Act (15 U.S.C. 636(a)) or title V of
18 the Small Business Investment Act of
19 1958 (15 U.S.C. 695 et seq.); or

20 “(vi) bringing judicial or administra-
21 tive civil or criminal enforcement actions.

22 “(3) PROPOSAL.—The term ‘proposal’ means a
23 proposed action at a stage when an agency has a
24 goal, is actively preparing to make a decision on one
25 or more alternative means of accomplishing that

1 goal, and can meaningfully evaluate its effects. A
2 proposal may exist in fact as well as by agency dec-
3 laration that one exists.”.

