

AMENDMENT TO DIVISION B OF RULES
COMMITTEE PRINT 117-57
OFFERED BY MR. LAMALFA OF CALIFORNIA

At the end of division B, add the following:

1 **TITLE IX—PROGRAM FOR ELIMI-**
2 **NATING DUPLICATION OF EN-**
3 **VIRONMENTAL REVIEWS**

4 **SEC. 101. PROGRAM FOR ELIMINATING DUPLICATION OF**
5 **ENVIRONMENTAL REVIEWS.**

6 (a) ESTABLISHMENT.—

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

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

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

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

5 (ii) related regulations and Executive
6 orders; and

7 (B) substitution of 1 or more State envi-
8 ronmental regulations for—

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

11 (ii) related regulations and Executive
12 orders.

13 (b) APPLICATION.—To be eligible to participate in
14 the program, a State shall submit to the Secretary an ap-
15 plication containing such information as the Secretary
16 may require, including—

17 (1) a full and complete description of the pro-
18 posed alternative environmental review and approval
19 procedures of the State, including—

20 (A) the procedures the State uses to en-
21 gage the public and consider alternatives to the
22 proposed action; and

23 (B) the extent to which the State considers
24 environmental consequences or impacts on re-

1 sources potentially impacted by the proposed
2 action (such as air, water, or species);

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

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

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

11 (5) a description of the projects or classes of
12 projects for which the State anticipates exercising
13 the authority that may be granted under the pro-
14 gram;

15 (6) verification that the State has the financial
16 resources necessary to carry out the authority that
17 may be granted under the program;

18 (7) evidence of having sought, received, and ad-
19 dressed comments on the proposed application from
20 the public; and

21 (8) any such additional information as the Sec-
22 retary, or, with respect to subsection (d)(1)(A), the
23 Secretary in consultation with the Chair, may re-
24 quire.

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

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

5 (2) approve or disapprove the application not
6 later than 120 days after the date of receipt of an
7 application that the Secretary determines is com-
8 plete; and

9 (3) transmit to the State notice of the approval
10 or disapproval, together with a statement of the rea-
11 sons for the approval or disapproval.

12 (d) APPROVAL OF APPLICATION.—

13 (1) IN GENERAL.—The Secretary shall approve
14 an application submitted under subsection (b) only
15 if—

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

23 (B) the Secretary, after considering any
24 public comments received pursuant to sub-
25 section (c), determines that the State has the

1 capacity, including financial and personnel, to
2 assume the responsibility;

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

5 (i) has been executed by the Governor
6 or the top-ranking transportation official
7 in the State who is charged with responsi-
8 bility for highway construction;

9 (ii) is in such form as the Secretary
10 may prescribe;

11 (iii) provides that the State—

12 (I) agrees to assume the respon-
13 sibilities, as identified by the Sec-
14 retary, under this section;

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

21 (III) certifies that State laws (in-
22 cluding regulations) are in effect
23 that—

24 (aa) authorize the State to
25 take the actions necessary to

1 carry out the responsibilities
2 being assumed; and

3 (bb) are comparable to sec-
4 tion 552 of title 5, including pro-
5 viding that any decision regard-
6 ing the public availability of a
7 document under those State laws
8 is reviewable by a court of com-
9 petent jurisdiction; and

10 (IV) agrees to maintain the fi-
11 nancial resources necessary to carry
12 out the responsibilities being assumed;

13 (iv) requires the State to provide to
14 the Secretary any information the Sec-
15 retary reasonably considers necessary to
16 ensure that the State is adequately car-
17 rying out the responsibilities assigned to
18 the State;

19 (v) has a term of not more than 5
20 years; and

21 (vi) is renewable.

22 (2) EXCLUSION.—The National Environmental
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall
24 not apply to a decision by the Secretary to approve

1 or disapprove an application submitted under this
2 section.

3 (e) JUDICIAL REVIEW.—

4 (1) IN GENERAL.—The United States district
5 courts shall have exclusive jurisdiction over any civil
6 action against a State relating to the failure of the
7 State—

8 (A) to meet the requirements of this sec-
9 tion; or

10 (B) to follow the alternative environmental
11 review and approval procedures approved pur-
12 suant to this section.

13 (2) LIMITATION ON REVIEW.—

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

23 (B) DEADLINES.—

24 (i) NOTIFICATION.—The State shall
25 notify the Secretary of the final action of

1 the State not later than 10 days after the
2 final action is taken.

3 (ii) PUBLICATION.—The Secretary
4 shall publish the notice of final action in
5 the Federal Register not later than 30
6 days after the date of receipt of the notice
7 under clause (i).

8 (C) SAVINGS PROVISION.—Nothing in this
9 subsection creates a right to judicial review or
10 places any limit on filing a claim that a person
11 has violated the terms of a permit, license, or
12 approval.

13 (f) ADOPTION OR INCORPORATION BY REFERENCE
14 OF DOCUMENTS.—To the maximum extent practicable
15 and consistent with Federal law, other Federal agencies
16 with authority over a project subject to this section shall
17 adopt or incorporate by reference documents produced by
18 a participating State under this section to satisfy the re-
19 quirements of the National Environmental Policy Act of
20 1969 (42 U.S.C. 4321 et seq.).

21 (g) RELATIONSHIP TO LOCALLY ADMINISTERED
22 PROJECTS.—

23 (1) IN GENERAL.—A State with an approved
24 program under this section, at the request of a local
25 government, may exercise authority under that pro-

1 gram on behalf of up to 25 local governments for lo-
2 cally administered projects.

3 (2) SCOPE.—For up to 25 local governments
4 selected by a State with an approved program under
5 this section, the State shall be responsible for ensur-
6 ing that any environmental review, consultation, or
7 other action required under the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
9 or the State program, or both, meets the require-
10 ments of such Act or program.

11 (h) REVIEW AND TERMINATION.—

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

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

18 (3) PUBLIC NOTICE AND COMMENT.—In con-
19 ducting the review process under paragraph (2), the
20 Secretary shall provide notice and an opportunity for
21 public comment.

22 (4) WITHDRAWAL OF APPROVAL.—If the Sec-
23 retary, in consultation with the Chair, determines at
24 any time that a State is not administering a State
25 program approved under this section in accordance

1 with the requirements of this section, the Secretary
2 shall so notify the State, and if appropriate correc-
3 tive action is not taken within a reasonable time, not
4 to exceed 90 days, the Secretary shall withdraw ap-
5 proval of the State program.

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

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

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

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

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

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

23 (4) SECRETARY.—The term “Secretary” means
24 the Secretary of the Interior.

