AMENDMENT TO RULES COMMITTEE PRINT 116-54

OFFERED BY MR. BISHOP OF UTAH

Add at the end of division H the following:

1 SEC. 40002. PERMITTING TIMETABLE FOR ENVIRONMENTAL REVIEW.

With respect to any major Federal action, the lead Federal agency shall, in consultation with cooperating and participating agencies, develop a permitting timetable that provides for completion of the environmental impact statement required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and issuance of a record of decision measured from the date of publication of a notice of intent to prepare an environmental impact statement.

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

14 (a) IN GENERAL.—Subject to subsection (b), with respect to a major Federal action, the lead Federal official in coordination with all Federal agencies with authorization responsibilities shall, with respect to all authorizations required by Federal law—
(1) prepare one environmental impact statement; and

(2) prepare one record of decision.

(b) EXCEPTION.—The lead Federal official may grant an exception to the requirement of one environmental impact statement or one record of decision if—

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

(2) the obligations of a Federal cooperating or participating agency pursuant to such Act have already been satisfied; or

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

SEC. 40004. FEDERAL AUTHORIZATION DECISIONS.

(a) DEADLINE FOR AUTHORIZATIONS.—Any authorization necessary for the completion of a major Federal action shall be completed not later than 90 days after the date of issuance of a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to such major Federal action.
(b) Extension of Deadline for Issuance of Authorizations.—The lead Federal official may extend the deadline under subsection (a) if such official determines that—

(1) Federal law prohibits issuing such authorization in the time period described in such subsection;

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

(3) the lead Federal official determines that the final environmental impact statement does not include an adequate level of detail to inform agency decisions pursuant to the specific statutory authorities and requirements of such agency.

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

With respect to each major Federal action, the lead Federal official shall seek to obtain a commitment from each State, Tribal, or local agency that will issue an authorization under Federal law to comply with the permitting timetable.

SEC. 40006. ACCOUNTABILITY AND REPORTING.

(a) In General.—The Director of the Office of Management and Budget shall establish a performance accountability system, including a scoring mechanism, to
track each major Federal action. The performance accountability system shall provide for reporting by agencies and shall assess, with respect to such major Federal action—

(1) whether a permitting timetable has been prepared;

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

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

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

SEC. 40007. PURPOSE AND STATEMENT OF POLICY.

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

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

"SEC. 2 PURPOSE.

“The purposes of this Act are—

“(1) to declare a national policy which will encourage productive and enjoyable harmony between humans and the environment;
“(2) to establish a procedural statute intended
to ensure Federal agencies consider the impacts of
agency actions in the decision-making process; and
“(3) to establish a Council on Environmental
Quality.”; and
(2) by amending section 101 to read as follows:

“SEC. 2 CONGRESSIONAL DECLARATION OF PURPOSE.
“(a) The Congress, recognizing the impact of human
activity on the environment, declares that it is the con-
tinuing policy of the Federal Government, in cooperation
with State and local governments, public and private orga-
nizations, and individuals, to use all practicable means and
measures to foster and promote the general welfare, create
and maintain conditions under which human activity and
nature can exist in productive harmony, and fulfill the so-
cial, economic, and other requirements of present and fu-
ture generations of Americans.
“(b) In order to carry out the policy set forth in this
Act, it is the continuing responsibility of the Federal Gov-
ernment to use all practicable means to ensure consistency
with other essential considerations of national policy and
the prerogatives of States, and for Federal agencies to in-
terpret the provisions of this Act as a supplement to exist-
ing authority, unless existing law applicable to the agen-
cy’s operations expressly prohibits or makes compliance
impossible”.

SEC. 40008. IDENTIFICATION OF ALTERNATIVES.

Section 102(2)(C)(iii) of the National Environmental
to read as follows:

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

SEC. 40009. EXPANDED UTILITY OF CATEGORICAL EXCLU-
SIONS.

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

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

“(a) In General.—If a categorical exclusion has
been established under section 102 with respect to a class
of actions, the head of a Federal agency may apply such
categorical exclusion to an action within such class of ac-
tions.
“(b) CLAIMS.—The establishment of a categorical exclusion under section 102 shall not be subject to judicial review.”.

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

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

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

“(a) ASSUMPTION OF RESPONSIBILITY.—

“(1) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of a State, a lead Federal official may assign the responsibilities of such official under this Act with respect to one or more covered Federal projects in such State.

“(2) ADDITIONAL RESPONSIBILITY.—If a Federal official makes an assignment of responsibilities to a State under paragraph (1), such official may assign to the assignee State all or part of the responsibilities of the lead Federal official for environmental review, consultation, or other action required
under any Federal environmental law pertaining to
the review or approval of covered projects.

“(3) Procedural and Substantive Requirements.—A State that assumes responsibility
under this section shall perform such responsibilities
subject to the same procedural and substantive re-
quirements as would apply if that responsibility were
carried out by the lead Federal official.

“(4) Federal Responsibility.—Any respons-
sibility of the lead Federal official not explicitly as-
sumed by the State by written agreement under this
section shall remain the responsibility of the lead
Federal official.

“(5) No Effect on Authority.—Nothing in
this section preempts or interferes with any power,
jurisdiction, responsibility, or authority of an agen-
cy, other than the agency of the lead Federal official
under applicable law with respect to the action.

“(b) State Participation.—

“(1) Application.—Not later than 180 days
after the date of enactment of this section, the lead
Federal official shall promulgate regulations that es-
stable requirements relating to information required
to be contained in any application of a State to as-
sume responsibility under this section with respect
to a major Federal action the lead Federal official, including, at a minimum—

“(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under this section;

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

“(C) evidence of the notice and solicitation of public comment by the State relating to assumption of responsibility under this section by the State, including copies of comments received from that solicitation.

“(2) PUBLIC NOTICE.—

“(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to submit such application not later than 30 days before the date of submission of the application.

“(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.
“(3) SELECTION CRITERIA.—A lead Federal official may approve the application of a State under this section only if—

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

“(B) the lead Federal official determines that the State has the capability, including financial and personnel, to assume the responsibility; and

“(C) the head of the State agency having primary jurisdiction over covered projects with respect to which responsibility would be assigned to the State pursuant to the application enters into a written agreement with the lead Federal official.

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

“(1) be executed by the Governor of the State or the head of the State agency referred to in subsection (b)(3)(C);

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

“(3) provide that the State—

“(A) agrees to assume all or part of the responsibilities of the lead Federal official.
“(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the lead Federal official assumed by the State;

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

“(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

“(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

“(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

“(d) JURISDICTION.—

“(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.
(2) Legal Standards and Requirements.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the lead Federal official had the lead Federal official taken the actions in question.

(3) Intervention.—The lead Federal official shall have the right to intervene in any action described in paragraph (1).

(e) Effect of Assumption of Responsibility.—A State that assumes responsibility under subsection (a) shall be solely lead and solely liable for carrying out, in lieu of the lead Federal official, the responsibilities assumed under subsection (a), until the termination of such assumption of responsibility.

(f) Limitations on Agreements.—Nothing in this section permits a State to assume any rulemaking authority of the lead Federal official under any Federal law.

(g) Audits.—

(1) In General.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)), for each State participating in
the program under this section, the lead Federal official shall conduct—

“(A) semianual audits during each of the first 2 years of the effective period of the agreement; and

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

“(2) PUBLIC AVAILABILITY AND COMMENT.—

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

“(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the lead Federal official shall respond to public comments received under subparagraph (A).

“(h) REPORT TO CONGRESS.—Each lead Federal official shall submit to Congress an annual report that describes the administration of this section by such official.

“(i) TERMINATION BY LEAD FEDERAL OFFICIAL.—The lead Federal official with respect to an agreement with a State under this section may terminate the agreement and any responsibility or authority of the State under this section with respect to such agreement, if—
“(1) the lead Federal official determines that
the State is not adequately carrying out the respon-
sibilities assumed by the State under this section;

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

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

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

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

SEC. 40011. JUDICIAL REVIEW.

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

“SEC. 108. JUDICIAL REVIEW.

“(a) LIMITATIONS ON CLAIMS.—

“(1) IN GENERAL.—Notwithstanding any other
provision of law, a claim arising under Federal law
seeking judicial review of an approval or other au-
thorization issued by a Federal agency for a Federal
action subject to section 102(2)(C) shall be barred
unless—

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

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

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

ation in a supplemental environmental impact state-

ment shall be limited to challenges on the basis of that information.

“(3) Rule of Construction.—Nothing in this subsection shall be construed to create a right of judicial review or place any limit on filing a claim that a person has violated the terms of a permit, li-

cense, or approval.”.

SEC. 40012. FEDERAL PERMITTING IMPROVEMENT.

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

(1) by amending paragraph (4) to read as fol-

lows:

“(4) The term ‘cooperating agency’ means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A State or local agen-

cy of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.”.
(2) in paragraph (5), by striking “Federal Infrastructure Permitting Improvement Steering Council” and inserting “Federal Permitting Improvement Steering Council”; and

(3) in paragraph (6)—

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

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

“(B) TREATMENT.—Section 553 of title 5, United States Code, shall not apply to a majority vote described in subparagraph (A).”.

(b) FEDERAL PERMITTING IMPROVEMENT COUNCIL.—Section 41002 of the FAST Act (42 U.S.C. 4370m–1) is amended—

(1) in subsection (b)(2)(A)(i)—

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

“(I) IN GENERAL.—Each”.

(B) by adding at the end the following:

“(II) REDESIGNATION.—If an individual listed in subparagraph (B) designates a different member to serve on the Council than the member designated under subclause (I), the
individual shall notify the Executive Director of the designation by not later than 30 days after the date on which the designation is made.”.

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (B)—

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

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

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

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

“(viii) in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans; and”;}
(ii) by redesignating subparagraph

(C) as subparagraph (D); and

(iii) by inserting after subparagraph

(B) the following:

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

(B) in paragraph (3)(A), by inserting “,
including agency compliance with interim and
final completion dates described in coordinated
project plans” after “authorizations”; and

(3) in subsection (d)—

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

“(1) IN GENERAL.—The Director”; and

(B) by adding at the end the following:

“(2) SAVINGS PROVISION.—The designated
agency under paragraph (1) shall not—
“(A) participate in policy decisions or substantive management of the Council; or

“(B) require the Executive Director or the Council to comply with agency policies in carrying out the duties of the Executive Director or the Council, as applicable.”.

(c) PERMITTING PROCESS IMPROVEMENT.—Section 41003 of the FAST Act (42 U.S.C. 4370m–2) is amended—

(1) in subsection (a)(3)(A), in the matter preceding clause (i), by inserting “and the Executive Director” after “as applicable,”;

(2) in subsection (b)(2)—

(A) by striking “14 days” each place it appears and inserting “14 business days”; and

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

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting “in coordination with the Executive Director and” after “as applicable,”; and

(ii) in subparagraph (B), by adding at the end the following:
“(v) A checklist to help project sponsors identify—

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

“(II) information needed to determine the range of alternatives; and

“(III) agencies or organizations that can provide information regarding matter described in clause (I) or (II).

“(vi) In the case of a tiered project review, a description of the relationship between any applicable programmatic analysis and the planned tiered environmental review.”; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “As part of the coordination project plan” and inserting the following:

“(i) IN GENERAL.—In accordance with clause (ii) and as part of the coordinated project plan”; and
(II) by adding at the end the following:

“(ii) GOAL.—

“(I) IN GENERAL.—The permitting timetable established under clause (i) shall provide for the completion of the permitting process within 2 years.

“(II) EXCEPTION.—If the facilitating agency or lead agency, as applicable, determines that the permitting process cannot be completed within 2 years, the coordinated project plan under paragraph (1) shall include—

“(aa) the specific reasons why the facilitating agency or lead agency, as applicable, anticipates that the permitting process will take longer than 2 years; and

“(bb) the specific efforts that the facilitating agency or lead agency, as applicable, each coordinating and participating agency, the project sponsor, and any State in which the project is
located will take to reduce the
time needed to complete the per-
mitting process.”;

(ii) in subparagraph (D)(i)—

(I) by redesignating subclauses

(II) by inserting before subclause

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

(iii) in subparagraph (F)—

(I) in clause (i)—

(aa) by inserting “interim

and final” before “completion
dates”; and
(bb) by inserting “interim or final” before “completion date”; and

(II) in clause (ii)—

(aa) in the matter preceding subclause (I), by striking “a completion date for agency action on a covered project or is at significant risk of failing to conform with” and inserting “an interim or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before”; and

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

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting appropriately; and
(B) by striking the matter preceding sub-
paragraph (A) (as so redesignated) and insert-
ing the following:

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

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

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

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

“(1) IN GENERAL.—In the case of a project
that is not a covered project, at the request of an
individual described in section 41002(b)(2)(B) or the
project sponsor, the Executive Director may work
with the lead agency and any cooperating or partici-
pating agency to facilitate the environmental review
and authorization process in accordance with this subsection, including by—

“(A) mediating and resolving disputes;
“(B) promoting early coordination among the agencies; and
“(C) taking such actions as may be established pursuant to paragraph (2).

“(2) ESTABLISHMENT OF POLICIES.—The Executive Director, in consultation with the Director of the Office of Management and Budget and the Chair of the Council on Environmental Quality, may establish policies and procedures as appropriate to carry out the facilitation under paragraph (1).

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

“(4) SAVINGS PROVISION.—Facilitation of a project by the Executive Director under paragraph (1) shall not subject the project to any provisions under this title, other than as provided in this subsection.”.
(d) COORDINATION OF REQUIRED REVIEWS.—Section 41005(b) of the FAST Act (42 U.S.C. 4370m–4(b)) is amended—

(1) by striking ``(1) STATE ENVIRONMENTAL DOCUMENTS; SUPPLEMENTAL DOCUMENTS.—'';

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

(3) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(4) in paragraph (2) (as so redesignated), by striking ``subparagraph (A)'' each place it appears and inserting ``paragraph (1)'';

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

(A) in the matter preceding clause (i), by striking ``subparagraph (A)'' and inserting ``paragraph (1)''; and

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

(6) in paragraph (4) (as so redesignated)—
(A) in the matter preceding clause (i), by striking “subparagraph (C)” and inserting “paragraph (3)”; and

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

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

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

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

(e) Litigation, Judicial Review, and Savings Provision.—Section 41007 of the FAST Act (42 U.S.C. 4370m–6) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “the action” and inserting “the claim”; and

(ii) by striking “of the final record of decision or approval or denial of a permit” and inserting “of notice of final agency action on the authorization”; and

(B) in subparagraph (B)(i), by striking “the action” and inserting “the claim”; and
(2) in subsection (e), in the matter preceding paragraph (1), by striking “this section” and inserting “this title”.

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

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking “based on” and all that follows through “including” and inserting “, including”;

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

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

(D) by adding at the end the following:

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

(2) by adding at the end the following:

“(c) FEDERAL ENERGY REGULATORY COMMISSION

REPORT.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Permitting Reform and Jobs Act, the Federal Energy Regulatory Commission shall submit to the Committees
on Homeland Security and Governmental Affairs
and Environment and Public Works of the Senate
and the Committees on Energy and Commerce and
Transportation and Infrastructure of the House of
Representatives a report that includes recommenda-
tions on ways to reconcile regulations of the Federal
Energy Regulatory Commission with requirements
under this title.

“(2) Review.—In the first report under sub-
section (a) that is submitted after the date on which
the report under paragraph (1) is submitted, the Ex-
cecutives Director shall include a review of the rec-
ommendations in the report under that paragraph.”.

(g) Funding for Governance, Oversight, and
Processing of Environmental Reviews and Per-
mits.—Section 41009 of the FAST Act (42 U.S.C.
4370m–8) is amended—

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

“(a) In General.—For the purpose of carrying out
this title, the Executive Director, in consultation with the
heads of the agencies listed in section 41002(b)(2)(B) and
with the guidance of the Director of the Office of Manage-
ment and Budget, may, after public notice and oppor-
tunity for comment, issue regulations establishing a fee
structure for sponsors of covered projects to reimburse the
United States for reasonable costs incurred in conducting
environmental reviews and authorizations for covered projects.”;

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

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

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

(h) SUNSET.—

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

(2) CONFORMING AMENDMENT.—Section 1(b)
of the FAST Act (23 U.S.C. 101 note(b)) is amend-
ed in the table of contents by striking the item relating to section 41013.

(i) Repeal of Certain Exclusions.—Section 11503(b) of the FAST Act (42 U.S.C. 4370m note; Public Law 114–94) is repealed.

(j) Technical Correction.—Section 41002(b)(2)(A)(ii) of the FAST Act (42 U.S.C. 4370m–1(b)(2)(A)(ii)) is amended by striking “councilmember” and inserting “councilmember”.

SEC. 40013. DEFINITIONS.

(a) In General.—In this division:

(1) Authorization.—The term “authorization” has the meaning given the term in 41001 of the FAST Act (42 U.S.C. 4370m).

(2) Cooperating Agency.—The term “cooperating agency” means any agency that, with respect to the environmental review of a major Federal action, has—

(A) jurisdiction under Federal law; or

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

(3) Lead Federal Official.—The term “lead Federal official” has the meaning given the term in
section 3 of the National Environmental Policy Act of 1969, as amended.

(4) **Major Federal Action.**—The term “major Federal action” has the meaning given the term in section 3 of the National Environmental Policy Act of 1969, as amended.

(5) **Participating Agency.**—The term “participating agency” means an agency participating in an environmental review or authorization of a major Federal action.

(6) **Permitting Timetable.**—The term “permitting timetable” means an environmental review and authorization schedule for a project or group of projects that identifies milestones, including intermediate and final completion dates for action by each agency with respect to each authorization, that is prepared by the lead Federal agency in consultation with all cooperating and participating agencies.

(b) **Additional Definitions in the National Environmental Policy Act.**—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is amended by inserting after section 2 the following:

“**Sec. 3 Definitions.**

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

“(2) **MAJOR FEDERAL ACTION.**—

“(A) **IN GENERAL.**—The term ‘major Federal action’ means an action that the agency carrying out such action determines is subject to Federal control and responsibility with effects that may be significant. Major Federal action does not include non-discretionary decisions made in accordance with the agency’s statutory authority or activities that do not result in final agency action under chapter 5 of title 5, United States Code.

“(B) **EXCLUSION.**—The term ‘major Federal action’ does not include—

“(i) non-Federal projects with minimal Federal funding or minimal Federal involvement where the agency cannot control the outcome of the project.

“(ii) funding assistance solely in the form of general revenue sharing funds with
no Federal agency control over the subsequent use of such funds;

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

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

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

“(vi) bringing judicial or administrative civil or criminal enforcement actions.

“(3) PROPOSAL.—The term ‘proposal’ means a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that
goal, and can meaningfully evaluate its effects. A proposal may exist in fact as well as by agency declaration that one exists.”.