

AMENDMENT TO H.R. 1
OFFERED BY MR. LAMALFA OF CALIFORNIA

Add at the end of title II of division B the following:

1 **SEC. 20221. PROGRAM FOR ELIMINATING DUPLICATION OF**
2 **ENVIRONMENTAL REVIEWS.**

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—The Secretary shall establish
5 a pilot program to authorize States that are ap-
6 proved to participate in the program under this sec-
7 tion to conduct environmental reviews and make ap-
8 provals for projects under State environmental laws
9 and regulations instead of the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
11 consistent with the requirements of this section.

12 (2) ALTERNATIVE ENVIRONMENTAL REVIEW
13 AND APPROVAL PROCEDURES DEFINED.—In this
14 section, the term “alternative environmental review
15 and approval procedures” means—

16 (A) substitution of 1 or more State envi-
17 ronmental laws for—

18 (i) the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.);

1 (ii) related regulations and Executive
2 orders; and

3 (B) substitution of 1 or more State envi-
4 ronmental regulations for—

5 (i) the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4321 et seq.);

7 (ii) related regulations and Executive
8 orders.

9 (b) APPLICATION.—To be eligible to participate in
10 the program, a State shall submit to the Secretary an ap-
11 plication containing such information as the Secretary
12 may require, including—

13 (1) a full and complete description of the pro-
14 posed alternative environmental review and approval
15 procedures of the State, including—

16 (A) the procedures the State uses to en-
17 gage the public and consider alternatives to the
18 proposed action; and

19 (B) the extent to which the State considers
20 environmental consequences or impacts on re-
21 sources potentially impacted by the proposed
22 action (such as air, water, or species);

23 (2) each Federal requirement described in sub-
24 section (a)(3) that the State is seeking to substitute;

1 (3) each State law or regulation that the State
2 intends to substitute for such Federal requirement;

3 (4) an explanation of the basis for concluding
4 that the State law or regulation is at least as strin-
5 gent as the Federal requirement described in sub-
6 section (a)(3);

7 (5) a description of the projects or classes of
8 projects for which the State anticipates exercising
9 the authority that may be granted under the pro-
10 gram;

11 (6) verification that the State has the financial
12 resources necessary to carry out the authority that
13 may be granted under the program;

14 (7) evidence of having sought, received, and ad-
15 dressed comments on the proposed application from
16 the public; and

17 (8) any such additional information as the Sec-
18 retary, or, with respect to subsection (d)(1)(A), the
19 Secretary in consultation with the Chair, may re-
20 quire.

21 (c) REVIEW OF APPLICATION.—In accordance with
22 subsection (d), the Secretary shall—

23 (1) review and accept public comments on an
24 application submitted under subsection (b);

1 (2) approve or disapprove the application not
2 later than 120 days after the date of receipt of an
3 application that the Secretary determines is com-
4 plete; and

5 (3) transmit to the State notice of the approval
6 or disapproval, together with a statement of the rea-
7 sons for the approval or disapproval.

8 (d) APPROVAL OF APPLICATION.—

9 (1) IN GENERAL.—The Secretary shall approve
10 an application submitted under subsection (b) only
11 if—

12 (A) the Secretary, with the concurrence of
13 the Chair and after considering any public com-
14 ments received pursuant to subsection (c), de-
15 termines that the laws and regulations of the
16 State described in the application are at least
17 as stringent as the Federal requirements de-
18 scribed in subsection (a)(3);

19 (B) the Secretary, after considering any
20 public comments received pursuant to sub-
21 section (c), determines that the State has the
22 capacity, including financial and personnel, to
23 assume the responsibility;

24 (C) the State has executed an agreement
25 with the Secretary under this section that—

1 (i) has been executed by the Governor
2 or the top-ranking transportation official
3 in the State who is charged with responsi-
4 bility for highway construction;

5 (ii) is in such form as the Secretary
6 may prescribe;

7 (iii) provides that the State—

8 (I) agrees to assume the respon-
9 sibilities, as identified by the Sec-
10 retary, under this section;

11 (II) expressly consents, on behalf
12 of the State, to accept the jurisdiction
13 of the Federal courts under subsection
14 (e)(1) for the compliance, discharge,
15 and enforcement of any responsibility
16 under this section;

17 (III) certifies that State laws (in-
18 cluding regulations) are in effect
19 that—

20 (aa) authorize the State to
21 take the actions necessary to
22 carry out the responsibilities
23 being assumed; and

24 (bb) are comparable to sec-
25 tion 552 of title 5, including pro-

1 viding that any decision regard-
2 ing the public availability of a
3 document under those State laws
4 is reviewable by a court of com-
5 petent jurisdiction; and

6 (IV) agrees to maintain the fi-
7 nancial resources necessary to carry
8 out the responsibilities being assumed;
9 (iv) requires the State to provide to
10 the Secretary any information the Sec-
11 retary reasonably considers necessary to
12 ensure that the State is adequately car-
13 rying out the responsibilities assigned to
14 the State;

15 (v) has a term of not more than 5
16 years; and

17 (vi) is renewable.

18 (2) EXCLUSION.—The National Environmental
19 Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall
20 not apply to a decision by the Secretary to approve
21 or disapprove an application submitted under this
22 section.

23 (e) JUDICIAL REVIEW.—

24 (1) IN GENERAL.—The United States district
25 courts shall have exclusive jurisdiction over any civil

1 action against a State relating to the failure of the
2 State—

3 (A) to meet the requirements of this sec-
4 tion; or

5 (B) to follow the alternative environmental
6 review and approval procedures approved pur-
7 suant to this section.

8 (2) LIMITATION ON REVIEW.—

9 (A) IN GENERAL.—Notwithstanding any
10 other provision of law, a claim seeking judicial
11 review of a permit, license, or approval issued
12 by a State under this section shall be barred
13 unless the claim is filed not later than 150 days
14 after the date of publication in the Federal
15 Register by the Secretary of a notice that the
16 permit, license, or approval is final pursuant to
17 the law under which the action is taken.

18 (B) DEADLINES.—

19 (i) NOTIFICATION.—The State shall
20 notify the Secretary of the final action of
21 the State not later than 10 days after the
22 final action is taken.

23 (ii) PUBLICATION.—The Secretary
24 shall publish the notice of final action in
25 the Federal Register not later than 30

1 days after the date of receipt of the notice
2 under clause (i).

3 (C) SAVINGS PROVISION.—Nothing in this
4 subsection creates a right to judicial review or
5 places any limit on filing a claim that a person
6 has violated the terms of a permit, license, or
7 approval.

8 (f) ADOPTION OR INCORPORATION BY REFERENCE
9 OF DOCUMENTS.—To the maximum extent practicable
10 and consistent with Federal law, other Federal agencies
11 with authority over a project subject to this section shall
12 adopt or incorporate by reference documents produced by
13 a participating State under this section to satisfy the re-
14 quirements of the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.).

16 (g) RELATIONSHIP TO LOCALLY ADMINISTERED
17 PROJECTS.—

18 (1) IN GENERAL.—A State with an approved
19 program under this section, at the request of a local
20 government, may exercise authority under that pro-
21 gram on behalf of up to 25 local governments for lo-
22 cally administered projects.

23 (2) SCOPE.—For up to 25 local governments
24 selected by a State with an approved program under
25 this section, the State shall be responsible for ensur-

1 ing that any environmental review, consultation, or
2 other action required under the National Environ-
3 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
4 or the State program, or both, meets the require-
5 ments of such Act or program.

6 (h) REVIEW AND TERMINATION.—

7 (1) IN GENERAL.—A State program approved
8 under this section shall at all times be in accordance
9 with the requirements of this section.

10 (2) REVIEW.—The Secretary shall review each
11 State program approved under this section not less
12 than once every 5 years.

13 (3) PUBLIC NOTICE AND COMMENT.—In con-
14 ducting the review process under paragraph (2), the
15 Secretary shall provide notice and an opportunity for
16 public comment.

17 (4) WITHDRAWAL OF APPROVAL.—If the Sec-
18 retary, in consultation with the Chair, determines at
19 any time that a State is not administering a State
20 program approved under this section in accordance
21 with the requirements of this section, the Secretary
22 shall so notify the State, and if appropriate correc-
23 tive action is not taken within a reasonable time, not
24 to exceed 90 days, the Secretary shall withdraw ap-
25 proval of the State program.

1 (5) EXTENSIONS AND TERMINATIONS.—At the
2 conclusion of the review process under paragraph
3 (2), the Secretary may extend for an additional 5-
4 year period or terminate the authority of a State
5 under this section to substitute the laws and regula-
6 tions of the State for the National Environmental
7 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

8 (i) SUNSET.—The program shall terminate 12 years
9 after the date of enactment of this section.

10 (j) DEFINITIONS.—In this section, the following defi-
11 nitions apply:

12 (1) CHAIR.—The term “Chair” means the
13 Chair of the Council on Environmental Quality.

14 (2) PROGRAM.—The term “program” means
15 the pilot program established under this section.

16 (3) PROJECT.—The term “project” means any
17 project authorized under this division.

18 (4) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

