

115TH CONGRESS  
2D SESSION

# H. R. 7389

To amend the FAST Act to improve the Federal permitting process, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2018

Mr. MARINO introduced the following bill; which was referred to the  
Committee on Natural Resources

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## A BILL

To amend the FAST Act to improve the Federal permitting  
process, 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 “Federal Permitting  
5 Reform and Jobs Act”.

6 **SEC. 2. FEDERAL PERMITTING IMPROVEMENT.**

7 (a) DEFINITIONS.—

8 (1) IN GENERAL.—Section 41001 of the FAST  
9 Act (42 U.S.C. 4370m) is amended—

1 (A) in paragraph (4), by striking “means”  
2 and all that follows through the period at the  
3 end and inserting “has the meaning given the  
4 term in section 1508.5 of title 40, Code of Fed-  
5 eral Regulations (as in effect on the date of en-  
6 actment of the Federal Permitting Reform and  
7 Jobs Act).”;

8 (B) in paragraph (5), by striking “Federal  
9 Infrastructure Permitting Improvement Steer-  
10 ing Council” and inserting “Federal Permitting  
11 Improvement Steering Council”; and

12 (C) in paragraph (6)—

13 (i) in subparagraph (A), in the matter  
14 preceding clause (i), by inserting  
15 “projects” after “infrastructure”;

16 (ii) by striking subparagraph (B);

17 (iii) by striking the paragraph des-  
18 ignation and heading and all that follows  
19 through “The term” in subparagraph (A)  
20 in the matter preceding clause (i) and in-  
21 serting the following:

22 “(6) COVERED PROJECT.—The term”;

23 (iv) in clause (i), by striking “(i)(I) is  
24 subject to NEPA;” and inserting the fol-  
25 lowing:

1 “(A)(i) is subject to NEPA;”;

2 (v) by redesignating clause (ii) as sub-  
3 paragraph (B) and indenting appro-  
4 priately;

5 (vi) in subparagraph (A) (as so reded-  
6 igned), by redesignating subclauses (II)  
7 and (III) as clauses (ii) and (iii), respec-  
8 tively, and indenting appropriately; and

9 (vii) in subparagraph (B) (as so re-  
10 designated), by redesignating subclauses  
11 (I) and (II) as clauses (i) and (ii), respec-  
12 tively, and indenting appropriately.

13 (b) PERMITTING PROCESS IMPROVEMENT.—Section  
14 41003 of the FAST Act (42 U.S.C. 4370m–2) is amend-  
15 ed—

16 (1) in subsection (a)(3)(A), in the matter pre-  
17 ceding clause (i), by inserting “and the Executive  
18 Director” after “as applicable;”;

19 (2) in subsection (b)(2)—

20 (A) by striking “14 days” each place it ap-  
21 pears and inserting “14 business days”; and

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

24 (3) in subsection (c)—

1 (A) in paragraph (1)(B), by adding at the  
2 end the following:

3 “(v) A checklist—

4 “(I) to help project sponsors  
5 identify potential natural, cultural,  
6 and historic resources in the area of  
7 the project; and

8 “(II) the purposes of which are—

9 “(aa) to identify agencies  
10 and organizations that can pro-  
11 vide information about natural,  
12 cultural, and historic resources;  
13 and

14 “(bb) to develop the infor-  
15 mation needed to determine the  
16 range of alternatives.

17 “(vi) In the case of a tiered project  
18 review, a description of the relationship be-  
19 tween any applicable programmatic anal-  
20 ysis and the planned tiered environmental  
21 review.”; and

22 (B) in paragraph (2)—

23 (i) in subparagraph (A)—

1 (I) by striking “As part of the  
2 coordination project plan” and insert-  
3 ing the following:

4 “(i) IN GENERAL.—In accordance  
5 with clause (ii) and as part of the coordi-  
6 nated project plan”; and

7 (II) by adding at the end the fol-  
8 lowing:

9 “(ii) GOAL.—

10 “(I) IN GENERAL.—The permit-  
11 ting timetable established under  
12 clause (i) shall provide for the comple-  
13 tion of the permitting process within 2  
14 years.

15 “(II) EXCEPTION.—If the facili-  
16 tating agency or lead agency, as appli-  
17 cable, determines that the permitting  
18 process cannot be completed within 2  
19 years, the coordinated project plan  
20 under paragraph (1) shall include—

21 “(aa) the specific reasons  
22 why the facilitating agency or  
23 lead agency, as applicable, antici-  
24 pates that the permitting process  
25 will take longer than 2 years; and

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

10           (ii) in subparagraph (F)(ii)—

11           (I) in the matter preceding sub-  
12           clause (I), by striking “or is at signifi-  
13           cant risk of failing to conform with”  
14           and inserting “or reasonably believes  
15           the agency will fail to conform with a  
16           completion date 30 days before”; and

17           (II) in subclause (I), by striking  
18           “significantly risking failing to con-  
19           form” and inserting “reasonably be-  
20           lieving the agency will fail to con-  
21           form”;

22           (4) in subsection (d)—

23           (A) by redesignating paragraphs (1)  
24           through (3) as subparagraphs (A) through (C),  
25           respectively, and indenting appropriately; and

1 (B) by striking the matter preceding sub-  
2 paragraph (A) (as so redesignated) and insert-  
3 ing the following:

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

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

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

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

20 “(1) IN GENERAL.—In the case of a project  
21 that is not a covered project, on the request of an  
22 individual described in section 41002(b)(2)(B) or the  
23 project sponsor, the Executive Director may work  
24 with the lead agency and any cooperating or partici-  
25 pating agency to facilitate the environmental review

1 and authorization process in accordance with this  
2 subsection, including by—

3 “(A) mediating and resolving disputes;

4 “(B) promoting early coordination among  
5 the agencies; and

6 “(C) taking such actions as may be estab-  
7 lished pursuant to paragraph (2).

8 “(2) ESTABLISHMENT OF POLICIES.—The Ex-  
9 ecutive Director, in consultation with the Director of  
10 the Office of Management and Budget and the Chair  
11 of the Council on Environmental Quality, may estab-  
12 lish policies and procedures as appropriate to carry  
13 out the facilitation under paragraph (1).

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

20 “(4) SAVINGS PROVISION.—Facilitation of a  
21 project by the Executive Director under paragraph  
22 (1) shall not subject the project to any provisions  
23 under this title, other than as provided in this sub-  
24 section.”.



1 (c) COORDINATION OF REQUIRED REVIEWS.—Sec-  
2 tion 41005(b) of the FAST Act (42 U.S.C. 4370m-4(b))  
3 is amended—

4 (1) by striking “(1) STATE ENVIRONMENTAL  
5 DOCUMENTS; SUPPLEMENTAL DOCUMENTS.—”;

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

9 (3) in paragraph (1) (as so redesignated), by  
10 redesignating clauses (i) and (ii) as subparagraphs  
11 (A) and (B), respectively, and indenting appro-  
12 priately;

13 (4) in paragraph (2) (as so redesignated), by  
14 striking “subparagraph (A)” each place it appears  
15 and inserting “paragraph (1)”;

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

17 (A) in the matter preceding clause (i), by  
18 striking “subparagraph (A)” and inserting  
19 “paragraph (1)”;

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

23 (6) in paragraph (4) (as so redesignated)—

1 (A) in the matter preceding clause (i), by  
2 striking “subparagraph (C)” and inserting  
3 “paragraph (3)”; and

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

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

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

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

12 (d) LITIGATION, JUDICIAL REVIEW, AND SAVINGS  
13 PROVISION.—Section 41007 of the FAST Act (42 U.S.C.  
14 4370m–6) is amended—

15 (1) in subsection (a)(1)—

16 (A) in subparagraph (A)—

17 (i) by striking “the action” and in-  
18 serting “the claim”; and

19 (ii) by striking “of the final record of  
20 decision or approval or denial of a permit”  
21 and inserting “of notice of final agency ac-  
22 tion on the authorization”; and

23 (B) in subparagraph (B)(i), by striking  
24 “the action” and inserting “the claim”; and

1           (2) in subsection (e), in the matter preceding  
2 paragraph (1), by striking “this section” and insert-  
3 ing “this title”.

4           (e) REPORTS TO CONGRESS.—Section 41008(a)(2) of  
5 the FAST Act (42 U.S.C. 4370m–7(a)(2)) is amended—

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

9           (2) in subparagraph (A), by striking “those  
10 best practices” and inserting “the best practices de-  
11 scribed in section 41002(c)(2)(B)”;

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

14           (4) by adding at the end the following:

15                   “(C) agency compliance with sections  
16 41003 through 41006.”.

17           (f) FUNDING FOR GOVERNANCE, OVERSIGHT, AND  
18 PROCESSING OF ENVIRONMENTAL REVIEWS AND PER-  
19 MITS.—Section 41009 of the FAST Act (42 U.S.C.  
20 4370m–8) is amended—

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

23                   “(a) IN GENERAL.—For the purpose of carrying out  
24 this title, the Executive Director, in consultation with the  
25 heads of the agencies listed in section 41002(b)(2)(B) and

1 with the guidance of the Director of the Office of Manage-  
2 ment and Budget, may, after public notice and oppor-  
3 tunity for comment, issue regulations establishing a fee  
4 structure for sponsors of covered projects to reimburse the  
5 United States for reasonable costs incurred in conducting  
6 environmental reviews and authorizations for covered  
7 projects.”;

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

10 (3) in subsection (d)(3)—

11 (A) by striking “The Executive Director”  
12 and inserting “For the purpose of carrying out  
13 this title, the Executive Director”; and

14 (B) by inserting “and other projects under  
15 this title” before the period at the end.

16 (g) SUNSET.—Section 41013 of the FAST Act (42  
17 U.S.C. 4370m–12) is repealed.

18 (h) REPEAL OF CERTAIN EXCLUSIONS.—Section  
19 11503(b) of the FAST Act (42 U.S.C. 4370m note; Public  
20 Law 114–94) is repealed.

21 (i) TECHNICAL CORRECTION.—Section  
22 41002(b)(2)(A)(ii) of the FAST Act (42 U.S.C. 4370m–  
23 1(b)(2)(A)(ii)) is amended by striking “councilmem-ber”  
24 and inserting “councilmember”.

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