

113TH CONGRESS  
1ST SESSION

# H. R. 3730

To direct the Secretary of the Army to establish a process to expedite the consideration of applications submitted by States and municipalities for permits in connection with public safety projects, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Mr. BILIRAKIS introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To direct the Secretary of the Army to establish a process to expedite the consideration of applications submitted by States and municipalities for permits in connection with public safety projects, 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 “Public Infrastructure  
5 Modernization Act of 2013”.

1 **SEC. 2. EXPEDITED PROCESS FOR CONSIDERATION OF AP-**  
2 **PLICATIONS TO CONDUCT PUBLIC SAFETY**  
3 **PROJECTS.**

4 (a) APPROVAL AND DISAPPROVAL OF PERMITS.—

5 (1) DEADLINE.—The Secretary of the Army  
6 shall approve or disapprove a covered permit appli-  
7 cation for a public safety project on or before the  
8 last day of the 2-year period beginning on the date  
9 of submission of the application.

10 (2) FAILURE TO MEET DEADLINE.—If the Sec-  
11 retary does not approve or disapprove a covered per-  
12 mit application for a public safety project on or be-  
13 fore the last day specified in paragraph (1)—

14 (A) the application shall be considered  
15 under the expedited process established under  
16 subsection (b); unless

17 (B) the Governor of the State in which the  
18 project is to be located issues a declaration of  
19 emergency with respect to the project under  
20 subsection (c), in which case the requirements  
21 of subsection (c) shall apply to the application.

22 (b) EXPEDITED PROCESS.—

23 (1) IN GENERAL.—The Secretary shall estab-  
24 lish, by regulation, a process to expedite the consid-  
25 eration of a covered permit application for a public  
26 safety project.

1           (2) SPECIFICATIONS FOR EXPEDITED PROC-  
2           ESS.—The expedited process shall provide for the  
3           following:

4                   (A) In complying with the requirements of  
5                   the National Environmental Policy Act of 1969  
6                   (42 U.S.C. 4321 et seq.) with respect to the  
7                   project, the Secretary shall—

8                           (i) prepare an environmental assess-  
9                           ment or an environmental impact state-  
10                           ment in accordance with paragraph (3);

11                           (ii) weigh the public safety aspects of  
12                           the project as greater than the environ-  
13                           mental costs; and

14                           (iii) complete consultation with other  
15                           agencies, as necessary, not later than 6  
16                           months after the last day specified in sub-  
17                           section (a)(1).

18                   (B) In issuing a permit under the expe-  
19                   dited process, the Secretary may not require  
20                   mitigation costs in an amount that exceeds 20  
21                   percent of the total cost of the project.

22                   (C) In issuing a permit under the expe-  
23                   dited process, the Secretary may implement  
24                   species relocation for the project, as described  
25                   in subsection (d).

1           (3) ENVIRONMENTAL ASSESSMENT OR IMPACT  
2 STATEMENT.—In preparing an environmental as-  
3 sessment or an environmental impact statement  
4 under paragraph (2)(A)—

5           (A) the Secretary shall study, develop, and  
6 describe the proposed action and the alternative  
7 of no action; but

8           (B) the Secretary is not required to study,  
9 develop, or describe any alternative actions to  
10 the proposed agency action unless the munici-  
11 pality in which is the project is to be located  
12 submits an alternative action.

13           (4) JUDICIAL REVIEW.—A person may obtain  
14 judicial review of any determination made for a pub-  
15 lic safety project under the expedited process only in  
16 the United States district court for the judicial dis-  
17 trict in which the project is to be located.

18           (c) EMERGENCY DECLARATION.—

19           (1) IN GENERAL.—If the Secretary has not ap-  
20 proved or disapproved a covered permit application  
21 for a public safety project on or before the last day  
22 specified in subsection (a)(1), the Governor of the  
23 State in which the project is to be located may issue  
24 a declaration of emergency with respect to the  
25 project.

1           (2) ALTERNATIVE ARRANGEMENTS.—If the  
2 Governor of a State issues a declaration of emer-  
3 gency with respect to a public safety project under  
4 paragraph (1), the State or municipality that sub-  
5 mitted a covered permit application for the project  
6 may request that—

7           (A) the application be considered under the  
8 expedited process established under subsection  
9 (b); or

10          (B) the President, acting through the  
11 Council on Environmental Quality, establish al-  
12 ternative arrangements for conducting the  
13 project.

14          (3) DEADLINE.—Pursuant to a request received  
15 under paragraph (2)(B), the Council on Environ-  
16 mental Quality, on or before the last day of the 90-  
17 day period beginning on the date of the request  
18 shall—

19          (A) create an alternative to the proposed  
20 public safety project; or

21          (B) approve the project.

22          (4) FAILURE TO MEET DEADLINE.—If, after re-  
23 ceiving a request under paragraph (2)(B), the Coun-  
24 cil on Environmental Quality does not establish al-  
25 ternate procedures for conducting a public safety

1 project or disapprove the project on or before the  
2 last day specified in paragraph (3)—

3 (A) the covered permit application sub-  
4 mitted for the project shall be deemed ap-  
5 proved; and

6 (B) the requirements of the National Envi-  
7 ronmental Policy Act of 1969 (42 U.S.C. 4321  
8 et seq.) relating to the project shall be deemed  
9 satisfied.

10 (5) JUDICIAL REVIEW.—The deemed approval  
11 of a covered permit application pursuant to para-  
12 graph (4)(A) shall not be subject to judicial review.

13 (6) RELATIONSHIP TO OTHER LAWS.—Any al-  
14 ternative arrangements established for a public safe-  
15 ty project under paragraph (2)—

16 (A) shall be deemed to satisfy the require-  
17 ments of section 404 of the Federal Water Pol-  
18 lution Control Act (33 U.S.C. 1344) and the  
19 National Environmental Policy Act of 1969 (42  
20 U.S.C. 4321 et seq.) with respect to the project;  
21 and

22 (B) shall not be subject to judicial review.

23 (d) SPECIES RELOCATIONS.—In the case of a covered  
24 permit application for a public safety project that author-  
25 izes species relocation pursuant to subsection (b)(2)(C),

1 the Secretary, acting through the United States Fish and  
2 Wildlife Service, any Federal land management agency,  
3 the National Marine Fisheries Service, or a State con-  
4 servation agency, shall relocate from the project any the  
5 members of a threatened or endangered species of plant  
6 or animal that the relevant Federal agencies determine  
7 would be taken in the course of the project.

8 (e) APPLICABILITY.—This section shall apply to a  
9 covered permit application for a public safety project sub-  
10 mitted after the date of enactment of this Act.

11 (f) REPORT TO CONGRESS.—Not later than 1 year  
12 after the date of enactment of this Act, and annually  
13 thereafter, the Secretary shall submit to Congress a report  
14 on the implementation of this section.

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

17 (1) COVERED PERMIT APPLICATION.—The term  
18 “covered permit application” means an application  
19 for a permit to discharge dredge or fill material sub-  
20 mitted by a State or municipality under section 404  
21 of the Federal Water Pollution Control Act (33  
22 U.S.C. 1344).

23 (2) MUNICIPALITY.—The term “municipality”  
24 has the meaning given that term in section 502 of

1 the Federal Water Pollution Control Act (33 U.S.C.  
2 1362).

3 (3) PERSON.—The term “person” has the  
4 meaning given that term in section 502 of the Fed-  
5 eral Water Pollution Control Act (33 U.S.C. 1362).

6 (4) PUBLIC SAFETY PROJECT.—The term “pub-  
7 lic safety project” means a project that has one of  
8 the following as its primary purpose:

9 (A) The construction of a levee, self-closing  
10 flood barrier, seawall, or flood gate.

11 (B) Slough and stream construction and  
12 dredging for flood control.

13 (C) The construction of a retention pond  
14 for a residential area.

15 (D) The construction of a road or bridge  
16 to be used for evacuation purposes in the case  
17 of a hurricane, wildfire, or other extreme weath-  
18 er event.

19 (E) The construction of a storm water con-  
20 veyance facility.

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