To improve the efficiency, management, and interagency coordination of the Federal permitting process through reforms overseen by the Director of the Office of Management and Budget, and for other purposes.

A BILL

To improve the efficiency, management, and interagency coordination of the Federal permitting process through reforms overseen by the Director of the Office of Management and Budget, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Permitting Improvement Act of 2015".

SEC. 2. DEFINITIONS.

In this Act:

(1) AGENCY.——The term "agency" has the meaning given the term in section 551 of title 5,
United States Code.

(2) AGENCY CPO.——The term "agency CPO" means the chief permitting officer of an agency designated by the head of the agency under section 3(b)(2)(A)(i).

(3) AUTHORIZATION.——The term "authorization" means——

(A) any license, permit, approval, or other administrative decision required or authorized to be issued by an agency with respect to the siting, construction, reconstruction, or commencement of operations of a covered project under Federal law, whether administered by a Federal or State agency; or

(B) any determination or finding required to be issued by an agency——

(i) as a precondition to an authorization described under paragraph (A); or
before an applicant may take a particular action with respect to the siting, construction, reconstruction, or commencement of operations of a covered project under Federal law, whether administered by a Federal or State agency.

(4) **COUNCIL.**—The term “Council” means the Federal Infrastructure Permitting Improvement Council established by section 3(a).

(5) **COVERED PROJECT.**—

(A) **IN GENERAL.**—The term “covered project” means any construction activity in the United States that requires authorization or review by a Federal agency—

(i) involving renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, or any other sector as determined by the Federal CPO; and

(ii) that is likely to require an initial investment of more than $25,000,000, as determined by the Federal CPO.
(B) **Exclusion.**—The term “covered project” does not include any project subject to section 101(b)(4) of title 23, United States Code.

(6) **Dashboard.**—The term “Dashboard” means the Permitting Dashboard required by section 4(b).

(7) **Environmental assessment.**—The term “environmental assessment” means a concise public document for which a Federal agency is responsible that serves—

(A) to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact;

(B) to aid in the compliance of the agency with NEPA if an environmental impact statement is not necessary; and

(C) to facilitate preparation of an environmental impact statement, if an environmental impact statement is necessary.

(8) **Environmental document.**—The term “environmental document” means an environmental assessment or environmental impact statement.
(9) Environmental impact statement.—The term "environmental impact statement" means the detailed statement of significant environmental impacts required to be prepared under NEPA.

(10) Environmental review.—The term "environmental review" means the agency procedures for preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document required under NEPA.

(11) Federal CPO.—The term "Federal CPO" means the Federal Chief Permitting Officer appointed by the President under section 3(b)(1).

(12) Inventory.—The term "inventory" means the inventory of covered projects established by the Federal CPO under section 3(c)(1)(A).

(13) Lead agency.—The term "lead agency" means the agency with principal responsibility for review and authorization of a covered project, as determined under section 3(c)(1)(B).

(14) NEPA.—The term "NEPA" means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(15) Participating agency.—The term "participating agency" means any agency participating
in reviews or authorizations for a particular covered project in accordance with section 4.

(16) Project sponsor.—The term “project sponsor” means the entity, including any private, public, or public-private entity, that seeks approval for a project.

SEC. 3. FEDERAL PERMITTING IMPROVEMENT COUNCIL.

(a) Establishment.—There is established the Federal Permitting Improvement Council.

(b) Composition.—

(1) Chair.—The President shall appoint an officer of the Office of Management and Budget as the Federal Chief Permitting Officer to serve as Chair of the Council, by and with the advice and consent of the Senate.

(2) Chief Permitting Officers.—

(A) In general.—

(i) Designation by head of agency.—Each individual listed in subparagraph (B) shall designate a member of the agency in which the individual serves to serve as the agency CPO.

(ii) Qualifications.—The agency CPO described in clause (i) shall hold a
position in the agency of the equivalent of a deputy secretary or higher.

(iii) Membership.—Each agency CPO described in clause (i) shall serve on the Council.

(B) Heads of agencies.—The individuals that shall each designate an agency CPO under this subparagraph are as follows:

(i) The Secretary of Agriculture.

(ii) The Secretary of Commerce.

(iii) The Secretary of the Interior.

(iv) The Secretary of Energy.

(v) The Secretary of Transportation.

(vi) The Secretary of Defense.

(vii) The Administrator of the Environmental Protection Agency.


(ix) The Chairman of the Nuclear Regulatory Commission.

(x) The Chairman of the Advisory Council on Historic Preservation.

(xi) Any other head of a Federal agency that the Federal CPO may invite to participate as a member of the Council.
(3) CHAIRMAN OF THE COUNCIL ON ENVIRONMENTAL QUALITY.—In addition to the members listed in paragraphs (1) and (2), the Chairman of the Council on Environmental Quality shall also be a member of the Council.

(e) DUTIES.—

(1) FEDERAL CPO.—

(A) INVENTORY DEVELOPMENT.—The Federal CPO, in consultation with the members of the Council, shall—

(i) not later than 3 months after the date of enactment of this Act, establish an inventory of covered projects that are pending the review or authorization of the head of any Federal agency;

(ii) (I) categorize the projects in the inventory as appropriate based on the project type; and

(II) for each category, identify the types of reviews and authorizations most commonly involved; and

(iii) add covered projects to the inventory after the Federal CPO receives a notice described in section 4(a)(1).
(B) Lead agency designation.—The Federal CPO, in consultation with the Council, shall—

(i) designate a lead agency for each category of covered projects described in subparagraph (A)(ii); and

(ii) publish on an Internet website the designations and categories in an easily accessible format.

(C) Performance schedules.—

(i) In general.—The Federal CPO, in consultation with the Council, shall develop nonbinding performance schedules, including intermediate and final deadlines, for reviews and authorizations for each category of covered projects described in subparagraph (A)(ii).

(ii) Requirements.—

(I) In general.—The performance schedules shall reflect employment of the use of the most efficient applicable processes.

(II) Limit.—The final deadline for completion of any review or authorization contained in the perform-
ance schedules shall not be later than
180 days after the date on which the
completed application or request is
filed.

(iii) Review and Revision.—Not
later than 2 years after the date on which
the performance schedules are established
under this subparagraph, and not less fre-
quently than once every 2 years thereafter,
the Federal CPO, in consultation with the
Council, shall review and revise the per-
formance schedules.

(D) Guidance.—The Federal CPO may
issue circulars, bulletins, guidelines, and other
similar directives as necessary to carry out re-
sponsibilities under this Act and to effectuate
the adoption by agencies of the best practices
and recommendations of the Council described
in paragraph (2).

(2) Council.—

(A) Recommendations.—

(i) In General.—The Council shall
make recommendations to the Federal
CPO with respect to the designations
under paragraph (1)(B) and the performance schedules under paragraph (1)(C).

(ii) Update.—The Council may update the recommendations described in clause (i).

(B) Best Practices.—Not later than 1 year after the date of enactment of this Act, and not less than annually thereafter, the Council shall issue recommendations on the best practices for—

(i) early stakeholder engagement, including fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;

(ii) assuring timeliness of permitting and review decisions;

(iii) coordination between Federal and non-Federal governmental entities;

(iv) transparency;

(v) reduction of information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;
(vi) evaluating lead agencies and participating agencies under this Act; and

(vii) other aspects of infrastructure permitting, as determined by the Council.

SEC. 4. PERMITTING PROCESS IMPROVEMENT.

(a) Project Initiation and Designation of Participating Agencies.—

(1) Notice.—

(A) In general.—A project sponsor shall provide the Federal CPO and the lead agency notice of the initiation of a proposed covered project.

(B) Contents.—Each notice described in subparagraph (A) shall include—

(i) a description, including the general location, of the proposed project;

(ii) a statement of any Federal authorization or review anticipated to be required for the proposed project; and

(iii) an assessment of the reasons why the proposed project meets the definition of a covered project in section 2.

(2) Invitation.—

(A) In general.—Not later than 45 days after the date on which a lead agency receives
the notice under paragraph (1), the lead agency
shall—

(i) identify another agency that may
have an interest in the proposed project;
and

(ii) invite the agency to become a par-
   ticipating agency in the permitting man-
   agement process and in the environmental
   review process described in section 6.

(B) DEADLINES.—Each invitation made
under subparagraph (A) shall include a dead-
line for a response to be submitted to the lead
agency.

(3) PARTICIPATING AGENCIES.—An agency in-
vited under paragraph (2) shall be designated as a
participating agency for a covered project, unless the
agency informs the lead agency in writing before the
deadline described in paragraph (2)(B) that the
agency—

(A) has no jurisdiction or authority with
   respect to the proposed project; or

(B) does not intend to exercise authority
   related to, or submit comments on, the pro-
   posed project.
(4) Effect of designation.—The designation described in paragraph (3) shall not give the participating agency jurisdiction over the proposed project.

(5) Change of lead agency.—

(A) In general.—On the request of a lead agency, participating agency, or project sponsor, the Federal CPO may designate a different agency as the lead agency for a covered project if the Federal CPO receives new information regarding the scope or nature of a covered project that indicates that the project should be placed in a different category under section 3(c)(1)(B).

(B) Resolution of dispute.—Any dispute over designation of a lead agency for a particular covered project shall be resolved by the Federal CPO.

(b) Permitting Dashboard.—

(1) Requirement to maintain.—

(A) In general.—The Federal CPO, in coordination with the Administrator of General Services, shall maintain an online database to be known as the "Permitting Dashboard" to track the status of Federal reviews and author...
izations for any covered project in the inventory.

(B) Specific and searchable entry.—
The Dashboard shall include a specific and searchable entry for each project.

(2) Additions.—Not later than 7 days after the date on which the Federal CPO receives a notice under subsection (a)(1); the Federal CPO shall create a specific entry on the Dashboard for the project, unless the Federal CPO or lead agency determines that the project is not a covered project.

(3) Submissions by agencies.—The lead agency and each participating agency shall submit to the Federal CPO for posting on the Dashboard for each covered project—

(A) any application and any supporting document submitted by a project sponsor for any required Federal review or authorization for the project;

(B) not later than 2 business days after the date on which any agency action or decision that materially affects the status of the project is made; a description, including significant supporting documents, of the agency action or decision; and
(C) the status of any litigation to which
the agency is a party that is directly related to
the project, including, if practicable, any judi-
cial document made available on an electronic
docket maintained by a Federal, State, or local
court.

(4) Postings by the Federal CPO.—The
Federal CPO shall post on the Dashboard an entry
for each covered project that includes—

(A) the information submitted under para-
graph (3)(A) not later than 2 days after the
date on which the Federal CPO receives the in-
formation;

(B) a permitting timetable approved by the
Federal CPO under subsection (c)(2)(C);

(C) the status of the compliance of each
participating agency with the permitting time-
table;

(D) any modifications of the permitting
timetable; and

(E) an explanation of each modification
described in subparagraph (D).

(c) Coordination and Timetables.—

(1) Coordination Plan.—
(A) IN GENERAL.—Not later than 60 days after the date on which the lead agency receives a notice under subsection (a)(1), the lead agency, in consultation with each participating agency, shall establish a concise plan for coordinating public and agency participation in, and completion of, any required Federal review and authorization for the project.

(B) MEMORANDUM OF UNDERSTANDING.—The lead agency may incorporate the coordination plan described in subparagraph (A) into a memorandum of understanding.

(2) PERMITTING TIMETABLE.—

(A) ESTABLISHMENT.—As part of the coordination plan required by paragraph (1), the lead agency, in consultation with each participating agency, the project sponsor, and the State in which the project is located, shall establish a permitting timetable that includes intermediate and final deadlines for action by each participating agency on any Federal review or authorization required for the project.

(B) FACTORS FOR CONSIDERATION.—In establishing the permitting timetable under subparagraph (A), the lead agency shall follow the
performance schedules established under section 3(e)(1)(C), but may vary the timetable based on relevant factors, including—

(i) the size and complexity of the covered project;

(ii) the resources available to each participating agency;

(iii) the regional or national economic significance of the project;

(iv) the sensitivity of the natural or historic resources that may be affected by the project; and

(v) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

(C) Approval by the Federal CPO.—

(i) Requirement to submit.—The lead agency shall promptly submit to the Federal CPO a permitting timetable established under subparagraph (A) for review.

(ii) Revision and approval.—

(I) In general.—The Federal CPO, after consultation with the lead
agency, may revise the permitting timetable if the Federal CPO determines that the timetable deviates without reasonable justification from the performance schedule established under section 3(e)(1)(C).

(II) No Revision by Federal CPO Within 7 Days.—If the Federal CPO does not revise the permitting timetable earlier than the date that is 7 days after the date on which the lead agency submits to the Federal CPO the permitting timetable, the permitting timetable shall be approved by the Federal CPO.

(D) Modification After Approval.—The lead agency may modify a permitting timetable established under subparagraph (A) for good cause only if—

(i) the lead agency and the affected participating agency agree to a different deadline;

(ii) the lead agency or the affected participating agency provides a written ex-
planation of the justification for the modification; and

(iii) the lead agency submits to the Federal CPO a modification, which the Federal CPO may revise or disapprove.

(E) Consistency with Other Time Periods.—A permitting timetable established under subparagraph (A) shall be consistent with any other relevant time periods established under Federal law.

(F) Compliance.—

(i) In General.—Each Federal participating agency shall comply with the deadlines set forth in the permitting timetable approved under subparagraph (C), or with any deadline modified under subparagraph (D).

(ii) Failure to Comply.—If a Federal participating agency fails to comply with a deadline for agency action on a covered project, the head of the participating agency shall—

(I) promptly report to the Federal CPO for posting on the Dashboard an explanation of any specific
reason for failing to meet the deadline
and a proposal for an alternative
deadline; and

(II) report to the Federal CPO
for posting on the Dashboard a
monthly status report describing any
agency activity related to the project
until the agency has taken final action
on the delayed authorization or re-
view.

(3) Cooperating State, Local, or Tribal
Governments.—

(A) In General.—To the maximum ex-
tent practicable under applicable Federal law,
the lead agency shall coordinate the Federal re-
view and authorization process under this sub-
section with any State, local, or tribal agency
responsible for conducting any separate review
or authorization of the covered project to en-
sure timely and efficient review and permitting
decisions.

(B) Memorandum of Understanding.—

(i) In General.—Any coordination
plan between the lead agency and any
State, local, or tribal agency shall, to the
maximum extent practicable, be included in a memorandum of understanding.

(ii) Submission to Federal CPO.—

A lead agency shall submit to the Federal CPO each memorandum of understanding described in clause (i).

(iii) Post to Dashboard.—The Federal CPO shall post to the Dashboard each memorandum of understanding submitted under clause (ii).

(d) Early Consultation.—The lead agency shall provide an expeditious process for project sponsors to confer with each participating agency involved and to have each participating agency determine and communicate to the project sponsor, not later than 60 days after the date on which the project sponsor submits a request, information concerning—

(1) the likelihood of approval for a potential covered project; and

(2) key issues of concern to each participating agency and to the public.

(e) Cooperating Agency.—

(1) In General.—A lead agency may designate a participating agency as a cooperating agency in
according with part 1501 of title 40, Code of Federal Regulations (or successor regulations).

(2) Effect on other designation.—The designation described in paragraph (1) shall not affect any designation under subsection (a)(3).

(3) Limitation on designation.—Any agency not designated as a participating agency under subsection (a)(3) shall not be designated as a cooperating agency under paragraph (1).

SEC. 5. INTERSTATE COMPACTS.

The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact establishing regional infrastructure development agencies to facilitate authorization and review of covered projects, under State law or in the exercise of delegated permitting authority described under section 7, that will advance infrastructure development, production, and generation within the States that are parties to the compact.

SEC. 6. COORDINATION OF REQUIRED REVIEWS.

(a) Concurrent Reviews.—Each agency shall, to the greatest extent permitted by law—

(1) carry out the obligations of the agency under other applicable law concurrently, and in conjunction with other reviews being conducted by other participating agencies, including environmental re-
views required under NEPA, unless doing so would
impair the ability of the agency to carry out statu-
tory obligations; and
(2) formulate and implement administrative,
policy, and procedural mechanisms to enable the
agency to ensure completion of the environmental re-
view process in a timely, coordinated, and environ-
mentally responsible manner.
(b) Adoption and Use of Documents.—
(1) State Environmental Documents; Sup-
plemental Documents.—
(A) Use of Existing Documents.—On
the request of a project sponsor, a lead agency
shall consider and, as appropriate, adopt or in-
corporate, a document that has been prepared
for a project under State laws and procedures
as the environmental impact statement or envi-
ronmental assessment for the project if the
State laws and procedures under which the doc-
ument was prepared provide, as determined by
the lead agency in consultation with the Council
on Environmental Quality, environmental pro-
tection and opportunities for public participa-
tion that are substantially equivalent to NEPA.
(B) NEPA obligations.—An environmental document adopted under subparagraph (A) may serve as, or supplement, an environmental impact statement or environmental assessment required to be prepared by a lead agency under NEPA.

(C) Supplemental document.—In the case of an environmental document described in subparagraph (A), during the period after preparation of the document and prior to the adoption of the document by the lead agency, the lead agency shall prepare and publish a supplemental document to the document if the lead agency determines that—

(i) a significant change has been made to the project that is relevant for purposes of environmental review of the project; or

(ii) there have been significant changes in circumstances or availability of information relevant to the environmental review for the project.

(D) Comments.—If a lead agency prepares and publishes a supplemental document under subparagraph (C), the lead agency may solicit comments from other agencies and the
public on the supplemental document for a period of not more than 30 days beginning on the date on which the supplemental document is published.

(E) Record of Decision.—A lead agency shall issue a record of decision or finding of no significant impact, as appropriate, based on the document adopted under subparagraph (A) and any supplemental document prepared under subparagraph (C).

(c) Alternatives Analysis.—

(1) Participation.—As early as practicable during the environmental review, but not later than the commencement of scoping for a project requiring the preparation of an environmental impact statement, the lead agency shall provide an opportunity for the involvement of cooperating agencies in determining the range of alternatives to be considered for a project.

(2) Range of Alternatives.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document that the lead agency is responsible for preparing for the project.
(3) Methodologies.—The lead agency shall determine, in collaboration with each cooperating agency at appropriate times during the environmental review, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(4) Preferred Alternative.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of the higher level of detail will not prevent—

(A) the lead agency from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review; and

(B) the public from commenting on the preferred and other alternatives.

(d) Environmental Review Comments.—

(1) Comments on Draft Environmental Impact Statement.—For comments by an agency or the public on a draft environmental impact statement, the lead agency shall establish a comment pe-
period of not more than 60 days after the date on which a notice announcing availability of the environmental impact statement is published in the Federal Register, unless—

(A) the lead agency, the project sponsor, and each participating agency agree to a different deadline; or

(B) the deadline is extended by the lead agency for good cause.

(2) OTHER COMMENTS.—For all other comment periods for agency or public comments in the environmental review process, the lead agency shall establish a comment period of not later than 30 days after the date on which the materials on which comment is requested are made available, unless—

(A) the lead agency, the project sponsor, and each participating agency agree to a different deadline; or

(B) the lead agency modifies the deadline for good cause.

(e) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and each participating agency shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environ-
mental review or could result in denial of any approval required for the project under applicable laws.

(2) **Lead Agency Responsibilities.**—

(A) In general.—The lead agency shall make information available to each participating agency as early as practicable in the environmental review regarding the environmental, historic, and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) Sources of Information.—The information described in subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) **Participating Agency Responsibilities.**—Based on information received from the lead agency under paragraph (2), each participating agency shall identify, as early as practicable, any issues of concern, including any issues that could substantially delay or prevent an agency from granting a permit or other approval needed for the project, regarding any potential environmental, historic, or socioeconomic impacts of the project.
(f) Categories of Projects. The authorities granted under this section may be exercised for an individual project or a category of projects.

SEC. 7. DELEGATED STATE PERMITTING PROGRAMS.

If a Federal statute permits a State to be delegated or otherwise authorized by a Federal agency to issue or otherwise administer a permit program in lieu of the Federal agency, each member of the Council shall—

(1) on publication by the Council of best practices under section 3(c)(2)(B), initiate a process, with public participation, to determine whether and the extent to which any of the best practices are applicable to permitting under the statute; and

(2) not later than 2 years after the date of enactment of this Act, make recommendations for State modifications of the permit program to reflect the best practices described in section 3(c)(2)(B), as appropriate.

SEC. 8. LITIGATION, JUDICIAL REVIEW, AND SAVINGS PROVISION.

(a) Limitations on Claims.—

(1) In General.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of any authorization issued
by a Federal agency for a covered project shall be barred unless—

(A) the action is filed not later than 150 days after the date on which a notice is published in the Federal Register that the authorization is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law under which judicial review is allowed; and

(B) in the case of an action pertaining to an environmental review conducted under NEPA—

(i) the action is filed by a party that submitted a comment during the environmental review on the issue on which the party seeks judicial review; and

(ii) the comment was sufficiently detailed to put the lead agency on notice of the issue on which the party seeks judicial review.

(2) NEW INFORMATION.—

(A) IN GENERAL. The head of a lead agency or participating agency shall consider new information received after the close of a comment period if the information satisfies the
requirements under regulations implementing NEPA.

(B) Supplemental Environmental Impact Statement.—If the preparation of a supplemental environmental impact statement is required, the preparation of the supplemental environmental impact statement shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the agency action shall be 150 days after the date on which a notice announcing the agency action is published in the Federal Register.

(3) Rule of Construction.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of an authorization.

(b) Preliminary Injunctive Relief.—In addition to considering any other applicable equitable factors, including the effects on public health, safety, and the environment, in any action seeking a temporary restraining order or preliminary injunction against an agency or a project sponsor in connection with review or authorization of a covered project, the court shall—
1. (1) consider the potential for significant job
2. losses or other economic harm resulting from an
3. order or injunction; and
4. (2) not presume that the harms described in
5. paragraph (1) are reparable.

6. (c) JUDICIAL REVIEW.—Except as provided in sub-
7. section (a), nothing in this Act affects the reviewability
8. of any final Federal agency action in a court of the United
9. States or in the court of any State.

10. (d) SAVINGS CLAUSE.—Nothing in this Act—
11. (1) supersedes, amends, or modifies NEPA or
12. any other Federal environmental statute or affects
13. the responsibility of any Federal officer to comply
14. with or enforce any statute; or
15. (2) creates a presumption that a covered
16. project will be approved or favorably reviewed by any
17. agency.

18. (e) LIMITATIONS.—Nothing in this section preempts,
19. limits, or interferes with—
20. (1) any practice of seeking, considering, or re-
21. sponding to public comment; or
22. (2) any power, jurisdiction, responsibility, or
23. authority that a Federal, State, or local govern-
24. mental agency, metropolitan planning organization,
25. Indian tribe, or project sponsor has with respect to
SEC. 9. REPORT TO CONGRESS.

(a) In general.—Not later than April 15 of each year, the Federal CPO shall submit to Congress a report detailing the progress accomplished under this Act during the previous fiscal year.

(b) Contents.—The report described in subsection (a) shall assess the performance of each participating agency and lead agency based on the best practices described in section 3(c)(2)(B).

(c) Opportunity to include comments.—Each agency CPO shall have the opportunity to include comments concerning the performance of the agency in the report described in subsection (a).

SEC. 10. APPLICATION.

This Act applies to any covered project for which an application or request for a Federal authorization is pending before a Federal agency 90 days after the date of enactment of this Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Permitting Improvement Act of 2015”.

SEC. 2. DEFINITIONS.

In this Act:
(1) AGENCY.—The term “agency” has the meaning given the term in section 551 of title 5, United States Code.

(2) AGENCY CERPO.—The term “agency CERPO” means the chief environmental review and permitting officer of an agency, as designated by the head of the agency under section 3(b)(2)(A)(iii)(I).

(3) AUTHORIZATION.—The term “authorization” means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a covered project, whether administered by a Federal or State agency.

(4) COOPERATING AGENCY.—The term “cooperating agency” means any agency with—

(A) jurisdiction under Federal law; or

(B) special expertise as described in section 1501.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(5) COUNCIL.—The term “Council” means the Federal Infrastructure Permitting Improvement Steering Council established under section 3(a).

(6) COVERED PROJECT.—
(A) IN GENERAL.—The term “covered project” means any construction activity in the United States that requires authorization or environmental review by a Federal agency—

(i) involving renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, or any other sector as determined by a majority vote of the Council;

(ii)(I) that is likely to require a total investment of more than $200,000,000; and

(II) that does not qualify for abbreviated authorization or environmental review processes under any applicable law; or

(iii) the size and complexity of which make the project likely to benefit from enhanced oversight and coordination, including a project likely to require—

(I) authorization from or environmental review involving more than 2 Federal agencies; or
(II) the preparation of an environmental impact statement under NEPA.

(B) Exclusion.—The term “covered project” does not include—

(i) any project subject to section 139 of title 23, United States Code; or

(ii) any project subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348).

(7) Dashboard.—The term “Dashboard” means the Permitting Dashboard required under section 4(b).

(8) Environmental Assessment.—The term “environmental assessment” means a concise public document for which a Federal agency is responsible under section 1508.9 of title 40, Code of Federal Regulations (or successor regulations).

(9) Environmental Document.—

(A) In General.—The term “environmental document” means an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision.
(B) INCLUSIONS.—The term “environment document” includes—

(i) any document that is a supplement to a document described in subparagraph (A); and

(ii) a document prepared pursuant to a court order.

(10) ENVIRONMENTAL IMPACT STATEMENT.—The term “environmental impact statement” means the detailed written statement required under section 102(2)(C) of NEPA.

(11) ENVIRONMENTAL REVIEW.—The term “environmental review” means the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA.

(12) EXECUTIVE DIRECTOR.—The term “Executive Director” means the Executive Director appointed by the President under section 3(b)(1)(A).

(13) FACILITATING AGENCY.—The term “facilitating agency” means the agency that receives the initial notification from the project sponsor required under section 4(a).
(14) INVENTORY.—The term “inventory” means the inventory of covered projects established by the Executive Director under section 3(c)(1)(A).

(15) LEAD AGENCY.—The term “lead agency” means the agency with principal responsibility for an environmental review of a covered project under NEPA and parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(16) NEPA.—The term “NEPA” means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(17) PARTICIPATING AGENCY.—The term “participating agency” means an agency participating in an environmental review or authorization for a covered project in accordance with section 4.

(18) PROJECT SPONSOR.—The term “project sponsor” means an entity, including any private, public, or public-private entity, seeking an authorization for a covered project.

SEC. 3. FEDERAL PERMITTING IMPROVEMENT COUNCIL.

(a) ESTABLISHMENT.—There is established the Federal Permitting Improvement Steering Council.

(b) COMPOSITION.—

(1) CHAIR.—The Executive Director shall—

(A) be appointed by the President; and
(B) serve as Chair of the Council.

(2) COUNCIL MEMBERS.—

(A) IN GENERAL.—

(i) DESIGNATION BY HEAD OF AGENCY.—Each individual listed in subparagraph (B) shall designate a member of the agency in which the individual serves to serve on the Council.

(ii) QUALIFICATIONS.—A councilmember described in clause (i) shall hold a position in the agency of deputy secretary (or the equivalent) or higher.

(iii) SUPPORT.—

(I) IN GENERAL.—Consistent with guidance provided by the Director of the Office of Management and Budget, each individual listed in subparagraph (B) shall designate 1 or more appropriate members of the agency in which the individual serves to serve as an agency CERPO.

(II) REPORTING.—An agency CERPO shall report directly to a deputy secretary (or the equivalent) or higher.
(B) HEADS OF AGENCIES.—The individuals that shall each designate a councilmember under this subparagraph are as follows:

(i) The Secretary of Agriculture.

(ii) The Secretary of the Army.

(iii) The Secretary of Commerce.

(iv) The Secretary of the Interior.

(v) The Secretary of Energy.

(vi) The Secretary of Transportation.

(vii) The Secretary of Defense.

(viii) The Administrator of the Environmental Protection Agency.


(x) The Chairman of the Nuclear Regulatory Commission.

(xi) The Secretary of Homeland Security.

(xii) The Secretary of Housing and Urban Development.


(xiv) Any other head of a Federal agency that the Executive Director may in-
vite to participate as a member of the Council.

(3) ADDITIONAL MEMBERS.—In addition to the members listed in paragraphs (1) and (2), the Chairman of the Council on Environmental Quality and the Director of the Office of Management and Budget shall also be members of the Council.

(c) DUTIES.—

(1) EXECUTIVE DIRECTOR.—

(A) INVENTORY DEVELOPMENT.—The Executive Director, in consultation with the Council, shall—

(i) not later than 180 days after the date of enactment of this Act, establish an inventory of covered projects that are pending the environmental review or authorization of the head of any Federal agency;

(ii)(I) categorize the projects in the inventory as appropriate, based on sector and project type; and

(II) for each category, identify the types of environmental reviews and authorizations most commonly involved; and
(iii) add a covered project to the inventory after receiving a notice described in section 4(a)(1).

(B) FACILITATING AGENCY DESIGNATION.—

The Executive Director, in consultation with the Council, shall—

(i) designate a facilitating agency for each category of covered projects described in subparagraph (A)(ii); and

(ii) publish the list of designated facilitating agencies for each category of projects in the inventory on the Dashboard in an easily accessible format.

(C) PERFORMANCE SCHEDULES.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Executive Director, in consultation with the Council, shall develop nonbinding performance schedules, including intermediate and final deadlines, for environmental reviews and authorizations most commonly required for each category of covered projects described in subparagraph (A)(ii).

(ii) REQUIREMENTS.—
(I) In general.—The performance schedules shall reflect employment of the use of the most efficient applicable processes.

(II) Limit.—

(aa) In general.—The final deadline in any performance schedule for the completion of an environmental review or authorization under clause (i) shall not exceed the average time to complete an environmental review or authorization for a project within that category.

(bb) Calculation of average time.—The average time referred to in item (aa) shall be calculated on the basis of data from the preceding 2 calendar years and shall run from the period beginning on the date on which the Executive Director must make a specific entry for the project on the Dashboard under section 4(b)(2) (except that, for projects
initiated before that duty takes effect, the period beginning on the date of filing of a completed application), and ending on the date of the issuance of a record of decision or other final agency action on the review or authorization.

(cc) DEADLINE.—Each performance schedule shall specify that any decision by an agency on an environmental review or authorization must be issued not later than 180 days after the date on which all information needed to complete the review or authorization is in the possession of the agency.

(iii) REVIEW AND REVISION.—Not later than 2 years after the date on which the performance schedules are established under this subparagraph, and not less frequently than once every 2 years thereafter, the Executive Director, in consultation with the Council, shall review and revise the performance schedules.
(D) GUIDANCE.—The Executive Director, in consultation with the Council, may recommend to the Director of the Office of Management and Budget or to the Council on Environmental Quality, as appropriate, that guidance be issued as necessary for agencies—

(i) to carry out responsibilities under this Act; and

(ii) to effectuate the adoption by agencies of the best practices and recommendations of the Council described in paragraph (2).

(2) COUNCIL.—

(A) RECOMMENDATIONS.—

(i) IN GENERAL.—The Council shall make recommendations to the Executive Director with respect to the designations under paragraph (1)(B) and the performance schedules under paragraph (1)(C).

(ii) UPDATE.—The Council may update the recommendations described in clause (i).

(B) BEST PRACTICES.—Not later than 1 year after the date of enactment of this Act, and not less frequently than annually thereafter, the
Council shall issue recommendations on the best practices for—

(i) enhancing early stakeholder engagement, including fully considering and, as appropriate, incorporating recommendations provided in public comments on any proposed covered project;

(ii) ensuring timely decisions regarding environmental reviews and authorizations, including through the development of performance metrics;

(iii) improving coordination between Federal and non-Federal governmental entities, including through the development of common data standards and terminology across agencies;

(iv) increasing transparency;

(v) reducing information collection requirements and other administrative burdens on agencies, project sponsors, and other interested parties;

(vi) developing and making available to applicants appropriate geographic information systems and other tools;
(vii) creating and distributing training materials useful to Federal, State, tribal, and local permitting officials; and

(viii) addressing other aspects of infrastructure permitting, as determined by the Council.

(3) AGENCY CERPOS.—An agency CERPO shall—

(A) advise the respective agency councilmember on matters related to environmental reviews and authorizations;

(B) provide technical support, when requested to facilitate efficient and timely processes for environmental reviews and authorizations for covered projects under the jurisdictional responsibility of the agency, including supporting timely identification and resolution of potential disputes within the agency or between the agency and other Federal agencies;

(C) analyze agency environmental review and authorization processes, policies, and authorities and make recommendations to the respective agency councilmember for ways to standardize, simplify, and improve the efficiency of the processes, policies, and authorities, includ-
ing by implementing guidance issued under paragraph (1)(D) and other best practices, including the use of information technology and geographic information system tools within the agency and across agencies, to the extent consistent with existing law; and

(D) review and develop training programs for agency staff that support and conduct environmental reviews or authorizations.

(d) Administrative Support.—The Director of the Office of Management and Budget shall designate a Federal agency to provide administrative support for the Executive Director, and the designated agency shall, as reasonably necessary, provide support and staff to enable the Executive Director to fulfill the duties of the Executive Director under this Act.

SEC. 4. PERMITTING PROCESS IMPROVEMENT.

(a) Project Initiation and Designation of Participating Agencies.—

(1) Notice.—

(A) In General.—A project sponsor of a covered project shall submit to the Executive Director and the facilitating agency notice of the initiation of a proposed covered project.
(B) **DEFAULT DESIGNATION.**—If, at the time of submission of the notice under subparagraph (A), the Executive Director has not designated a facilitating agency under section 3(c)(1)(B) for the categories of projects noticed, the agency that receives the notice under subparagraph (A) shall be designated as the facilitating agency.

(C) **CONTENTS.**—Each notice described in subparagraph (A) shall include—

(i) a statement of the purposes and objectives of the proposed project;

(ii) a concise description, including the general location of the proposed project and a summary of geospatial information, if available, illustrating the project area and the locations, if any, of environmental, cultural, and historic resources;

(iii) a statement regarding the technical and financial ability of the project sponsor to construct the proposed project;

(iv) a statement of any Federal financing, environmental reviews, and authorizations anticipated to be required to complete the proposed project; and
(v) an assessment that the proposed project meets the definition of a covered project under section 2 and a statement of reasons supporting the assessment.

(2) INVITATION.—

(A) IN GENERAL.—Not later than 45 days after the date on which the Executive Director must make a specific entry for the project on the Dashboard under subsection (b)(2)(A), the facilitating agency or lead agency, as applicable, shall—

(i) identify all Federal and non-Federal agencies and governmental entities likely to have financing, environmental review, authorization, or other responsibilities with respect to the proposed project; and

(ii) invite all Federal agencies identified under clause (i) to become a participating agency or a cooperating agency, as appropriate, in the environmental review and authorization management process described in section 6.

(B) DEADLINES.—Each invitation made under subparagraph (A) shall include a deadline
for a response to be submitted to the facilitating
or lead agency, as applicable.

(3) PARTICIPATING AND Cooperating AGEN-
cies.—

(A) In general.—An agency invited under
paragraph (2) shall be designated as a partici-
pating or cooperating agency for a covered
project, unless the agency informs the facilitating
or lead agency, as applicable, in writing before
the deadline under paragraph (2)(B) that the
agency—

(i) has no jurisdiction or authority
with respect to the proposed project; or

(ii) does not intend to exercise author-
ity related to, or submit comments on, the
proposed project.

(B) Changed circumstances.—On re-
quest and a showing of changed circumstances,
the Executive Director may designate an agency
that has opted out under subparagraph (A)(ii) to
be a participating or cooperating agency, as ap-
propriate.

(4) Effect of designation.—The designation
described in paragraph (3) shall not—
(A) give the participating agency authority
or jurisdiction over the covered project; or

(B) expand any jurisdiction or authority a
cooperating agency may have over the proposed
project.

(5) LEAD AGENCY DESIGNATION.—

(A) IN GENERAL.—On establishment of the
lead agency, the lead agency shall assume the re-
 sponsibilities of the facilitating agency under
this Act.

(B) REDESIGNATION OF FACILITATING
 AGENCY.—If the lead agency assumes the respon-
sibilities of the facilitating agency under sub-
paragraph (A), the facilitating agency may be
designated as a cooperative or participating
agency.

(6) CHANGE OF FACILITATING OR LEAD AGEN-
CY.—

(A) IN GENERAL.—On the request of a par-
ticipating agency or project sponsor, the Execu-
tive Director may designate a different agency as
the facilitating or lead agency, as applicable, for
a covered project, if the facilitating or lead agen-
cy or the Executive Director receives new infor-
mation regarding the scope or nature of a cov-
ered project that indicates that the project should be placed in a different category under section 3(c)(1)(B).

(B) Resolution of dispute.—The Executive Director shall resolve any dispute over designation of a facilitating or lead agency for a particular covered project.

(b) Permitting Dashboard.—

(1) Requirement to maintain.—

(A) In general.—The Executive Director, in coordination with the Administrator of General Services, shall maintain an online database to be known as the “Permitting Dashboard” to track the status of Federal environmental reviews and authorizations for any covered project in the inventory described in section 3(c)(1)(A) and any projects subject to section 139 of title 23, United States Code, or section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. 2348).

(B) Specific and searchable entry.—The Dashboard shall include a specific and searchable entry for each covered project.

(2) Additions.—

(A) In general.—
(i) **EXISTING PROJECTS.**—Not later than 14 days after the date on which the Executive Director adds a project to the inventory under section 3(c)(1)(A), the Executive Director shall create a specific entry on the Dashboard for the covered project.

(ii) **NEW PROJECTS.**—Not later than 14 days after the date on which the Executive Director receives a notice under subsection (a)(1), the Executive Director shall create a specific entry on the Dashboard for the covered project, unless the Executive Director, facilitating agency, or lead agency, as applicable, determines that the project is not a covered project.

(B) **EXPLANATION.**—If the facilitating agency or lead agency, as applicable, determines that the project is not a covered project, the project sponsor may submit a further explanation as to why the project is a covered project not later than 14 days after the date of the determination under subparagraph (A).

(C) **FINAL DETERMINATION.**—Not later than 14 days after receiving an explanation described
in subparagraph (B), the Executive Director shall—

(i) make a final and conclusive determination as to whether the project is a covered project; and

(ii) if the Executive Director determines that the project is a covered project, create a specific entry on the Dashboard for the covered project.

(3) POSTINGS BY AGENCIES.—

(A) IN GENERAL.—For each covered project added to the Dashboard under paragraph (2), the facilitating or lead agency, as applicable, and each cooperating and participating agency shall post to the Dashboard—

(i) a hyperlink that directs to a website that contains, to the extent consistent with applicable law—

(I) the notification submitted under subsection (a)(1);

(II)(aa) where practicable, the application and supporting documents, if applicable, that have been submitted by a project sponsor for any required en-
environmental review or authorization;

or

(bb) a notice explaining how the public may obtain access to such documents;

(III) a description of any Federal agency action taken or decision made that materially affects the status of a covered project;

(IV) any significant document that supports the action or decision described in subclause (III); and

(V) a description of the status of any litigation to which the agency is a party that is directly related to the project, including, if practicable, any judicial document made available on an electronic docket maintained by a Federal, State, or local court; and

(ii) any document described in clause (i) that is not available by hyperlink on another website.

(B) DEADLINE.—The information described in subparagraph (A) shall be posted to the website made available by hyperlink on the
Dashboard not later than 2 business days after
the date on which the Federal agency receives the
information.

(4) Postings by the Executive Director.—
The Executive Director shall publish to the Dash-
board—

(A) the permitting timetable established
under subparagraph (A) or (C) of subsection
(c)(2);

(B) the status of the compliance of each
agency with the permitting timetable;

(C) any modifications of the permitting
timetable;

(D) an explanation of each modification de-
scribed in subparagraph (C); and

(E) any memorandum of understanding es-
tablished under subsection (c)(3)(B).

(c) Coordination and Timetables.—

(1) Coordinated Project Plan.—

(A) In General.—Not later than 60 days
after the date on which the Executive Director
must make a specific entry for the project on the
Dashboard under subsection (b)(2)(A), the facili-
tating or lead agency, as applicable, in consulta-
tion with each coordinating and participating
agency, shall establish a concise plan for coordinating public and agency participation in, and completion of, any required Federal environmental review and authorization for the project.

(B) REQUIRED INFORMATION.—The Coordinated Project Plan shall include the following information and be updated by the facilitating or lead agency, as applicable, at least once per quarter:

(i) A list of, and roles and responsibilities for, all entities with environmental review or authorization responsibility for the project.

(ii) A permitting timetable, as described in paragraph (2), setting forth a comprehensive schedule of dates by which all environmental reviews and authorizations, and to the maximum extent practicable, State permits, reviews and approvals must be made.

(iii) A discussion of potential avoidance, minimization, and mitigation strategies, if required by applicable law and known.
(iv) Plans and a schedule for public and tribal outreach and coordination, to the extent required by applicable law.

(C) MEMORANDUM OF UNDERSTANDING.—
The coordinated project plan described in subparagraph (A) may be incorporated into a memorandum of understanding.

(2) PERMITTING TIMETABLE.—

(A) ESTABLISHMENT.—As part of the coordination project plan under paragraph (1), the facilitating or lead agency, as applicable, in consultation with each cooperating and participating agency, the project sponsor, and any State in which the project is located, shall establish a permitting timetable that includes intermediate and final deadlines for action by each participating agency on any Federal environmental review or authorization required for the project.

(B) FACTORS FOR CONSIDERATION.—In establishing the permitting timetable under subparagraph (A), the facilitating or lead agency shall follow the performance schedules established under section 3(c)(1)(C), but may vary the timetable based on relevant factors, including—
(i) the size and complexity of the covered project;

(ii) the resources available to each participating agency;

(iii) the regional or national economic significance of the project;

(iv) the sensitivity of the natural or historic resources that may be affected by the project;

(v) the financing plan for the project;

and

(vi) the extent to which similar projects in geographic proximity to the project were recently subject to environmental review or similar procedures under State law.

(C) DISPUTE RESOLUTION.—

(i) IN GENERAL.—The Executive Director, in consultation with appropriate agency CERPOs and the project sponsor, shall, as necessary, mediate any disputes regarding the permitting timetable established under subparagraph (A).

(ii) DISPUTES.—If a dispute remains unresolved 30 days after the date on which
the dispute was submitted to the Executive Director, the Director of the Office of Management and Budget, in consultation with the Chairman of the Council on Environmental Quality, shall resolve the dispute.

(iii) **Final Resolution.**—Resolution of a dispute by the Director of the Office of Management and Budget under clause (ii) shall—

(I) be final and conclusive; and

(II) not be subject to judicial review.

(D) **Modification After Approval.**—

(i) **In General.**—The facilitating or lead agency, as applicable, may modify a permitting timetable established under subparagraph (A) only if—

(I) the facilitating or lead agency, as applicable, and the affected cooperating agencies, after consultation with the participating agencies, agree to a different deadline; and

(II) the facilitating agency or lead agency, as applicable, or the affected
cooperating agency provides a written justification for the modification.

(ii) **DEADLINE.**—A deadline in the permitting timetable may not be modified within 30 days of the deadline.

(E) **CONSISTENCY WITH OTHER TIME PERIODS.**—A permitting timetable established under subparagraph (A) shall be consistent with any other relevant time periods established under Federal law and shall not prevent any cooperating or participating agency from discharging any obligation under Federal law in connection with the project.

(F) **CONFORMING TO PERMITTING TIMETABLES.**—

(i) **IN GENERAL.**—Each Federal agency shall conform to the deadlines set forth in the permitting timetable established under subparagraph (A), or with any deadline modified under subparagraph (D).

(ii) **FAILURE TO CONFORM.**—If a Federal agency fails to conform with a deadline for agency action on a covered project or is at significant risk of failing to conform with such a deadline, the agency shall—
I promptly submit to the Executive Director for publication on the Dashboard an explanation of the specific reasons for failing or significantly risking failing to conform to the deadline and a proposal for an alternative deadline;

(II) in consultation with the facilitating or lead agency, as applicable, establish an alternative deadline; and

(III) each month thereafter until the agency has taken final action on the delayed authorization or review, submit to the Executive Director for posting on the Dashboard a status report describing any agency activity related to the project.

(G) ABANDONMENT OF COVERED PROJECT.—

(i) IN GENERAL.—If the facilitating or lead agency, as applicable, has a reasonable basis to doubt the continuing technical or financial ability of the project sponsor to construct the covered project, the facilitating or lead agency may request the project
sponsor provide an updated statement regarding the ability of the project sponsor to complete the project.

(ii) Failure to respond.—If the project sponsor fails to respond to a request described in clause (i) by the date that is 30 days after receiving the request, the lead or facilitating agency, as applicable, shall notify the Executive Director, who shall publish an appropriate notice on the Dashboard.

(iii) Publication to Dashboard.—On publication of a notice under clause (ii), the deadlines in the permitting timetable shall be tolled and agencies shall be relieved of the obligation to comply with subparagraph (F) until such time as the project sponsor submits to the facilitating or lead agency, as applicable, an updated statement regarding the technical and financial ability of the project sponsor to construct the project.

(3) Cooperating state, local, or tribal governments.—
(A) In general.—To the maximum extent practicable under applicable law, the facilitating or lead agency, as applicable, shall coordinate the Federal environmental review and authorization processes under this subsection with any State, local, or tribal agency responsible for conducting any separate review or authorization of the covered project to ensure timely and efficient completion of environmental reviews and authorizations.

(B) Memorandum of understanding.—

(i) In general.—Any coordination plan between the facilitating or lead agency, as applicable, and any State, local, or tribal agency shall, to the maximum extent practicable, be included in a memorandum of understanding.

(ii) Submission to Executive Director.—The facilitating or lead agency, as applicable, shall submit to the Executive Director each memorandum of understanding described in clause (i).

(d) Early consultation.—The facilitating or lead agency, as applicable, shall provide an expeditious process for project sponsors to confer with each cooperating and
participating agency involved and, not later than 60 days after the date on which the project sponsor submits a request under this subsection, to have each such agency provide to the project sponsor information concerning—

(1) the availability of information and tools, including pre-application toolkits, to facilitate early planning efforts;

(2) key issues of concern to each agency and to the public; and

(3) issues that must be addressed before an environmental review or authorization can be completed.

(e) COOPERATING AGENCY.—

(1) IN GENERAL.—A lead agency may designate a participating agency as a cooperating agency in accordance with part 1501 of title 40, Code of Federal Regulations (or successor regulations).

(2) EFFECT ON OTHER DESIGNATION.—The designation described in paragraph (1) shall not affect any designation under subsection (a)(3).

(3) LIMITATION ON DESIGNATION.—Any agency not designated as a participating agency under subsection (a)(3) shall not be designated as a cooperating agency under paragraph (1).
SEC. 5. INTERSTATE COMPACTS.

(a) IN GENERAL.—The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact establishing regional infrastructure development agencies to facilitate authorization and review of covered projects, under State law or in the exercise of delegated permitting authority described under section 7, that will advance infrastructure development, production, and generation within the States that are parties to the compact.

(b) REGIONAL INFRASTRUCTURE.—For the purpose of this Act, a regional infrastructure development agency referred to in subsection (a) shall have the same authorities and responsibilities of a State agency.

SEC. 6. COORDINATION OF REQUIRED REVIEWS.

(a) CONCURRENT REVIEWS.—To integrate environmental reviews and authorizations, each agency shall, to the maximum extent practicable—

(1) carry out the obligations of the agency with respect to a covered project under any other applicable law concurrently, and in conjunction with, other environmental reviews and authorizations being conducted by other cooperating or participating agencies, including environmental reviews and authorizations required under NEPA, unless the agency determines that doing so would impair the ability of the agency
to carry out the statutory obligations of the agency; and

(2) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(b) Adoption, Incorporation by Reference, and Use of Documents.—

(1) State Environmental Documents; Supplemental Documents.—

(A) Use of Existing Documents.—

(i) In General.—On the request of a project sponsor, a lead agency shall consider and, as appropriate, adopt or incorporate by reference, the analysis and documentation that has been prepared for a covered project under State laws and procedures as the documentation, or part of the documentation, required to complete an environmental review for the covered project, if the analysis and documentation were, as determined by the lead agency in consultation with the Council on Environmental Quality, prepared under circumstances that al-
lowed for opportunities for public participation and consideration of alternatives and environmental consequences that are substantially equivalent to what would have been available had the documents and analysis been prepared by a Federal agency pursuant to NEPA.

(ii) GUIDANCE BY CEQ.—The Council on Environmental Quality may issue guidance to carry out this subsection.

(B) NEPA OBLIGATIONS.—An environmental document adopted under subparagraph (A) or a document that includes documentation incorporated under subparagraph (A) may serve as the documentation required for an environmental review or a supplemental environmental review required to be prepared by a lead agency under NEPA.

(C) SUPPLEMENTATION OF STATE DOCUMENTS.—If the lead agency adopted or incorporates analysis and documentation described in subparagraph (A), the lead agency shall prepare and publish a supplemental document if the lead agency determines that during the period after
preparation of the analysis and documentation
and before the adoption or incorporation—

(i) a significant change has been made
to the covered project that is relevant for
purposes of environmental review of the
project; or

(ii) there has been a significant cir-
cumstance or new information has emerged
that is relevant to the environmental review
for the covered project.

(D) COMMENTS.—If a lead agency prepares
and publishes a supplemental document under
subparagraph (C), the lead agency shall solicit
comments from other agencies and the public on
the supplemental document for a period of not
more than 45 days, beginning on the date on
which the supplemental document is published,
unless—

(i) the lead agency, the project sponsor,
and any cooperating agency agree to a
longer deadline; or

(ii) the lead agency extends the dead-
line for good cause.

(E) NOTICE OF OUTCOME OF ENVIRON-
MENTAL REVIEW.—A lead agency shall issue a
record of decision or finding of no significant impact, as appropriate, based on the document adopted under subparagraph (A) and any supplemental document prepared under subparagraph (C).

(c) ALTERNATIVES ANALYSIS.—

(1) PARTICIPATION.—As early as practicable during the environmental review, but not later than the commencement of scoping for a project requiring the preparation of an environmental impact statement, the lead agency shall engage cooperating agencies in determining the range of alternatives to be considered for a covered project.

(2) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document that the lead agency is responsible for preparing for the covered project.

(3) METHODOLOGIES.—

(A) IN GENERAL.—The lead agency shall determine, in collaboration with each cooperating agency at appropriate times during the environmental review, the methodologies to be used and the level of detail required in the analysis of each alternative for a covered project.
(B) ENVIRONMENTAL REVIEW.—A cooperating agency shall use the methodologies referred to in subparagraph (A) when conducting any required environmental review, to the extent consistent with existing law.

(4) PREFERRED ALTERNATIVE.—With the concurrence of the cooperating agencies and at the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of the higher level of detail will not prevent—

(A) the lead agency from making an impartial decision as to whether to accept another alternative that is being considered in the environmental review; and

(B) the public from commenting on the preferred and other alternatives.

(d) ENVIRONMENTAL REVIEW COMMENTS.—

(1) COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT.—For comments by an agency or the public on a draft environmental impact statement, the lead agency shall establish a comment pe-
riod of not less than 45 days and not more than 60
days after the date on which a notice announcing
availability of the environmental impact statement is
published in the Federal Register, unless—

(A) the lead agency, the project sponsor,
and any cooperating agency agree to a longer
deadline; or

(B) the lead agency extends the deadline for
good cause.

(2) OTHER REVIEW AND COMMENT PERIODS.—
For all other review or comment periods in the envi-
ronmental review process described in parts 1500
through 1508 of title 40, Code of Federal Regulations
(or successor regulations), the lead agency shall estab-
ish a comment period of not more than 45 days after
the date on which the materials on which comment is
requested are made available, unless—

(A) the lead agency, the project sponsor,
and any cooperating agency agree to a longer
deadline; or

(B) the lead agency extends the deadline for
good cause.

(e) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and each
cooperating and participating agency shall work co-
operatively in accordance with this section to identify and resolve issues that could delay completion of an environmental review or an authorization required for the project under applicable law or result in the denial of any approval under applicable law.

(2) LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The lead agency shall make information available to each cooperating and participating agency and project sponsor as early as practicable in the environmental review regarding the environmental, historic, and socio-economic resources located within the project area and the general locations of the alternatives under consideration.

(B) SOURCES OF INFORMATION.—The information described in subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Each cooperating and participating agency shall—

(A) identify, as early as practicable, any issues of concern regarding any potential environmental impacts of the covered project, including any issues that could substantially delay or
prevent an agency from completing any environmental review or authorization required for the project; and

(B) communicate any issues described in subparagraph (A) to the project sponsor.

(f) Categories of Projects.—The authorities granted under this section may be exercised for an individual covered project or a category of covered projects.

SEC. 7. DELEGATED STATE PERMITTING PROGRAMS.

(a) In General.—If a Federal statute permits a Federal agency to delegate to or otherwise authorize a State to issue or otherwise administer a permit program in lieu of the Federal agency, the Federal agency with authority to carry out the statute shall—

(1) on publication by the Council of best practices under section 3(c)(2)(B), initiate a national process, with public participation, to determine whether and the extent to which any of the best practices are generally applicable on a delegation- or authorization-wide basis to permitting under the statute; and

(2) not later than 2 years after the date of enactment of this Act, make model recommendations for State modifications of the applicable permit program.
to reflect the best practices described in section 3(c)(2)(B), as appropriate.

(b) BEST PRACTICES.—Lead and cooperating agencies may share with State, tribal, and local authorities best practices involved in review of covered projects and invite input from State, tribal, and local authorities regarding best practices.

SEC. 8. LITIGATION, JUDICIAL REVIEW, AND SAVINGS PROVISION.

(a) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of any authorization issued by a Federal agency for a covered project shall be barred unless—

(A) the action is filed not later than 2 years after the date of publication in the Federal Register of the final record of decision or approval or denial of a permit, unless a shorter time is specified in the Federal law under which judicial review is allowed; and

(B) in the case of an action pertaining to an environmental review conducted under NEPA—
(i) the action is filed by a party that
submitted a comment during the environ-
mental review or a party that lacked a rea-
sonable opportunity to submit a comment;
and
(ii) a party filed a sufficiently detailed
comment so as to put the lead agency on
notice of the issue on which the party seeks
judicial review.

(2) NEW INFORMATION.—

(A) IN GENERAL.—The head of a lead agen-
cy or participating agency shall consider new
information received after the close of a comment
period if the information satisfies the require-
ments under regulations implementing NEPA.

(B) SEPARATE ACTION.—If Federal law re-
quires the preparation of a supplemental envi-
rronmental impact statement or other supple-
mental environmental document, the preparation
of such document shall be considered a separate
final agency action and the deadline for filing a
claim for judicial review of the agency action
shall be 2 years after the date on which a notice
announcing the final agency action is published
in the Federal Register, unless a shorter time is
specified in the Federal law under which judicial review is allowed.

(3) Rule of Construction.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of an authorization.

(b) Preliminary Injunctive Relief.—In addition to considering any other applicable equitable factors, in any action seeking a temporary restraining order or preliminary injunction against an agency or a project sponsor in connection with review or authorization of a covered project, the court shall—

(1) consider the effects on public health, safety, and the environment, the potential for significant job losses, and other economic harm resulting from an order or injunction; and

(2) not presume that the harms described in paragraph (1) are reparable.

(c) Judicial Review.—Except as provided in subsection (a), nothing in this Act affects the reviewability of any final Federal agency action in a court of competent jurisdiction.

(d) Savings Clause.—Nothing in this Act—
(1) supersedes, amends, or modifies any Federal statute or affects the responsibility of any Federal officer to comply with or enforce any statute; or

(2) creates a presumption that a covered project will be approved or favorably reviewed by any agency.

(e) LIMITATIONS.—Nothing in this section preempts, limits, or interferes with—

(1) any practice of seeking, considering, or responding to public comment; or

(2) any power, jurisdiction, responsibility, or authority that a Federal, State, or local governmental agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to any project, plan, or program.

SEC. 9. REPORT TO CONGRESS.

(a) In General.—Not later than April 15 of each year for 10 years beginning on the date of enactment of this Act, the Executive Director shall submit to Congress a report detailing the progress accomplished under this Act during the previous fiscal year.

(b) CONTENTS.—The report described in subsection (a) shall assess the performance of each participating agency
and lead agency based on the best practices described in section 3(c)(2)(B).

(c) OPPORTUNITY TO INCLUDE COMMENTS.—Each councilmember, with input from the respective agency CERPO, shall have the opportunity to include comments concerning the performance of the agency in the report described in subsection (a).

SEC. 10. FUNDING FOR GOVERNANCE, OVERSIGHT, AND PROCESSING OF ENVIRONMENTAL REVIEWS AND PERMITS.

(a) IN GENERAL.—The heads of agencies listed in section 3(b)(2)(B), with the guidance of the Director of the Office of Management and Budget and in consultation with the Executive Director, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for project proponents to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects.

(b) REASONABLE COSTS.—As used in this section, the term “reasonable costs” shall include costs to implement the requirements and authorities required under sections 3 and 4, including the costs to agencies and the costs of operating the Council.

(c) FEE STRUCTURE.—The fee structure established under subsection (a) shall—
(1) be developed in consultation with affected project proponents, industries, and other stakeholders;

(2) exclude parties for which the fee would impose an undue financial burden or is otherwise determined to be inappropriate; and

(3) be established in a manner that ensures that the aggregate amount of fees collected for a fiscal year is estimated not to exceed 20 percent of the total estimated costs for the fiscal year for the resources allocated for the conduct of the environmental reviews and authorizations covered by this Act, as determined by the Director of the Office of Management and Budget.

(d) ENVIRONMENTAL REVIEW AND PERMITTING IMPROVEMENT FUND.—

(1) IN GENERAL.—All amounts collected pursuant to this section shall be deposited into a separate fund in the Treasury of the United States to be known as the “Environmental Review Improvement Fund” (referred to in this section as the “Fund”).

(2) AVAILABILITY.—Amounts in the Fund shall be available to the Executive Director, without appropriation or fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this Act, including the expenses of the Council.
(3) **TRANSFER.**—The Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other agencies to facilitate timely and efficient environmental reviews and authorizations for proposed covered projects.

(e) **EFFECT ON PERMITTING.**—The regulations adopted pursuant to subsection (a) shall ensure that the use of funds accepted under subsection (d) will not impact impartial decision-making with respect to environmental reviews or authorizations, either substantively or procedurally.

(f) **TRANSFER OF APPROPRIATED FUNDS.**—The heads of agencies listed in section 3(b)(2)(B) shall have the authority to transfer funds appropriated to those agencies and not otherwise obligated for the development of infrastructure projects, or the environmental review and authorization of infrastructure projects, among affected Federal agencies to implement the provisions of this Act in accordance with section 1535 of title 31, United States Code.

**SEC. 11. APPLICATION.**

This Act applies to any covered project for which—

(1) a notice is filed under section 4(a)(1); or

(2) an application or other request for a Federal authorization is pending before a Federal agency 90 days after the date of enactment of this Act.
Amend the title so as to read: “A bill to improve the efficiency, management, and interagency coordination of the Federal permitting process, and for other purposes.”.
A BILL

S. 280

To improve the efficiency, management, and inter-agency coordination of the Federal permitting process through reforms overseen by the Director of the Office of Management and Budget, and for other purposes.

AUGUST 4, 2015

Reported with an amendment and an amendment to the title