

FEBRUARY 26, 2014

RULES COMMITTEE PRINT 113-39
TEXT OF H.R. 2641, RESPONSIBLY AND PROFES-
SIONALLY INVIGORATING DEVELOPMENT ACT
OF 2013

[Showing the text of the bill as reported by the Committee on
the Judiciary, with technical modifications.]

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Responsibly And Pro-
3 fessionally Invigorating Development Act of 2013” 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

1 regulatory review, environmental decisionmaking, and per-
2 mitting process for projects undertaken, reviewed, or fund-
3 ed by Federal agencies. This subchapter will ensure that
4 agencies administer the regulatory process in a manner
5 that is efficient so that citizens are not burdened with reg-
6 ulatory excuses and time delays.

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

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

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

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

19 “(A) briefly provide sufficient evidence and
20 analysis for determining whether to prepare an
21 environmental impact statement or a finding of
22 no significant impact;

23 “(B) aid an agency’s compliance with
24 NEPA when no environmental impact state-
25 ment is necessary; and

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

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

6 “(5) ‘environmental review’ means the Federal
7 agency procedures for preparing an environmental
8 impact statement, environmental assessment, cat-
9 egorical exclusion, or other document under NEPA;

10 “(6) ‘environmental decisionmaking process’
11 means the Federal agency procedures for under-
12 taking and completion of any environmental permit,
13 decision, approval, review, or study under any Fed-
14 eral law other than NEPA for a project subject to
15 an environmental review;

16 “(7) ‘environmental document’ means an envi-
17 ronmental assessment or environmental impact
18 statement, and includes any supplemental document
19 or document prepared pursuant to a court order;

20 “(8) ‘finding of no significant impact’ means a
21 document by a Federal agency briefly presenting the
22 reasons why a project, not otherwise subject to a
23 categorical exclusion, will not have a significant ef-
24 fect on the human environment and for which an en-

1 vironmental impact statement therefore will not be
2 prepared;

3 “(9) ‘lead agency’ means the Federal agency
4 preparing or responsible for preparing the environ-
5 mental document;

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

8 “(11) ‘project’ means major Federal actions
9 that are construction activities undertaken with Fed-
10 eral funds or that are construction activities that re-
11 quire approval by a permit or regulatory decision
12 issued by a Federal agency;

13 “(12) ‘project sponsor’ means the agency or
14 other entity, including any private or public-private
15 entity, that seeks approval for a project or is other-
16 wise responsible for undertaking a project; and

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

1 “(c) PREPARATION OF ENVIRONMENTAL DOCU-
2 MENTS.—Upon the request of the lead agency, the project
3 sponsor shall be authorized to prepare any document for
4 purposes of an environmental review required in support
5 of any project or approval by the lead agency if the lead
6 agency furnishes oversight in such preparation and inde-
7 pendently evaluates such document and the document is
8 approved and adopted by the lead agency prior to taking
9 any action or making any approval based on such docu-
10 ment.

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

12 “(1) DOCUMENTS PREPARED UNDER NEPA.—

13 “(A) Not more than 1 environmental im-
14 pact statement and 1 environmental assessment
15 shall be prepared under NEPA for a project
16 (except for supplemental environmental docu-
17 ments prepared under NEPA or environmental
18 documents prepared pursuant to a court order),
19 and, except as otherwise provided by law, the
20 lead agency shall prepare the environmental im-
21 pact statement or environmental assessment.
22 After the lead agency issues a record of deci-
23 sion, no Federal agency responsible for making
24 any approval for that project may rely on a doc-

1 ument other than the environmental document
2 prepared by the lead agency.

3 “(B) Upon the request of a project spon-
4 sor, a lead agency may adopt, use, or rely upon
5 secondary and cumulative impact analyses in-
6 cluded in any environmental document prepared
7 under NEPA for projects in the same geo-
8 graphic area where the secondary and cumu-
9 lative impact analyses provide information and
10 data that pertains to the NEPA decision for the
11 project under review.

12 “(2) STATE ENVIRONMENTAL DOCUMENTS;
13 SUPPLEMENTAL DOCUMENTS.—

14 “(A) Upon the request of a project spon-
15 sor, a lead agency may adopt a document that
16 has been prepared for a project under State
17 laws and procedures as the environmental im-
18 pact statement or environmental assessment for
19 the project, provided that the State laws and
20 procedures under which the document was pre-
21 pared provide environmental protection and op-
22 portunities for public involvement that are sub-
23 stantially equivalent to NEPA.

24 “(B) An environmental document adopted
25 under subparagraph (A) is deemed to satisfy

1 the lead agency's obligation under NEPA to
2 prepare an environmental impact statement or
3 environmental assessment.

4 “(C) In the case of a document described
5 in subparagraph (A), during the period after
6 preparation of the document but before its
7 adoption by the lead agency, the lead agency
8 shall prepare and publish a supplement to that
9 document if the lead agency determines that—

10 “(i) a significant change has been
11 made to the project that is relevant for
12 purposes of environmental review of the
13 project; or

14 “(ii) there have been significant
15 changes in circumstances or availability of
16 information relevant to the environmental
17 review for the project.

18 “(D) If the agency prepares and publishes
19 a supplemental document under subparagraph
20 (C), the lead agency may solicit comments from
21 agencies and the public on the supplemental
22 document for a period of not more than 45
23 days beginning on the date of the publication of
24 the supplement.

1 “(E) A lead agency shall issue its record of
2 decision or finding of no significant impact, as
3 appropriate, based upon the document adopted
4 under subparagraph (A), and any supplements
5 thereto.

6 “(3) CONTEMPORANEOUS PROJECTS.—If the
7 lead agency determines that there is a reasonable
8 likelihood that the project will have similar environ-
9 mental impacts as a similar project in geographical
10 proximity to the project, and that similar project
11 was subject to environmental review or similar State
12 procedures within the 5-year period immediately pre-
13 ceding the date that the lead agency makes that de-
14 termination, the lead agency may adopt the environ-
15 mental document that resulted from that environ-
16 mental review or similar State procedure. The lead
17 agency may adopt such an environmental document,
18 if it is prepared under State laws and procedures
19 only upon making a favorable determination on such
20 environmental document pursuant to paragraph
21 (2)(A).

22 “(e) PARTICIPATING AGENCIES.—

23 “(1) IN GENERAL.—The lead agency shall be
24 responsible for inviting and designating participating
25 agencies in accordance with this subsection. The

1 lead agency shall provide the invitation or notice of
2 the designation in writing.

3 “(2) FEDERAL PARTICIPATING AGENCIES.—Any
4 Federal agency that is required to adopt the envi-
5 ronmental document of the lead agency for a project
6 shall be designated as a participating agency and
7 shall collaborate on the preparation of the environ-
8 mental document, unless the Federal agency informs
9 the lead agency, in writing, by a time specified by
10 the lead agency in the designation of the Federal
11 agency that the Federal agency—

12 “(A) has no jurisdiction or authority with
13 respect to the project;

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

16 “(C) does not intend to submit comments
17 on the project.

18 “(3) INVITATION.—The lead agency shall iden-
19 tify, as early as practicable in the environmental re-
20 view for a project, any agencies other than an agen-
21 cy described in paragraph (2) that may have an in-
22 terest in the project, including, where appropriate,
23 Governors of affected States, and heads of appro-
24 priate tribal and local (including county) govern-
25 ments, and shall invite such identified agencies and

1 officials to become participating agencies in the envi-
2 ronmental review for the project. The invitation shall
3 set a deadline of 30 days for responses to be sub-
4 mitted, which may only be extended by the lead
5 agency for good cause shown. Any agency that fails
6 to respond prior to the deadline shall be deemed to
7 have declined the invitation.

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

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

19 “(A) supports a proposed project; or

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

23 “(6) COOPERATING AGENCY.—A participating
24 agency may also be designated by a lead agency as
25 a ‘cooperating agency’ under the regulations con-

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

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

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

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

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

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

9 “(f) PROJECT INITIATION REQUEST.—

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

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

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

6 “(g) ALTERNATIVES ANALYSIS.—

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

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

20 “(A) NO EVALUATION OF CERTAIN ALTER-
21 NATIVES.—No Federal agency shall evaluate
22 any alternative that was identified but not car-
23 ried forward for detailed evaluation in an envi-
24 ronmental document or evaluated and not se-

1 lected in any environmental document prepared
2 under NEPA for the same project.

3 “(B) ONLY FEASIBLE ALTERNATIVES
4 EVALUATED.—Where a project is being con-
5 structed, managed, funded, or undertaken by a
6 project sponsor that is not a Federal agency,
7 Federal agencies shall only be required to evalu-
8 ate alternatives that the project sponsor could
9 feasibly undertake, consistent with the purpose
10 of and the need for the project, including alter-
11 natives that can be undertaken by the project
12 sponsor and that are technically and economi-
13 cally 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 an en-
10 vironmental impact statement within 2
11 years after the earlier of the date the lead
12 agency receives the project initiation re-
13 quest or a Notice of Intent to Prepare an
14 Environmental Impact Statement is pub-
15 lished in the Federal 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 the environ-
21 mental impact statement within 2 years
22 after the date of publication of the Notice
23 of Intent to Prepare an Environmental Im-
24 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 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 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 participating agencies shall work cooperatively in ac-
23 cordance with this section to identify and resolve
24 issues that could delay completion of the environ-
25 mental review or could result in denial of any ap-

1 provals required for the project under applicable
2 laws.

3 “(2) LEAD AGENCY RESPONSIBILITIES.—The
4 lead agency shall make information available to the
5 participating 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) PARTICIPATING AGENCY RESPONSIBIL-
13 ITIES.—Based on information received from the lead
14 agency, participating 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 PARTICIPATING 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 participating 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 participating 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) REPORT TO CONGRESS.—The head of each Fed-
19 eral agency shall report annually to Congress—

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

23 “(2) the projects for which the agency issued a
24 record of decision or finding of no significant impact

1 and the length of time it took the agency to com-
2 plete the environmental review for each such project;

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

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

14 “(1) LIMITATIONS ON CLAIMS.—

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

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

1 dicial review, and such comment was suffi-
2 ciently detailed to put the lead agency on notice
3 of the issue upon which the party seeks judicial
4 review; and

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

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

23 “(3) RULE OF CONSTRUCTION.—Nothing in
24 this subsection shall be construed to create a right
25 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 “(m) 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 “(n) 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.

10 “(o) APPLICABILITY.—Except as provided in sub-
11 section (p), this subchapter applies, according to the provi-
12 sions thereof, to all projects for which a Federal agency
13 is required to undertake an environmental review or make
14 a decision under an environmental law for a project for
15 which a Federal agency is undertaking an environmental
16 review.

17 “(p) SAVINGS CLAUSE.—Nothing in this section shall
18 be construed to supersede, amend, or modify sections 134,
19 135, 139, 325, 326, and 327 of title 23, sections 5303
20 and 5304 of title 49, or subtitle C of title I of division
21 A of the Moving Ahead for Progress in the 21st Century
22 Act and the amendments made by such subtitle (Public
23 Law 112–141).”.

24 (b) TECHNICAL AMENDMENT.—The table of sections
25 for chapter 5 of title 5, United States Code, is amended

1 by inserting after the items relating to subchapter II the
2 following:

“SUBCHAPTER IIA—INTERAGENCY COORDINATION REGARDING PERMITTING
“560. Coordination of agency administrative operations for efficient decision-
making.”.

3 (c) REGULATIONS.—

4 (1) COUNCIL ON ENVIRONMENTAL QUALITY.—

5 Not later than 180 days after the date of enactment
6 of this title, the Council on Environmental Quality
7 shall amend the regulations contained in part 1500
8 of title 40, Code of Federal Regulations, to imple-
9 ment the provisions of this title and the amendments
10 made by this title, and shall by rule designate States
11 with laws and procedures that satisfy the criteria
12 under section 560(d)(2)(A) of title 5, United States
13 Code.

14 (2) FEDERAL AGENCIES.—Not later than 120
15 days after the date that the Council on Environ-
16 mental Quality amends the regulations contained in
17 part 1500 of title 40, Code of Federal Regulations,
18 to implement the provisions of this title and the
19 amendments made by this title, each Federal agency
20 with regulations implementing the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

- 1 shall amend such regulations to implement the pro-
- 2 visions of this subchapter.

