

114TH CONGRESS
1ST SESSION

H. R. 348

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2015

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Responsibly And Pro-
3 fessionally Invigorating Development Act of 2015” or as
4 the “RAPID Act”.

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

7 (a) IN GENERAL.—Chapter 5 of part 1 of title 5,
8 United States Code, is amended by inserting after sub-
9 chapter II the following:

10 “SUBCHAPTER IIA—INTERAGENCY
11 COORDINATION REGARDING PERMITTING
12 “§ 560. Coordination of agency administrative oper-
13 ations for efficient decisionmaking

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

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

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

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

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

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

15 “(B) aid an agency’s compliance with
16 NEPA when no environmental impact state-
17 ment is necessary; and

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

20 “(4) ‘environmental impact statement’ means
21 the detailed statement of significant environmental
22 impacts required to be prepared under NEPA;

23 “(5) ‘environmental review’ means the Federal
24 agency procedures for preparing an environmental

1 impact statement, environmental assessment, cat-
2 egorical exclusion, or other document under NEPA;

3 “(6) ‘environmental decisionmaking process’
4 means the Federal agency procedures for under-
5 taking and completion of any environmental permit,
6 decision, approval, review, or study under any Fed-
7 eral law other than NEPA for a project subject to
8 an environmental review;

9 “(7) ‘environmental document’ means an envi-
10 ronmental assessment or environmental impact
11 statement, and includes any supplemental document
12 or document prepared pursuant to a court order;

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

20 “(9) ‘lead agency’ means the Federal agency
21 preparing or responsible for preparing the environ-
22 mental document;

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

1 “(11) ‘project’ means major Federal actions
2 that are construction activities undertaken with Fed-
3 eral funds or that are construction activities that re-
4 quire approval by a permit or regulatory decision
5 issued by a Federal agency;

6 “(12) ‘project sponsor’ means the agency or
7 other entity, including any private or public-private
8 entity, that seeks approval for a project or is other-
9 wise responsible for undertaking a project; and

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

19 “(c) PREPARATION OF ENVIRONMENTAL DOCU-
20 MENTS.—Upon the request of the lead agency, the project
21 sponsor shall be authorized to prepare any document for
22 purposes of an environmental review required in support
23 of any project or approval by the lead agency if the lead
24 agency furnishes oversight in such preparation and inde-
25 pendently evaluates such document and the document is

1 approved and adopted by the lead agency prior to taking
2 any action or making any approval based on such docu-
3 ment.

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

5 “(1) DOCUMENTS PREPARED UNDER NEPA.—

6 “(A) Not more than one environmental im-
7 pact statement and one environmental assess-
8 ment shall be prepared under NEPA for a
9 project (except for supplemental environmental
10 documents prepared under NEPA or environ-
11 mental documents prepared pursuant to a court
12 order), and, except as otherwise provided by
13 law, the lead agency shall prepare the environ-
14 mental impact statement or environmental as-
15 sessment. After the lead agency issues a record
16 of decision, no Federal agency responsible for
17 making any approval for that project may rely
18 on a document other than the environmental
19 document prepared by the lead agency.

20 “(B) Upon the request of a project spon-
21 sor, a lead agency may adopt, use, or rely upon
22 secondary and cumulative impact analyses in-
23 cluded in any environmental document prepared
24 under NEPA for projects in the same geo-
25 graphic area where the secondary and cumu-

1 lative impact analyses provide information and
2 data that pertains to the NEPA decision for the
3 project under review.

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

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

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

21 “(C) In the case of a document described
22 in subparagraph (A), during the period after
23 preparation of the document but before its
24 adoption by the lead agency, the lead agency

1 shall prepare and publish a supplement to that
2 document if the lead agency determines that—

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

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

11 “(D) If the agency prepares and publishes
12 a supplemental document under subparagraph
13 (C), the lead agency may solicit comments from
14 agencies and the public on the supplemental
15 document for a period of not more than 45
16 days beginning on the date of the publication of
17 the supplement.

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

23 “(3) CONTEMPORANEOUS PROJECTS.—If the
24 lead agency determines that there is a reasonable
25 likelihood that the project will have similar environ-

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

14 “(e) COOPERATING AGENCIES.—

15 “(1) IN GENERAL.—The lead agency shall be
16 responsible for inviting and designating cooperating
17 agencies (as such term is defined in part 1500 of
18 title 40 of the Code of Federal Regulations, as in ef-
19 fect on January 1, 2011) in accordance with this
20 subsection. The lead agency shall provide the invita-
21 tion or notice of the designation in writing.

22 “(2) FEDERAL COOPERATING AGENCIES.—Any
23 Federal agency that is required to adopt the envi-
24 ronmental document of the lead agency for a project
25 shall be designated as a cooperating agency and

1 shall collaborate on the preparation of the environ-
2 mental document, unless the Federal agency informs
3 the lead agency, in writing, by a time specified by
4 the lead agency in the designation of the Federal
5 agency that the Federal agency—

6 “(A) has no jurisdiction or authority with
7 respect to the project;

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

10 “(C) does not intend to submit comments
11 on the project.

12 “(3) INVITATION.—The lead agency shall iden-
13 tify, as early as practicable in the environmental re-
14 view for a project, any agencies other than an agen-
15 cy described in paragraph (2) that may have an in-
16 terest in the project, including, where appropriate,
17 Governors of affected States, and heads of appro-
18 priate tribal and local (including county) govern-
19 ments, and shall invite such identified agencies and
20 officials to become cooperating agencies in the envi-
21 ronmental review for the project. The invitation shall
22 set a deadline of 30 days for responses to be sub-
23 mitted, which may only be extended by the lead
24 agency for good cause shown. Any agency that fails

1 to respond prior to the deadline shall be deemed to
2 have declined the invitation.

3 “(4) EFFECT OF DECLINING COOPERATING
4 AGENCY INVITATION.—Any agency that declines a
5 designation or invitation by the lead agency to be a
6 cooperating agency shall be precluded from submit-
7 ting comments on any document prepared under
8 NEPA for that project or taking any measures to
9 oppose, based on the environmental review, any per-
10 mit, license, or approval related to that project.

11 “(5) EFFECT OF DESIGNATION.—Designation
12 as a cooperating agency under this subsection does
13 not imply that the cooperating agency—

14 “(A) supports a proposed project; or

15 “(B) has any jurisdiction over, or special
16 expertise with respect to evaluation of, the
17 project.

18 “(6) CONCURRENT REVIEWS.—Each Federal
19 agency shall—

20 “(A) carry out obligations of the Federal
21 agency under other applicable law concurrently
22 and in conjunction with the review required
23 under NEPA; and

24 “(B) in accordance with the rules made by
25 the Council on Environmental Quality pursuant

1 to subsection (n)(1), make and carry out such
2 rules, policies, and procedures as may be rea-
3 sonably necessary to enable the agency to en-
4 sure completion of the environmental review
5 and environmental decisionmaking process in a
6 timely, coordinated, and environmentally re-
7 sponsible manner.

8 “(7) COMMENTS.—Each cooperating agency
9 shall limit its comments on a project to areas that
10 are within the authority and expertise of such co-
11 operating agency. Each cooperating agency shall
12 identify in such comments the statutory authority of
13 the cooperating agency pertaining to the subject
14 matter of its comments. The lead agency shall not
15 act upon, respond to or include in any document
16 prepared under NEPA, any comment submitted by
17 a cooperating agency that concerns matters that are
18 outside of the authority and expertise of the com-
19 menting cooperating agency.

20 “(f) LEAD AGENCY INITIATION.—The lead agency
21 shall initiate the environmental review within a period of
22 45 days after receiving an application for a project from
23 a project sponsor.

24 “(g) ALTERNATIVES ANALYSIS.—

1 “(1) PARTICIPATION.—As early as practicable
2 during the environmental review, but no later than
3 during scoping for a project requiring the prepara-
4 tion of an environmental impact statement, the lead
5 agency shall provide an opportunity for involvement
6 by cooperating agencies in determining the range of
7 alternatives to be considered for a project.

8 “(2) RANGE OF ALTERNATIVES.—Following
9 participation under paragraph (1), the lead agency
10 shall determine the range of alternatives for consid-
11 eration in any document which the lead agency is re-
12 sponsible for preparing for the project, subject to the
13 following limitations:

14 “(A) NO EVALUATION OF CERTAIN ALTER-
15 NATIVES.—No Federal agency shall evaluate
16 any alternative that was identified but not car-
17 ried forward for detailed evaluation in an envi-
18 ronmental document or evaluated and not se-
19 lected in any environmental document prepared
20 under NEPA for the same project.

21 “(B) ONLY FEASIBLE ALTERNATIVES
22 EVALUATED.—Where a project is being con-
23 structed, managed, funded, or undertaken by a
24 project sponsor that is not a Federal agency,
25 Federal agencies shall only be required to evalu-

1 ate alternatives that the project sponsor could
2 feasibly undertake, consistent with the purpose
3 of and the need for the project, including alter-
4 natives that can be undertaken by the project
5 sponsor and that are technically and economi-
6 cally feasible.

7 “(3) METHODOLOGIES.—

8 “(A) IN GENERAL.—The lead agency shall
9 determine, in collaboration with cooperating
10 agencies at appropriate times during the envi-
11 ronmental review, the methodologies to be used
12 and the level of detail required in the analysis
13 of each alternative for a project. The lead agen-
14 cy shall include in the environmental document
15 a description of the methodologies used and
16 how the methodologies were selected.

17 “(B) NO EVALUATION OF INAPPROPRIATE
18 ALTERNATIVES.—When a lead agency deter-
19 mines that an alternative does not meet the
20 purpose and need for a project, that alternative
21 is not required to be evaluated in detail in an
22 environmental document.

23 “(4) PREFERRED ALTERNATIVE.—At the dis-
24 cretion of the lead agency, the preferred alternative
25 for a project, after being identified, may be devel-

1 oped to a higher level of detail than other alter-
2 natives in order to facilitate the development of miti-
3 gation measures or concurrent compliance with other
4 applicable laws if the lead agency determines that
5 the development of such higher level of detail will
6 not prevent the lead agency from making an impar-
7 tial decision as to whether to accept another alter-
8 native which is being considered in the environ-
9 mental review.

10 “(5) EMPLOYMENT ANALYSIS.—The evaluation
11 of each alternative in an environmental impact state-
12 ment or an environmental assessment shall identify
13 the potential effects of the alternative on employ-
14 ment, including potential short-term and long-term
15 employment increases and reductions and shifts in
16 employment.

17 “(6) LOW-INCOME AND COMMUNITIES OF
18 COLOR ANALYSIS.—The evaluation of each alter-
19 native in an environmental impact statement or an
20 environmental assessment shall identify the potential
21 effects of the alternative on low-income communities
22 and communities of color.

23 “(h) COORDINATION AND SCHEDULING.—

24 “(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 cooperating 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 co-
2 operating agencies under applicable
3 laws;

4 “(II) resources available to the
5 cooperating 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 cooperating 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 cooperating 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 cooperating 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 cooperating agencies and to the project
12 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 an en-
10 vironmental impact statement within 2
11 years after the earlier of the date the lead
12 agency receives an application for a project
13 from a project sponsor or a Notice of In-
14 tent to Prepare an Environmental Impact
15 Statement is published in the Federal Reg-
16 ister; and

17 “(ii) in circumstances where the lead
18 agency has prepared an environmental as-
19 sessment and determined that an environ-
20 mental impact statement will be required,
21 the lead agency shall issue the environ-
22 mental impact statement within 2 years
23 after the date of publication of the Notice
24 of Intent to Prepare an Environmental Im-
25 pact Statement in the 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 cooper-
11 ating 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 cooperating 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 cooperating 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 cooperating 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 otherwise to act upon, a permit, li-
16 cense, or other similar application for approval
17 related to a project prior to the record of deci-
18 sion or finding of no significant impact, such
19 Federal agency shall approve or otherwise act
20 not later than the end of a 90-day period begin-
21 ning—

22 “(i) after all other relevant agency re-
23 view related to the project is complete; and

24 “(ii) after the lead agency publishes a
25 notice of the availability of the final envi-

1 ronmental impact statement or issuance of
2 other final environmental documents, or no
3 later than such other date that is otherwise
4 required by law, whichever event occurs
5 first.

6 “(B) OTHER DECISIONS.—With regard to
7 any approval or other action related to a project
8 by a Federal agency that is not subject to sub-
9 paragraph (A), each Federal agency shall ap-
10 prove or otherwise act not later than the end of
11 a period of 180 days beginning—

12 “(i) after all other relevant agency re-
13 view related to the project is complete; and

14 “(ii) after the lead agency issues the
15 record of decision or finding of no signifi-
16 cant impact, unless a different deadline is
17 established by agreement of the Federal
18 agency, lead agency, and the project spon-
19 sor, where applicable, or the deadline is ex-
20 tended by the Federal agency for good
21 cause, provided that such extension shall
22 not extend beyond a period that is 1 year
23 after the lead agency issues the record of
24 decision or finding of no significant im-
25 pact.

1 “(C) FAILURE TO ACT.—In the event that
2 any Federal agency fails to approve, or other-
3 wise to act upon, a permit, license, or other
4 similar application for approval related to a
5 project within the applicable deadline described
6 in subparagraph (A) or (B), the permit, license,
7 or other similar application shall be deemed ap-
8 proved by such agency and the agency shall
9 take action in accordance with such approval
10 within 30 days of the applicable deadline de-
11 scribed in subparagraph (A) or (B).

12 “(D) FINAL AGENCY ACTION.—Any ap-
13 proval under subparagraph (C) is deemed to be
14 final agency action, and may not be reversed by
15 any agency. In any action under chapter 7 seek-
16 ing review of such a final agency action, the
17 court may not set aside such agency action by
18 reason of that agency action having occurred
19 under this paragraph.

20 “(j) ISSUE IDENTIFICATION AND RESOLUTION.—

21 “(1) COOPERATION.—The lead agency and the
22 cooperating agencies shall work in accordance with
23 this section to identify and resolve issues that could
24 delay completion of the environmental review or

1 could result in denial of any approvals required for
2 the project under applicable laws.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—The
4 lead agency shall make information available to the
5 cooperating agencies as early as practicable in the
6 environmental review regarding the environmental,
7 historic, and socioeconomic resources located within
8 the project area and the general locations of the al-
9 ternatives under consideration. Such information
10 may be based on existing data sources, including ge-
11 ographic information systems mapping.

12 “(3) COOPERATING AGENCY RESPONSIBIL-
13 ITIES.—Based on information received from the lead
14 agency, cooperating agencies shall identify, as early
15 as practicable, any issues of concern regarding the
16 project’s potential environmental, historic, or socio-
17 economic impacts. In this paragraph, issues of con-
18 cern include any issues that could substantially delay
19 or prevent an agency from granting a permit or
20 other approval that is needed for the project.

21 “(4) ISSUE RESOLUTION.—

22 “(A) MEETING OF COOPERATING AGEN-
23 CIES.—At any time upon request of a project
24 sponsor, the lead agency shall promptly convene
25 a meeting with the relevant cooperating agen-

1 cies and the project sponsor, to resolve issues
2 that could delay completion of the environ-
3 mental review or could result in denial of any
4 approvals required for the project under appli-
5 cable laws.

6 “(B) NOTICE THAT RESOLUTION CANNOT
7 BE ACHIEVED.—If a resolution cannot be
8 achieved within 30 days following such a meet-
9 ing and a determination by the lead agency that
10 all information necessary to resolve the issue
11 has been obtained, the lead agency shall notify
12 the heads of all cooperating agencies, the
13 project sponsor, and the Council on Environ-
14 mental Quality for further proceedings in ac-
15 cordance with section 204 of NEPA, and shall
16 publish such notification in the Federal Reg-
17 ister.

18 “(k) LIMITATION ON USE OF SOCIAL COST OF CAR-
19 BON.—

20 “(1) IN GENERAL.—In the case of any environ-
21 mental review or environmental decisionmaking
22 process, a lead agency may not use the social cost
23 of carbon.

24 “(2) DEFINITION.—In this subsection, the term
25 ‘social cost of carbon’ means the social cost of car-

1 bon as described in the technical support document
2 entitled ‘Technical Support Document: Technical
3 Update of the Social Cost of Carbon for Regulatory
4 Impact Analysis Under Executive Order No. 12866’,
5 published by the Interagency Working Group on So-
6 cial Cost of Carbon, United States Government, in
7 May 2013, revised in November 2013, or any suc-
8 cessor thereto or substantially related document, the
9 draft guidance entitled: ‘Revised Draft Guidance for
10 Federal Departments and Agencies on Consideration
11 of Greenhouse Gas Emissions and the Effects of Cli-
12 mate change in NEPA Reviews’ (79 Fed. Reg.
13 77801), or any successor thereto or substantially re-
14 lated document, or any other estimate of the mone-
15 tized damages associated with an incremental in-
16 crease in carbon dioxide emissions in a given year.

17 “(1) REPORT TO CONGRESS.—The head of each Fed-
18 eral agency shall report annually to Congress—

19 “(1) the projects for which the agency initiated
20 preparation of an environmental impact statement or
21 environmental assessment;

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

1 “(3) the filing of any lawsuits against the agen-
2 cy seeking judicial review of a permit, license, or ap-
3 proval issued by the agency for an action subject to
4 NEPA, including the date the complaint was filed,
5 the court in which the complaint was filed, and a
6 summary of the claims for which judicial review was
7 sought; and

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

12 “(m) LIMITATIONS ON CLAIMS.—

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

18 “(A) in the case of a claim pertaining to
19 a project for which an environmental review
20 was conducted and an opportunity for comment
21 was provided, the claim is filed by a party to
22 the administrative proceeding, and the party
23 submitted a comment during the environmental
24 review on the issue on which the party seeks ju-
25 dicial review, and such comment was suffi-

1 ciently detailed to put the lead agency on notice
2 of the issue upon which the party seeks judicial
3 review; and

4 “(B) filed within 180 days after publica-
5 tion of a notice in the Federal Register an-
6 nouncing that the permit, license, or approval is
7 final pursuant to the law under which the agen-
8 cy action is taken, unless a shorter time is spec-
9 ified in the Federal law pursuant to which judi-
10 cial review is allowed.

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

22 “(3) RULE OF CONSTRUCTION.—Nothing in
23 this subsection shall be construed to create a right
24 to judicial review or place any limit on filing a claim

1 that a person has violated the terms of a permit, li-
2 cense, or approval.

3 “(n) CATEGORIES OF PROJECTS.—The authorities
4 granted under this subchapter may be exercised for an in-
5 dividual project or a category of projects.

6 “(o) EFFECTIVE DATE.—The requirements of this
7 subchapter shall apply only to environmental reviews and
8 environmental decisionmaking processes initiated after the
9 date of enactment of this subchapter. In the case of a
10 project for which an environmental review or environ-
11 mental decisionmaking process was initiated prior to the
12 date of enactment of this subchapter, the provisions of
13 subsection (i) shall apply, except that, notwithstanding
14 any other provision of this section, in determining a dead-
15 line under such subsection, any applicable period of time
16 shall be calculated as beginning from the date of enact-
17 ment of this subchapter.

18 “(p) APPLICABILITY.—Except as provided in sub-
19 section (p), this subchapter applies, according to the provi-
20 sions thereof, to all projects for which a Federal agency
21 is required to undertake an environmental review or make
22 a decision under an environmental law for a project for
23 which a Federal agency is undertaking an environmental
24 review.

1 “(q) SAVINGS CLAUSE.—Nothing in this section shall
2 be construed to supersede, amend, or modify sections 134,
3 135, 139, 325, 326, and 327 of title 23, sections 5303
4 and 5304 of title 49, or subtitle C of title I of division
5 A of the Moving Ahead for Progress in the 21st Century
6 Act and the amendments made by such subtitle (Public
7 Law 112–141).”.

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

“SUBCHAPTER IIA—INTERAGENCY COORDINATION REGARDING PERMITTING

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

12 (c) REGULATIONS.—

13 (1) COUNCIL ON ENVIRONMENTAL QUALITY.—
14 Not later than 180 days after the date of enactment
15 of this division, the Council on Environmental Qual-
16 ity shall amend the regulations contained in part
17 1500 of title 40, Code of Federal Regulations, to im-
18 plement the provisions of this division and the
19 amendments made by this division, and shall by rule
20 designate States with laws and procedures that sat-
21 isfy the criteria under section 560(d)(2)(A) of title
22 5, United States Code.

1 (2) FEDERAL AGENCIES.—Not later than 120
2 days after the date that the Council on Environ-
3 mental Quality amends the regulations contained in
4 part 1500 of title 40, Code of Federal Regulations,
5 to implement the provisions of this division and the
6 amendments made by this division, each Federal
7 agency with regulations implementing the National
8 Environmental Policy Act of 1969 (42 U.S.C. 4321
9 et seq.) shall amend such regulations to implement
10 the provisions of this division.

Passed the House of Representatives September 25,
2015.

Attest:

KAREN L. HAAS,

Clerk.