

117TH CONGRESS
1ST SESSION

H. R. 4335

To amend the National Environmental Policy Act of 1969 to impose time limits on the completion of certain required actions under the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2021

Mr. SCHWEIKERT (for himself, Mr. POSEY, Mr. NEWHOUSE, Mr. VALADAO, Mr. BUDD, Mr. NORMAN, and Mrs. BOEBERT) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the National Environmental Policy Act of 1969 to impose time limits on the completion of certain required actions under the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NEPA Accountability
5 and Enforcement Act”.

6 **SEC. 2. NATIONAL ENVIRONMENTAL POLICY ACT**
7 **TIMELINES.**

8 Title I of the National Environmental Policy Act of
9 1969 is amended—

1 (1) by redesignating section 105 (42 U.S.C.
2 4335) as section 106; and

3 (2) by inserting after section 104 (42 U.S.C.
4 4334) the following:

5 **“SEC. 105. APPLICABLE TIMELINES.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ENVIRONMENTAL IMPACT STATEMENT.—
8 The term ‘environmental impact statement’ means a
9 detailed statement required under section 102(2)(C).

10 “(2) FEDERAL AGENCY.—The term ‘Federal
11 agency’ includes a State that has assumed responsi-
12 bility under section 327 of title 23, United States
13 Code.

14 “(3) HEAD OF A FEDERAL AGENCY.—The term
15 ‘head of a Federal agency’ includes the governor or
16 head of an applicable State agency of a State that
17 has assumed responsibility under section 327 of title
18 23, United States Code.

19 “(4) NEPA PROCESS.—

20 “(A) IN GENERAL.—The term ‘NEPA
21 process’ means the entirety of every process,
22 analysis, or other measure, including an envi-
23 ronmental impact statement, required to be car-
24 ried out by a Federal agency under this title be-
25 fore the agency undertakes a proposed action.

1 “(B) PERIOD.—For purposes of subpara-
2 graph (A), the NEPA process—

3 “(i) begins on the date on which the
4 head of a Federal agency receives an appli-
5 cation for a proposed action from a project
6 sponsor; and

7 “(ii) ends on the date on which the
8 Federal agency issues, with respect to the
9 proposed action—

10 “(I) a record of decision, includ-
11 ing, if necessary, a revised record of
12 decision;

13 “(II) a finding of no significant
14 impact; or

15 “(III) a categorical exclusion
16 under this title.

17 “(5) PROJECT SPONSOR.—The term ‘project
18 sponsor’ means a Federal agency or other entity, in-
19 cluding a private or public-private entity, that seeks
20 approval of a proposed action.

21 “(b) APPLICABLE TIMELINES.—

22 “(1) NEPA PROCESS.—

23 “(A) IN GENERAL.—The head of a Federal
24 agency shall complete the NEPA process for a
25 proposed action of the Federal agency, as de-

scribed in subsection (a)(4)(B)(ii), shall not take longer than 2 years from notice of intent to record of decision, or not longer than when the agency first received the project to notice of intent, whichever comes first.

“(B) ENVIRONMENTAL DOCUMENTS.—

Within the period described in subparagraph (A), not later than 1 year after the date described in subsection (a)(4)(B)(i), the head of the Federal agency shall, with respect to the proposed action—

“(i) issue—

“(I) a finding that a categorical exclusion applies to the proposed action; or

“(II) a finding of no significant impact; or

“(ii) publish a notice of intent to prepare an environmental impact statement in the Federal Register.

“(C) ENVIRONMENTAL IMPACT STATE-

MENT.—If the head of a Federal agency publishes a notice of intent described in subparagraph (B)(ii), within the period described in subparagraph (A) and not later than 2 years

1 after the date on which the head of the Federal
2 agency publishes the notice of intent, the head
3 of the Federal agency shall complete the envi-
4 ronmental impact statement and, if necessary,
5 any supplemental environmental impact state-
6 ment for the proposed action.

7 “(D) PENALTIES.—

8 “(i) DEFINITIONS.—In this subpara-
9 graph:

10 “(I) DIRECTOR.—The term ‘Di-
11 rector’ means the Director of the Of-
12 fice of Management and Budget.

13 “(II) FEDERAL AGENCY.—The
14 term ‘Federal agency’ does not in-
15 clude a State.

16 “(III) FINAL NEPA COMPLIANCE
17 DATE.—The term ‘final NEPA com-
18 pliance date’, with respect to a pro-
19 posed action, means the date by which
20 the head of a Federal agency is re-
21 quired to complete the NEPA process
22 under subparagraph (A).

23 “(IV) HEAD OF A FEDERAL
24 AGENCY.—The term ‘head of a Fed-
25 eral agency’ does not include the gov-

ernor or head of a State agency of a State.

“(V) INITIAL EIS COMPLIANCE DATE.—The term ‘initial EIS compliance date’, with respect to a proposed action for which a Federal agency published a notice of intent described in subparagraph (B)(ii), means the date by which an environmental impact statement for that proposed action is required to be completed under subparagraph (C).

“(VI) INITIAL NEPA COMPLIANCE DATE.—The term ‘initial NEPA compliance date’, with respect to a proposed action, means the date by which the head of a Federal agency is required to issue or publish a document described in subparagraph (B) for that proposed action under that subparagraph.

“(VII) INITIAL NONCOMPLIANCE DETERMINATION.—The term ‘initial noncompliance determination’ means a determination under clause

1 (ii)(I)(bb) that the head of a Federal
2 agency has not complied with the re-
3 quirements of subparagraph (A), (B),
4 or (C).

5 “(ii) INITIAL NONCOMPLIANCE.—

6 “(I) DETERMINATION.—

7 “(aa) NOTIFICATION.—As
8 soon as practicable after the date
9 described in subsection
10 (a)(4)(B)(i) for a proposed action
11 of a Federal agency, the head of
12 the Federal agency shall notify
13 the Director that the head of the
14 Federal agency is beginning the
15 NEPA process for that proposed
16 action.

17 “(bb) DETERMINATIONS OF
18 COMPLIANCE.—

19 “(AA) INITIAL DETER-
20 MINATION.—As soon as
21 practicable after the initial
22 NEPA compliance date for a
23 proposed action, the Direc-
24 tor shall determine whether,
25 as of the initial NEPA com-

1 pliance date, the head of the
2 Federal agency has complied
3 with subparagraph (B) for
4 that proposed action.

5 “(BB) ENVIRON-
6 MENTAL IMPACT STATE-
7 MENT.—With respect to a
8 proposed action of a Federal
9 agency in which the head of
10 the Federal agency publishes
11 a notice of intent described
12 in subparagraph (B)(ii), as
13 soon as practicable after the
14 initial EIS compliance date
15 for a proposed action, the
16 Director shall determine
17 whether, as of the initial
18 EIS compliance date, the
19 head of the Federal agency
20 has complied with subpara-
21 graph (C) for that proposed
22 action.

23 “(CC) COMPLETION OF
24 NEPA PROCESS.—As soon as
25 practicable after the final

1 NEPA compliance date for a
2 proposed action, the Direc-
3 tor shall determine whether,
4 as of the final NEPA com-
5 pliance date, the head of the
6 Federal agency has complied
7 with subparagraph (A) for
8 that proposed action.

9 “(II) IDENTIFICATION; PENALTY;
10 NOTIFICATION.—If the Director
11 makes an initial noncompliance deter-
12 mination for a proposed action—

13 “(aa) the Director shall
14 identify the account for the sala-
15 ries and expenses of the office of
16 the head of the Federal agency,
17 or an equivalent account;

18 “(bb) beginning on the day
19 after the date on which the Di-
20 rector makes the initial non-
21 compliance determination, the
22 amount that the head of the Fed-
23 eral agency may obligate from
24 the account identified under item
25 (aa) for the fiscal year during

1 which the determination is made
2 shall be reduced by 0.5 percent
3 from the amount initially made
4 available for the account for that
5 fiscal year; and

6 “(cc) the Director shall no-
7 tify the head of the Federal
8 agency of—

9 “(AA) the initial non-
10 compliance determination;

11 “(BB) the account
12 identified under item (aa);
13 and

14 “(CC) the reduction
15 under item (bb).

16 “(iii) CONTINUED NONCOMPLIANCE.—

17 “(I) DETERMINATION.—Every
18 90 days after the date of an initial
19 noncompliance determination, the Di-
20 rector shall determine whether the
21 head of the Federal agency has com-
22 plied with the applicable requirements
23 of subparagraphs (A) through (C) for
24 the proposed action, until the date on
25 which the Director determines that

1 the head of the Federal agency has
2 completed the NEPA process for the
3 proposed action.

4 “(II) PENALTY; NOTIFICATION.—

5 For each determination made by the
6 Director under subclause (I) that the
7 head of a Federal agency has not
8 complied with a requirement of sub-
9 paragraph (A), (B), or (C) for a pro-
10 posed action—

11 “(aa) the amount that the
12 head of the Federal agency may
13 obligate from the account identi-
14 fied under clause (ii)(II)(aa) for
15 the fiscal year during which the
16 most recent determination under
17 subclause (I) is made shall be re-
18 duced by 0.5 percent from the
19 amount initially made available
20 for the account for that fiscal
21 year; and

22 “(bb) the Director shall no-
23 tify the head of the Federal
24 agency of—

1 “(AA) the determina-
2 tion under subclause (I);
3 and

4 “(BB) the reduction
5 under item (aa).

6 “(iv) REQUIREMENTS.—

7 “(I) AMOUNTS NOT RESTORED.—

8 A reduction in the amount that the
9 head of a Federal agency may obligate
10 under clause (ii)(II)(bb) or
11 (iii)(II)(aa) during a fiscal year shall
12 not be restored for that fiscal year,
13 without regard to whether the head of
14 a Federal agency completes the
15 NEPA process for the proposed action
16 with respect to which the Director
17 made an initial noncompliance deter-
18 mination or a determination under
19 clause (iii)(I).

20 “(II) REQUIRED TIMELINES.—

21 The violation of subparagraph (B) or
22 (C), and any action carried out to re-
23 mediate or otherwise address the vio-
24 lation, shall not affect any other appli-

1 cable compliance date under subpara-
2 graph (A), (B), or (C).

3 “(2) AUTHORIZATIONS AND PERMITS.—

4 “(A) IN GENERAL.—Not later than 90
5 days after the date described in subsection
6 (a)(4)(B)(ii), the head of a Federal agency shall
7 issue—

8 “(i) any necessary permit or author-
9 ization to carry out the proposed action; or

10 “(ii) a denial of the permit or author-
11 ization necessary to carry out the proposed
12 action.

13 “(B) EFFECT OF FAILURE TO ISSUE AU-
14 THORIZATION OR PERMIT.—If a permit or au-
15 thorization described in subparagraph (A) is
16 not issued or denied within the period described
17 in that subparagraph, the permit or authoriza-
18 tion shall be considered to be approved.

19 “(C) DENIAL OF PERMIT OR AUTHORIZA-
20 TION.—

21 “(i) IN GENERAL.—If a permit or au-
22 thorization described in subparagraph (A)
23 is denied, the head of the Federal agency
24 shall describe to the project sponsor—

25 “(I) the basis of the denial; and

1 “(II) recommendations for the
2 project sponsor with respect to how to
3 address the reasons for the denial.

4 “(ii) RECOMMENDED CHANGES.—If
5 the project sponsor carries out the rec-
6 ommendations of the head of the Federal
7 agency under clause (i)(II) and notifies the
8 head of the Federal agency that the rec-
9 ommendations have been carried out, the
10 head of the Federal agency—

11 “(I) shall decide whether to issue
12 the permit or authorization described
13 in subparagraph (A) not later than 90
14 days after date on which the project
15 sponsor submitted the notification;
16 and

17 “(II) shall not carry out the
18 NEPA process with respect to the
19 proposed action again.”.

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