

119TH CONGRESS
2D SESSION

S. _____

To prescribe permitting reform, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To prescribe permitting reform, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Bipartisan American Affordability and Jobs Act of
6 2026”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

TITLE I—NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Subtitle A—Declaration of Environmental Policy

2

- Sec. 1101. Purposes; procedure; savings provision.
- Sec. 1102. Definitions.
- Sec. 1103. Implementing procedures.
- Sec. 1104. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.
- Sec. 1105. Procedure for determination of level of review.
- Sec. 1106. Timely and unified Federal reviews.
- Sec. 1107. Programmatic environmental document.
- Sec. 1108. Use of categorical exclusions by other agencies.
- Sec. 1109. Applications for authorizations.
- Sec. 1110. Judicial review.

Subtitle B—Council on Environmental Quality

- Sec. 1121. Council on Environmental Quality.

Subtitle C—Federal Permitting Improvement

- Sec. 1131. Definitions.
- Sec. 1132. Environmental Review and Permitting Tracker.
- Sec. 1133. Permitting Improvement Fund.

TITLE II—CLEAN WATER ACT

- Sec. 1201. Water quality criteria.
- Sec. 1202. Clean Water Act permitting and State certification.
- Sec. 1203. Permit term for NPDES permits.
- Sec. 1204. Permits for dredged or fill material.
- Sec. 1205. Judicial review timeline clarity.

TITLE III—ENDANGERED SPECIES ACT OF 1973

- Sec. 1301. Definitions.
- Sec. 1302. Timeline for Section 7 consultations.
- Sec. 1303. Projects in the operational right-of-way.
- Sec. 1304. State assumption of consultation responsibilities.
- Sec. 1305. Judicial review.
- Sec. 1306. Listing determinations.
- Sec. 1307. Authorization of appropriations.
- Sec. 1308. National Fish and Wildlife Foundation Coastal State Fund.

TITLE IV—PROJECT CERTAINTY

- Sec. 1401. Maintaining Federal authorizations or permits for projects with non-Federal sponsors.
- Sec. 1402. Ensuring fairness for specific types of covered projects.
- Sec. 1403. Avoiding unreasonable delays in permitting.

DIVISION B—COMMITTEE ON ENERGY AND NATURAL RESOURCES

TITLE I—ELECTRIC TRANSMISSION

- Sec. 2101. Transmission permitting.
- Sec. 2102. Reconductoring and other activities in existing rights-of-way.
- Sec. 2103. Transmission planning.

3

- Sec. 2104. Improvements relating to local transmission planning and development.
- Sec. 2105. Prohibition of right of first refusal.
- Sec. 2106. Consolidated planning process.
- Sec. 2107. Ratepayer protection.
- Sec. 2108. Dispatchable energy systems market access.
- Sec. 2109. Advanced transmission technologies.
- Sec. 2110. Expediting generator interconnection queues.
- Sec. 2111. Grid data access.
- Sec. 2112. Power marketing administrations.
- Sec. 2113. FERC fee assessments.
- Sec. 2114. Collection of data on computational load entities.
- Sec. 2115. Conforming amendments; savings provision.

TITLE II—ENERGY PERMITTING

Subtitle A—Accelerating Claims

- Sec. 2201. Accelerating claims.

Subtitle B—Federal Onshore Energy Leasing and Permitting

- Sec. 2211. Permitting compliance on non-Federal land.
- Sec. 2212. Rights-of-way across Indian land.
- Sec. 2213. Accelerating renewable energy permitting.
- Sec. 2214. Electric grid projects.
- Sec. 2215. Hardrock mining mill sites.

Subtitle C—Geothermal Leasing and Permitting

- Sec. 2221. Geothermal observation test projects.
- Sec. 2222. Geothermal royalties.
- Sec. 2223. Geothermal leasing reform.
- Sec. 2224. Geothermal ombudsman and permitting task force.
- Sec. 2225. No Federal permit required for geothermal activities on certain land.
- Sec. 2226. Effect of pending civil actions on processing applications relating to geothermal leasing.
- Sec. 2227. Cost recovery from geothermal leasing, permitting, and inspections.
- Sec. 2228. Publication of Gold Book for geothermal operations on Federal land.
- Sec. 2229. NEPA Review.

Subtitle D—Hydropower

- Sec. 2231. Identifying and removing market barriers to hydropower.
- Sec. 2232. Certain conditions on issuance of licenses.
- Sec. 2233. Hydropower maintenance and temporary adjustments.
- Sec. 2234. Micro hydrokinetic energy projects.

Subtitle E—Hiring and Retention

- Sec. 2241. Federal Energy Regulatory Commission staffing.
- Sec. 2242. Northwest Power and Conservation Council.
- Sec. 2243. Federal Energy Regulatory Commission personnel safety.

Subtitle F—Offshore Energy

- Sec. 2251. Offshore energy.

Sec. 2252. Offshore energy transmission.

TITLE III—HISTORIC PRESERVATION

Sec. 2301. Historic preservation.

Sec. 2302. Funding for the Historic Preservation Fund; use and availability; grants for Tribal Historic Preservation officers; additional funding.

1 **DIVISION A—COMMITTEE ON EN-**
2 **VIRONMENT AND PUBLIC**
3 **WORKS**

4 **TITLE I—NATIONAL ENVIRON-**
5 **MENTAL POLICY ACT OF 1969**

6 **Subtitle A—Declaration of**
7 **Environmental Policy**

8 **SEC. 1101. PURPOSES; PROCEDURE; SAVINGS PROVISION.**

9 Section 2 of the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4321) is amended—

11 (1) by striking the section heading and designa-
12 tion and all that follows through “are: To declare”
13 and inserting the following:

14 **“SEC. 2. PURPOSES; PROCEDURE; SAVINGS PROVISION.**

15 **“(a) PURPOSES.—The purposes of this Act are—**

16 **“(1) to declare”;**

17 **(2) in subsection (a) (as so designated)—**

18 **(A) in paragraph (1) (as so designated), by**
19 **striking “to promote” and inserting the fol-**
20 **lowing:**

21 **“(2) to promote”;**

1 (B) in paragraph (2) (as so designated), by
2 striking “to enrich” and inserting the following:
3 “(3) to enrich”; and

4 (C) in paragraph (3) (as so designated), by
5 striking “to establish a Council on Environ-
6 mental Quality” and inserting the following:

7 “(4) to establish a Council on Environmental
8 Quality”; and

9 (3) by adding at the end the following:

10 “(b) PROCEDURE.—This Act prescribes a procedure
11 by which Federal agencies shall consider and inform the
12 public about the reasonably foreseeable environmental ef-
13 fects of major Federal actions on the human environment
14 of the United States, the result of which shall be an infor-
15 mational document for the purposes of consideration in
16 Federal decisionmaking.

17 “(c) SAVINGS PROVISION.—Nothing in this Act man-
18 dates a particular outcome as a result of the use of the
19 procedure described in subsection (b).”.

20 **SEC. 1102. DEFINITIONS.**

21 (a) IN GENERAL.—The National Environmental Pol-
22 icy Act of 1969 is amended by inserting after section 2
23 (42 U.S.C. 4321) the following:

24 **“SEC. 3. DEFINITIONS.**

25 “In this Act:

1 “(1) AGENCY CERPO.—The term ‘agency
2 CERPO’ means the chief environmental review and
3 permitting officer of each key permitting agency, as
4 appointed by the head of the key permitting agency.

5 “(2) AUTHORIZATION.—The term ‘authoriza-
6 tion’ means any lease, right-of-way, easement, li-
7 cense, permit, approval, finding, determination, or
8 other administrative decision issued by a Federal
9 agency or any interagency consultation that is re-
10 quired or authorized under Federal law to imple-
11 ment a proposed agency action.

12 “(3) CATEGORICAL EXCLUSION.—The term
13 ‘categorical exclusion’ means a category of actions
14 that a Federal agency has determined, or Congress
15 has deemed by statute, normally does not signifi-
16 cantly affect the quality of the human environment,
17 within the meaning of section 102(2)(C).

18 “(4) CHAIRMAN.—The term ‘Chairman’ means
19 the Chairman of the Council.

20 “(5) COOPERATING AGENCY.—The term ‘co-
21 operating agency’ means any Federal, State, Tribal,
22 or local agency (including a county, borough, parish,
23 city, and any other political subdivision of a State)
24 that has been designated as a cooperating agency
25 under section 107(a)(2)(A).

1 “(6) COUNCIL.—The term ‘Council’ means the
2 Council on Environmental Quality established by
3 section 202.

4 “(7) ENEPA TECHNOLOGIES.—The term
5 ‘eNEPA technologies’ means digital tools, applica-
6 tions, and other technological capabilities used by
7 agencies to support the responsibilities of the agency
8 with respect to environmental review or other types
9 of authorizations.

10 “(8) ENVIRONMENTAL ASSESSMENT.—The
11 term ‘environmental assessment’ means an environ-
12 mental assessment prepared under section
13 106(b)(1)(A).

14 “(9) ENVIRONMENTAL DOCUMENT.—The term
15 ‘environmental document’ means an environmental
16 impact statement, an environmental assessment, or
17 a finding of no significant impact.

18 “(10) ENVIRONMENTAL IMPACT STATEMENT.—
19 The term ‘environmental impact statement’ means a
20 detailed written statement that is required by section
21 102(2)(C).

22 “(11) ENVIRONMENTAL INFRASTRUCTURE PRO-
23 GRAM OR AUTHORITY.—

24 “(A) IN GENERAL.—The term ‘environ-
25 mental infrastructure program or authority’

1 means a program or authority of the Secretary
2 of the Army to provide assistance to a non-Fed-
3 eral interest for carrying out water-related envi-
4 ronmental infrastructure or environmental as-
5 sistance and resource protection and develop-
6 ment projects.

7 “(B) INCLUSIONS.—The term ‘environ-
8 mental infrastructure program or authority’ in-
9 cludes—

10 “(i) section 1113 of the Water Re-
11 sources Development Act of 1986 (Public
12 Law 99–662; 100 Stat. 4232; 110 Stat.
13 3719, 136 Stat. 3781; 138 Stat. 3161);

14 “(ii) section 217 of the Water Re-
15 sources Development Act of 1992 (43
16 U.S.C. 390h–4 note; Public Law 102–
17 580);

18 “(iii) section 218 of the Water Re-
19 sources Development Act of 1992 (43
20 U.S.C. 390h–5 note; Public Law 102–
21 580);

22 “(iv) section 219 of the Water Re-
23 sources Development Act of 1992 (Public
24 Law 102–580; 106 Stat. 4835);

1 “(v) section 220 of the Water Re-
2 sources Development Act of 1992 (Public
3 Law 102–580; 106 Stat. 4836);

4 “(vi) section 313 of the Water Re-
5 sources Development Act of 1992 (Public
6 Law 102–580; 106 Stat. 4845);

7 “(vii) section 324 of the Water Re-
8 sources Development Act of 1992 (Public
9 Law 102–580; 106 Stat. 4849);

10 “(viii) section 340 of the Water Re-
11 sources Development Act of 1992 (Public
12 Law 102–580; 106 Stat. 4856);

13 “(ix) section 522 of the Water Re-
14 sources Development Act of 1996 (Public
15 Law 104–303; 110 Stat. 3766);

16 “(x) section 531 of the Water Re-
17 sources Development Act of 1996 (Public
18 Law 104–303; 110 Stat. 3773);

19 “(xi) section 552 of the Water Re-
20 sources Development Act of 1996 (Public
21 Law 104–303; 110 Stat. 3779);

22 “(xii) section 566 of the Water Re-
23 sources Development Act of 1996 (Public
24 Law 104–303; 110 Stat. 3786);

1 “(xiii) section 584 of the Water Re-
2 sources Development Act of 1996 (Public
3 Law 104–303; 110 Stat. 3791);

4 “(xiv) section 569 of the Water Re-
5 sources Development Act of 1999 (Public
6 Law 106–53; 113 Stat. 368);

7 “(xv) section 570 of the Water Re-
8 sources Development Act of 1999 (Public
9 Law 106–53; 113 Stat. 369);

10 “(xvi) section 571 of the Water Re-
11 sources Development Act of 1999 (Public
12 Law 106–53; 113 Stat. 371);

13 “(xvii) section 573 of the Water Re-
14 sources Development Act of 1999 (Public
15 Law 106–53; 113 Stat. 372);

16 “(xviii) section 592 of the Water Re-
17 sources Development Act of 1999 (Public
18 Law 106–53; 113 Stat. 379);

19 “(xix) section 593 of the Water Re-
20 sources Development Act of 1999 (Public
21 Law 106–53; 113 Stat. 380);

22 “(xx) section 594 of the Water Re-
23 sources Development Act of 1999 (Public
24 Law 106–53; 113 Stat. 381);

1 “(xxi) section 595 of the Water Re-
2 sources Development Act of 1999 (Public
3 Law 106–53; 113 Stat. 383);

4 “(xxii) section 528 of the Water Re-
5 sources Development Act of 2000 (Public
6 Law 106–541; 114 Stat. 2657);

7 “(xxiii) section 542 of the Water Re-
8 sources Development Act of 2000 (Public
9 Law 106–541; 114 Stat. 2671);

10 “(xxiv) section 5039 of the Water Re-
11 sources Development Act of 2007 (Public
12 Law 110–114; 121 Stat. 1206);

13 “(xxv) section 5061 of the Water Re-
14 sources Development Act of 2007 (Public
15 Law 110–114; 121 Stat. 1215);

16 “(xxvi) section 5065 of the Water Re-
17 sources Development Act of 2007 (Public
18 Law 110–114; 121 Stat. 1217);

19 “(xxvii) section 5074 of the Water Re-
20 sources Development Act of 2007 (Public
21 Law 110–114; 121 Stat. 1223);

22 “(xxviii) section 5082 of the Water
23 Resources Development Act of 2007 (Pub-
24 lic Law 110–114; 121 Stat. 1226);

1 “(xxix) section 5085 of the Water Re-
2 sources Development Act of 2007 (Public
3 Law 110–114; 121 Stat. 1228);

4 “(xxx) section 5113 of the Water Re-
5 sources Development Act of 2007 (Public
6 Law 110–114; 121 Stat. 1237);

7 “(xxxi) section 5130 of the Water Re-
8 sources Development Act of 2007 (Public
9 Law 110–114; 121 Stat. 1247);

10 “(xxxii) section 5138 of the Water
11 Resources Development Act of 2007 (Pub-
12 lic Law 110–114; 121 Stat. 1250);

13 “(xxxiii) section 5140 of the Water
14 Resources Development Act of 2007 (Pub-
15 lic Law 110–114; 121 Stat. 1251);

16 “(xxxiv) section 8319 of the Water
17 Resources Development Act of 2022 (Pub-
18 lic Law 117–263; 136 Stat. 3784);

19 “(xxxv) section 8353 of the Water Re-
20 sources Development Act of 2022 (Public
21 Law 117–263; 136 Stat. 3800);

22 “(xxxvi) section 8359 of the Water
23 Resources Development Act of 2022 (Pub-
24 lic Law 117–263; 136 Stat. 3802);

1 “(xxxvii) section 1332 of the Water
2 Resources Development Act of 2024 (Pub-
3 lic Law 118–272; 138 Stat. 3145);

4 “(xxxviii) section 1340 of the Water
5 Resources Development Act of 2024 (Pub-
6 lic Law 118–272; 138 Stat. 3149);

7 “(xxxix) section 1344 of the Water
8 Resources Development Act of 2024 (Pub-
9 lic Law 118–272; 138 Stat. 3153);

10 “(xl) section 1348 of the Water Re-
11 sources Development Act of 2024 (Public
12 Law 118–272; 138 Stat. 3157);

13 “(xli) section 1349 of the Water Re-
14 sources Development Act of 2024 (Public
15 Law 118–272; 138 Stat. 3158); and

16 “(xlii) any other similar program or
17 authority that the Secretary of the Army
18 determines to be appropriate.

19 “(12) ENVIRONMENTAL REVIEW.—The term
20 ‘environmental review’ means the agency procedures
21 and processes for preparing an environmental docu-
22 ment for a proposed agency action under this Act.

23 “(13) FINDING OF NO SIGNIFICANT IMPACT.—
24 The term ‘finding of no significant impact’ means a
25 determination that a proposed agency action does

1 not require the issuance of an environmental impact
2 statement.

3 “(14) INDIAN TRIBE.—The term ‘Indian Tribe’
4 has the meaning given the term in section 4 of the
5 Indian Self-Determination and Education Assistance
6 Act (25 U.S.C. 5304).

7 “(15) KEY PERMITTING AGENCY.—

8 “(A) IN GENERAL.—The term ‘key permit-
9 ting agency’ means a Federal agency that com-
10 monly engages in environmental review or other
11 types of authorizations.

12 “(B) INCLUSIONS.—The term ‘key permit-
13 ting agency’ includes—

14 “(i) the Department of Agriculture;

15 “(ii) the Department of Commerce;

16 “(iii) the Department of the Interior;

17 “(iv) the Department of Energy;

18 “(v) the Department of Transpor-
19 tation;

20 “(vi) the Department of Defense;

21 “(vii) the Environmental Protection
22 Agency;

23 “(viii) the Federal Energy Regulatory
24 Commission;

1 “(ix) the Nuclear Regulatory Commis-
2 sion;

3 “(x) the Department of Homeland Se-
4 curity;

5 “(xi) the Department of Housing and
6 Urban Development;

7 “(xii) the Corps of Engineers;

8 “(xiii) the Advisory Council on His-
9 toric Preservation; and

10 “(xiv) any other Federal agency, as
11 determined by the Chairman.

12 “(16) LEAD AGENCY.—The term ‘lead agency’
13 means, with respect to a proposed agency action—

14 “(A) the Federal agency that proposed
15 such action under section 107(a)(1)(A)(i);

16 “(B) the Federal agency designated under
17 section 107(a)(1)(A)(ii); or

18 “(C) the Federal agency designated by the
19 Chairman under section 107(a)(1)(B)(ii).

20 “(17) MADE PUBLIC; MAKE PUBLIC.—The
21 terms ‘made public’ and ‘make public’, with respect
22 to a document, mean that the document is published
23 in a single location on the primary website of the ap-
24 plicable Federal agency with—

1 “(A) hyperlinks to the document promi-
2 nently displayed on the website; and

3 “(B) the date of initial publication of the
4 document displayed and maintained on the
5 website.

6 “(18) MAJOR FEDERAL ACTION.—

7 “(A) IN GENERAL.—The term ‘major Fed-
8 eral action’ means a proposed agency action
9 subject to the requirements of this Act that the
10 agency carrying out the proposed agency action
11 determines is subject to substantial Federal
12 control and responsibility.

13 “(B) EXCLUSIONS.—The term ‘major Fed-
14 eral action’ does not include—

15 “(i) a proposed agency action associ-
16 ated with a non-Federal project or under-
17 taking—

18 “(I) with no or minimal Federal
19 funding;

20 “(II) with no or minimal Federal
21 involvement where a Federal agency
22 cannot control the outcome of the
23 project or undertaking; or

1 “(III) for which the only Federal
2 involvement is a loan guarantee or
3 loan;

4 “(ii) funding assistance solely in the
5 form of general revenue-sharing funds
6 which do not provide Federal agency com-
7 pliance or enforcement responsibility over
8 the subsequent use of such funds;

9 “(iii) grants (including capitalization
10 grants), cost-share awards, or other forms
11 of financial assistance where a Federal
12 agency does not exercise predominant con-
13 trol and responsibility over the subsequent
14 use of such financial assistance or the envi-
15 ronmental effect of the action;

16 “(iv) business loan guarantees pro-
17 vided by the Small Business Administra-
18 tion pursuant to subsection (a) or (b) of
19 section 7 of the Small Business Act (15
20 U.S.C. 636) or title V of the Small Busi-
21 ness Investment Act of 1958 (15 U.S.C.
22 695 et seq.);

23 “(v) bringing judicial or administra-
24 tive civil or criminal enforcement actions;

1 “(vi) extraterritorial activities or deci-
2 sions, which means agency activities or de-
3 cisions with effects located entirely outside
4 of the territory of the United States or the
5 outer Continental Shelf (as defined in sec-
6 tion 2 of the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1331));

8 “(vii) activities or decisions that are
9 non-discretionary and made in accordance
10 with the statutory authority of the agency;

11 “(viii) routine agency actions that are
12 administrative in nature, including actions
13 relating to personnel and fiscal manage-
14 ment, training, recordkeeping, procure-
15 ment, budgeting, travel, the repair of Fed-
16 eral facilities to return those facilities to
17 their previous condition, or the mainte-
18 nance of Federal facilities, subject to the
19 condition that the cost of the action does
20 not exceed \$10,000,000;

21 “(ix) notwithstanding any other provi-
22 sion of law, any proposed agency action as-
23 sociated with a project to repair, recon-
24 struct, restore, retrofit, or replace lifeline
25 infrastructure (as defined in section 4 of

1 the Earthquake Hazards Reduction Act of
2 1977 (42 U.S.C. 7703) and referred to in
3 this clause as ‘lifeline infrastructure’), if
4 the head of the relevant Federal agency
5 determines the repair, reconstruction, res-
6 toration, retrofit, or replacement is in the
7 immediate vicinity of the lifeline infrastruc-
8 ture and does not alter the function or in-
9 crease the capacity of the lifeline infra-
10 structure by more than 20 percent as com-
11 pared to the capacity of the original condi-
12 tion of the lifeline infrastructure, subject
13 to the condition that, in the case of lifeline
14 infrastructure that is a highway or bridge,
15 the repair, reconstruction, restoration, ret-
16 rofit, or replacement of that highway or
17 bridge does not result in additional
18 through travel lanes;

19 “(x) notwithstanding any other provi-
20 sion of law, any proposed agency action as-
21 sociated with a geothermal observation test
22 project (as defined in section 30(a) of the
23 Geothermal Steam Act of 1970);

24 “(xi) notwithstanding any other provi-
25 sion of law, any proposed agency action as-

1 sociated with transmission activities de-
2 scribed in section 216A(b) of the Federal
3 Power Act;

4 “(xii) notwithstanding any other pro-
5 vision of law, any proposed agency action
6 associated with a covered activity (as de-
7 fined in subsection (i)(1) of section 7 of
8 the Natural Gas Act (15 U.S.C. 717f));

9 “(xiii) a proposed agency action, the
10 effects of which were previously evaluated
11 by another agency in compliance with this
12 Act; or

13 “(xiv) any proposed agency action as-
14 sociated with a project—

15 “(I) carried out under—

16 “(aa) a continuing authority
17 program (as defined in section
18 7001(c)(1)(D)(iii) of the Water
19 Resources Reform and Develop-
20 ment Act of 2014 (33 U.S.C.
21 2282d(c)(1)(D)(iii))); or

22 “(bb) an environmental in-
23 frastructure program or author-
24 ity; and

1 “(II) for which the Federal share
2 of the cost of that project does not ex-
3 ceed \$50,000,000.

4 “(19) PROGRAMMATIC ENVIRONMENTAL DOCU-
5 MENT.—The term ‘programmatic environmental docu-
6 ment’ means an environmental assessment or envi-
7 ronmental impact statement analyzing all or some of
8 the environmental effects of a policy, program, plan,
9 or group of related actions.

10 “(20) PROJECT SPONSOR.—The term ‘project
11 sponsor’ means an entity, including any Federal, pri-
12 vate, public-private, State, local (including a county,
13 borough, parish, city, and any other political subdivi-
14 sion of a State), or Tribal entity, that seeks an au-
15 thorization for a proposed agency action.

16 “(21) RECORD OF DECISION.—The term ‘record
17 of decision’ means a document, which may be issued
18 concurrent with or following a final environmental
19 document, that explains the decision of an agency
20 with respect to a proposed agency action.

21 “(22) RECORD OF STAKEHOLDER ENGAGE-
22 MENT.—The term ‘record of stakeholder engage-
23 ment’ means a document, not to exceed 20 pages,
24 including any citations or appendices, detailing pre-
25 application engagement of a project sponsor with

1 local governmental, Tribal, and community entities
2 relating to an authorization for a proposed agency
3 action for which an environmental review is required
4 under this Act that only includes the following:

5 “(A) A brief list of pre-application engage-
6 ment by the project sponsor with Federal agen-
7 cies relating to the authorization for the pro-
8 posed agency action, including the dates of
9 meetings with the Federal agencies.

10 “(B) A list of pre-application engagement
11 by the project sponsor with State, local, and
12 Tribal officials and local community entities re-
13 lating to the authorization for the proposed
14 agency action, including the date of meetings
15 with those officials, a brief summary of any
16 feedback received, and any ways in which feed-
17 back from stakeholders was incorporated into
18 the proposed agency action.

19 “(23) SPECIAL EXPERTISE.—The term ‘special
20 expertise’ means statutory responsibility, agency
21 mission, or related program experience.

22 “(24) STATE.—The term ‘State’ means—

23 “(A) each of the several States of the
24 United States;

25 “(B) the District of Columbia;

1 “(C) the Commonwealth of Puerto Rico;

2 “(D) Guam;

3 “(E) American Samoa;

4 “(F) the Commonwealth of the Northern
5 Mariana Islands; and

6 “(G) the United States Virgin Islands.

7 “(25) STATE AGENCY.—The term ‘State agen-
8 cy’ means any agency, department, board, commis-
9 sion, or other government entity of a State.

10 “(26) STATEMENT OF PURPOSE AND NEED.—
11 The term ‘statement of purpose and need’ means a
12 brief summary by the lead agency that clearly ex-
13 plains—

14 “(A) the underlying purpose of the pro-
15 posed agency action;

16 “(B) the need for the proposed agency ac-
17 tion; and

18 “(C) the goals of the project sponsor, as
19 applicable.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) The National Environmental Policy Act of
22 1969 is amended by striking section 111 (42 U.S.C.
23 4336e).

24 (2) Section 9909(c)(1) of the William M. (Mac)
25 Thornberry National Defense Authorization Act for

1 Fiscal Year 2021 (15 U.S.C. 4659(c)(1)) is amend-
2 ed by striking “section 111 of NEPA (42 U.S.C.
3 4336e)” and inserting “section 3 of NEPA”.

4 (3) Section 4(l)(2)(F)(i) of the Good Samaritan
5 Remediation of Abandoned Hardrock Mines Act of
6 2024 (30 U.S.C. 1245 note; Public Law 118–155)
7 is amended by striking “section 111 of the National
8 Environmental Policy Act of 1969 (42 U.S.C.
9 4336e)” and inserting “section 3 of the National
10 Environmental Policy Act of 1969”.

11 (4) Section 2232(a) of the Economic Develop-
12 ment Reauthorization Act of 2024 (42 U.S.C. 3211
13 note; Public Law 118–272) is amended by striking
14 “section 111 of the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4336e)” and inserting “sec-
16 tion 3 of the National Environmental Policy Act of
17 1969”.

18 (5) The Servicemember Quality of Life Im-
19 provement and National Defense Authorization Act
20 for Fiscal Year 2025 (Public Law 118–159) is
21 amended—

22 (A) in section 1412(b)(2) (50 U.S.C. 98b
23 note), by striking “section 111 of the National
24 Environmental Policy Act of 1969 (42 U.S.C.

1 4336e)” and inserting “section 3 of the Na-
2 tional Environmental Policy Act of 1969”; and
3 (B) in section 3511(c)(3)(A) (46 U.S.C.
4 50505 note), by striking “section 111 of the
5 National Environmental Policy Act of 1969 (42
6 U.S.C. 4336e)” and inserting “section 3 of the
7 National Environmental Policy Act of 1969”.

8 **SEC. 1103. IMPLEMENTING PROCEDURES.**

9 Section 103 of the National Environmental Policy
10 Act of 1969 (42 U.S.C. 4333) is amended—

11 (1) by striking the section designation and all
12 that follows through “All agencies” and inserting
13 the following:

14 **“SEC. 103. IMPLEMENTING PROCEDURES.**

15 “(a) INITIAL REVIEW.—All agencies”; and

16 (2) by adding at the end the following:

17 “(b) IMPLEMENTATION REQUIREMENTS.—Not later
18 than 180 days after the date of enactment of the Bipar-
19 tisan American Affordability and Jobs Act of 2026, each
20 agency of the Federal Government shall make any changes
21 to the existing regulations, procedures, or policies of the
22 agency that are necessary to implement the intent, pur-
23 poses, and procedures set forth in this Act (including the
24 amendments made to this Act by the Bipartisan American
25 Affordability and Jobs Act of 2026).

1 “(c) CONSISTENCY.—To the maximum extent prac-
2 ticable, the Chairman shall work to standardize the proce-
3 dures of all agencies of the Federal Government to imple-
4 ment this Act.

5 “(d) TECHNICAL ASSISTANCE.—At the request of an
6 agency of the Federal Government, the Chairman may
7 provide technical assistance to that agency in carrying out
8 subsection (b).”.

9 **SEC. 1104. COOPERATION OF AGENCIES; REPORTS; AVAIL-**
10 **ABILITY OF INFORMATION; RECOMMENDA-**
11 **TIONS; INTERNATIONAL AND NATIONAL CO-**
12 **ORDINATION OF EFFORTS.**

13 Section 102(2) of the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4332(2)) is amended—

15 (1) by striking subparagraph (B) and inserting
16 the following:

17 “(B) identify and develop methods and
18 procedures, to implement the requirements of
19 this Act, in consultation with the Chairman,
20 that—

21 “(i) will ensure that presently
22 unquantified environmental amenities and
23 values may be given appropriate consider-
24 ation in decisionmaking along with eco-
25 nomic and technical considerations; and

1 “(ii) are consistent with the require-
2 ments for minimum functional require-
3 ments and data and technology standards
4 for agency implementation of eNEPA tech-
5 nologies;”;

6 (2) in subparagraph (C)—

7 (A) in the matter preceding clause (i), by
8 striking “responsible official” and inserting
9 “lead agency”;

10 (B) by indenting clauses (i) through (v)
11 appropriately;

12 (C) in clause (ii), by striking “proposal”
13 and inserting “proposed agency action”;

14 (D) in clause (v), by striking the period at
15 the end and inserting a semicolon; and

16 (E) in the undesignated matter following
17 clause (v), in the second sentence—

18 (i) by striking “Council on Environ-
19 mental Quality” and inserting “Council”;
20 and

21 (ii) by striking “proposal” and insert-
22 ing “proposed agency action”; and

23 (3) in subparagraph (L), by striking “Council
24 on Environmental Quality established by title II of
25 this Act” and inserting “Council”.

1 **SEC. 1105. PROCEDURE FOR DETERMINATION OF LEVEL OF**
2 **REVIEW.**

3 Section 106 of the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4336) is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2)—

7 (i) by striking “one of the agency’s
8 categorical exclusions” and inserting “1 or
9 a combination of multiple categorical exclu-
10 sions (excluding multiple applications of
11 the same or similar categorical exclusions
12 that are based on size, acreage, or dollar
13 amount thresholds) of the agency”; and

14 (ii) by inserting “a categorical exclu-
15 sion established by Congress,” after “sec-
16 tion 109 of this Act,”;

17 (B) in paragraph (3), by striking “or” at
18 the end;

19 (C) in paragraph (4), by striking “pro-
20 posed action.” and inserting “proposed agency
21 action;”; and

22 (D) by adding at the end the following:

23 “(5) the proposed agency action relates to a
24 project or action that has been reviewed pursuant to
25 a State environmental review statute or a Tribal en-
26 vironmental review statute, ordinance, resolution,

1 regulation, or formally adopted policy and the lead
2 agency determines that the review serves a similar
3 function as Federal agency compliance with this Act;
4 or

5 “(6) the agency determines the proposed agency
6 action is an action for which compliance by the
7 agency with the requirements of another Federal law
8 serves a similar function as compliance by the agen-
9 cy with this Act with respect to the action.”;

10 (2) in subsection (b)—

11 (A) by redesignating paragraphs (1) and
12 (2) as paragraphs (2) and (1), respectively, and
13 moving the paragraphs so as to appear in nu-
14 merical order; and

15 (B) in paragraph (1) (as so redesign-
16 nated)—

17 (i) in the first sentence, by striking
18 “An agency” and inserting the following:

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), a lead agency”;

21 (ii) in subparagraph (A) (as so des-
22 ignated)—

23 (I) in the first sentence—

24 (aa) by striking “one of the
25 agency’s categorical exclusions”

1 and inserting “1 or a combina-
2 tion of multiple categorical exclu-
3 sions (excluding multiple applica-
4 tions of the same or similar cat-
5 egorical exclusions that are based
6 on size, acreage, or dollar
7 amount thresholds) of the agen-
8 cy”; and

9 (bb) by inserting “a categor-
10 ical exclusion established by Con-
11 gress,” after “section 109 of this
12 Act,”; and

13 (II) in the second sentence, by
14 striking “a Federal” and inserting
15 “the lead”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(B) PROJECT SPONSOR REQUEST.—At
19 the request of a project sponsor, if a lead agen-
20 cy has begun the preparation of an environ-
21 mental assessment pursuant to subparagraph
22 (A), the lead agency shall discontinue the prep-
23 aration of the environmental assessment and
24 proceed to the preparation of an environmental

1 impact statement for the applicable proposed
2 agency action.”; and

3 (3) by adding at the end the following:

4 “(c) EFFECT OF THRESHOLD DETERMINATION ON
5 OTHER AGENCIES.—If a lead agency determines that an
6 environmental document is not required to be prepared
7 with respect to a proposed agency action under subsection
8 (a), no agency shall prepare an environmental document
9 with respect to the proposed agency action.”.

10 **SEC. 1106. TIMELY AND UNIFIED FEDERAL REVIEWS.**

11 Section 107 of the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4336a) is amended—

13 (1) by striking subsections (a) through (c) and
14 inserting the following:

15 “(a) DETERMINATION OF AGENCY ROLES AND RE-
16 SPONSIBILITIES.—

17 “(1) LEAD AGENCY.—

18 “(A) DESIGNATION.—

19 “(i) IN GENERAL.—The Federal agen-
20 cy that proposed the proposed agency ac-
21 tion shall be the lead agency.

22 “(ii) TWO OR MORE AGENCIES.—If
23 there are 2 or more Federal agencies that
24 are required by law to make a decision re-
25 lating to an authorization for which an en-

1 vironmental review is required under this
2 Act, those agencies shall determine, by let-
3 ter or memorandum, which Federal agency
4 shall be the lead agency for that environ-
5 mental review based on consideration of—

6 “(I) the magnitude of the in-
7 volvement of the Federal agencies;

8 “(II) the project approval or dis-
9 approval authority of those Federal
10 agencies;

11 “(III) the expertise concerning
12 the environmental effects of the pro-
13 posed agency action;

14 “(IV) the duration of involvement
15 of the Federal agencies with respect
16 to that proposed agency action; and

17 “(V) the sequence of the involve-
18 ment of the Federal agencies with re-
19 spect to that proposed agency action.

20 “(iii) JOINT LEAD AGENCIES.—

21 “(I) IN GENERAL.—In making a
22 determination under clause (ii), the
23 Federal agencies participating in the
24 environmental review may appoint
25 such State, Tribal, or local agencies

1 as joint lead agencies, as those Fed-
2 eral agencies determine to be appro-
3 priate.

4 “(II) RESPONSIBILITIES.—Joint
5 lead agencies appointed under sub-
6 clause (I) shall jointly fulfill the role
7 described in subparagraph (C).

8 “(B) DELAY IN DESIGNATION.—

9 “(i) REQUEST FOR DESIGNATION.—

10 “(I) IN GENERAL.—Any Federal,
11 State, Tribal, or local agency or
12 project sponsor that is substantially
13 affected by the lack of a designation
14 of a lead agency with respect to a pro-
15 posed agency action under subpara-
16 graph (A) may submit a written re-
17 quest to a Federal agency partici-
18 pating in the environmental review for
19 the designation of a lead agency.

20 “(II) TRANSMISSION.—A Federal
21 agency that receives a request under
22 subclause (I) shall transmit that re-
23 quest to each Federal agency partici-
24 pating in the environmental review
25 and to the Chairman.

1 “(ii) CHAIRMAN DESIGNATION.—

2 “(I) REQUEST.—If the Federal
3 agencies participating in the environ-
4 mental review are unable to agree on
5 the designation of a lead agency not
6 later than 21 days after the date on
7 which the request was transmitted to
8 a Federal agency participating in the
9 environmental review under clause
10 (i)(II), the Federal, State, Tribal, or
11 local agency or project sponsor that is
12 substantially affected by the lack of a
13 designation of a lead agency may sub-
14 mit to the Chairman a request to des-
15 ignate a lead agency, which request
16 shall consist of—

17 “(aa) a precise description
18 of the nature and extent of the
19 proposed agency action; and

20 “(bb) a detailed statement
21 with respect to each Federal
22 agency participating in the envi-
23 ronmental review and each factor
24 described in subparagraph (A)(ii)

1 regarding which Federal agency
2 shall serve as lead agency.

3 “(II) TRANSMISSION.—The
4 Chairman shall transmit a request re-
5 ceived under subclause (I) to each
6 Federal agency participating in the
7 environmental review.

8 “(III) RESPONSE.—A Federal
9 agency participating in an environ-
10 mental review may, not later than 14
11 days after the date of the trans-
12 mission of a request under subclause
13 (II), submit to the Chairman a re-
14 sponse to the request for consider-
15 ation by the Chairman.

16 “(IV) DESIGNATION.— Not later
17 than 21 days after the date of the
18 transmission of a request under sub-
19 clause (II), the Chairman shall des-
20 ignate the lead agency with respect to
21 the applicable proposed agency action.

22 “(V) FINAL AND CONCLUSIVE;
23 NO JUDICIAL REVIEW.—Any action
24 taken by the Chairman to designate a
25 lead agency under this clause—

1 “(aa) shall be final and con-
2 clusive; and

3 “(bb) shall not be subject to
4 judicial review.

5 “(C) ROLE OF LEAD AGENCY.—A lead
6 agency shall, with respect to a proposed agency
7 action—

8 “(i) supervise the preparation of an
9 environmental document if, with respect to
10 such proposed agency action, there is more
11 than 1 Federal agency participating in the
12 environmental review;

13 “(ii) request the participation of each
14 cooperating agency at the earliest prac-
15 ticable time;

16 “(iii) in preparing an environmental
17 document, give consideration to any anal-
18 ysis or proposal created, if applicable, by a
19 cooperating agency;

20 “(iv) develop a schedule, in consulta-
21 tion with each cooperating agency, the
22 project sponsor, and such other entities as
23 the lead agency determines appropriate, for
24 completion of any environmental review or

1 authorization required to carry out the
2 proposed agency action;

3 “(v) meet with a cooperating agency
4 that requests such a meeting;

5 “(vi) define and determine, as appro-
6 priate, the purpose and need, the reason-
7 able alternatives, and the reasonably fore-
8 seeable environmental effects of the pro-
9 posed agency action subject to the jurisdic-
10 tion of the lead agency by law, subject to
11 the condition that the alternatives may in-
12 clude the use of land under the jurisdiction
13 of another Federal agency that has been
14 designated as a cooperating agency;

15 “(vii) if the lead agency determines
16 that an environmental review or authoriza-
17 tion will not be completed in accordance
18 with the schedule developed under clause
19 (iv), submit a notification of any authoriza-
20 tion or action by another Federal agency
21 responsible for the possible failure to meet
22 that schedule to the Chairman;

23 “(viii) presume that the effects of a
24 no-action alternative will be negative for
25 any proposed agency action carried out on,

1 or directly affecting, Tribal trust resources
2 (including lands and minerals) when the
3 action is initiated by the Indian Tribe for
4 which the United States holds the affected
5 Tribal resources in trust; and

6 “(ix) eliminate from consideration any
7 alternative (except for a no-action alter-
8 native) that does not—

9 “(I) fulfill the purpose and need
10 of the proposed agency action; and

11 “(II) meet the goals of an appli-
12 cable non-Federal project sponsor.

13 “(2) COOPERATING AGENCIES.—

14 “(A) DESIGNATION.—

15 “(i) IN GENERAL.—The lead agency
16 may, with respect to a proposed agency ac-
17 tion, designate any Federal, State, Tribal,
18 or local agency (including a county, bor-
19 ough, parish, city, and any other political
20 subdivision of a State) that has jurisdiction
21 by law with respect to any environmental
22 effect involved in a proposed agency action
23 to serve as a cooperating agency.

24 “(ii) REQUIREMENTS.—Not later than
25 30 days after the date on which the lead

1 agency issues, consistent with section 110,
2 a notice of intent to prepare an environ-
3 mental impact statement or informs the
4 project sponsor that an environmental as-
5 sessment is necessary, the lead agency
6 shall—

7 “(I) identify all Federal and non-
8 Federal agencies and governmental
9 entities likely to require or provide au-
10 thorization with respect to a proposed
11 agency action; and

12 “(II) invite each agency identi-
13 fied under subclause (I) to become a
14 cooperating agency.

15 “(iii) ACCEPTANCE OR DENIAL.—An
16 agency invited under clause (ii)(II) shall
17 accept or deny the invitation not later than
18 7 days after the date on which the agency
19 receives the invitation.

20 “(iv) LIMITATIONS.—The designation
21 of a cooperating agency under this sub-
22 paragraph shall not—

23 “(I) give such cooperating agency
24 authority or jurisdiction over the pro-
25 posed agency action; or

1 “(II) expand any jurisdiction or
2 authority such cooperating agency
3 may have over the proposed agency
4 action.

5 “(v) UNIDENTIFIED AGENCIES.—In
6 the event that an agency that has jurisdic-
7 tion by law with respect to any environ-
8 mental impact involved in a proposed agen-
9 cy action is not identified as a potential co-
10 operating agency under clause (ii)(I), the
11 lead agency shall—

12 “(I) invite such unidentified
13 agency to become a cooperating agen-
14 cy by not later than 7 days after be-
15 coming aware that the agency has ju-
16 risdiction by law with respect to the
17 proposed agency action; and

18 “(II) if such agency accepts the
19 invitation, incorporate such agency
20 into the schedule developed under
21 paragraph (1)(C)(iv) and update such
22 schedule accordingly by not later than
23 14 days after the date on which such
24 agency accepts the invitation.

25 “(B) ROLE OF COOPERATING AGENCIES.—

“(i) IN GENERAL.—A cooperating agency may, not later than a date specified in the schedule established by the lead agency under paragraph (1)(C)(iv), submit comments to the lead agency.

“(ii) REQUIREMENTS.—Comments submitted by a cooperating agency under clause (i) shall be limited to matters relating to the jurisdiction by law of the cooperating agency with respect to—

“(I) the reasonably foreseeable environmental effects of the proposed agency action; and

“(II) any applicable authorization required of the cooperating agency.

“(iii) ASSISTANCE.—A cooperating agency may, with the agreement of the lead agency, assist in the preparation of an environmental document.

“(iv) SUFFICIENCY OF ANALYSIS.—
For the purpose of compliance with the re-
quirements of this Act, a cooperating agen-
cy shall be bound by the purpose and need
of the proposed agency action and consider
only those alternatives to the proposed

1 agency action that the lead agency has,
2 consistent with paragraph (1)(C), deter-
3 mined are reasonable.

4 “(b) COORDINATION OF AGENCIES PARTICIPATING
5 IN AN ENVIRONMENTAL REVIEW.—

6 “(1) IN GENERAL.—Not later than 30 days
7 after the date described in clause (iii) of subsection
8 (a)(2)(A) with respect to each agency invited to be
9 a cooperating agency pursuant to clause (ii)(II) of
10 that subsection, the lead agency shall develop the
11 schedule under subsection (a)(1)(C)(iv) for the appli-
12 cable proposed agency action.

13 “(2) REQUIREMENTS.—To the maximum extent
14 practicable, if a proposed agency action will require
15 action by more than 1 Federal agency and the lead
16 agency has determined that the proposed agency ac-
17 tion requires preparation of an environmental docu-
18 ment, the lead agency and cooperating agencies
19 shall—

20 “(A) evaluate the proposed agency action
21 in a single environmental document;

22 “(B) carry out the obligations of each re-
23 spective agency concurrently, and in conjunc-
24 tion with, other environmental reviews and au-
25 thorizations being conducted by other Federal

1 agencies, unless the agency determines that
2 doing so would impair the ability of the agency
3 to carry out the statutory obligations of the
4 agency; and

5 “(C) formulate and implement administra-
6 tive, policy, and procedural mechanisms to en-
7 sure that the environmental review is coordi-
8 nated, environmentally responsible, and enables
9 the lead agency to comply with the deadlines
10 described in subsection (g).

11 “(3) CONSIDERATION OF TIMING.—

12 “(A) IN GENERAL.—No Federal agency
13 shall be required to consider any scientific or
14 technical research that becomes publicly avail-
15 able after the date of publication of a notice of
16 intent or decision to prepare an environmental
17 document for a proposed agency action.

18 “(B) DELAY.—A Federal agency may not
19 delay the issuance of an environmental docu-
20 ment or authorization beyond the deadline for
21 the proposed agency action under subsection (g)
22 on the basis of awaiting new scientific or tech-
23 nical research or information that was not
24 available as of the date described in subpara-
25 graph (A) for the proposed agency action.

1 “(C) APPLICABILITY TO OTHER LAW.—

2 Nothing in this paragraph affects any review of
3 information required under subchapter II of
4 chapter 5 of title 5, United States Code, with
5 respect to comments received during a public
6 comment period, as applicable.

7 “(c) PUBLIC REVIEW.—

8 “(1) PUBLICATION IN FEDERAL REGISTER.—

9 Each notice of intent to prepare an environmental
10 impact statement under section 102 shall be pub-
11 lished in the Federal Register.

12 “(2) PUBLIC COMMENT.—

13 “(A) REQUIREMENTS.—Each notice of in-
14 tent to prepare an environmental impact state-
15 ment under section 102 shall include—

16 “(i) a request for public comment on
17 alternatives or impacts and on relevant in-
18 formation, studies, or analyses with respect
19 to the proposed agency action; and

20 “(ii) a concise description of the gen-
21 eral location of the proposed agency action
22 and a summary of geospatial information
23 for the proposed agency action, if available.

24 “(B) COMMENT PERIOD.—The lead agency
25 shall establish a comment period of not less

1 than 45 days and not more than 60 days after
2 the date on which the notice to prepare an envi-
3 ronmental impact statement is published in the
4 Federal Register, unless the lead agency and
5 project sponsor agree to a longer deadline,
6 which shall not exceed 75 days.”;

7 (2) in subsection (e), by redesignating para-
8 graphs (1) and (2) as paragraphs (2) and (1), re-
9 spectively, and moving the paragraphs so as to ap-
10 pear in numerical order;

11 (3) in subsection (f)—

12 (A) in the subsection heading, by inserting
13 “AND USE OF EXISTING DOCUMENTS” after
14 “PREPARATION”;

15 (B) by striking “A lead agency” and in-
16 serting the following:

17 “(1) IN GENERAL.—A lead agency”; and

18 (C) by adding at the end the following:

19 “(2) EXISTING DOCUMENTS.—On the request
20 of a project sponsor, a lead agency shall consider
21 and, as appropriate, adopt or incorporate by ref-
22 erence, the analysis and documentation prepared for
23 a proposed agency action under the laws and proce-
24 dures of a State or an Indian Tribe as the docu-
25 mentation, or part of the documentation, required to

1 complete an environmental review, if the analysis
2 and documentation were developed pursuant to laws
3 and procedures of the State or Indian Tribe that
4 serve a similar function as Federal agency compli-
5 ance with this Act, as determined by the lead agen-
6 cy.”;

7 (4) in subsection (g)—

8 (A) by striking paragraph (1) and insert-
9 ing the following:

10 “(1) IN GENERAL.—

11 “(A) ENVIRONMENTAL ASSESSMENTS.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in section 106(b)(1)(B) or paragraph
14 (2), with respect to a proposed agency ac-
15 tion, a lead agency shall complete and
16 make public the environmental assessment,
17 if applicable, not later than the date that
18 is 1 year after the earlier of, as applica-
19 ble—

20 “(I) the date on which the lead
21 agency determines that section
22 106(b)(1)(A) requires the preparation
23 of an environmental assessment with
24 respect to the proposed agency action;
25 and

1 “(II) the date on which the lead
2 agency notifies the project sponsor
3 that the application for the proposed
4 agency action is complete.

5 “(ii) ADDITIONAL REQUIREMENTS.—
6 On completion of an environmental assess-
7 ment—

8 “(I)(aa) not later than 7 days
9 after the date on which the lead agen-
10 cy completes and makes public the en-
11 vironmental assessment, the lead
12 agency shall issue a finding of no sig-
13 nificant impact;

14 “(bb) not later than 90 days
15 after the date on which the lead agen-
16 cy completes and makes public the en-
17 vironmental assessment, all Federal
18 agencies participating in the environ-
19 mental review shall issue and make
20 public a decision on all outstanding
21 authorizations for the proposed agen-
22 cy action; and

23 “(cc) not later than 120 days
24 after the date on which the lead agen-
25 cy completes and makes public the en-

1 vironmental assessment, all Federal
2 agencies not participating in the envi-
3 ronmental review shall issue and make
4 public a decision on all outstanding
5 authorizations for the proposed agen-
6 cy action; or

7 “(II) not later than 7 days after
8 the date on which the lead agency
9 completes the environmental assess-
10 ment, the lead agency shall publish a
11 notice of intent to prepare an environ-
12 mental impact statement.

13 “(B) ENVIRONMENTAL IMPACT STATE-
14 MENTS.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in paragraph (2), with respect to a
17 proposed agency action, the lead agency
18 shall publish an environmental impact
19 statement, if applicable, not later than the
20 date that is 2 years after the earlier of, as
21 applicable—

22 “(I) the date on which the lead
23 agency determines that section
24 102(2)(C) requires the issuance of an
25 environmental impact statement with

1 respect to the proposed agency action;
2 and

3 “(II) the date on which the lead
4 agency notifies the project sponsor
5 that the application for the proposed
6 agency action is complete.

7 “(ii) ADDITIONAL REQUIREMENTS.—

8 “(I) RECORD OF DECISION.—Not
9 later than 45 days after the date on
10 which the lead agency publishes an
11 environmental impact statement for a
12 proposed agency action, the lead agen-
13 cy shall issue a record of decision.

14 “(II) ISSUANCE OF AUTHORIZA-
15 TIONS.—

16 “(aa) IN GENERAL.—Not
17 later than 90 days after the date
18 on which the lead agency pub-
19 lishes an environmental impact
20 statement for a proposed agency
21 action, all Federal agencies par-
22 ticipating in the environmental
23 review shall issue a decision on
24 all outstanding authorizations for
25 the proposed agency action.

1 “(bb) FEDERAL AGENCIES
2 NOT PARTICIPATING.—Not later
3 than 120 days after the date on
4 which the lead agency publishes
5 an environmental impact state-
6 ment for a proposed agency ac-
7 tion, all Federal agencies not
8 participating in the environ-
9 mental review shall issue and
10 make public a decision on all out-
11 standing authorizations for the
12 proposed agency action.

13 “(iii) SAVINGS PROVISION.—Nothing
14 in this subparagraph prohibits an agency
15 from issuing an environmental impact
16 statement and record of decision in a sin-
17 gle document.

18 “(C) DISPUTE RESOLUTION.—

19 “(i) DEFINITION OF ELIGIBLE DIS-
20 PUTE OR DELAY.—In this subparagraph,
21 the term ‘eligible dispute or delay’ means
22 a dispute or delay with respect to an envi-
23 ronmental review or authorization involving
24 more than 1 Federal agency for which a

1 project sponsor sends a notification to the
2 Chairman under clause (ii).

3 “(ii) NOTIFICATION OF DISPUTE.—

4 The Chairman, in consultation with each
5 Federal agency participating in the envi-
6 ronmental review for a proposed agency ac-
7 tion, shall, to the maximum extent prac-
8 ticable to meet the deadlines established
9 under this subsection and the schedule de-
10 veloped under subsection (a)(1)(C)(iv), fa-
11 cilitate resolution of an eligible dispute or
12 delay, including an anticipated delay, be-
13 tween those Federal agencies with respect
14 to an environmental review or authoriza-
15 tion not later than 30 days after the date
16 of receipt of a notification from a project
17 sponsor.

18 “(iii) DETERMINATION OF RESOLU-
19 TION.—If an eligible dispute or delay, in-
20 cluding an anticipated delay, described in
21 clause (ii) remains unresolved by the date
22 that is 30 days after the date on which a
23 notification is received under that clause,
24 the Chairman, not later than 14 days after
25 that date, shall determine a resolution and

1 order the relevant agencies to the eligible
2 dispute or delay, including an anticipated
3 delay, to act in accordance with that deter-
4 mination as soon as practicable.

5 “(iv) FINAL RESOLUTION.—Notwith-
6 standing any other provision of law, any
7 order given or action taken by the Chair-
8 man in resolution of an eligible dispute or
9 delay, including an anticipated delay,
10 under clause (iii)—

11 “(I) shall be final and conclusive;

12 “(II) shall not be subject to judi-
13 cial review; and

14 “(III) shall, for purposes of judi-
15 cial review of the ultimate agency ac-
16 tion and all other Federal law, con-
17 stitute full compliance with and satis-
18 faction of any requirement for inter-
19 agency consultation, coordination,
20 concurrence, authorization, or other
21 procedural obligation under Federal
22 law that is the subject of the dispute
23 or delay.”;

24 (B) in paragraph (2)—

1 (i) by inserting “applicable” before
2 “deadline described in paragraph (1)”;

3 (ii) by striking “in consultation with
4 the applicant” and inserting “with the ap-
5 proval of the project sponsor”; and

6 (iii) by striking “such environmental
7 impact statement or environmental assess-
8 ment” and inserting “the applicable envi-
9 ronmental document”; and

10 (C) by striking paragraph (3) and insert-
11 ing the following:

12 “(3) FAILURE TO ACT.—

13 “(A) IN GENERAL.—If, after 30 days have
14 passed from the date on which the Chairman
15 determines that a key permitting agency has
16 not acted in accordance with a determination
17 under subparagraph (C)(iii) of paragraph (1)
18 and causes a failure to comply with a deadline
19 in accordance with that paragraph or an ex-
20 tended deadline in accordance with paragraph
21 (2), each relevant agency CERPO of the key
22 permitting agency and each career employee of
23 the key permitting agency within the Senior
24 Executive Service (as defined in section 2101a
25 of title 5, United States Code) that has super-

visory authority over personnel in the key permitting agency and that has a substantive role or responsibility in reviewing the applicable environmental document or authorization that remains unpublished or unissued, shall spend not less than 50 percent of the workweek, as determined pursuant to title 5, United States Code, or other applicable law, to remedy the failure.

“(B) NO TRAVEL OUTSIDE DUTY STATION.—If, after 60 days have passed from the date on which a deadline described in paragraph (1) or (2) was failed to be met and the key permitting agency has not published or made public the applicable environmental document and has not issued all outstanding authorizations, as described in those paragraphs, with respect to a proposed agency action, the head of the relevant key permitting agency shall not travel more than 25 miles from their official duty station for the purposes of official business until the key permitting agency has published or made public the applicable environmental document and issued all outstanding authorizations related to the proposed agency action that

1 are not in compliance with the requirements of
2 this subsection.

3 “(C) EXCEPTION.—This paragraph shall
4 not apply to the Secretary of Defense.

5 “(4) CAUSES OF ACTION.—

6 “(A) DEFINITION OF COURT OF COM-
7 PETENT JURISDICTION.—In this paragraph, the
8 term ‘court of competent jurisdiction’ means—

9 “(i) if a court has jurisdiction over an
10 applicable proposed agency action pursuant
11 to any other provision of Federal law other
12 than this Act, such court; or

13 “(ii) if no such court exists under
14 clause (i), the district court of the United
15 States for the district in which a substan-
16 tial part of the applicable proposed agency
17 action is situated.

18 “(B) RIGHT TO PETITION.—A project
19 sponsor may obtain judicial review of the com-
20 pliance by a Federal agency with the relevant
21 deadline established under paragraph (1) or (2)
22 by filing a written petition in a court of com-
23 petent jurisdiction.

24 “(C) EXCEPTIONS.—The failure of a Fed-
25 eral agency to publish in the Federal Register

1 or make public an environmental document or
2 issue a decision on all necessary authorizations
3 shall not be considered failure to comply with
4 the deadlines established under paragraph (1)
5 or (2) if the Federal agency proves by clear and
6 convincing evidence that the failure was caused
7 by—

8 “(i) a natural disaster, act of God, or
9 act of war that reasonably impaired the
10 ability of the Federal agency to comply
11 with the relevant deadline established
12 under paragraph (1) or (2);

13 “(ii) a national emergency for which
14 the only available response is to delay the
15 publication or making public the environ-
16 mental document or withhold decisions on
17 the relevant authorizations by the relevant
18 deadline established under paragraph (1)
19 or (2);

20 “(iii) the publication or making public
21 of the environmental document or issuance
22 of the authorization violating the statutory
23 obligations of the Federal agency;

24 “(iv) the completed application of the
25 project sponsor under section 110 being

1 based on fraud or material misrepresenta-
2 tions of fact;

3 “(v) the project sponsor withholding
4 information necessary to the ability of the
5 Federal agency to comply with its statu-
6 tory obligations in publishing or making
7 public an environmental document or
8 issuing a decision on all necessary author-
9 izations, after the Federal agency has
10 made a reasonable and timely request for
11 such information; or

12 “(vi) a lapse in appropriations of
13 more than 2 weeks affecting 1 or more of
14 the relevant agencies involved in the prepa-
15 ration of the environmental documents or
16 authorizations.

17 “(D) REMEDY.—If a court of competent
18 jurisdiction finds that a Federal agency has
19 failed to act in accordance with this subsection,
20 the court shall provide injunctive relief, as ap-
21 propriate, to give effect to this section and re-
22 tain jurisdiction to ensure compliance with any
23 such relief.

24 “(E) EXPEDITED PROCEDURES; TIME TO
25 DECIDE.—The reviewing court shall—

1 “(i) establish an expedited schedule
2 for briefing and disposition;

3 “(ii) issue a decision as expeditiously
4 as practicable, but not later than 120 days
5 after the date on which the petition is
6 filed, absent extraordinary circumstances;
7 and

8 “(iii) if the petition for relief is grant-
9 ed, issue an order requiring a decision on
10 the covered application not later than 60
11 days after the date on which the order is
12 issued.”; and

13 (5) in subsection (h)—

14 (A) in paragraph (1)—

15 (i) in the matter preceding subpara-
16 graph (A), by striking “the Committee on
17 Natural Resources of the House of Rep-
18 resentatives and the Committee on Envi-
19 ronment and Public Works of the Senate”
20 and inserting “the Chairman, not later
21 than April 15 of each year,”; and

22 (ii) by striking subparagraphs (A) and
23 (B) and inserting the following:

24 “(A) identifies each environmental docu-
25 ment that was not completed by each lead agen-

1 cy by the deadline described in subsection (g)
2 and provides an explanation for the failure to
3 meet the deadline;

4 “(B) identifies each environmental docu-
5 ment the preparation of which commenced be-
6 fore the date of enactment of the Fiscal Re-
7 sponsibility Act of 2023 (Public Law 118–5;
8 137 Stat. 10) and is not yet complete at the
9 time of the report and provides an explanation
10 for the failure to complete the environmental
11 document;

12 “(C) details the on-time completion rate of
13 each key permitting agency in adhering to ap-
14 plicable deadlines described in subsection (g);
15 and

16 “(D) details the progress of each key per-
17 mitting agency in adhering to those deadlines
18 as compared to the completion rate during the
19 preceding year.”; and

20 (B) in paragraph (2)—

21 (i) in subparagraph (A), by striking
22 “such environmental assessment and envi-
23 ronmental impact statement” and inserting
24 “applicable environmental document”;

1 (ii) by striking subparagraph (B) and
2 inserting the following:

3 “(B) the earlier of—

4 “(i) with respect to an environmental
5 assessment, as applicable—

6 “(I) the date on which the lead
7 agency determines that section
8 106(b)(1)(A) requires the preparation
9 of an environmental assessment with
10 respect to the proposed agency action;
11 and

12 “(II) the date on which the lead
13 agency notifies the project sponsor
14 that the application for the proposed
15 agency action is complete; and

16 “(ii) with respect to an environmental
17 impact statement, as applicable—

18 “(I) the date on which the lead
19 agency determines that section
20 102(2)(C) requires the issuance of an
21 environmental impact statement with
22 respect to the proposed agency action;
23 and

24 “(II) the date on which the lead
25 agency notifies the project sponsor

1 that the application for the proposed
2 agency action is complete; and”; and
3 (iii) in subparagraph (C), by striking
4 “environmental assessment and environ-
5 mental impact statement” and inserting
6 “environmental document”; and
7 (C) by adding at the end the following:

8 “(3) COMPILATION.—The Chairman shall—

9 “(A) compile the reports received by the
10 heads of lead agencies under paragraph (1)
11 each year;

12 “(B) provide recommendations on how to
13 improve the performance of Federal agencies in
14 adhering to the deadlines described in sub-
15 section (g); and

16 “(C) submit that compilation of those re-
17 ports and those recommendations to the Com-
18 mittee on Environment and Public Works of the
19 Senate and Committee on Natural Resources of
20 the House of Representatives by not later than
21 June 15 of the applicable year.”.

22 **SEC. 1107. PROGRAMMATIC ENVIRONMENTAL DOCUMENT.**

23 Section 108 of the National Environmental Policy
24 Act of 1969 (42 U.S.C. 4336b) is amended, in each of

1 paragraphs (1) and (2), by striking “5 years” and insert-
2 ing “10 years”.

3 **SEC. 1108. USE OF CATEGORICAL EXCLUSIONS BY OTHER**
4 **AGENCIES.**

5 Section 109 of the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4336c) is amended to read as fol-
7 lows:

8 **“SEC. 109. USE OF CATEGORICAL EXCLUSIONS BY OTHER**
9 **AGENCIES.**

10 “(a) AGENCY NOTIFICATION TO COUNCIL.—

11 “(1) AVAILABLE CATEGORICAL EXCLUSIONS.—

12 Not later than 30 days after the date of enactment
13 of the Bipartisan American Affordability and Jobs
14 Act of 2026, each Federal agency shall submit to
15 the Council a notification of all categorical exclu-
16 sions of the agency, specifying whether the categor-
17 ical exclusion was administratively created, estab-
18 lished by Congress, or adopted pursuant to sub-
19 section (c).

20 “(2) NEW CATEGORICAL EXCLUSIONS.—Not

21 later than 7 days after the date on which a Federal
22 agency administratively creates a categorical exclu-
23 sion, a categorical exclusion under the jurisdiction of
24 the applicable Federal agency is established by Con-
25 gress, or the Federal agency adopts a categorical ex-

1 clusion of another Federal agency pursuant to sub-
2 section (c), the Federal agency shall submit to the
3 Chairman a notification of the creation, establish-
4 ment, or adoption, as applicable, of that categorical
5 exclusion.

6 “(b) RECORD OF CATEGORICAL EXCLUSIONS.—The
7 Council shall maintain, on the website of the Council, an
8 accurate and publicly available record of each categorical
9 exclusion that—

10 “(1) is created by a Federal agency;

11 “(2) has been established by Congress; or

12 “(3) has been adopted by a Federal agency pur-
13 suant to subsection (c).

14 “(c) ADOPTION OF CATEGORICAL EXCLUSIONS BY
15 OTHER AGENCIES.—

16 “(1) IN GENERAL.—A Federal agency may
17 adopt a categorical exclusion of another Federal
18 agency listed in the record required under subsection
19 (b) for which the categorical exclusion was estab-
20 lished consistent with this subsection.

21 “(2) REQUIREMENTS.—In adopting a categor-
22 ical exclusion under paragraph (1), a Federal agency
23 shall—

24 “(A) identify the categorical exclusion in-
25 cluded on the record described in subsection (b)

1 that covers a category of proposed agency ac-
2 tions or related actions;

3 “(B) consult with the Federal agency that
4 established the categorical exclusion or carries
5 out a categorical exclusion established by Con-
6 gress to ensure that the proposed adoption of
7 the categorical exclusion to a category of pro-
8 posed agency actions is appropriate; and

9 “(C) publicly document adoption of the
10 categorical exclusion.”.

11 **SEC. 1109. APPLICATIONS FOR AUTHORIZATIONS.**

12 Section 110 of the National Environmental Policy
13 Act of 1969 (42 U.S.C. 4336d) is amended to read as
14 follows:

15 **“SEC. 110. APPLICATIONS FOR AUTHORIZATIONS.**

16 “(a) APPLICATION SUFFICIENCY.—

17 “(1) NOTIFICATION OF COMPLETE OR INCOM-
18 PLETE APPLICATION.—Unless a shorter deadline is
19 specified by law, in connection with a proposed agen-
20 cy action for which a project sponsor submitted an
21 application for an authorization to a Federal agency,
22 not later than 60 days after the date on which the
23 project sponsor submits the application, the Federal
24 agency shall—

1 “(A) document receipt of the application;
2 and

3 “(B)(i) notify the project sponsor that the
4 application is complete; or

5 “(ii) notify the project sponsor that the ap-
6 plication is incomplete and request, in writing,
7 any additional information that the Federal
8 agency needs to determine that the application
9 is complete.

10 “(2) AGENCY DETERMINATION.—

11 “(A) COMPLETE DETERMINATION.—If a
12 Federal agency determines that an application
13 is complete under paragraph (1)(B)(i), the Fed-
14 eral agency shall, not later than 60 days after
15 the date on which the Federal agency makes
16 that determination, unless a shorter period is
17 provided for by law—

18 “(i) notify the project sponsor that
19 the Federal agency has determined that—

20 “(I) the proposed agency ac-
21 tion—

22 “(aa) is excluded pursuant
23 to a categorical exclusion; or

24 “(bb) is not a major Federal
25 action; or

1 “(II) no further agency action is
2 required;

3 “(ii) notify the project sponsor that
4 the agency has determined that prepara-
5 tion of an environmental assessment is
6 necessary; or

7 “(iii) issue a notice of intent to pre-
8 pare an environmental impact statement
9 for the proposed agency action.

10 “(B) INCOMPLETE DETERMINATION.—If a
11 Federal agency requests additional information
12 under paragraph (1)(B)(ii), the deadline de-
13 scribed in subparagraph (A) shall be based on
14 the date on which the Federal agency receives
15 the additional information instead of the date
16 on which the determination is made.

17 “(b) ADDITIONAL APPLICATION INFORMATION.—Un-
18 less otherwise required by law, in addition to any informa-
19 tion required by a Federal agency for an application for
20 authorization for a proposed agency action requiring an
21 environmental review, a project sponsor shall submit to
22 the applicable Federal agency—

23 “(1) a list of each known Federal, State, Trib-
24 al, or local authorization required to complete the
25 proposed agency action;

1 “(2) a record of stakeholder engagement for the
2 proposed agency action as of the date of the applica-
3 tion; and

4 “(3) a brief description of a statement of pur-
5 pose and need for the proposed agency action, in-
6 cluding, to the extent practicable, the location of the
7 project and any known alternatives.”.

8 **SEC. 1110. JUDICIAL REVIEW.**

9 Title I of the National Environmental Policy Act of
10 1969 (as amended by section 1102(b)(1)) is amended by
11 inserting after section 110 (42 U.S.C. 4336d) the fol-
12 lowing:

13 **“SEC. 111. JUDICIAL REVIEW.**

14 “(a) **DEFINITION OF CLAIM.**—In this section, the
15 term ‘claim’ means a claim that—

16 “(1) is filed on or after the date of enactment
17 of the Bipartisan American Affordability and Jobs
18 Act of 2026; and

19 “(2) seeks judicial review under any provision
20 of Federal law of an authorization based on a claim
21 that an environmental review failed to be properly
22 conducted pursuant to the requirements of this Act.

23 “(b) **LIMITATIONS ON CLAIMS.**—Notwithstanding
24 any other provision of law, a claim shall be barred unless
25 the claim—

1 “(1) is filed not later than 150 days after the
2 date on which, unless a shorter deadline is specified
3 under Federal law—

4 “(A) in the case of a claim in which an en-
5 vironmental impact statement was prepared,
6 the applicable authorization was published in
7 the Federal Register; and

8 “(B) in the case of any other claim, the
9 authorization was made public;

10 “(2) in the case of an authorization for which
11 an opportunity for comment was provided, the claim
12 is filed by a party that submitted a substantive com-
13 ment during a public comment period associated
14 with that authorization, with such comment being
15 sufficiently detailed to put the applicable Federal
16 agency on notice of the particular issue on which the
17 party seeks judicial review; and

18 “(3) is filed by a party alleging (or has an indi-
19 vidual member alleging) an actual or imminent in-
20 jury in fact amounting to a direct harm.

21 “(c) PROCEDURAL MATTERS FOR CLAIMS.—

22 “(1) ORIGINAL JURISDICTION.—The court of
23 appeals of the United States for the circuit in which
24 a project subject to an authorization will be con-

1 structured, expanded, or operated shall have original
2 and exclusive jurisdiction over a claim.

3 “(2) SUPPLEMENTAL JURISDICTION.—The
4 courts of appeals of the United States shall have
5 supplemental jurisdiction over other claims related
6 to the validity of the authorization at issue in the
7 claim within the original jurisdiction of the court of
8 appeals.

9 “(3) RANDOM ASSIGNMENT OF CASES.—To the
10 maximum extent practicable, a court of appeals of
11 the United States shall randomly assign judges ap-
12 pointed, designated, or assigned to sit as judges of
13 the court to hear claims in a manner to avoid the
14 appearance of favoritism or bias.

15 “(4) DEADLINES FOR RESOLUTION.—A court of
16 appeals of the United States shall render a final
17 judgment with respect to a claim as expeditiously as
18 possible.

19 “(5) REMEDY.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B) and notwithstanding any
22 other provision of law, if a court determines
23 that an authorization does not comply with the
24 requirements of this Act, the only remedy the
25 court may order to redress that violation is to

1 remand, without vacatur or issuance of an in-
2 junction, the applicable authorization to the
3 agency with—

4 “(i) specific instructions to correct er-
5 rors or deficiencies found by the court; and

6 “(ii) a reasonable schedule and dead-
7 line for the agency to act on remand,
8 which shall not exceed 180 days after the
9 date on which the order of the court was
10 entered.

11 “(B) PRELIMINARY INJUNCTIONS.—

12 “(i) IN GENERAL.—Notwithstanding
13 subparagraph (A) and subject to clause
14 (ii), a court may issue a preliminary in-
15 junction for the applicable authorization
16 when—

17 “(I) there is a substantial likeli-
18 hood the authorization violates a Fed-
19 eral law other than—

20 “(aa) this Act; or

21 “(bb) division A of subtitle
22 III of title 54, United States
23 Code;

24 “(II) necessary to prevent irrep-
25 arable harm to the plaintiff;

1 “(III) the balance of equities fa-
2 vors the plaintiff; and

3 “(IV) a preliminary injunction is
4 in the public interest.

5 “(ii) REQUIREMENTS.—A preliminary
6 injunction issued by a court under clause
7 (i) shall last no longer than the time the
8 court finds is reasonably necessary—

9 “(I) for the correction of the vio-
10 lation described in clause (i)(I); and

11 “(II) to prevent the irreparable
12 harm described in clause (i)(II).

13 “(6) REMANDED ACTIONS.—

14 “(A) CONTINUED EFFECT OF AUTHORIZA-
15 TION.—An authorization remanded under para-
16 graph (5)(A) shall remain in effect while the
17 Federal agency corrects any errors or defi-
18 ciencies found by the reviewing court.

19 “(B) FEDERAL ACTION DURING RE-
20 MAND.—The activity that is the subject of an
21 authorization remanded under paragraph
22 (5)(A) may, notwithstanding that remand, be
23 carried out, including during the time pre-
24 scribed by the applicable court to correct the
25 applicable errors or deficiencies.

1 “(7) TREATMENT OF SUPPLEMENTAL OR RE-
2 VISED ENVIRONMENTAL DOCUMENTS.—

3 “(A) IN GENERAL.—For purposes of a
4 claim—

5 “(i) a supplemental or revised envi-
6 ronmental document for an authorization,
7 when required by court order, shall be con-
8 sidered to be a separate environmental
9 document; and

10 “(ii) the deadline for filing a claim for
11 judicial review of an authorization de-
12 scribed in clause (i) shall be the date that
13 is 150 days after the date on which the au-
14 thorization for which the supplemental en-
15 vironmental document is prepared is made
16 public by the agency, unless a shorter time
17 is specified in the Federal law pursuant to
18 which judicial review is authorized.

19 “(B) LIMITATION.—A claim for review of
20 an authorization described in subparagraph
21 (A)(i) shall be limited to information contained
22 in the final supplemental environmental docu-
23 ments that was not contained in a previous en-
24 vironmental document for the authorization.

1 “(8) ACTIONS FOR USE OF TRIBAL TRUST RE-
2 SOURCES.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), for any action that author-
5 izes the use of lands, minerals, or other re-
6 sources held in trust at the time of a final
7 agency action by the United States for the ben-
8 efit of an Indian Tribe, there shall be no ad-
9 ministrative or judicial review of such final
10 agency action based on a claim of failure to
11 comply with the requirements of this Act.

12 “(B) EXCEPTIONS.—Subparagraph (A)
13 shall not apply to an action for administrative
14 or judicial review—

15 “(i) brought by the Indian Tribe for
16 which the United States holds the lands,
17 minerals, or other resources in trust; or

18 “(ii) that involves reasonably foresee-
19 able effects of the final agency action that
20 occur outside the lands, minerals, or other
21 resources held in trust by the United
22 States for the benefit of an Indian Tribe.

23 “(d) ROLE OF COURT.—In reviewing a claim of
24 whether an authorization complies with the requirements
25 of this Act, a court shall afford substantial deference to

1 the agency relating to the scope and contents of an envi-
2 ronmental document.

3 “(e) PROHIBITION ON CERTAIN CLAIMS AND JUDI-
4 CIAL REVIEW.—Notwithstanding any other provision of
5 law, there shall not be a claim or judicial review of whether
6 a final agency action complies with the requirements of
7 this Act for any omission from the list described in section
8 3(22)(B).

9 “(f) EFFECT.—Nothing in this section—

10 “(1) establishes a cause of action or a right to
11 judicial review;

12 “(2) places any limit on filing a claim that a
13 person has violated the terms of an authorization; or

14 “(3) affects the right to obtain review under
15 section 107(g)(4).”.

16 **Subtitle B—Council on**
17 **Environmental Quality**

18 **SEC. 1121. COUNCIL ON ENVIRONMENTAL QUALITY.**

19 (a) IN GENERAL.—Title II of the National Environ-
20 mental Policy Act of 1969 is amended by striking section
21 209 (42 U.S.C. 4347) and inserting the following:

22 **“SEC. 209. ENEPA TECHNOLOGIES.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) AUTHORIZATION DATA.—The term ‘au-
25 thorization data’ means—

1 “(A) any data relevant for a Federal agen-
2 cy—

3 “(i) to determine the effect on the en-
4 vironment of an action for which an au-
5 thorization is required by the Federal
6 agency; and

7 “(ii) to determine whether to issue
8 such authorization; and

9 “(B) any community input or public com-
10 ment on such determinations.

11 “(2) DATA ARCHITECTURE.—The term ‘data
12 architecture’ means the design and organization of
13 data systems, including frameworks for data storage,
14 processing, and exchange.

15 “(3) DATA STANDARDS.—The term ‘data
16 standards’ means agreed-on specifications for data
17 formats, structures, and definitions to ensure con-
18 sistency and vendor-neutral interoperability, as es-
19 tablished under subsection (b)(1).

20 “(4) MINIMUM FUNCTIONAL REQUIREMENTS.—
21 The term ‘minimum functional requirements’ means
22 the requirements published under subsection
23 (b)(2)(A)(ii).

24 “(b) ESTABLISHMENT OF DATA STANDARDS AND
25 PUBLICATION OF IMPLEMENTATION GUIDANCE.—

1 “(1) ESTABLISHMENT OF STANDARDS.—

2 “(A) IN GENERAL.—Not later than 60
3 days after the date of enactment of the Bipar-
4 tisan American Affordability and Jobs Act of
5 2026, the Chairman, in consultation with the
6 Chief Information Officers Council, the Office
7 of Management and Budget, and each key per-
8 mitting agency, shall develop, publish, and
9 iteratively update data standards for the collec-
10 tion and curation of authorization data by Fed-
11 eral agencies, which shall be used—

12 “(i) to assist with environmental re-
13 views and authorizations;

14 “(ii) to organize, define, and stand-
15 ardize various concepts, formats, and pro-
16 tocols that are included in environmental
17 reviews and authorizations; and

18 “(iii) to reduce the need for redun-
19 dant environmental reviews by creating a
20 shared vocabulary and software systems
21 that will support vendor neutrality, data
22 interoperability, workflow automation, and
23 automatic data exchange between Federal
24 agencies.

1 “(B) INCLUSIONS.—The data standards
2 shall include—

3 “(i) a standardized taxonomy that al-
4 lows Federal agencies to identify and track
5 data types, relationships, and values; and

6 “(ii) comprehensive categories for
7 data, such as—

8 “(I) projects;

9 “(II) processes;

10 “(III) environmental documents;

11 “(IV) public comments;

12 “(V) geospatial information;

13 “(VI) public engagement events,
14 as applicable by process or Federal
15 agency;

16 “(VII) case events; and

17 “(VIII) milestones to ensure clar-
18 ity and uniformity.

19 “(2) PUBLICATION OF GUIDANCE FOR IMPLE-
20 MENTATION OF DATA STANDARDS AND MINIMUM
21 FUNCTIONAL REQUIREMENTS.—

22 “(A) PUBLICATION.—Not later than 120
23 days after the date of enactment of the Bipar-
24 tisan American Affordability and Jobs Act of
25 2026, the Chairman shall publish guidance for

1 how each Federal agency responsible for envi-
2 ronmental reviews or authorizations shall imple-
3 ment the following:

4 “(i) The data standards.

5 “(ii) The following minimum func-
6 tional requirements:

7 “(I) Application data sharing
8 that enables automated transfer of
9 relevant environmental review and au-
10 thorization data among Federal agen-
11 cies.

12 “(II) Automated project screen-
13 ing to assist frontline staff with re-
14 viewing project sponsor-provided in-
15 formation for completeness and accu-
16 racy and determining if a categorical
17 exclusion or other general authoriza-
18 tion applies to an action, subject to
19 the condition that such automated
20 project screening may not be used by
21 the Chairman or a Federal agency to
22 unlawfully restrict any activity on
23 Federal land.

1 “(III) Public availability of
2 screening criteria and related decision
3 models.

4 “(IV) Automated case or project
5 management tools that include a re-
6 pository of relevant data and
7 metadata that enable advanced track-
8 ing, reporting, and optimization to aid
9 workflows.

10 “(V) Integrated geographic infor-
11 mation system analysis tools that in-
12 corporate geospatial data layers and
13 models for each resource analyzed as
14 part of an environmental review or
15 authorization for a given study area.

16 “(VI) Document management
17 tools that preserve metadata associ-
18 ated with geospatial analysis, mod-
19 eling, and other analytic processes
20 conducted during an environmental
21 review or authorization for purposes
22 of supporting future environmental re-
23 views and enabling artificial intel-
24 ligence-assisted analysis of past deci-
25 sions.

1 “(VII) Automated comment com-
2 pilation and analysis tools, including
3 services for comment categorization
4 and response that handle the lifecycle
5 of comment submission, analysis, cat-
6 egorization, and response with artifi-
7 cial intelligence support where appro-
8 priate.

9 “(VIII) Administrative record
10 management tools that maintain port-
11 able document formats and data-rich
12 repositories accessible to machine and
13 human users.

14 “(IX) Common or interoperable
15 Federal agency services that integrate
16 shared services, shared applications,
17 and common user experiences for
18 Federal agency staff, project sponsors,
19 and the public.

20 “(B) INCLUSIONS.—The guidance pub-
21 lished under subparagraph (A) shall include the
22 following:

23 “(i) Guidelines for cloud-based stor-
24 age, data sharing protocols, and applica-
25 tion programming interfaces to enable the

1 Chairman to work with Federal agencies to
2 use authorization data—

3 “(I) to aid Federal agencies in
4 modernizing their environmental re-
5 views and authorizations; and

6 “(II) for iterative development of
7 the authorization portal described in
8 subsection (d)(2)(B).

9 “(ii) Provisions that support
10 scalability and adaptability of the min-
11 imum requirements to emerging tech-
12 nologies.

13 “(c) AGENCY IMPLEMENTATION.—

14 “(1) IMPLEMENTATION.—The head of each key
15 permitting agency shall—

16 “(A) not later than 90 days after the date
17 of enactment of the Bipartisan American Af-
18 fordability and Jobs Act of 2026—

19 “(i) compare existing Federal agency
20 systems for environmental reviews and au-
21 thorizations under the authority of the
22 agency with the data standards and min-
23 imum functional requirements and report
24 findings from such comparison to the
25 Chairman;

1 “(ii) assess whether existing Federal
2 agency technological capabilities are con-
3 sistent with the data standards and the
4 minimum functional requirements;

5 “(iii) submit to the Chairman a report
6 that estimates the completion dates for im-
7 plementing the data standards and the
8 minimum functional requirements; and

9 “(iv) submit to the Chairman an im-
10 plementation plan that—

11 “(I) describes how the Federal
12 agency will implement the data stand-
13 ards and the minimum functional re-
14 quirements; and

15 “(II) describes how, to the extent
16 the Federal agency determines nec-
17 essary to meet relevant statutory re-
18 quirements, the Federal agency will
19 adopt or implement the prototype
20 tools tested, designed, and built under
21 subsection (d)(1); and

22 “(B) not later than 180 days after that
23 date of enactment, begin implementing the data
24 standards published and the minimum func-
25 tional requirements.

“(2) REPORT.—Not less frequently than twice each year, the Chief Information Officer of each key permitting agency, in consultation with the CERPO of each key permitting agency, shall submit to the Chairman and the Director of the Office of Management and Budget a report on the progress of the key permitting agency towards meeting the requirements described in paragraph (1).

9 “(d) DEVELOPMENT OF ENEPA TECHNOLOGIES.—

10 “(1) PROTOTYPE TOOLS.—

“(A) IN GENERAL.—The Chairman, in consultation with the Administrator of General Services, the Chief Information Officers Council, the Director of the Office of Management and Budget, and each key permitting agency shall design, test, and build prototype tools for environmental reviews and authorizations that will assist Federal agencies in implementing the minimum functional requirements.

20 “(B) PRIORITY.—The Chairman shall
21 prioritize designing, testing, and building tools
22 under this paragraph that—

23 “(i) support authorization case or
24 project management systems that—

1 “(I) manage tasks, milestones,
2 and activities associated with environ-
3 mental reviews and authorizations;
4 and

5 “(II) provide Federal agencies
6 more data and insight into such re-
7 views and authorizations;

8 “(ii) enable—

9 “(I) application submission and
10 tracking portals used by project spon-
11 sors, enabling greater transparency;
12 and

13 “(II) public comment opportunity
14 tracking portals to increase trans-
15 parency;

16 “(iii) facilitate automated applica-
17 tions, environmental reviews, and author-
18 izations;

19 “(iv) allow data exchange between
20 Federal agency systems; and

21 “(v) accelerate complex environmental
22 reviews.

23 “(2) EPERMIT UNIFIED INTERAGENCY DATA
24 SYSTEM.—

1 “(A) EPERMIT UNIFIED INTERAGENCY
2 DATA SYSTEM.—To the maximum extent prac-
3 ticable, the Chairman and the head of each key
4 permitting agency shall iteratively develop and
5 maintain a unified interagency data system con-
6 sisting of interconnected Federal agency sys-
7 tems and shared services for environmental re-
8 views and authorizations.

9 “(B) AUTHORIZATION PORTAL.—

10 “(i) IN GENERAL.—The shared serv-
11 ices developed and maintained under sub-
12 paragraph (A) shall include a common
13 interactive, digital, cloud-based authoriza-
14 tion portal, which shall—

15 “(I) be designed in a manner
16 consistent with—

17 “(aa) the recommendations
18 of the Chairman included in the
19 study entitled ‘Council on Envi-
20 ronmental Quality Report to
21 Congress on the Potential for
22 Online and Digital Technologies
23 to Address Delays in Reviews
24 and Improve Public Accessibility

1 and Transparency under 42
2 U.S.C. 4332(2)(C)'; and

3 “(bb) the minimum func-
4 tional requirements;

5 “(II) serve as a platform for
6 tracking and displaying real-time data
7 on environmental reviews and author-
8 izations made available through appli-
9 cation programming interfaces or
10 other reporting mechanisms from
11 Federal agency systems that are com-
12 pliant with the data standards and
13 data architecture described in this
14 section;

15 “(III) be supported by a decen-
16 tralized, cross-network digital infra-
17 structure software that ensures ven-
18 dor neutrality and interoperability of
19 data and models across Federal agen-
20 cies;

21 “(IV) include a mechanism for
22 the dissemination of relevant informa-
23 tion (such as a notice of intent for
24 public comment, public meetings,
25 project statuses, or a notice of intent

1 to begin an environmental review) to
2 local communities, as applicable;

3 “(V) allow a project sponsor to
4 submit all necessary documentation
5 for environmental reviews and author-
6 izations in 1 unified and secure por-
7 tal;

8 “(VI) support interactive, digital,
9 and cloud-based tools enabling project
10 sponsors to edit documents and col-
11 laborate with relevant Federal agen-
12 cies in real time;

13 “(VII) support visual features,
14 including video, animation, geographic
15 information system displays, inter-
16 active maps, and three-dimensional
17 renderings;

18 “(VIII) provide for the exchange
19 of information to and from Federal
20 agency data systems via an applica-
21 tion programming interface or another
22 reporting mechanisms;

23 “(IX) allow for the submission of
24 geospatial data associated with project
25 location, footprint, and impact;

1 “(X) support automatic docu-
2 mentation of submission and process
3 timelines; and

4 “(XI) allow certain metrics to be
5 tracked over time, including—

6 “(aa) estimates of achieved
7 efficiencies, such as reductions in
8 the time between receipt of appli-
9 cations and final authorization
10 decisions;

11 “(bb) comparisons of au-
12 thorization timelines before and
13 after the implementation of the
14 Bipartisan American Afford-
15 ability and Jobs Act of 2026;

16 “(cc) usage of the authoriza-
17 tion portal and other statistics
18 from the Digital Analytics Pro-
19 gram of the General Services Ad-
20 ministration;

21 “(dd) metrics on the number
22 of public comments received, re-
23 sponses provided, and community
24 meetings held;

1 “(ee) the number of projects
2 subject to litigation based on au-
3 thorization deficiencies or ineffi-
4 ciencies;

5 “(ff) a list of Federal agen-
6 cies that are not yet fully compli-
7 ant with the data standards and
8 the minimum functional require-
9 ments, including their progress
10 toward compliance; and

11 “(gg) examples or reposi-
12 tories of Federal agency-devel-
13 oped digital workflows enabled by
14 the implementation of this Act,
15 including visualizations of data
16 sharing, authorizations and deci-
17 sion logic, and environmental re-
18 views.

19 “(ii) ADMINISTRATIVE SUPPORT.—
20 The Administrator of General Services
21 shall host the authorization portal as a
22 shared service for Congress, Federal agen-
23 cies, and the public.

24 “(iii) ACCESSIBILITY.—The authoriza-
25 tion portal shall be accessible to Congress,

1 Federal agencies, and the public, with ap-
2 propriate safeguards to protect sensitive or
3 classified information and information re-
4 stricted by user type as appropriate.

5 “(iv) PUBLIC ACCESSIBILITY.—To the
6 extent practicable and consistent with
7 other law, the authorization portal shall
8 provide public access to non-sensitive data,
9 including authorization timelines, location,
10 project type, environmental reviews, and
11 mitigation measures.

12 “(v) CONGRESSIONAL ACCESS AND
13 OVERSIGHT.—

14 “(I) IN GENERAL.—The author-
15 ization portal shall provide Congress
16 with direct access to aggregated per-
17 formance data and other analytics to
18 enable real-time oversight of Federal
19 agencies.

20 “(II) ARTIFICIAL INTELLIGENCE
21 SUPPORT SYSTEMS AND TRAINING MA-
22 TERIALS.—Congress shall have access
23 to the data, fine-tuning procedures,
24 and prompt configurations specifically
25 created or adapted for artificial intel-

intelligence systems used to support environmental review or authorization activities, excluding proprietary or general pre-training materials unrelated to such agency-specific customization.

6 “(III) TECHNICAL ASSIST-
7 ANCE.—The Chairman shall provide
8 to Congress technical assistance, on
9 request, to ensure effective use of the
10 authorization portal and artificial in-
11 telligence systems for oversight pur-
12 poses.

13 “(C) CYBERSECURITY AND COMPLIANCE
14 CONSIDERATIONS.—The authorization portal
15 shall be designed to promote vendor neutral
16 interoperability, reduce redundancy, and ensure
17 compliance and coordination with other laws,
18 including—

19 “(i) section 552a of title 5, United
20 States Code (commonly known as the ‘Pri-
21 vacy Act of 1974’);

22 “(ii) subchapter II of chapter 35 of
23 title 44, United States Code;

24 “(iii) the Federal Risk and Authoriza-
25 tion Management Program established by

1 section 3608 of title 44, United States
2 Code; and

3 “(iv) the Cybersecurity and Infra-
4 structure Security Agency of the Depart-
5 ment of Homeland Security, in any case in
6 which a project is in coordination with a
7 Federal agency with stringent security re-
8 quirements.

9 “(3) DEADLINES.—

10 “(A) SHARED SERVICES PILOT.—Not later
11 than 1 year after the date of enactment of the
12 Bipartisan American Affordability and Jobs Act
13 of 2026, the Chairman shall oversee piloting of
14 shared services for environmental reviews and
15 authorizations, including the authorization por-
16 tal under paragraph (2)(B).

17 “(B) UNIFIED SYSTEM DEVELOPMENT
18 AND IMPLEMENTATION.—To the maximum ex-
19 tent practicable, not later than December 1,
20 2028, the Chairman shall develop and imple-
21 ment the ePermit unified interagency data sys-
22 tem under paragraph (2).

23 “(e) AGENCY AND PERSONNEL PERFORMANCE.—

24 “(1) IN GENERAL.—The Chairman shall de-
25 velop outcome-based performance measures to assess

1 Federal agency performance and Federal agency
2 personnel performance with respect to environmental
3 reviews or other types of authorizations.

4 “(2) REQUIREMENTS.—In developing the per-
5 formance measures under paragraph (1), the Chair-
6 man shall—

7 “(A) coordinate with—

8 “(i) the agency CERPO for each key
9 permitting agency;

10 “(ii) the Performance Improvement
11 Officer for each key permitting agency;

12 “(iii) the Chief Human Capital Officer
13 for each key permitting agency;

14 “(iv) the Director of the Office of
15 Management and Budget; and

16 “(B) consider how eNEPA technologies as-
17 sist in the assessment of—

18 “(i) areas of high performance among
19 key permitting agencies for the purpose of
20 identifying successful strategies for meet-
21 ing performance goals that may be rep-
22 licated by other key permitting agencies;

23 “(ii) areas of poor performance among
24 the department, program, district, field, re-
25 gion, and other subsidiaries of each key

1 permitting agency for the purpose of pro-
2 viding additional support and oversight;

3 “(iii) areas of high performance
4 among the department, program, district,
5 field, region, and other subsidiaries of each
6 key permitting agency for the purpose of
7 identifying successful strategies for meet-
8 ing performance goals that may be rep-
9 licated within other offices of the Federal
10 agency; and

11 “(iv) opportunities for the Chairman
12 to expend funds from the Permitting Im-
13 provement Fund established by section
14 1133(a) of the Bipartisan American Af-
15 fordability and Jobs Act of 2026 to facili-
16 tate higher performance of agencies and
17 agency personnel with respect to environ-
18 mental reviews and authorizations.

19 “(f) **AUTHORITY TO ENTER INTO CONTRACTS.**—Sub-
20 ject to the availability of appropriations, the Chairman
21 may enter into contracts and other arrangements for anal-
22 yses, services, and products with Federal agencies, private
23 organizations, and businesses, and make such payments
24 as determined necessary by the Chairman to carry out this
25 section.

1 “(g) ANNUAL REPORT.—Not less frequently than an-
2 nually, the Chairman, in consultation with the Chief Infor-
3 mation Officers Council and other relevant Federal agen-
4 cies, as determined by the Chairman, shall submit to the
5 Committee on Environment and Public Works of the Sen-
6 ate and the Committee on Natural Resources of the House
7 of Representatives a report on—

8 “(1) the progress of the Chairman in developing
9 the ePermit unified interagency data system under
10 subsection (d)(2); and

11 “(2) the performance of each key permitting
12 agency under subsection (e), as compared to the pre-
13 vious year.

14 “(h) SAVINGS PROVISIONS.—

15 “(1) IN GENERAL.—Nothing in this section au-
16 thorizes the Chairman or a Federal agency to im-
17 pose additional regulatory processes or requirements
18 beyond those expressly stipulated under this Act or
19 any other law.

20 “(2) NO RESTRICTION.—To the extent that a
21 data system, technology, or tool developed or incor-
22 porated into a unified interagency data system under
23 this section is not limited by project type, the data
24 system, technology, or tool shall not have its use be
25 restricted by project type.

1 **“SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

2 “‘There is authorized to be appropriated to carry out
3 this Act \$5,000,000 for each fiscal year.’”.

4 (b) TECHNICAL AMENDMENT.—Section 202 of the
5 National Environmental Policy Act of 1969 (42 U.S.C.
6 4342) is amended, in the first sentence, by striking
7 “(hereinafter referred to as the ‘Council’)”.

8 **Subtitle C—Federal Permitting**
9 **Improvement**

10 **SEC. 1131. DEFINITIONS.**

11 In this subtitle:

12 (1) APPLICABLE DEADLINES.—The term “ap-
13 plicable deadlines” means the deadlines described in
14 section 107(g) of the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4336a(g)).

16 (2) APPLICABLE SCHEDULE.—The term “appli-
17 cable schedule” means the schedule established for a
18 transparency project under subsection (a)(1)(C)(iv)
19 of section 107 of the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4336a).

21 (3) NEPA TERMS.—The terms “authoriza-
22 tion”, “Chairman”, “Council”, “environmental as-
23 sessment”, “environmental impact statement”, “en-
24 vironmental review”, “key permitting agency”, “lead
25 agency”, “project sponsor”, and “statement of pur-
26 pose and need” have the meanings given those terms

1 in section 3 of the National Environmental Policy
2 Act of 1969.

3 (4) TRACKER.—The term “Tracker” means the
4 Environmental Review and Permitting Tracker re-
5 quired under section 1132.

6 (5) TRANSPARENCY PROJECT.—The term
7 “transparency project” means—

8 (A) a proposed agency action requiring the
9 preparation of an environmental impact state-
10 ment; or

11 (B) a proposed agency action requiring the
12 preparation of an environmental assessment
13 that has not been completed by the date that is
14 13 months after the deadline established for the
15 project under paragraph (1)(A) of section
16 107(g) of the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4336a(g)).

18 **SEC. 1132. ENVIRONMENTAL REVIEW AND PERMITTING**
19 **TRACKER.**

20 (a) IN GENERAL.—The Chairman, in coordination
21 with the General Services Administration, shall maintain
22 an online database, to be known as the “Environmental
23 Review and Permitting Tracker”, to track the status of
24 Federal environmental reviews and authorizations for each
25 transparency project.

1 (b) LIST OF TRANSPARENCY PROJECTS.—The
2 Tracker shall include an up-to-date list of all transparency
3 projects.

4 (c) CREATION OF TRACKER ENTRIES.—

5 (1) IN GENERAL.—The Chairman shall create a
6 specific entry on the Tracker for a transparency
7 project not later than—

8 (A) in the case of a transparency project
9 described in section 1131(5)(A), the date that
10 is 14 days after the date on which a notice of
11 intent to prepare an environmental impact
12 statement for that transparency project is pub-
13 lished in the Federal Register in accordance
14 with section 107(c) of the National Environ-
15 mental Policy Act of 1969 (42 U.S.C.
16 4336a(c)); and

17 (B) in the case of a transparency project
18 described in section 1131(5)(B), the date that
19 is 13 months and 14 days after the deadline es-
20 tablished for that transparency project under
21 paragraph (1)(A) of section 107(g) of the Na-
22 tional Environmental Policy Act of 1969 (42
23 U.S.C. 4336a(g)).

24 (2) SPECIFIC AND SEARCHABLE ENTRY.—Each
25 entry of the Tracker shall include a specific and

1 searchable entry for each transparency project listed
2 on the Tracker in accordance with paragraph (1).

3 (3) EXCLUSIONS.—Any environmental review
4 relating to an action taken by a Federal agency to
5 develop a rule under subchapter II of chapter 5 and
6 chapter 7 of title 5, United States Code (commonly
7 known as “Administrative Procedure Act”), shall
8 not be included on the Tracker.

9 (d) CONTENT OF TRACKER POSTINGS.—

10 (1) TRANSPARENCY PROJECTS.—For each
11 transparency project added to the Tracker under
12 subsection (c)(1), the Chairman shall post the most
13 up-to-date information, including—

14 (A) a description of the location and major
15 features of the transparency project;

16 (B) the statement of purpose and need for
17 the transparency project, consistent with section
18 107(d) of the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4336a(d));

20 (C) contact information, including the
21 email address, of—

22 (i) a representative of the project
23 sponsor of the transparency project; and

24 (ii) a representative of the lead agency
25 for the transparency project;

1 (D) the status of the compliance of each
2 agency with respect to the applicable schedule
3 and applicable deadlines for the transparency
4 project, to be updated quarterly, including each
5 modification of the applicable schedule, which
6 shall describe—

7 (i) an explanation of each modifica-
8 tion, including whether the modification is
9 due to a delay on the part of an agency or
10 the project sponsor;

11 (ii) the time period modified from the
12 originally projected applicable schedule;
13 and

14 (iii) any subsequent modifications
15 from prior modifications, including whether
16 such subsequent modification is due to a
17 delay on the part of an agency or the
18 project sponsor; and

19 (E) a description of the status of any liti-
20 gation that is directly related to the trans-
21 parency project, including, if practicable, any
22 judicial document made available on an elec-
23 tronic docket maintained by a Federal, State,
24 or local court.

1 (2) PUBLICATION.—All information described
2 in this subsection shall be posted on the website of
3 the Council not later than 7 days after the date on
4 which the lead agency or the Chairman receives the
5 information.

6 **SEC. 1133. PERMITTING IMPROVEMENT FUND.**

7 (a) ESTABLISHMENT.—There is established in the
8 Treasury of the United States a fund, to be known as the
9 “Permitting Improvement Fund” (referred to in this sec-
10 tion as the “Fund”).

11 (b) PURPOSE.—The purpose of the Fund is to im-
12 prove the performance of key permitting agencies with re-
13 spect to timely environmental reviews and authorizations
14 required under the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.).

16 (c) TRANSFER AUTHORITY.—Amounts in the Fund
17 shall be available to the Chairman to transfer to a key
18 permitting agency for 1 or more uses described in sub-
19 section (d).

20 (d) USE OF AMOUNTS.—Amounts transferred under
21 subsection (c) shall be used by a key permitting agency—

22 (1) to support interagency detailee and rotation
23 opportunities;

24 (2) to facilitate professional development;

1 (3) to enhance support for agency project man-
2 agers;

3 (4) to support standardizing processes among
4 regional and field offices;

5 (5) to improve opportunities for public engage-
6 ment; or

7 (6) for any other use, as determined by the
8 Chairman, consistent with the purpose of the Fund.

9 (e) EFFECT ON DECISIONMAKING.—The use of funds
10 under subsection (d) by a key permitting agency shall not
11 impact the impartial decisionmaking of the key permitting
12 agency with respect to environmental reviews or authoriza-
13 tions, either procedurally or substantively.

14 (f) AUTHORIZATION OF APPROPRIATION.—There is
15 authorized to be appropriated to the Fund \$20,000,000
16 for each of fiscal years 2027 through 2033.

17 **TITLE II—CLEAN WATER ACT**

18 **SEC. 1201. WATER QUALITY CRITERIA.**

19 (a) ADMINISTRATIVE PROCEDURE.—Section 304(a)
20 of the Federal Water Pollution Control Act (33 U.S.C.
21 1314(a)) is amended by adding at the end the following:

22 “(10) ADMINISTRATIVE PROCEDURE.—In devel-
23 oping any criterion under this subsection, the Ad-
24 ministrator shall carry out a rulemaking under sec-
25 tion 553 of title 5, United States Code.”.

1 (b) JUDICIAL REVIEW.—Section 509(b)(1) of the
2 Federal Water Pollution Control Act (33 U.S.C.
3 1369(b)(1)) is amended, in the first sentence—

4 (1) by striking “402, and (G)” and inserting
5 “402, (G)”; and

6 (2) by inserting “(H) in finalizing any criteria
7 under section 304(a), and (I) in defining the scope
8 of the term ‘waters of the United States’ for pur-
9 poses of this Act,” after “section 304(l),”.

10 **SEC. 1202. CLEAN WATER ACT PERMITTING AND STATE**
11 **CERTIFICATION.**

12 Section 401 of the Federal Water Pollution Control
13 Act (33 U.S.C. 1341) is amended by adding at the end
14 the following:

15 “(e) CERTIFICATION PROCEDURES, REQUIREMENTS,
16 AND LIMITATIONS.—

17 “(1) EFFECT OF CERTAIN CERTIFICATION AC-
18 TIONS.—

19 “(A) CERTIFICATION OR WAIVER.—If a
20 certifying authority grants a certification appli-
21 cation or if a certifying authority waives the
22 certification requirement for a certification ap-
23 plication, the agency with jurisdiction over the
24 Federal license or permit for which the certifi-
25 cation application was made shall consider

1 water quality requirements satisfied for the
2 purpose of considering the application for the
3 Federal license or permit.

4 “(B) CERTIFICATION WITH CONDITIONS.—

5 “(i) IN GENERAL.—If a certifying au-
6 thority grants a certification application
7 with conditions, the agency with jurisdic-
8 tion over the Federal license or permit for
9 which the certification application was
10 made shall consider water quality require-
11 ments satisfied for the purpose of consid-
12 ering the application for the Federal li-
13 cense or permit, subject to the conditions
14 included in the certification.

15 “(ii) SAVINGS CLAUSE.—Nothing in
16 this subparagraph affects paragraph
17 (2)(B).

18 “(2) SCOPE OF CERTIFICATION.—

19 “(A) IN GENERAL.—The scope of a certifi-
20 cation provided under this section shall be lim-
21 ited to ensuring compliance with water quality
22 requirements.

23 “(B) PROHIBITION.—In reviewing a cer-
24 tification application, no certifying authority
25 may—

1 “(i) deny certification for any reason
2 other than making a determination by
3 clear and convincing evidence that no
4 modification to or reasonable condition on
5 the certification would make it possible to
6 grant the certification without violating
7 water quality requirements; or

8 “(ii) grant certification with condi-
9 tions, except for conditions that the certi-
10 fying authority determines by clear and
11 convincing evidence are—

12 “(I) necessary to ensure compli-
13 ance with water quality requirements;

14 “(II) the least burdensome condi-
15 tions to ensure compliance with water
16 quality requirements; and

17 “(III) consistent with the re-
18 quirements of the Federal license or
19 permit for which the certification ap-
20 plication was made.

21 “(C) SAVINGS PROVISION.—Nothing in
22 this paragraph allows a Federal licensing or
23 permitting agency to refuse to include condi-
24 tions from a certifying authority in a Federal li-
25 cense or permit if the conditions are necessary

1 to ensure compliance with water quality re-
2 quirements.

3 “(3) REQUIRED PROCEDURES.—

4 “(A) NOTICE AND HEARINGS.—Taking
5 into account State or Tribal law, as appro-
6 priate, and the review period described in para-
7 graph (4), each certifying authority shall estab-
8 lish procedures for—

9 “(i) public notice in the case of all
10 certification applications;

11 “(ii) to the extent the certifying au-
12 thority determines to be appropriate, pub-
13 lic hearings in connection with specific cer-
14 tification applications; and

15 “(iii) a prefiling meeting as described
16 in subparagraph (B).

17 “(B) PREFILING MEETING.—

18 “(i) REQUEST.—Before submitting a
19 certification application, the prospective
20 applicant may request a prefiling meeting
21 with the certifying authority—

22 “(I) to ensure that the certifying
23 authority receives early notification of
24 projects for which a certification
25 under subsection (a) is necessary; and

1 “(II) to discuss informational
2 needs with the certifying authority be-
3 fore submitting the application.

4 “(ii) RESPONSE REQUIRED.—If a pro-
5 spective applicant requests a prefiling
6 meeting with a certifying authority pursu-
7 ant to clause (i), the certifying authority
8 shall—

9 “(I) respond to the request not
10 later than 30 days after the date on
11 which the request is received; and

12 “(II) hold the prefiling meeting
13 with the prospective applicant not
14 later than 60 days after the date on
15 which the request is received.

16 “(C) CERTIFICATION APPLICATIONS.—

17 “(i) APPLICATION IN WRITING.—A
18 certification application shall be made in
19 writing to the applicable certifying author-
20 ity.

21 “(ii) REQUIREMENTS FOR COMPLETE
22 APPLICATION.—A complete certification
23 application shall consist of the following:

24 “(I) Identification of each appli-
25 cant for the Federal license or permit

1 with respect to which the certification
2 application is made.

3 “(II) A statement that informa-
4 tion included in the certification appli-
5 cation is truthful, accurate, and com-
6 plete, to the best knowledge of each
7 such applicant.

8 “(III) In the case of a certifi-
9 cation application with respect to an
10 individual permit or license—

11 “(aa) identification of the
12 Federal license or permit that is
13 the subject of the certification
14 application with respect to which
15 the certification is requested;

16 “(bb) identification of any
17 activity the conduct of which is
18 subject to the Federal license or
19 permit;

20 “(cc) identification of the lo-
21 cation and nature of any dis-
22 charge that may result from the
23 activity, and the location of the
24 receiving waters;

1 “(dd) a description of means
2 that may be used to monitor,
3 control, or manage any such dis-
4 charge; and

5 “(ee) a list of all other Fed-
6 eral, interstate, Tribal, State, or
7 local agency authorizations re-
8 lated to the requirement for a
9 certification under subsection (a),
10 and any approval or denial of
11 such an authorization already re-
12 ceived.

13 “(IV) Any additional materials
14 required by the applicable certifying
15 authority pursuant to clause (iii), sub-
16 ject to the condition that the addi-
17 tional materials shall only be required
18 with respect to certification applica-
19 tions submitted after the date on
20 which the regulation described in that
21 clause has been promulgated.

22 “(iii) ADDITIONAL MATERIALS.—

23 “(I) IN GENERAL.—A certifying
24 authority may promulgate regulations
25 establishing materials to be required

1 in completed certification applications
2 in addition to the materials described
3 in subclauses (I) through (III) of
4 clause (ii) that the certifying author-
5 ity determines are necessary to dem-
6 onstrate to the certifying authority
7 compliance with water quality require-
8 ments.

9 “(II) REQUIREMENT.—In pro-
10 mulgating regulations under subclause
11 (I), a certifying authority shall only
12 base the determination regarding
13 what additional materials are needed
14 on what can reasonably be expected of
15 an applicant at the time at which a
16 certification application is submitted.

17 “(III) EFFECT OF FAILURE TO
18 PROMULGATE.—If a certifying author-
19 ity fails to promulgate regulations
20 under subclause (I), a certification ap-
21 plication to that certifying authority
22 shall be considered complete if the
23 certification application includes all of
24 the items described in subclauses (I)
25 through (III) of clause (ii).

“(iv) ACKNOWLEDGMENT OF RECEIPT.—Not later than 3 days after the date on which an applicant submits to a certifying authority a certification application for an individual Federal license or permit, the certifying authority shall acknowledge receipt of the certification application in writing.

“(v) NOTIFICATION OF COMPLETE APPLICATION OR IDENTIFICATION OF MISSING MATERIALS.—Not later than 90 days after the date on which a certifying authority acknowledges receipt of a certification application under clause (iv), the certifying authority shall—

“(I) provide the applicant a written notification that the certification application is complete; or

“(II) identify to the applicant in writing all specific additional materials or information described in clause (ii) necessary for the certification application to be considered complete, including, for each such additional piece of material or informa-

tion, a description of the water quality requirement for which the additional material or information is needed in order to evaluate compliance with that water quality requirement.

“(vi) PETITION TO COURT.—

“(I) RIGHT TO PETITION.—An applicant may petition for judicial review of an alleged failure by a certifying authority to act in accordance with clauses (ii) through (v) by filing a written petition in a court of competent jurisdiction.

“(II) CONSIDERATIONS.—In reviewing a petition under this subclause, a reviewing court shall consider—

“(aa) the administrative record, which shall consist of the materials required to be submitted under clause (ii);

“(bb) any materials or information identified by certifying authority as missing pursuant to

1 a notification under clause
2 (v)(II);

3 “(cc) the information sub-
4 mitted by the applicant to the
5 certifying authority; and

6 “(dd) any evidence pre-
7 sented to the court by the appli-
8 cant that suggests that the de-
9 fense of the certifying authority
10 to the petition is pretextual.

11 “(III) COURT ORDER.—If a
12 court, in reviewing a petition under
13 this clause, finds that a certifying au-
14 thority has failed to act in accordance
15 with any of clauses (ii), (iv), and (v),
16 the court shall provide injunctive re-
17 lief, as appropriate, to give effect to
18 this section.

19 “(D) DENIALS OF CERTIFICATION FOR IN-
20 DIVIDUAL LICENSE OR PERMIT.—If a certifying
21 authority denies a certification application for
22 an individual license or permit, the certifying
23 authority shall provide to the applicant and the
24 applicable Federal licensing or permitting agen-
25 cy—

1 “(i) the specific water quality require-
2 ments that the certifying authority deter-
3 mined will be violated if certification were
4 granted;

5 “(ii) a statement explaining why the
6 certifying authority determined the identi-
7 fied water quality requirements will be vio-
8 lated; and

9 “(iii) if the denial is due to insuffi-
10 cient information, a description of the spe-
11 cific water quality data or information, if
12 any, that would be needed to evaluate
13 whether granting certification will comply
14 with water quality requirements.

15 “(4) REVIEW PERIOD.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C) and in consultation with each certi-
18 fying authority, a licensing or permitting agen-
19 cy shall, categorically or on a case-by-case basis
20 for each certification application, establish a
21 reasonable period of time (not to exceed 1 year
22 from the date of receipt of the certification ap-
23 plication) within which a certifying authority
24 shall issue a final action on the certification ap-
25 plication, which shall account for time required

1 under applicable State or Tribal law for public
2 notice and comment periods, if any.

3 “(B) FAILURE TO ACT.—If a certifying au-
4 thority fails or refuses to issue a final action as
5 described in paragraph (6) on a certification
6 application by the end of the reasonable period
7 of time established under subparagraph (A) and
8 the reasonable period of time has not been ex-
9 tended in accordance with subparagraph (C),
10 the requirement for a certification under sub-
11 section (a) shall be waived, except that the rea-
12 sonable period of time shall restart in the event
13 that the certification application is voluntarily
14 withdrawn by the applicant and the applicant
15 submits a new certification application.

16 “(C) REQUIREMENT FOR EXTENSION.—
17 With respect to a certification application, the
18 reasonable period of time established under sub-
19 paragraph (A) may only be extended if—

20 “(i) the extension is requested, in
21 writing, by the applicant; and

22 “(ii) the certifying authority concurs,
23 in writing, with the extension.

24 “(5) WAIVER OF CERTIFICATION REQUIRE-
25 MENT.—

1 “(A) IN GENERAL.—A certifying authority
2 may, at any time during the reasonable period
3 of time described in paragraph (4), affirma-
4 tively waive the requirement for a certification
5 under subsection (a).

6 “(B) NO JUDICIAL REVIEW.—Notwith-
7 standing any other provision of Federal law, in-
8 cluding any provision of this section, a waiver
9 of the requirement for a certification under this
10 section shall not be subject to judicial review.

11 “(6) FINAL ACTION.—Not later than the date
12 on which the reasonable period of time established
13 under paragraph (4) for a certification application
14 ends or on the date of a waiver pursuant to para-
15 graph (5)(A), as applicable, the certifying authority
16 shall apply only 1 of the following final actions to
17 the certification application:

18 “(A) The certification application is grant-
19 ed.

20 “(B) The certification application is grant-
21 ed with conditions.

22 “(C) The certification application is de-
23 nied.

24 “(D) The certification requirements under
25 subsection (a) have been waived in accordance

1 with paragraph (4) or (5) with respect to the
2 certification application.

3 “(f) JUDICIAL REVIEW.—

4 “(1) BURDENS OF PROOF.—When reviewing a
5 denial of a certification under this section, a court
6 shall place the burden of proof on the certifying au-
7 thority to demonstrate, by clear and convincing evi-
8 dence, that no reasonable modifications to or reason-
9 able conditions on the certification would make it
10 possible to grant the certification without violating
11 water quality requirements.

12 “(2) CONDITIONS.—When reviewing a challenge
13 to 1 or more conditions required by a certifying au-
14 thority under this section, a court shall place the
15 burden of proof on the certifying authority to dem-
16 onstrate, by clear and convincing evidence, that the
17 1 or more challenged conditions are—

18 “(A) necessary to allow the certification to
19 be made without violating water quality require-
20 ments;

21 “(B) the least burdensome condition or set
22 of conditions for avoiding violation of water
23 quality requirements; and

1 “(C) consistent with the requirements of
2 the Federal license or permit that is the subject
3 of the certification.

4 “(g) SPECIAL RULE FOR CERTAIN CERTIFI-
5 CATIONS.—

6 “(1) DEFINITION OF INTERSTATE TRANS-
7 MISSION LINE PROJECT.—In this subsection, the
8 term ‘interstate transmission line project’ means a
9 project for the construction, modification, or up-
10 grade of a transmission facility that is part of the
11 bulk-power system (as defined in section 215(a) of
12 the Federal Power Act (16 U.S.C. 824o(a))).

13 “(2) LIMITATION ON CERTIFICATION REQUIRE-
14 MENTS FOR CERTAIN INTERSTATE LINEAR INFRA-
15 STRUCTURE.—Notwithstanding the first sentence of
16 subsection (a)(1), any applicant for a certificate of
17 public convenience and necessity for a project under
18 section 7 of the Natural Gas Act (15 U.S.C. 717f)
19 or a Federal authorization or permit required to
20 construct, modify, or operate an interstate trans-
21 mission line project that may result in a direct point
22 source discharge into the waters of the United
23 States shall provide to the Federal licensing or per-
24 mitting agency a certification from a certifying au-

1 thority that such direct point source discharge com-
2 plies with water quality requirements.

3 “(3) CERTIFICATION OF NO LIMITATION AND
4 STANDARD.—In the case of any direct point source
5 discharge described in this subsection for which
6 there is not an applicable effluent limitation or other
7 limitation under sections 301(b) and 302 and for
8 which there is not an applicable standard under sec-
9 tions 306 and 307, the certifying authority shall so
10 certify, except that such a certification shall not sat-
11 isfy section 511(c).

12 “(4) REVIEW FOR COMPLIANCE.—Notwith-
13 standing subsection (a)(4)—

14 “(A) prior to the initial operation of any
15 federally licensed or permitted facility or activ-
16 ity that may result in a direct point source dis-
17 charge into the waters of the United States and
18 with respect to which a certification has been
19 obtained pursuant to this subsection, which fa-
20 cility or activity is not subject to a Federal op-
21 erating license or permit, the licensee or per-
22 mittee shall provide an opportunity for the cer-
23 tifying authority to review the manner in which
24 the facility or activity shall be operated or con-
25 ducted for the purposes of assuring that appli-

1 cable effluent limitations or other limitations or
2 other applicable water quality requirements will
3 not be violated;

4 “(B) on notification by the certifying au-
5 thority that the operation of any federally li-
6 censed or permitted facility or activity described
7 in subparagraph (A) will violate applicable ef-
8 fluent limitations or other limitations or other
9 water quality requirements, the applicable Fed-
10 eral agency may, after public hearing, suspend
11 the Federal license or permit; and

12 “(C) if a Federal license or permit is sus-
13 pended pursuant to subparagraph (B), the Fed-
14 eral license or permit shall remain suspended
15 until notification is received from the certifying
16 authority that there is reasonable assurance
17 that the facility or activity will not violate the
18 applicable provisions of sections 301, 302, 303,
19 306, and 307.

20 “(5) LIMITATION AND MONITORING REQUIRE-
21 MENTS OF CERTAIN LINEAR INFRASTRUCTURE CER-
22 TIFICATIONS.—Notwithstanding subsection (d)—

23 “(A) any certification provided under this
24 subsection shall set forth any effluent limita-
25 tions and other limitations and monitoring re-

1 quirements necessary to assure that any direct
2 point source discharge subject to this subsection
3 will comply with the applicable provisions of
4 sections 301, 302, 303, 306, and 307; and

5 “(B) any limitations and requirements set
6 forth pursuant to subparagraph (A) shall be
7 imposed by the licensing or permitting agency
8 as a condition on any Federal license or permit
9 subject to the provisions of this section.

10 “(6) REASONABLE PERIOD OF TIME.—Notwith-
11 standing the periods of time in subsections (a)(1)
12 and (e)(4), a licensing or permitting agency shall,
13 categorically or on a case-by-case basis for each cer-
14 tification application, establish a reasonable period
15 of time (not to exceed 9 months from the date of re-
16 ceipt of the certification application) within which a
17 certifying authority shall issue a final action on the
18 certification application under this subsection, which
19 shall account for the time required under applicable
20 State or Tribal law for public notice and comment
21 periods.

22 “(h) DEFINITIONS.—In this section:

23 “(1) CERTIFICATION APPLICATION.—The term
24 ‘certification application’ means a request from an

1 applicant for a certification described in subsection
2 (a).

3 “(2) CERTIFYING AUTHORITY.—The term ‘cer-
4 tifying authority’, with respect to a certification ap-
5 plication, means, as applicable—

6 “(A) the State or interstate agency to
7 which the certification application was sub-
8 mitted, including an Indian Tribe that is treat-
9 ed as a State for purposes of this section pursu-
10 ant to section 131.8 of title 40, Code of Federal
11 Regulations; or

12 “(B) if no State or interstate agency has
13 the authority to provide the certification de-
14 scribed in subsection (a), the Administrator.

15 “(3) WATER QUALITY REQUIREMENTS.—The
16 term ‘water quality requirements’ means—

17 “(A) the applicable provisions of sections
18 301, 302, 303, 306, and 307; and

19 “(B) any Federal and State or Tribal laws
20 (including regulations) implementing sections
21 301, 302, 303, 306, and 307 that are applicable
22 to discharges into waters of the United
23 States.”.

1 **SEC. 1203. PERMIT TERM FOR NPDES PERMITS.**

2 Section 402(b)(1)(B) of the Federal Water Pollution
3 Control Act (33 U.S.C. 1342(b)(1)(B)) is amended by
4 striking “five years” and inserting “10 years”.

5 **SEC. 1204. PERMITS FOR DREDGED OR FILL MATERIAL.**

6 (a) REDUCING PERMITTING UNCERTAINTY.—

7 (1) IN GENERAL.—Section 404(c) of the Fed-
8 eral Water Pollution Control Act (33 U.S.C.
9 1344(c)) is amended—

10 (A) by striking “(c) The Administrator”
11 and inserting the following:

12 “(c) SPECIFICATION OR USE OF DEFINED AREA.—

13 “(1) IN GENERAL.—The Administrator”;

14 (B) in paragraph (1) (as so designated), by
15 inserting “during the period described in para-
16 graph (2) and” before “after notice and oppor-
17 tunity for public hearings”; and

18 (C) by adding at the end the following:

19 “(2) PERIOD OF PROHIBITION.—The period
20 during which the Administrator may prohibit the
21 specification (including the withdrawal of specifica-
22 tion) of any defined area as a disposal site, or deny
23 or restrict the use of any defined area for specifica-
24 tion (including the withdrawal of specification) as a
25 disposal site, under paragraph (1)—

1 “(A) begins on the date on which an appli-
2 cant submits a complete application under this
3 section; and

1 (B) in subparagraph (A) (as so des-
2 ignated), by striking “five years” and inserting
3 “10 years”; and

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

5 “(B) TIMING OF MODIFICATION.—The
6 Secretary may modify a general permit pursu-
7 ant to subparagraph (A) during the term of the
8 general permit or during the renewal of the
9 general permit.”; and

10 (3) by adding at the end the following:

11 “(3) CONSIDERATIONS.—In determining the en-
12 vironmental effects of an activity under paragraph
13 (1) or (2), the Secretary—

14 “(A) shall consider only the effects on
15 compliance with water quality requirements (as
16 defined in section 401(h)) of any discharge of
17 dredged or fill material resulting from the activ-
18 ity; and

19 “(B) shall consider any effects of a dis-
20 charge of dredged or fill material into less than
21 2 acres of navigable waters to be a minimal ad-
22 verse environmental effect.

23 “(4) NATIONWIDE PERMITS FOR ACTIVITIES.—

24 “(A) GENERAL PERMITS AUTHORIZED.—

25 Notwithstanding any other provision of this sec-

tion, the Secretary shall maintain general permits on a nationwide basis for activities described in subparagraph (B).

“(B) ACTIVITIES DESCRIBED.—An activity referred to in subparagraph (A) is an activity—

“(i) authorized under Nationwide Permit 12, Nationwide Permit 14, Nationwide Permit 43, Nationwide Permit 57, or Nationwide Permit 58, as those nationwide permits are described in and reissued pursuant to the final rule of the Corps of Engineers entitled ‘Reissuance and Modification of Nationwide Permits’ (91 Fed. Reg. 768 (January 8, 2026)); and

“(ii) that results in a discharge of dredged or fill material into less than 2 acres of navigable waters for each single and complete project (as defined in section 330.2 of title 33, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), including a single and complete linear project and a single and complete non-linear project (as those terms are defined in the final rule of the Corps of Engineers entitled ‘Reissuance and

1 Modification of Nationwide Permits’ (91
2 Fed. Reg. 768 (January 8, 2026))).

3 “(C) RETENTION OF GENERAL AND INDI-
4 VIDUAL PERMITTING AUTHORITY.—Nothing in
5 this paragraph prohibits the Secretary from
6 issuing—

7 “(i) general permits on a regional or
8 State basis; or

9 “(ii) individual permits for linear in-
10 frastructure projects.

11 “(5) REISSUANCE OF NATIONWIDE PERMITS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), in determining whether to reissue a
14 general permit issued on a nationwide basis
15 under this subsection—

16 “(i) no consultation with an applicable
17 State pursuant to section 6(a) of the En-
18 dangered Species Act of 1973 (16 U.S.C.
19 1535(a)) is required;

20 “(ii) no consultation with a Federal
21 agency pursuant to section 7(a)(2) of that
22 Act (16 U.S.C. 1536(a)(2)) is required;

23 “(iii) the requirements of section
24 102(2)(C) of the National Environmental
25 Policy Act of 1969 (42 U.S.C. 4332(2)(C))

1 shall be satisfied by preparing a pro-
2 grammatic environmental assessment with
3 respect to the general permit; and

4 “(iv) no consultation under section
5 306108 of title 54, United States Code, is
6 required.

7 “(B) REQUIREMENT.—Clauses (i) through
8 (iv) of subparagraph (A) shall only apply to a
9 general permit being reissued pursuant to that
10 subparagraph if the general permit does not—

11 “(i) narrow or eliminate
12 preconstruction requirements; or

13 “(ii) raise the threshold for such
14 preconstruction requirements.”.

15 **SEC. 1205. JUDICIAL REVIEW TIMELINE CLARITY.**

16 Section 404 of the Federal Water Pollution Control
17 Act (33 U.S.C. 1344) is amended—

18 (1) in subsection (t), by striking “(t) Nothing
19 in this section” and inserting the following:

20 “(u) SAVINGS PROVISION.—Nothing in this section”;
21 and

22 (2) by inserting after subsection (s) the fol-
23 lowing:

24 “(t) JUDICIAL REVIEW.—

1 “(1) STATUTE OF LIMITATIONS.—Notwith-
2 standing any applicable provision of law relating to
3 statutes of limitations—

4 “(A) an action seeking judicial review,
5 under subchapter II of chapter 5, and chapter
6 7, of title 5, United States Code (commonly
7 known as the ‘Administrative Procedure Act’),
8 or any other applicable provision of law, of the
9 approval by the Administrator of a State permit
10 program pursuant to this section shall be filed
11 not later than the date that is 150 days after
12 the date on which the approval was issued, un-
13 less a shorter time period is otherwise provided
14 for by law;

15 “(B) an action seeking judicial review,
16 under subchapter II of chapter 5, and chapter
17 7, of title 5, United States Code (commonly
18 known as the ‘Administrative Procedure Act’),
19 or any other applicable provision of law, of an
20 individual permit or general permit issued
21 under this section shall be filed not later than
22 the date that is 150 days after the date on
23 which the permit was issued, unless a shorter
24 time period is otherwise provided for by law;
25 and

1 “(II) that is sufficiently detailed
2 to put the Administrator, the Sec-
3 retary, or the State, as applicable, on
4 notice of the issue on which the party
5 seeks judicial review; and

6 “(ii) is related to that comment.

7 “(B) LIMITATION.—The limitation under
8 subparagraph (A) shall only apply to actions for
9 which—

10 “(i) a draft of the action was pub-
11 lished in the Federal Register; and

12 “(ii) the applicable agency provided a
13 public comment period of not less than 30
14 days.

15 “(3) REMEDIES FOR ACTIONS RELATING TO
16 PERMITS.—If a court determines that the Secretary
17 or a State, as applicable, did not comply with the re-
18 quirements of this section in issuing an individual or
19 general permit under this section, or in verifying
20 that an activity involving a discharge of dredged or
21 fill material is authorized by a general permit issued
22 under this section, or otherwise was arbitrary and
23 capricious under subchapter II of chapter 5, and
24 chapter 7, of title 5, United States Code (commonly

1 known as the ‘Administrative Procedure Act’), as
2 applicable—

3 “(A) the court shall remand the matter to
4 the Secretary or the State, as applicable, for
5 further proceedings consistent with the deter-
6 mination of the court;

7 “(B) with respect to a determination re-
8 garding the issuance of an individual or general
9 permit under this section, the court may not va-
10 cate, revoke, enjoin, or otherwise limit the per-
11 mit unless the court finds that activities author-
12 ized under the permit would present an immi-
13 nent and substantial danger to human health or
14 the environment for which there is no other eq-
15 uitable remedy available under the law; and

16 “(C) with respect to a determination re-
17 garding a verification that an activity involving
18 a discharge of dredged or fill material is au-
19 thorized by a general permit issued under this
20 section, the court may not enjoin or otherwise
21 limit the discharge unless the court finds that
22 the activity would present an imminent and
23 substantial danger to human health or the envi-
24 ronment for which there is no other equitable
25 remedy available under the law.

1 “(4) TIMELINE TO ACT ON COURT ORDER.—If
2 a court remands a matter under paragraph (3), the
3 court shall set and enforce a reasonable schedule
4 and deadline, which may not exceed 180 days from
5 the date on which the court remands the matter, ex-
6 cept as otherwise required by law, for the Adminis-
7 trator, the Secretary, or the State, as applicable, to
8 take such actions as the court may order.”.

9 **TITLE III—ENDANGERED**
10 **SPECIES ACT OF 1973**

11 **SEC. 1301. DEFINITIONS.**

12 Section 3 of the Endangered Species Act of 1973 (16
13 U.S.C. 1532) is amended—

14 (1) by redesignating paragraphs (2) through
15 (10) as paragraphs (3) through (11), respectively;

16 (2) by inserting after paragraph (1) the fol-
17 lowing:

18 “(2) The terms ‘best scientific and commercial
19 data available’ and ‘best scientific data available’—

20 “(A) mean all relevant and objective sci-
21 entific and commercial information available at
22 the time of the agency action; and

23 “(B) include credible and reliable data,
24 quantitative analyses, conceptual and numerical
25 models, and model results that—

1 “(i) account for known or potential
2 sources of error;

3 “(ii) are applied using prevailing prin-
4 ciples, methods, tools, and professional
5 standards of practice; and

6 “(iii) are impartially gathered and ob-
7 jectively applied without presumptions or
8 policy prescriptions that bias the applica-
9 tion.”; and

10 (3) in paragraph (17), by striking “the Trust
11 Territory of the Pacific Islands” and inserting “the
12 Commonwealth of the Northern Mariana Islands”.

13 **SEC. 1302. TIMELINE FOR SECTION 7 CONSULTATIONS.**

14 Section 7(b)(1) of the Endangered Species Act of
15 1973 (16 U.S.C. 1536(b)(1)) is amended—

16 (1) in subparagraph (A), by striking “90-day”
17 and inserting “60-day”;

18 (2) in subparagraph (B)—

19 (A) in the matter preceding clause (i)—

20 (i) by striking “90 days” and insert-
21 ing “60 days”; and

22 (ii) by striking “90th day” and insert-
23 ing “60th day”;

1 (B) in clause (i), in the matter preceding
2 subclause (I), by striking “150th day” and in-
3 serting “100th day”;

4 (C) in clause (ii), by striking “150 or
5 more” and inserting “100 or more”; and

6 (D) in the undesignated matter following
7 clause (ii)—

8 (i) by striking “the preceding sen-
9 tence” and inserting “subparagraph (B)”;
10 and

11 (ii) by striking “The Secretary” and
12 inserting the following:

13 “(C) The Secretary”; and

14 (3) by inserting after subparagraph (C) (as so
15 designated) the following:

16 “(D) If the consultation period proposed to be
17 agreed to between the Secretary and the Federal
18 agency under subparagraph (B) extends beyond 145
19 days and the Secretary and the Federal agency have
20 not provided a written statement to, or obtained con-
21 sent from, a permit or license applicant under clause
22 (i) or (ii), as applicable, of that subparagraph during
23 such period, the applicant shall be eligible for relief
24 under section 706(1) of title 5, United States Code.

1 “(E)(i) In the case of an agency action that re-
2 quires the preparation of an environmental docu-
3 ment (as defined in section 3 of the National Envi-
4 ronmental Policy Act of 1969), the consultation
5 process under subsection (a)(2) shall be completed
6 by not later than the date on which the applicable
7 environmental document (as so defined) for the
8 agency action is completed in accordance with sec-
9 tion 107(g) of the National Environmental Policy
10 Act of 1969 (42 U.S.C. 4336a(g)), unless the Sec-
11 retary approves an extension of the deadline due to
12 extraordinary circumstances beyond the control, and
13 not due to any action, of the consulting parties.

14 “(ii) The requirement under clause (i) shall not
15 be construed to extend the deadlines described in
16 subparagraphs (A) through (D).”.

17 **SEC. 1303. PROJECTS IN THE OPERATIONAL RIGHT-OF-WAY.**

18 Section 7 of the Endangered Species Act of 1973 (16
19 U.S.C. 1536) is amended by adding at the end the fol-
20 lowing:

21 “(q) **PROJECTS IN THE OPERATIONAL RIGHT-OF-**
22 **WAY.**—Notwithstanding subsections (g) and (h), any
23 project that is categorically excluded from the require-
24 ments of the National Environmental Policy Act of 1969
25 (42 U.S.C. 4321 et seq.) pursuant to section 1316 of the

1 Moving Ahead for Progress in the 21st Century Act (23
2 U.S.C. 109 note; Public Law 112–141) shall be exempt
3 from paragraphs (2), (3), and (4) of subsection (a).”.

4 **SEC. 1304. STATE ASSUMPTION OF CONSULTATION RE-**
5 **SPONSIBILITIES.**

6 The Endangered Species Act of 1973 is amended by
7 inserting after section 7 (16 U.S.C. 1536) the following:

8 **“SEC. 7A. STATE ASSUMPTION OF CONSULTATION RESPON-**
9 **SIBILITIES.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) PROGRAM.—The term ‘program’ means
12 the program carried out by the Secretary pursuant
13 to this section.

14 “(2) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of the Interior.

16 “(3) STATE AGENCY.—The term ‘State agency’
17 means any agency, department, board, commission,
18 or other governmental entity in a State with primary
19 jurisdiction over environmental or wildlife manage-
20 ment matters in the State, as determined by the
21 Governor of the State.

22 “(b) PROGRAM.—

23 “(1) IN GENERAL.—Except as provided in this
24 subsection, the Secretary shall carry out a program
25 under which the Secretary may assign the consulta-

1 tion responsibilities of the Secretary described in
2 paragraph (4)(A) to States.

3 “(2) LIMITATIONS ON ASSUMPTIONS.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Secretary may not as-
6 sign the consultation responsibilities of the Sec-
7 retary described in paragraph (4)(A) to any
8 State for a project or agency action (as referred
9 to in section 7) that exceeds the boundaries of
10 the State.

11 “(B) LIMITATION.—For any project or
12 agency action (as referred to in section 7) that
13 is solely within the boundaries of 1 State, but
14 that is within an area affected that exceeds the
15 boundaries of the State, a State that assumes
16 responsibility under paragraph (4) for the
17 project or agency action (as referred to in sec-
18 tion 7) shall consult with—

19 “(i) if any other State has assumed
20 responsibility under that paragraph, the
21 jurisdiction of which is within that area af-
22 fected, such State; or

23 “(ii) if there is no State described in
24 clause (i), the Secretary.

25 “(3) IMPLEMENTING REGULATION.—

1 “(A) IN GENERAL.—Not later than 270
2 days after the date of enactment of the Bipar-
3 tisan American Affordability and Jobs Act of
4 2026, the Secretary shall issue a proposed rule
5 to establish a program that would comply with
6 the requirements of this section and ensure that
7 approved State assumption programs ade-
8 quately carry out the consultation requirements
9 under section 7 (referred to in this section as
10 the ‘implementing regulation’).

11 “(B) PUBLIC COMMENT.—The proposed
12 rule issued under subparagraph (A) shall be
13 made available for public comment for a period
14 of not less than 60 days, during which the Sec-
15 retary shall solicit comment from States on the
16 proposed rule.

17 “(C) LIMITATION.—The rule issued under
18 subparagraph (A) shall not include any require-
19 ment that is not necessary to carry out this sec-
20 tion.

21 “(4) ASSUMPTION OF RESPONSIBILITY.—

22 “(A) IN GENERAL.—Subject to the re-
23 quirements of this section and the implementing
24 regulation, with the written agreement of the
25 Secretary and a State, which may be in the

1 form of a memorandum of understanding, the
2 Secretary may assign, and the State may as-
3 sume, the consultation responsibilities of the
4 Secretary within the boundary of the State
5 under subsections (a), (b), and (c) of section 7.

6 “(B) CERTAIN PROJECTS AND AGENCY AC-
7 TIONS.—A State may not assume responsibility
8 under the program until the date on which—

9 “(i) the implementing regulation takes
10 effect; and

11 “(ii) the State certifies to the Sec-
12 retary that the State has secured the fi-
13 nancial, legal, personnel, and other re-
14 sources described in subsection (c)(2)(B).

15 “(C) FEDERAL RESPONSIBILITY.—Any re-
16 sponsibility of the Secretary not explicitly as-
17 sumed by the State by written agreement under
18 the program shall remain the responsibility of
19 the Secretary.

20 “(c) STATE PARTICIPATION.—

21 “(1) REQUIREMENTS FOR PARTICIPATING
22 STATES.—Each State is eligible to participate in the
23 program if the State meets each requirement de-
24 scribed in this section and the implementing regula-
25 tion.

1 “(2) APPLICATION.—

2 “(A) IN GENERAL.—A State seeking to
3 participate in the program shall submit to the
4 Secretary an application at such time, in such
5 manner, and containing such information as the
6 Secretary may require, in accordance with sub-
7 paragraph (B).

8 “(B) REQUIREMENTS.—As part of the im-
9 plementing regulation, the Secretary shall es-
10 tablish requirements relating to applications
11 submitted by States under subparagraph (A),
12 including, at a minimum, requirements that a
13 State provide—

14 “(i) verification of the financial and
15 legal resources necessary to carry out the
16 authority that may be granted to the State
17 under the program;

18 “(ii) verification of the personnel re-
19 sources or a plan to hire the personnel, not
20 later than 1 year after the date on which
21 the application is approved, necessary to
22 carry out the authority that may be grant-
23 ed to the State under the program;

24 “(iii) verification that the State will
25 waive sovereign immunity for the respon-

1 sibilities assumed by the State under the
2 program; and

3 “(iv) evidence of the notice and solici-
4 tation of public comment by the State re-
5 lating to participation of the State in the
6 program, including—

7 “(I) copies of comments received
8 from that solicitation;

9 “(II) a brief summary of those
10 comments; and

11 “(III) a description of ways in
12 which those comments will be incor-
13 porated by the State during the par-
14 ticipation of the State in the program.

15 “(C) DENIAL.—On denial of an application
16 submitted by a State under subparagraph
17 (A)—

18 “(i) the Secretary shall—

19 “(I) respond to the State, in
20 writing, identifying the reasons for the
21 denial, subject to the condition that
22 such reasons shall only include a de-
23 termination by the Secretary that the
24 State did not demonstrate the legal,
25 financial, or personnel capability to

1 assume responsibility under the pro-
2 gram; and

3 “(II) at the request of the State,
4 provide technical assistance to the
5 State to address the reasons identified
6 under subclause (I); and

7 “(ii) the State may reapply in accord-
8 ance with the requirements of subpara-
9 graphs (A) and (B).

10 “(3) PUBLIC NOTICE.—

11 “(A) IN GENERAL.—Not less than 60 days
12 before the date of submission of an application
13 of a State under paragraph (2)(A), the State
14 shall, in accordance with the applicable public
15 notice law of the State—

16 “(i) publish the complete application
17 of the State; and

18 “(ii) provide an opportunity for public
19 comment on the application for a period of
20 not less than 30 days.

21 “(B) RESPONSE TO COMMENTS.—Notwith-
22 standing any other provision of law, a State
23 shall be required to respond to public comments
24 received under subparagraph (A)(ii).

1 “(4) SELECTION CRITERIA.—The Secretary
2 shall approve the application of a State submitted
3 under paragraph (2)(A) if—

4 “(A) the Secretary determines that the
5 State has demonstrated the legal, financial, and
6 current or future personnel capability to assume
7 the responsibility;

8 “(B) the Secretary has made an affirma-
9 tive determination that the State has met the
10 requirements to implement the program, as de-
11 scribed in this section and the implementing
12 regulation; and

13 “(C) the head of the State agency enters
14 into a written agreement with the Secretary de-
15 scribed in subsection (d)(1).

16 “(5) FAILURE TO APPROVE OR DENY APPLICA-
17 TION.—If the Secretary fails to make a determina-
18 tion with respect to any application submitted under
19 paragraph (2)(A) within 180 days after the date on
20 which the Secretary receives that application, the in-
21 action shall be considered a failure to act under sec-
22 tion 107(g)(3) of the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4336a(g)(3)).

24 “(d) WRITTEN AGREEMENT.—

1 “(1) IN GENERAL.—A written agreement re-
2 ferred to in subsection (c)(4)(C) shall—

3 “(A) be executed by the Governor or the
4 head of the State agency that would assume re-
5 sponsibility under the program;

6 “(B) be in such form as the Secretary may
7 prescribe;

8 “(C) provide that the State—

9 “(i) agrees to assume all responsibil-
10 ities of the Secretary described in sub-
11 section (b)(4);

12 “(ii) expressly consents, on behalf of
13 the State, to accept the jurisdiction of the
14 Federal courts for the compliance, dis-
15 charge, and enforcement of any responsi-
16 bility of the Secretary assumed by the
17 State;

18 “(iii) certifies that State laws (includ-
19 ing regulations) are in effect that—

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

23 “(II) are comparable to section
24 552 of title 5, United States Code, in-
25 cluding providing that any decision re-

1 garding the public availability of a
2 document under those State laws is
3 reviewable by a court of competent ju-
4 risdiction;

5 “(iv) agrees to maintain the legal re-
6 sources, financial resources, and personnel
7 capacity and expertise necessary to carry
8 out the responsibilities being assumed; and

9 “(v) agrees to meet the same dead-
10 lines for consultations that the Secretary
11 would be required to meet under—

12 “(I) section 7; and

13 “(II) section 107 of the National
14 Environmental Policy Act of 1969 (42
15 U.S.C. 4336a);

16 “(D) require the State to provide to the
17 Secretary any information the Secretary reason-
18 ably considers necessary to ensure that the
19 State is adequately carrying out the responsibil-
20 ities assigned to the State;

21 “(E) be renewable;

22 “(F) have a term of not more than 10
23 years; and

24 “(G) be published in the Federal Register
25 not later than 15 days after execution.

1 “(2) ROLE OF SECRETARY.—The Secretary
2 shall not delegate the responsibilities of the Sec-
3 retary with respect to entering into a written agree-
4 ment with a State under paragraph (1).

5 “(e) JURISDICTION.—

6 “(1) IN GENERAL.—The district courts of the
7 United States shall have exclusive jurisdiction over
8 any civil action against a State for failure to carry
9 out any responsibility of the State under the pro-
10 gram.

11 “(2) LEGAL STANDARDS AND REQUIRE-
12 MENTS.—A civil action under paragraph (1) shall be
13 governed by the legal standards and requirements
14 that would apply in such a civil action against the
15 Secretary had the Secretary taken the actions in
16 question.

17 “(3) INTERVENTION.—The Secretary shall have
18 the right to intervene in any action described in
19 paragraph (1).

20 “(f) EFFECT OF ASSUMPTION OF RESPONSI-
21 BILITY.—

22 “(1) IN GENERAL.—A State that assumes re-
23 sponsibility under subsection (b)(4) shall be solely
24 responsible for carrying out, in lieu of and without
25 further approval of the Secretary, the responsibilities

1 assumed under that subsection, until the Secretary
2 or the State, as applicable, terminates the participa-
3 tion of the State in the program in accordance with
4 paragraph (1) or (2) of subsection (k), as applicable.

5 “(2) PERMIT OR LICENSE APPLICANT ELEC-
6 TION.—Notwithstanding a State assumption of re-
7 sponsibility under subsection (b)(4), a permit or li-
8 cense applicant may elect to consult with the Sec-
9 retary within the boundary of the State under sub-
10 sections (a), (b), and (c) of section 7.

11 “(g) LIMITATIONS ON AGREEMENTS.—Nothing in
12 this section permits a State to assume any rulemaking au-
13 thority of the Secretary under any Federal law.

14 “(h) AUDITS.—

15 “(1) IN GENERAL.—To ensure compliance by a
16 State with any agreement of the State under sub-
17 section (c)(4)(C) (including compliance by the State
18 with all Federal laws for which responsibility is as-
19 sumed under subsection (b)(4)), for each State par-
20 ticipating in the program, the Secretary shall—

21 “(A) not later than 180 days after the date
22 of execution of the agreement, meet with the
23 State to review implementation of the agree-
24 ment and discuss plans for the first annual
25 audit;

1 “(B) conduct annual audits during each of
2 the first 4 years of State participation;

3 “(C) ensure that the time period for com-
4 pleting an audit, from initiation to completion
5 (including public comment and responses to
6 those comments), does not exceed 180 days.

7 “(2) PUBLIC AVAILABILITY AND COMMENT.—

8 “(A) IN GENERAL.—An audit conducted
9 under paragraph (1) shall be provided to the
10 public for comment.

11 “(B) RESPONSE.—Not later than 60 days
12 after the date on which the period for public
13 comment ends—

14 “(i) the Secretary shall respond to
15 public comments received under subpara-
16 graph (A); and

17 “(ii) to the extent necessary, the ap-
18 plicable State agency may respond to those
19 comments.

20 “(3) AUDIT TEAM.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (C), an audit conducted under paragraph
23 (1) shall be carried out by an audit team deter-
24 mined by the Secretary, in consultation with the
25 State, in accordance with subparagraph (B).

1 “(B) CONSULTATION.—Consultation with
2 the State under subparagraph (A) shall include
3 a reasonable opportunity for the State to review
4 and provide comments on the proposed mem-
5 bers of the audit team.

6 “(C) LIMITATION.—An audit team shall
7 only include—

8 “(i) qualified staff of regional and
9 headquarters offices of the United States
10 Fish and Wildlife Service;

11 “(ii) staff of the Department of the
12 Interior Office of Inspector General; and

13 “(iii) staff of the applicable State
14 agency.

15 “(i) MONITORING.—

16 “(1) IN GENERAL.—After the fourth year of the
17 participation of a State in the program, the Sec-
18 retary shall monitor compliance by the State with
19 the written agreement entered into under subsection
20 (c)(4)(C), including the provision by the State of fi-
21 nancial resources to carry out the written agree-
22 ment.

23 “(2) RESUMPTION OF ANNUAL AUDITS.—If the
24 Secretary determines that there is reasonable cause
25 to believe that a State is not complying with a writ-

1 ten agreement entered into under subsection
2 (c)(4)(C) pursuant to monitoring under paragraph
3 (1), the Secretary may require the resumption of an-
4 nual audits under subsection (h).

5 “(j) REPORT TO CONGRESS.—The Secretary shall
6 submit to the Committee on Environment and Public
7 Works of the Senate and the Committee on Natural Re-
8 sources of the House of Representatives an annual report
9 that describes the administration of the program, which
10 shall include an identification of—

11 “(1) a list of active written agreements entered
12 into under subsection (c)(4)(C) being carried out;

13 “(2) a list of pending written agreements en-
14 tered into under that subsection;

15 “(3) a list of applications denied under sub-
16 section (c)(2)(C) and the reasons for those denials,
17 if any; and

18 “(4) the results of any audits completed pursu-
19 ant to subsection (h) in the year covered by the re-
20 port.

21 “(k) TERMINATION.—

22 “(1) TERMINATION BY THE SECRETARY.—The
23 Secretary may terminate the participation of a State
24 in the program if—

1 “(A) the Secretary determines that the
2 State is not adequately carrying out the respon-
3 sibilities assigned to the State;

4 “(B) the Secretary provides to the State—
5 “(i) a notification of the determina-
6 tion of noncompliance;

7 “(ii) a period of not less than 120
8 days to take corrective action as the Sec-
9 retary determines to be necessary to com-
10 ply with the applicable written agreement;
11 and

12 “(iii) on request of the Governor of
13 the State, a detailed description of each re-
14 sponsibility in need of corrective action re-
15 lating to an inadequacy identified under
16 subparagraph (A); and

17 “(C) the State, after the notification and
18 period provided under subparagraph (B)(i),
19 fails to take satisfactory corrective action, as
20 determined by the Secretary.

21 “(2) TERMINATION BY THE STATE.—The State
22 may terminate the participation of the State in the
23 program at any time by providing to the Secretary
24 a notice not later than the date that is 90 days be-

1 fore the date of termination, subject to such terms
2 and conditions as the Secretary may provide.

3 “(l) OUTREACH AND CAPACITY BUILDING.—

4 “(1) OUTREACH.—The Secretary shall require
5 the Director of the United States Fish and Wildlife
6 Service (referred to in this subsection as the ‘Direc-
7 tor’) to conduct outreach and education activities to
8 States with respect to the program.

9 “(2) CAPACITY BUILDING.—The Director, in
10 cooperation with relevant State officials, shall pro-
11 vide education, training, peer-exchange, and other
12 initiatives as appropriate—

13 “(A) to assist States in developing the ca-
14 pacity to participate in the program; and

15 “(B) to promote information sharing and
16 collaboration among States with respect to the
17 program.

18 “(3) DELEGATION.—The Director may delegate
19 the outreach and education activities and capacity
20 building requirements under this subsection to a rel-
21 evant field or regional office of the United States
22 Fish and Wildlife Service.

23 “(m) AGENCY DEEMED TO BE FEDERAL AGENCY.—
24 A State agency that is assigned a responsibility under a
25 written agreement under the program shall be deemed to

1 be an agency for the purposes of section 2412 of title 28,
2 United States Code.”.

3 **SEC. 1305. JUDICIAL REVIEW.**

4 Section 7(n) of the Endangered Species Act of 1973
5 (16 U.S.C. 1536(n)) is amended—

6 (1) in the first sentence, by striking “Any per-
7 son, as defined by section 3(13) of this Act,” and in-
8 serting the following:

9 “(1) IN GENERAL.—Any person”;

10 (2) in paragraph (1) (as so designated), by re-
11 designating paragraphs (1) and (2) as subpara-
12 graphs (A) and (B), respectively; and

13 (3) by adding at the end the following:

14 “(2) PETITION FOR REVIEW.—Any person may
15 obtain judicial review under chapter 7 of title 5,
16 United States Code, of any opinion issued by the
17 Secretary under subsection (b) in the United States
18 Court of Appeals for the District of Columbia Cir-
19 cuit by filing in such court not later than 150 days
20 after the date on which the opinion is made public
21 a written petition for review.

22 “(3) DEFINITION OF MADE PUBLIC.—In this
23 subsection, the term ‘made public’, with respect to
24 an opinion issued by the Secretary under subsection
25 (b), means that the opinion is published in a single

1 location on the primary website of the applicable
2 Federal agency with—

3 “(A) hyperlinks to the document promi-
4 nently displayed on the website; and

5 “(B) the date of initial publication of the
6 document displayed and maintained on the
7 website.”.

8 **SEC. 1306. LISTING DETERMINATIONS.**

9 Section 4 of the Endangered Species Act of 1973 (16
10 U.S.C. 1533) is amended by adding at the end the fol-
11 lowing:

12 “(j) STATE DATA.—In making a determination to
13 list, or delist, a species as a threatened species or an en-
14 dangered species under this section, the Secretary shall
15 accept and integrate State-collected data, subject to the
16 condition that the State-collected data meets the definition
17 of ‘best scientific and commercial data available’.”.

18 **SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.**

19 There is authorized to be appropriated \$150,000,000
20 for each of fiscal years 2027 through 2031—

21 (1) to carry out section 7 of the Endangered
22 Species Act of 1973 (16 U.S.C. 1536); and

23 (2) to support State participation in the pro-
24 gram under section 7A of that Act.

1 **SEC. 1308. NATIONAL FISH AND WILDLIFE FOUNDATION**
2 **COASTAL STATE FUND.**

3 (a) DEFINITIONS.—In this section:

4 (1) COASTAL COUNTY.—The term “coastal
5 county” has the meaning given the term by the Na-
6 tional Oceanic and Atmospheric Administration in
7 the document entitled “NOAA’s List of Coastal
8 Counties for the Bureau of the Census” (or a simi-
9 lar successor document).

10 (2) COASTAL STATE.—The term “coastal
11 State” has the meaning given the term “coastal
12 state” in section 304 of the Coastal Zone Manage-
13 ment Act of 1972 (16 U.S.C. 1453).

14 (3) FOUNDATION.—The term “Foundation”
15 means the National Fish and Wildlife Foundation
16 established by section 2(a) of the National Fish and
17 Wildlife Foundation Establishment Act (16 U.S.C.
18 3701(a)).

19 (4) PROGRAM.—The term “program” means
20 the National Fish and Wildlife Foundation Coastal
21 State Fund established under subsection (b).

22 (5) TIDAL SHORELINE.—The term “tidal shore-
23 line” means the length of tidal shoreline or Great
24 Lake shoreline based on the most recently available
25 data from or accepted by the Office of Coast Survey

1 of the National Oceanic and Atmospheric Adminis-
2 tration.

3 (b) ESTABLISHMENT OF PROGRAM.—Not later than
4 1 year after the date of enactment of this Act, subject
5 to the availability of appropriations, the Foundation shall
6 establish and carry out a program, to be known as the
7 “National Fish and Wildlife Foundation Coastal State
8 Fund”, to award grants to coastal States to support State
9 programs and activities intended to better understand and
10 use coastal resources, coastal and natural infrastructure,
11 and ecosystem services provided by natural systems.

12 (c) ALLOCATION OF AMOUNTS.—Of the amounts
13 made available to carry out the program each fiscal year,
14 subject to subsection (d), such amounts shall be allocated
15 to grants for coastal States under the program in accord-
16 ance with the following:

17 (1) 70 percent shall be allocated equally among
18 coastal States.

19 (2) 15 percent shall be allocated on the basis of
20 the ratio of tidal shoreline in a coastal State to the
21 tidal shoreline of all coastal States.

22 (3) 15 percent shall be allocated on the basis of
23 the ratio of population density of the coastal coun-
24 ties of a coastal State to the average population den-

1 sity of all coastal counties based on the most recent
2 data available from the Bureau of the Census.

3 (d) LIMITATION FOR SINGLE COASTAL STATE.—Not-
4 withstanding subsection (c), not more than 5 percent of
5 the total amounts allocated under that subsection may be
6 allocated to any single coastal State, and any amount ex-
7 ceeding that limitation shall be reallocated equally among
8 the remaining coastal States.

9 (e) FUNDING.—

10 (1) AUTHORIZATION OF APPROPRIATIONS.—

11 There is authorized to be appropriated to carry out
12 the program \$50,000,000 for each of fiscal years
13 2028 through 2032.

14 (2) ADDITIONAL FUNDING.—In addition to the
15 amounts made available pursuant to paragraph (1),
16 the Foundation may use such additional amounts as
17 may be made available to carry out the program.

18 **TITLE IV—PROJECT CERTAINTY**

19 **SEC. 1401. MAINTAINING FEDERAL AUTHORIZATIONS OR** 20 **PERMITS FOR PROJECTS WITH NON-FED-** 21 **ERAL SPONSORS.**

22 (a) DEFINITION OF FEDERAL AUTHORIZATION OR
23 PERMIT.—The term “Federal authorization or permit”
24 means an authorization, permit, record of decision, right-
25 of-way, finding of no significant impact, verification, ex-

1 tension, construction and operations plan, biological opin-
2 ion, incidental take statement, concurrence, or any other
3 approval or order that is necessary, including any deter-
4 mination by a Federal department or agency that addi-
5 tional authorizations or permits are not necessary, for the
6 construction or operation at full capacity of a project.

7 (b) MAINTENANCE OF AUTHORIZATIONS AND PER-
8 MITS.—

9 (1) IN GENERAL.—For projects or actions with
10 non-Federal sponsors or holders of a Federal au-
11 thorization or permit, a Federal department or agen-
12 cy shall not take any new action that would revoke,
13 rescind, withdraw, terminate, suspend, amend, or
14 alter a Federal authorization or permit in effect on
15 or after September 16, 2026, or take any other ac-
16 tion to interfere with or prevent the construction or
17 operation at full capacity of a project that has se-
18 cured all necessary Federal authorizations and per-
19 mits, unless—

20 (A) the Federal agency is required to take
21 such action by order of a court of competent ju-
22 risdiction;

23 (B) the holder of the Federal authorization
24 or permit has materially breached the terms of

1 the Federal authorization or permit or other-
2 wise violated applicable law;

3 (C) the Federal authorization or permit
4 was obtained through fraud, intentional con-
5 cealment, or material misrepresentation;

6 (D) such action is necessary to prevent
7 specific, urgent, substantial, and proximate
8 harm or damage to life, property, national secu-
9 rity, or defense that is based on new informa-
10 tion that was not considered in the underlying
11 environmental review process or final agency ac-
12 tion for the Federal authorization or permit; or

13 (E) the Federal agency has received a re-
14 quest from the holder of the Federal authoriza-
15 tion or permit or the non-Federal project spon-
16 sor to take such action.

17 (2) REQUIREMENT.—If a Federal agency takes
18 an action under paragraph (1) in response to a mat-
19 ter described in subparagraph (D) of that para-
20 graph, the action shall be reasonably limited only to
21 so much as is necessary to remedy the specific issue
22 the action is intended to address.

23 (3) NOTICE.—Before a Federal agency takes an
24 action under paragraph (1), the Federal agency shall
25 notify the non-Federal project sponsor or holder of

1 the Federal authorization or permit, in writing, of
2 such action, including by—

3 (A) providing a detailed explanation of the
4 action;

5 (B) identifying the statutory authority re-
6 lied on for the action; and

7 (C) providing the evidence supporting the
8 action.

9 (4) JUDICIAL REVIEW.—

10 (A) VENUE.—Unless another provision of
11 law provides for direct review in a court of ap-
12 peals of the United States, a non-Federal
13 project sponsor or holder of a Federal author-
14 ization or permit seeking judicial review of an
15 action taken by a Federal agency under para-
16 graph (1) may obtain review of such action in
17 a United States district court in which the
18 project is at least partially located.

19 (B) STANDARD OF REVIEW.—In reviewing
20 an action taken by a Federal agency under
21 paragraph (1) under subchapter II of chapter 5
22 and chapter 7 of title 5, United States Code
23 (commonly known as the “Administrative Pro-
24 cedure Act”) or any other provision of law, the
25 reviewing court shall, notwithstanding sub-

chapter II of chapter 5 and chapter 7 of title 5, United States Code (commonly known as the “Administrative Procedure Act”) or any other provision of law, place the burden of proof on the Federal agency to demonstrate by clear and convincing evidence that 1 or more of the matters described in subparagraphs (A) through (E) of that paragraph applies.

(C) REVIEW OF CLASSIFIED INFORMATION.—If any portion of the information that is a basis for the agency action being reviewed under this paragraph is classified or otherwise protected from public disclosure under Federal law, the head of the Federal department or agency shall submit that portion of the information to the applicable court under seal or in camera, and the applicable court shall review and refer to that portion of the information in accordance with applicable procedures governing classified or protected information.

(D) RELIEF.—If, at the conclusion of its review of an action taken by a Federal agency under paragraph (1), the court concludes that the Federal agency has not met its burden under subparagraph (B), the non-Federal

1 project sponsor or holder of the Federal author-
2 ization or permit shall be entitled to—

3 (i) the reinstatement of the Federal
4 authorization or permit and the termi-
5 nation of any action by the Federal agency
6 preventing the construction or operation of
7 the project;

8 (ii) injunctive relief preventing a Fed-
9 eral agency from taking any new action
10 that would revoke, rescind, withdraw, ter-
11 minate, suspend, amend, or alter a pre-
12 viously granted Federal authorization or
13 permit or take any other action to interfere
14 with or prevent the construction or oper-
15 ation at full capacity of a project without
16 first obtaining a court order to that effect
17 from the same judge (assuming that judge
18 continues to sit in the same district) that
19 heard the original matter;

20 (iii) reasonable attorney fees and costs
21 of litigation, as the court determines ap-
22 propriate;

23 (iv) any costs associated with the ap-
24 plicable delay in the construction or oper-

1 ation of the project, as the court deter-
2 mines appropriate; and

3 (v) costs in an amount equal to not
4 less than 25 percent and not more than 50
5 percent of the total of all costs incurred by
6 the non-Federal project sponsor or holder
7 of the Federal authorization or permit in
8 connection with the project as of the date
9 of the action and not otherwise recovered
10 under clause (iii) or (iv), including costs of
11 development, permitting, land acquisition,
12 financing, engineering, procurement, and
13 construction of the project, which amount
14 shall be determined by the court by taking
15 into consideration—

16 (I) the degree to which the Fed-
17 eral interference in the project oc-
18 curred due to bad faith;

19 (II) the degree to which there ex-
20 ists a pattern of similar Federal inter-
21 ference in other projects; and

22 (III) the actual degree of eco-
23 nomic harm to the project sponsor or
24 operator.

1 (E) SPECIAL RULE.—If, within 1 year
2 prior to the date of enactment of this Act, a
3 Federal Agency has issued a stop-work order
4 that would interfere with or prevent the con-
5 struction or operation at full capacity of a
6 project and said order has been enjoined by a
7 court of competent jurisdiction, then, if a Fed-
8 eral agency takes any new action that would re-
9 voke, rescind, withdraw, terminate, suspend,
10 amend, or alter a previously granted Federal
11 authorization or permit or take any other action
12 to interfere with or prevent the construction or
13 operation at full capacity of said project, the
14 same judge (assuming that judge continues to
15 sit in the same district) that heard the original
16 matter shall have jurisdiction to hear a com-
17 plaint or motion under this section.

18 (F) SOURCE OF FUNDS.—Amounts award-
19 ed under subparagraph (D)—

20 (i) shall be paid from the fund de-
21 scribed in section 1304 of title 31, United
22 States Code; and

23 (ii) shall not be subject to the avail-
24 ability of appropriations.

1 (G) LIMITATION ON JURISDICTION.—Not-
2 withstanding sections 1346 and 1491 of title
3 28, United States Code, the United States
4 Court of Federal Claims shall not have jurisdic-
5 tion over any claim for, or in respect to, this
6 section—

7 (i) during the consideration of a peti-
8 tion for relief under this section; and

9 (ii) in perpetuity if relief is granted
10 under subparagraph (D).

11 **SEC. 1402. ENSURING FAIRNESS FOR SPECIFIC TYPES OF**
12 **COVERED PROJECTS.**

13 (a) SENSE OF CONGRESS.—It is the sense of Con-
14 gress that—

15 (1) all Federal agencies shall treat all applica-
16 tions for Federal authorizations or permits fairly
17 and efficiently; and

18 (2) this section shall serve as a guarantee that
19 fair and efficient decisionmaking shall occur after
20 the date of enactment of this Act.

21 (b) DEFINITIONS.—In this section:

22 (1) COVERED APPLICATION.—The term “cov-
23 ered application” means a complete application for
24 1 or more Federal authorizations or permits.

1 (2) FEDERAL AUTHORIZATION OR PERMIT.—

2 The term “Federal authorization or permit” means
3 an authorization, permit, record of decision, right-of-
4 way, finding of no significant impact, verification,
5 extension, construction and operations plan, biological
6 opinion, incidental take statement, concurrence,
7 or any other approval or order that is necessary, in-
8 cluding any determination by a Federal department
9 or agency that additional authorizations or permits
10 are not necessary, for the construction or operation
11 at full capacity of a specific type of covered project.

12 (3) PATTERN OF DISPARATE TREATMENT.—

13 The term “pattern of disparate treatment” means,
14 with respect to 1 specific type of covered project, an
15 empirically demonstrated statistical pattern that—

16 (A) shows a substantial increase, compared
17 against the 5 most recent calendar years of em-
18 pirical data on Federal authorization or permit
19 decisions and delays for that specific type of
20 covered project, in—

21 (i) the percentage of Federal author-
22 izations or permits for that 1 specific type
23 of covered project that are unreasonably
24 delayed beyond the applicable timeline as
25 described in subsection (d)(1)(A)(ii); or

1 (ii) the percentage of Federal author-
2 izations or permits for that 1 specific type
3 of covered project that are improperly de-
4 nied;

5 (B) persists—

6 (i) for a Federal authorization or per-
7 mit for which an environmental impact
8 statement or environmental assessment (as
9 those terms are defined in section 3 of the
10 National Environmental Policy Act of
11 1969) are not required, over a minimum
12 period of 180 days, at least 180 days of
13 which occurred after the date of enactment
14 of this Act; or

15 (ii) for a Federal authorization or per-
16 mit for which an environmental impact
17 statement or environmental assessment (as
18 so defined) are required, over a minimum
19 period of 280 days, at least 280 days of
20 which occurred after the date of enactment
21 of this Act; and

22 (C) is the result of an intentional course of
23 action undertaken by the Federal Government
24 to create such a pattern.

1 (4) SPECIFIC TYPE OF COVERED PROJECT.—

2 The term “specific type of covered project” means 1
3 of the following types of projects:

4 (A) A project to produce electricity from
5 onshore wind.

6 (B) A project to produce electricity from
7 offshore wind.

8 (C) A project to produce electricity from
9 solar.

10 (D) An energy storage project.

11 (E) A project to produce electricity from
12 coal.

13 (F) A project to produce electricity from
14 natural gas.

15 (G) A project to produce electricity from
16 oil.

17 (H) A project to produce electricity from a
18 nuclear fission reactor.

19 (I) A project to produce electricity from
20 geothermal.

21 (J) An onshore electricity transmission
22 project.

23 (K) An offshore electricity transmission
24 project.

25 (L) A natural gas pipeline project.

1 (M) An oil pipeline project.

2 (N) A hydrogen pipeline project.

3 (O) A carbon dioxide pipeline project.

4 (P) A natural gas liquids pipeline project.

5 (Q) A project to produce coal.

6 (R) A project to produce onshore natural
7 gas.

8 (S) A project to produce offshore natural
9 gas.

10 (T) A project to produce onshore oil.

11 (U) A project to produce offshore oil.

12 (V) A hardrock mining project to produce
13 minerals, with hardrock mining projects that
14 produce the same mineral to be considered the
15 same specific type of covered project for pur-
16 poses of this paragraph.

17 (W) A hardrock mineral processing project
18 to produce or expand production of hardrock
19 minerals.

20 (X) A project to produce electricity from
21 hydrogen.

22 (Y) A project to produce electricity from
23 biomass.

24 (Z) A project to refine or process petro-
25 leum products.

1 (AA) A project to produce biomass.

2 (BB) A hydropower project.

3 (CC) A pumped storage hydropower
4 project.

5 (DD) A project to produce electricity from
6 a fusion machine.

7 (EE) A project to produce uranium.

8 (FF) A project to enrich, convert, fab-
9 ricate, reprocess, or store source material or
10 special nuclear material (as those terms are de-
11 fined in section 11 of the Atomic Energy Act of
12 1954 (42 U.S.C. 2014)).

13 (GG) A project to export or import lique-
14 fied natural gas.

15 (HH) A project to liquefy natural gas or to
16 regasify liquefied natural gas.

17 (II) A project to export or import crude
18 oil.

19 (JJ) A project to export or import refined
20 petroleum products.

21 (KK) A project to export or import coal.

22 (LL) A geologic carbon dioxide sequestra-
23 tion or storage project, including an injection
24 well;

1 (MM) An enhanced oil or natural gas re-
2 covery project, including a project using carbon
3 dioxide, water, or other injectants.

4 (NN) Long-duration battery storage.

5 (OO) A project to refine or process crude
6 oil.

7 (PP) A project to refine natural gas or
8 natural gas liquids.

9 (QQ) An ammonia pipeline project.

10 (RR) A produced water pipeline project.

11 (SS) A helium pipeline project.

12 (TT) A coal gasification project.

13 (UU) Any other specific type of energy re-
14 lated project not described in subparagraphs
15 (A) through (TT) that a United States district
16 court of competent jurisdiction certifies shares
17 common industrial characteristics, taking into
18 account the specificity of the covered project
19 types described in subparagraphs (A) through
20 (TT).

21 (c) TIMELINE FOR ISSUANCE OF CERTAIN AUTHOR-
22 IZATIONS OR PERMITS NOT SUBJECT TO ENVIRON-
23 MENTAL REVIEWS.—For any specific type of covered
24 project for which 1 or more Federal authorizations or per-
25 mits are required, but for which Federal authorizations

1 or permits are not agency actions for which an environ-
2 mental impact statement or environmental assessment (as
3 those terms are defined in section 3 of the National Envi-
4 ronmental Policy Act of 1969) is required, all Federal de-
5 partments and agencies shall render decisions on all appli-
6 cable covered applications not later than 1 year after the
7 date on which the latest of the covered applications is de-
8 termined to be complete.

9 (d) JUDICIAL REVIEW.—

10 (1) CAUSE OF ACTION.—

11 (A) IN GENERAL.—The applicant seeking a
12 Federal authorization or permit for a specific
13 type of covered project may bring an action in
14 a United States district court in which the
15 project is at least partially located alleging, sub-
16 ject to subparagraph (B), that after the date of
17 enactment of this Act 1 or more Federal au-
18 thorizations or permits for that specific type of
19 covered project were—

20 (i) improperly denied due to a pattern
21 of disparate treatment by the Federal Gov-
22 ernment against the specific type of cov-
23 ered project at issue; or

24 (ii) unreasonably delayed due to a
25 pattern of disparate treatment by the Fed-

1 eral Government against the specific type
2 of covered project at issue by more than 60
3 days beyond the applicable deadline de-
4 scribed in—

5 (I) section 107(g)(1)(A) of the
6 National Environmental Policy Act of
7 1969 (42 U.S.C. 4336a(g)(1)(A));

8 (II) section 107(g)(1)(B) of the
9 National Environmental Policy Act of
10 1969 (42 U.S.C. 4336a(g)(1)(B)); or

11 (III) subsection (c).

12 (B) REQUIREMENT.—

13 (i) IN GENERAL.—In a cause of action
14 brought under subparagraph (A), the ap-
15 plicant shall have the burden of proof of
16 showing that—

17 (I) the relevant application satis-
18 fies all applicable Federal law;

19 (II) the applicable Federal au-
20 thorizations or permits would not, if
21 granted, be subject to cancellation—

22 (aa) for a violation of appli-
23 cation Federal law; or

24 (bb) because the Federal au-
25 thorization or permit would have

1 been obtained through fraud, in-
2 tentional concealment, or mate-
3 rial misrepresentation; and

4 (III) the Federal authorizations
5 or permits were improperly denied or
6 unreasonably delayed due to a pattern
7 of disparate treatment by the Federal
8 Government against the specific type
9 of covered project at issue that oc-
10 curred after the date of enactment of
11 this Act.

12 (ii) PRIMA FACIE EVIDENCE.—

13 (I) EVIDENCE.—The following
14 shall be considered by a court as
15 prima facie evidence of a pattern of
16 disparate treatment under clause
17 (i)(III):

18 (aa) EMPIRICAL EVI-
19 DENCE.—Empirical evidence
20 demonstrating a pattern of im-
21 proper denial or unreasonable
22 delay with respect to the specific
23 type of covered project at issue
24 compared to the previous rate at
25 which other Federal authoriza-

1 tions or permits were delivered
2 for that same specific type of
3 covered project prior to the com-
4 mencement of the alleged pattern
5 of delayed or denied Federal au-
6 thorizations or permits.

7 (bb) SUPPORTING EVI-
8 DENCE.—In support of the em-
9 pirical evidence described in item
10 (aa), an applicant may provide
11 supporting evidence, including a
12 pattern of statements made by
13 executive branch officials, Fed-
14 eral department and agency poli-
15 cies, Executive orders, or other
16 official guidance that dem-
17 onstrates a bias in the permitting
18 regime against the specific type
19 of covered project at issue, except
20 as provided in subclause (II).

21 (II) EXCLUSION.—Statements,
22 policies, Executive orders, or other
23 guidance that expresses a preference
24 for, or opposition to, 1 or more spe-
25 cific types of covered projects, but is

1 unrelated to the permitting of such
2 projects, shall not be considered by a
3 court as supporting evidence of a pat-
4 tern of disparate treatment under
5 subclause (I)(bb).

6 (iii) BURDEN OF EVIDENTIARY PRO-
7 Duction.—

8 (I) IN GENERAL.—In a cause of
9 action brought under this paragraph,
10 if the applicant produces prima facie
11 evidence of a pattern of disparate
12 treatment under clause (i), the Fed-
13 eral Government shall have the bur-
14 den to provide to the applicant and
15 the court raw statistical data for the
16 calendar year in which the action is
17 brought and the preceding 5 calendar
18 years showing, with respect to the
19 specific type of covered project at
20 issue—

21 (aa) the number and per-
22 centage of projects that received
23 all necessary Federal authoriza-
24 tions or permits;

1 (bb) the number and per-
2 centage of projects that were de-
3 nied 1 or more Federal author-
4 izations or permits; and

5 (cc) the number and per-
6 centage of projects for which 1 or
7 more covered applications were
8 pending for more than 60 days
9 beyond the applicable deadline
10 described in subsection (c).

11 (II) FAILURE TO PRODUCE.—A
12 failure of the Federal Government to
13 produce the data described in sub-
14 clause (I) shall result in an adverse
15 inference against the 1 or more Fed-
16 eral agencies named in the cause of
17 action.

18 (C) RECORD FOR REVIEW.—The court
19 shall hear a cause of action brought under this
20 paragraph solely on—

21 (i) the evidence produced by the appli-
22 cant;

23 (ii) the administrative record before
24 the agency; and

1 (iii) any raw statistical data required
2 to be provided under subparagraph
3 (B)(iii).

4 (2) REMEDY.—

5 (A) IN GENERAL.—If the applicant for a
6 specific type of covered project successfully
7 proves that the applicable Federal authoriza-
8 tions or permits were improperly denied or un-
9 reasonably delayed under paragraph (1), the
10 applicant shall be entitled to—

11 (i) injunctive relief, as provided by ap-
12 plicable Federal law;

13 (ii) reasonable attorney fees and costs
14 of litigation, as the court determines ap-
15 propriate;

16 (iii) economic damages, including any
17 costs associated with the applicable denial
18 or delay, as the court determines appro-
19 priate; and

20 (iv) damages in an amount equal to
21 not less than 50 percent and not more
22 than 100 percent of the total reasonably
23 expected cost of construction of the
24 project, which amount shall be determined
25 by the court taking into consideration—

1 (I) the degree to which the Fed-
2 eral interference in the applicable spe-
3 cific type of covered project occurred
4 due to bad faith;

5 (II) the degree to which there ex-
6 ists a pattern of similar Federal inter-
7 ference in specific types of covered
8 projects; and

9 (III) the actual degree of eco-
10 nomic harm to the project sponsor or
11 operator.

12 (B) REQUIREMENT.—To receive a remedy
13 under subparagraph (A), the applicant shall
14 demonstrate the technical and financial ability
15 to construct the applicable specific type of cov-
16 ered project.

17 (3) PROJECT COMPLETION.—An applicant that
18 receives a remedy under paragraph (2) shall, after
19 obtaining all necessary Federal authorizations or
20 permits and absent force majeure—

21 (A) complete the applicable specific type of
22 covered project; or

23 (B) repay all remedies received under
24 paragraph (2).

1 (4) SOURCE OF FUNDS.—Amounts awarded
2 under paragraph (2)—

3 (A) shall be paid from the fund described
4 in section 1304 of title 31, United States Code;
5 and

6 (B) shall not be subject to the availability
7 of appropriations.

8 (5) PROHIBITION ON CLASS ACTIONS.—Rule 23
9 of the Federal Rules of Civil Procedure shall not
10 apply to any action brought under this section, and
11 no party with a claim under this section or any
12 other person may sue as a representative party on
13 behalf of any member of a specific type of covered
14 project subject to Rule 23 of the Federal Rules of
15 Civil Procedure.

16 (6) LIMITATION ON BRINGING CLAIMS.—With
17 respect to a claim filed under this section after the
18 date of enactment of this Act—

19 (A) no claim related to a Federal author-
20 ization or permit for which an environmental
21 impact statement or environmental assessment
22 (as those terms are defined in section 3 of the
23 National Environmental Policy Act of 1969) is
24 required may be filed until the date that is 280
25 days after that date of enactment; and

1 (B) no claim related to a Federal author-
2 ization or permit for which an environmental
3 impact statement or environmental assessment
4 (as so defined) is not required may be filed
5 until the date that is 180 days after that date
6 of enactment.

7 **SEC. 1403. AVOIDING UNREASONABLE DELAYS IN PERMIT-**
8 **TING.**

9 (a) DEFINITIONS.—In this section:

10 (1) COVERED APPLICATION.—The term “cov-
11 ered application” means a complete application for
12 1 or more Federal authorizations or permits.

13 (2) FEDERAL AUTHORIZATION OR PERMIT.—
14 The term “Federal authorization or permit” means
15 an authorization, permit, record of decision, right-of-
16 way, finding of no significant impact, verification,
17 extension, construction and operations plan, biologi-
18 cal opinion, incidental take statement, concurrence,
19 or any other approval or order that is necessary, in-
20 cluding any determination by a Federal department
21 or agency that additional authorizations or permits
22 are not necessary, for the construction or operation
23 at full capacity of a project.

24 (b) RIGHT TO PETITION.—An applicant seeking a
25 Federal authorization or permit for which an environ-

1 mental impact statement or environmental assessment (as
2 those terms are defined in section 3 of the National Envi-
3 ronmental Policy Act of 1969) is not required may obtain
4 judicial review of the compliance by a Federal agency with
5 the deadline established under section 1402(c) with re-
6 spect to the covered application by filing a complaint in
7 a United States district court in which the applicable
8 project is at least partially located.

9 (c) EXCEPTIONS.—The failure of a Federal agency
10 to comply with the deadline established under section
11 1402(c) with respect to a covered application shall not be
12 considered a failure to comply if the Federal agency proves
13 by clear and convincing evidence that the failure was
14 caused by—

15 (1) a natural disaster, act of God, or act of war
16 that reasonably impaired the ability of the Federal
17 agency to comply with the relevant deadline estab-
18 lished under section 1402(c);

19 (2) a national emergency for which the only
20 available response is to delay the decision on the
21 Federal authorization or permit beyond the applica-
22 ble deadline;

23 (3) the covered application being based on
24 fraud or material misrepresentations of fact;

1 (4) the applicant withholding information nec-
2 essary to the ability of the Federal agency to comply
3 with the statutory obligations of the Federal agency
4 in issuing a decision on the Federal authorization or
5 permit after the Federal agency has made a reason-
6 able and timely request for such information; or

7 (5) a lapse in appropriations of more than 14
8 days affecting 1 or more of the relevant Federal
9 agencies with decisionmaking authority over the
10 Federal authorization or permit.

11 (d) REMEDY.—If a court of competent jurisdiction
12 finds that a Federal agency has failed to act in accordance
13 with this section, the court shall—

14 (1) provide injunctive relief, as appropriate, to
15 give effect to this section; and

16 (2) retain jurisdiction to ensure compliance
17 with any such injunctive relief provided.

18 (e) EXPEDITED PROCEDURES; TIME TO DECIDE.—
19 A reviewing court shall—

20 (1) establish an expedited schedule for briefing
21 and disposition under this section; and

22 (2) issue a decision under this section as expe-
23 ditiously as practicable, but not later than 120 days,
24 after the date on which the petition is filed under
25 subsection (b), absent extraordinary circumstances.

1 (f) ORDER.—A court awarding injunctive relief under
2 subsection (d)(1) shall issue an order requiring a decision
3 on the covered application not later than 60 days after
4 the date on which the order is issued.

5 **DIVISION B—COMMITTEE ON EN-**
6 **ERGY AND NATURAL RE-**
7 **SOURCES**

8 **TITLE I—ELECTRIC**
9 **TRANSMISSION**

10 **SEC. 2101. TRANSMISSION PERMITTING.**

11 (a) DEFINITIONS.—Section 216 of the Federal Power
12 Act (16 U.S.C. 824p) is amended by striking subsection
13 (a) and inserting the following:

14 “(a) DEFINITIONS.—In this section:

15 “(1) AFFECTED LANDOWNER.—The term ‘af-
16 fected landowner’ includes each owner of a property
17 interest in affected property, including—

18 “(A) the Federal Government;

19 “(B) a State or local government; and

20 “(C) each owner noted in the most recent
21 county or city tax record as receiving the rel-
22 evant tax notice with respect to that interest.

23 “(2) AFFECTED PROPERTY.—The term ‘af-
24 fected property’ means any land or other property—

1 “(A) that is or will be crossed by the en-
2 ergy transmission facility proposed to be con-
3 structed or modified under the applicable per-
4 mit under subsection (b);

5 “(B) that is or will be used as a facility
6 site with respect to the energy transmission fa-
7 cility proposed to be constructed or modified
8 under the applicable permit under subsection
9 (b);

10 “(C) that abuts any boundary of an exist-
11 ing right-of-way or other facility site that—

12 “(i) is owned by an electric utility;
13 and

14 “(ii) is located not more than 500 feet
15 from the energy transmission facility to be
16 constructed or modified under the applica-
17 ble permit under subsection (b);

18 “(D) that abuts the boundary of a pro-
19 posed facility site for the energy transmission
20 facility to be constructed or modified under the
21 applicable permit under subsection (b);

22 “(E) that is crossed by, or abuts any
23 boundary of, an existing or proposed right-of-
24 way that—

1 “(i) will be used for the energy trans-
2 mission facility to be constructed or modi-
3 fied under the applicable permit under sub-
4 section (b); and

5 “(ii) is located not more than 500 feet
6 from the proposed location of that energy
7 transmission facility; or

8 “(F) on which a residence is located not
9 more than 500 feet from the boundary of any
10 right-of-way for that energy transmission facil-
11 ity.

12 “(3) COMMISSION.—The term ‘Commission’
13 means the Federal Energy Regulatory Commission.

14 “(4) IMPROVED RELIABILITY.—The term ‘im-
15 proved reliability’ has the meaning given the term in
16 section 225(a).

17 “(5) LANDOWNER INPUT.—The term ‘land-
18 owner input’ means input received—

19 “(A) by the Commission;

20 “(B) from affected landowners, such as
21 farmers and ranchers, in the path of the pro-
22 posed construction or modification of an electric
23 transmission facility; and

24 “(C) pursuant to notification provided to,
25 and consultation with, those affected land-

1 owners, farmers, and ranchers by the Commis-
2 sion.

3 “(6) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Energy.”.

5 (b) CONSTRUCTION PERMIT.—Section 216(b) of the
6 Federal Power Act (16 U.S.C. 824p(b)) is amended—

7 (1) in the matter preceding paragraph (1), by
8 striking “Except” and all that follows through
9 “finds that” and inserting “Except as provided in
10 subsections (d)(1) and (i), the Commission shall,
11 after notice and an opportunity for hearing, includ-
12 ing a public comment period of at least 45 days,
13 issue one or more permits to individual or joint ap-
14 plicants for the construction or modification of elec-
15 tric transmission facilities necessary in the national
16 interest if the Commission finds that”;

17 (2) in paragraph (1)—

18 (A) in subparagraph (A)(i), by inserting
19 “or modification” after “siting”; and

20 (B) in subparagraph (C)—

21 (i) in the matter preceding clause (i),
22 by inserting “or modification” after
23 “siting”; and

24 (ii) in clause (i), by striking “the later
25 of” in the matter preceding subclause (I)

1 and all that follows through the semicolon
2 at the end of subclause (II) and inserting
3 “the date on which the application was
4 filed with the State commission or other
5 entity;”; and

6 (3) by striking paragraphs (2) through (6) and
7 inserting the following:

8 “(2) the proposed facilities will be used for the
9 transmission of electric energy in interstate com-
10 merce (including transmission from the outer Conti-
11 nental Shelf to a State) or foreign commerce;

12 “(3) the proposed construction or modification
13 is consistent with the public interest;

14 “(4) the proposed construction or modification
15 will protect or benefit consumers and provide im-
16 proved reliability;

17 “(5) the electric transmission facilities are ca-
18 pable of transmitting electric energy at a voltage of
19 not less than 230 kilovolts or, in the case of facilities
20 that include advanced transmission conductors (in-
21 cluding superconductors), as defined by the Commis-
22 sion, voltages determined to be appropriate by the
23 Commission; and

24 “(6) if applicable, the proposed modification
25 (including reconductoring) will maximize, to the ex-

1 tent reasonable and economical, the transmission ca-
2 pabilities of existing towers, structures, or rights-of-
3 way.”.

4 (c) STATE SITING AND CONSULTATION.—Section
5 216 of the Federal Power Act (16 U.S.C. 824p) is amend-
6 ed by striking subsection (d) and inserting the following:

7 “(d) STATE SITING AND CONSULTATION.—

8 “(1) PRESERVATION OF STATE SITING AUTHOR-
9 ITY.—The Commission shall have no authority to
10 issue a permit under subsection (b) for the construc-
11 tion or modification of an electric transmission facil-
12 ity within a State except as provided in paragraph
13 (1) of that subsection.

14 “(2) CONSULTATION.—In any proceeding be-
15 fore the Commission under subsection (b), the Com-
16 mission shall afford each State in which a trans-
17 mission facility covered by the permit is or will be
18 located, each affected Federal agency and Indian
19 Tribe, private property owners, and other interested
20 persons, a reasonable opportunity to present their
21 views and recommendations with respect to the need
22 for and impact of a facility covered by the permit.

23 “(3) LANDOWNER INPUT.—In authorizing the
24 construction or modification of an electric trans-

1 mission facility under subsection (b), the Commis-
2 sion shall take into account landowner input.

3 “(4) STATE RECORD.—In any proceeding before
4 the Commission under subsection (b), each State in
5 which a transmission facility covered by the permit
6 is or will be located may file with the Commission,
7 and the Commission shall consider, any part of the
8 State record, if applicable, that the State finds to be
9 relevant to the determination of the Commission.

10 “(5) PRE-FILING PROCESSES.—Any Commis-
11 sion-related pre-filing processes relating to an appli-
12 cation submitted under subsection (c) may com-
13 mence before, but shall commence no later than, an
14 application is submitted to the applicable State com-
15 mission or other entity that has authority to approve
16 the siting of the applicable facility.

17 “(6) SIMULTANEOUS PROCESSING.—In the case
18 of transmission facilities that are capable of trans-
19 mitting electric energy at a voltage of not less than
20 345 kilovolts, an application under subsection (c)
21 shall be submitted to the Commission simultaneously
22 with, or any time after, the submission of an appli-
23 cation to the applicable State commission or other
24 entity that has authority to approve the siting of the

1 applicable facility, and the Commission shall com-
2 mence a proceeding under subsection (b).

3 “(7) LIMITATIONS.—Simultaneous processing
4 under paragraph (6) is subject to the condition that
5 the Commission shall not issue a permit under sub-
6 section (b) unless the Commission first makes a
7 finding described in subparagraph (A), (B), or (C)
8 of subsection (b)(1) with respect to the applicable
9 electric transmission facility.”.

10 (d) RIGHTS-OF-WAY.—Section 216(e)(3) of the Fed-
11 eral Power Act (16 U.S.C. 824p(e)(3)) is amended by
12 striking “shall conform” and all that follows through the
13 period at the end and inserting “shall be in accordance
14 with rule 71.1 of the Federal Rules of Civil Procedure.”.

15 (e) COST ALLOCATION.—

16 (1) IN GENERAL.—Section 216 of the Federal
17 Power Act (16 U.S.C. 824p) is amended by striking
18 subsection (f) and inserting the following:

19 “(f) COST ALLOCATION.—

20 “(1) TRANSMISSION TARIFFS.—For the pur-
21 poses of this section and except as provided in para-
22 graph (2), any transmitting utility that owns, con-
23 trols, or operates electric transmission facilities that
24 the Commission finds to be consistent with the find-
25 ings under paragraphs (2) through (5) and, if appli-

1 cable, (6) of subsection (b) shall file a tariff or tariff
2 revision with the Commission pursuant to section
3 205 and the regulations of the Commission allo-
4 cating the costs of the new or modified transmission
5 facilities.

6 “(2) EXCEPTION.—In the case of an exempt
7 transmitting utility (as defined in section 225(a))
8 that owns, controls, or operates electric transmission
9 facilities described in paragraph (1), the Commis-
10 sion, notwithstanding section 211A(c), shall require
11 the exempt transmitting utility to provide trans-
12 mission services over such facilities pursuant to sec-
13 tion 211A and the regulations of the Commission al-
14 locating the costs of the new or modified trans-
15 mission facilities.

16 “(3) TRANSMISSION BENEFITS.—The Commis-
17 sion shall require that tariffs or tariff revisions filed
18 under this section are just and reasonable and allo-
19 cate the costs of providing service to customers that
20 benefit, in accordance with the cost-causation prin-
21 ciple and at least roughly commensurate with the
22 benefits, including through—

23 “(A) improved reliability;

24 “(B) reduced congestion;

25 “(C) reduced power losses;

1 “(D) greater carrying capacity that deliv-
2 ers improved reliability or reductions in the cost
3 of delivered power;

4 “(E) reduced operating reserve require-
5 ments; and

6 “(F) improved access to generation that
7 achieves reductions in the cost of delivered
8 power.

9 “(4) RATEPAYER PROTECTION.—Customers
10 that receive no benefit, or benefits that are trivial in
11 relation to the costs sought to be allocated, from
12 electric transmission facilities constructed or modi-
13 fied under this section shall not be involuntarily allo-
14 cated any of the costs of those transmission facili-
15 ties, provided, however, that nothing in this section
16 shall prevent a transmitting utility from recovering
17 such costs through voluntary agreement with its cus-
18 tomers.”.

19 (2) SAVINGS PROVISION.—If the Federal En-
20 ergy Regulatory Commission finds that the consider-
21 ations under paragraphs (1) through (5) and, if ap-
22 plicable, (6) of section 216 of the Federal Power Act
23 (16 U.S.C. 824p) (as amended by subsection (b))
24 are met, nothing in this section or the amendments
25 made by this section shall be construed to exclude

1 transmission facilities located on the outer Conti-
2 nental Shelf from being eligible for cost allocation
3 established under subsection (f)(1) of that section
4 (as amended by paragraph (1)).

5 (f) COORDINATION OF FEDERAL AUTHORIZATIONS
6 FOR TRANSMISSION FACILITIES.—Section 216(h) of the
7 Federal Power Act (16 U.S.C. 824p(h)) is amended—

8 (1) in paragraph (1), by adding at the end the
9 following:

10 “(C) The term ‘Federal authorization’ includes
11 a certification under section 401 of the Federal
12 Water Pollution Control Act (33 U.S.C. 1341) from
13 a certifying authority (as defined in subsection (h)
14 of that section) and any other permit, license, con-
15 currence, or approval of a State administrative agen-
16 cy required under Federal law, other than the Coast-
17 al Zone Management Act of 1972 (16 U.S.C. 1451
18 et seq.), in order to site a transmission facility.”;

19 (2) in paragraph (2), by striking the period at
20 the end and inserting the following: “, except that—

21 “(A) the Commission shall act as the lead agen-
22 cy in the case of facilities permitted under sub-
23 section (b) or section 225; and

24 “(B) the Department of the Interior shall act
25 as the lead agency in the case of facilities located on

1 a lease, easement, or right-of-way granted by the
2 Secretary of the Interior under section 8(p)(1)(C) of
3 the Outer Continental Shelf Lands Act (43 U.S.C.
4 1337(p)(1)(C)).”;

5 (3) in each of paragraphs (3), (4)(B), (4)(C),
6 (5)(B), (6)(A), (7)(A), (7)(B)(i), (8)(A)(i), and (9),
7 by striking “Secretary” each place it appears and in-
8 serting “lead agency”;

9 (4) in paragraph (4)(A), by striking “As head
10 of the lead agency, the Secretary” and inserting
11 “The lead agency”;

12 (5) in paragraph (5)(A), by striking “As lead
13 agency head, the Secretary” and inserting “The lead
14 agency”;

15 (6) in paragraph (7)—

16 (A) in subparagraph (A), by striking “18
17 months after the date of enactment of this sec-
18 tion” and inserting “18 months after the date
19 of enactment of the Bipartisan American Af-
20 fordability and Jobs Act of 2026”; and

21 (B) in subparagraph (B)(i), by striking “1
22 year after the date of enactment of this sec-
23 tion” and inserting “18 months after the date
24 of enactment of the Bipartisan American Af-
25 fordability and Jobs Act of 2026”; and

1 (7) by adding at the end the following:

2 “(10) Any order or action of a Federal agency or
3 State administrative agency acting pursuant to Federal
4 law to issue, condition, or deny a Federal authorization
5 shall be subject to judicial review in the same courts in
6 which an order of the Commission is subject to judicial
7 review under section 313, and a court shall have jurisdic-
8 tion over the action in accordance with the third sentence
9 of subsection (b) of that section, the courts described in
10 that section having original and exclusive jurisdiction over
11 such actions.”.

12 (g) INTERSTATE COMPACTS.—Section 216(i) of the
13 Federal Power Act (16 U.S.C. 824p(i)) is amended—

14 (1) in paragraph (3), by striking “, including
15 facilities in national interest electric transmission
16 corridors”; and

17 (2) in paragraph (4)—

18 (A) in subparagraph (A), by striking “;
19 and” and inserting a period;

20 (B) by striking subparagraph (B); and

21 (C) by striking “in disagreement” in the
22 matter preceding subparagraph (A) and all that
23 follows through “(A) the” in subparagraph (A)
24 and inserting “unable to reach an agreement on
25 an application seeking approval by the”.

1 (h) TRANSMISSION INFRASTRUCTURE INVEST-
2 MENT.—Section 219(b)(4) of the Federal Power Act (16
3 U.S.C. 824s(b)(4)) is amended—

4 (1) in subparagraph (A), by striking “and”
5 after the semicolon at the end;

6 (2) in subparagraph (B), by striking the period
7 at the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(C) all prudently incurred costs associ-
10 ated with payments to jurisdictions impacted by
11 electric transmission facilities developed pursu-
12 ant to section 216 or 225.”.

13 (i) JURISDICTION.—Section 216 of the Federal
14 Power Act (16 U.S.C. 824p) is amended by striking sub-
15 section (k) and inserting the following:

16 “(k) JURISDICTION.—

17 “(1) ERCOT.—This section shall not apply
18 within the area referred to in section 212(k)(2)(A).

19 “(2) OTHER UTILITIES.—

20 “(A) IN GENERAL.—For the purposes of
21 this section, the Commission shall have jurisdic-
22 tion over all transmitting utilities, including
23 transmitting utilities described in section
24 201(f), but excluding any ERCOT utility (as
25 defined in section 212(k)(2)(B)) and any ex-

1 empty transmitting utility that does not volun-
2 tarily subject itself to Commission jurisdiction
3 for the purposes of this section.

4 “(B) CLARIFICATION.—Being subject to
5 Commission jurisdiction for the purposes of this
6 section shall not make an entity described in
7 section 201(f) a public utility for the purposes
8 of section 201(e).”.

9 (j) CONFORMING AMENDMENTS.—

10 (1) Section 50151(b) of Public Law 117–169
11 (42 U.S.C. 18715(b)) is amended by striking “facili-
12 ties designated by the Secretary to be necessary in
13 the national interest under section 216(a) of the
14 Federal Power Act (16 U.S.C. 824p(a))” and insert-
15 ing “facilities in a geographic area identified under
16 section 224 of the Federal Power Act”.

17 (2) Section 1222 of the Energy Policy Act of
18 2005 (42 U.S.C. 16421) is amended—

19 (A) in subsection (a)(1)(A), by striking “in
20 a national interest electric transmission corridor
21 designated under section 216(a)” and inserting
22 “in a geographic area identified under section
23 224”; and

24 (B) in subsection (b)(1)(A), by striking “in
25 an area designated under section 216(a)” and

1 inserting “in a geographic area identified under
2 section 224”.

3 (3) Section 40106(h)(1)(A) of the Infrastruc-
4 ture Investment and Jobs Act (42 U.S.C.
5 18713(h)(1)(A)) is amended by striking “in an area
6 designated as a national interest electric trans-
7 mission corridor pursuant to section 216(a) of the
8 Federal Power Act 16 U.S.C. 824p(a)” and insert-
9 ing “in a geographic area identified under section
10 224 of the Federal Power Act”.

11 **SEC. 2102. RECONDUCTORING AND OTHER ACTIVITIES IN**
12 **EXISTING RIGHTS-OF-WAY.**

13 (a) CATEGORICAL EXCLUSION FOR
14 RECONDUCTORING.—The Federal Power Act is amended
15 by inserting after section 216 (16 U.S.C. 824p) the fol-
16 lowing:

17 **“SEC. 216A. GRID CAPACITY EXPANSION IN EXISTING**
18 **RIGHTS-OF-WAY.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) APPLICABLE ELECTRICAL STANDARD.—

21 The term ‘applicable electrical standard’ includes—

22 “(A) a reliability standard (as defined in
23 section 215(a)); and

24 “(B) an applicable standard of the Na-
25 tional Electrical Safety Code published by the

1 Institute of Electrical and Electronics Engi-
2 neers Standards Association.

3 “(2) COVERED AREA.—The term ‘covered area’
4 means an area—

5 “(A) within an existing right-of-way; or

6 “(B) within the minimum additional area
7 adjacent to an existing right-of-way that is nec-
8 essary—

9 “(i) to comply with applicable elec-
10 trical standards; or

11 “(ii) to complete an activity described
12 in subsection (b).

13 “(3) COVERED FACILITY.—The term ‘covered
14 facility’ means an existing electric transmission or
15 distribution facility or associated infrastructure (in-
16 cluding an electrical substation) that is located with-
17 in a covered area.

18 “(b) EXEMPTIONS.—

19 “(1) IN GENERAL.—Activities to maintain or
20 increase the capacity of the electric grid within a
21 covered area, and any Federal agency action author-
22 izing such activities—

23 “(A) are a category of actions designated
24 as being categorically excluded from the prepa-
25 ration of an environmental assessment or an

1 environmental impact statement under the Na-
2 tional Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.); and

4 “(B) shall not be considered to be—

5 “(i) a major Federal action for pur-
6 poses of that Act; or

7 “(ii) an undertaking for purposes of
8 section 306108 of title 54, United States
9 Code.

10 “(2) INCLUSIONS.—The activities described in
11 paragraph (1) include—

12 “(A) any repair, maintenance, replace-
13 ment, upgrade, rebuilding, modification, optimi-
14 zation, minor relocation of, or addition to, a
15 covered facility, including—

16 “(i) reconductoring;

17 “(ii) an increase in operating voltage;

18 “(iii) a circuit addition or adjustment;

19 and

20 “(iv) installation of advanced trans-
21 mission technologies (as defined in section
22 1223(a) of the Energy Policy Act of 2005
23 (42 U.S.C. 16422(a)));

1 “(B) any minimum widening of an existing
2 right-of-way associated with an activity de-
3 scribed in subparagraph (A) that—

4 “(i) is necessary to comply with appli-
5 cable electrical standards; or

6 “(ii) remains within a covered area;

7 “(C) an addition of energy storage at or
8 near a covered facility; and

9 “(D) the addition of a parallel circuit with-
10 in an existing right-of-way.”.

11 (b) INTERSTATE NATURAL GAS PIPELINE MOD-
12 ERNIZATION WITHIN EXISTING CORRIDORS.—Section 7
13 of the Natural Gas Act (15 U.S.C. 717f) is amended by
14 adding at the end the following:

15 “(i) COVERED PIPELINE ACTIVITIES.—

16 “(1) DEFINITIONS.—In this subsection:

17 “(A) COVERED ACTIVITY.—The term ‘cov-
18 ered activity’ means any repair, maintenance,
19 replacement, upgrade, rebuilding, modification,
20 optimization, minor relocation, looping, com-
21 pression, capacity-enhancement project, or addi-
22 tion to a covered facility.

23 “(B) COVERED AREA.—The term ‘covered
24 area’ means—

25 “(i) an existing right-of-way; and

1 “(ii) the footprint of original construc-
2 tion previously authorized and environ-
3 mentally reviewed under this Act, together
4 with any minimum additional area adja-
5 cent to an existing right-of-way that is nec-
6 essary to complete a covered activity.

7 “(C) COVERED FACILITY.—The term ‘cov-
8 ered facility’ means an existing interstate nat-
9 ural gas pipeline or associated infrastructure,
10 including a compressor station, meter station,
11 regulator station, valve site, launcher, receiver,
12 storage-related facility, or similar facility lo-
13 cated within a covered area.

14 “(2) ENVIRONMENTAL REVIEW.—A covered ac-
15 tivity and any Federal agency action authorizing
16 that covered activity—

17 “(A) shall not be considered a major Fed-
18 eral action under the National Environmental
19 Policy Act of 1969 (42 U.S.C. 4321 et seq.) if
20 the covered activity remains within a covered
21 area; and

22 “(B) shall not be considered an under-
23 taking for purposes of section 306108 of title
24 54, United States Code, if the covered activity
25 remains within a covered area.

1 “(3) RULE OF CONSTRUCTION.—Nothing in
2 this subsection affects the applicability of any re-
3 quirement under—

4 “(A) the Federal Water Pollution Control
5 Act (33 U.S.C. 1251 et seq.) (commonly known
6 as the ‘Clean Water Act’);

7 “(B) the Clean Air Act (42 U.S.C. 7401 et
8 seq.); or

9 “(C) any other applicable Federal law not
10 expressly addressed by this subsection.”.

11 **SEC. 2103. TRANSMISSION PLANNING.**

12 Part II of the Federal Power Act (16 U.S.C. 824 et
13 seq.) is amended by adding at the end the following:

14 **“SEC. 224. TRANSMISSION STUDY.**

15 “(a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of this section and every 3 years there-
17 after, the Secretary of Energy (referred to in this section
18 as the ‘Secretary’), in consultation with affected States
19 and Indian Tribes, shall conduct a study of electric trans-
20 mission capacity constraints and congestion.

21 “(b) REPORT.—

22 “(1) IN GENERAL.—Not less frequently than
23 once every 3 years, the Secretary shall issue a report
24 based on the study under subsection (a) or other in-

1 formation relating to electric transmission capacity
2 constraints and congestion.

3 “(2) OPPORTUNITY FOR COMMENT.—Before
4 issuing a report under paragraph (1), the Secretary
5 shall—

6 “(A) provide an opportunity for comment
7 to affected States and Indian Tribes; and

8 “(B) take into consideration any comments
9 received under subparagraph (A) in preparing
10 the report.

11 “(3) IDENTIFICATION OF AREAS WITH CAPAC-
12 ITY CONSTRAINTS AND CONGESTION.—After consid-
13 ering alternatives and recommendations from inter-
14 ested parties (including any comments received from
15 affected States and Indian Tribes), the Secretary
16 may identify in a report issued under paragraph (1)
17 any geographic area that—

18 “(A) is experiencing electric energy trans-
19 mission capacity constraints or congestion that
20 adversely affects consumers; or

21 “(B) is expected to experience such energy
22 transmission capacity constraints or congestion.

23 “(c) CONSULTATION.—Not less frequently than once
24 every 3 years, the Secretary, in conducting the study
25 under subsection (a) and issuing the report under sub-

1 section (b), shall consult with affected transmission plan-
2 ning regions (as defined in section 225(a)) and any appro-
3 priate regional entity referred to in section 215.

4 “(d) ALASKA.—The Secretary—

5 “(1) shall, in consultation with the State of
6 Alaska and affected Indian Tribes, consider any
7 intrastate transmission capacity constraints and con-
8 gestion within the State of Alaska in the study
9 under subsection (a); and

10 “(2) in issuing the report under subsection (b),
11 may, subject to the approval of the Regulatory Com-
12 mission of Alaska, identify any geographic area in
13 the State of Alaska that—

14 “(A) is experiencing electric energy trans-
15 mission capacity constraints or congestion that
16 adversely affects consumers; or

17 “(B) is expected to experience such energy
18 transmission capacity constraints or congestion.

19 **“SEC. 225. PLANNING FOR TRANSMISSION FACILITIES THAT**
20 **ENHANCE GRID RELIABILITY, AFFORD-**
21 **ABILITY, AND RESILIENCE.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) COMMISSION.—The term ‘Commission’
24 means the Federal Energy Regulatory Commission.

1 “(2) ERO.—The term ‘ERO’ has the meaning
2 given the term in section 215(a).

3 “(3) EXEMPT TRANSMITTING UTILITY.—The
4 term ‘exempt transmitting utility’ means a transmit-
5 ting utility that is—

6 “(A) a State or any political subdivision of
7 a State; or

8 “(B) an electric cooperative that sells less
9 than 4,000,000 megawatt hours of electricity
10 per year.

11 “(4) IMPROVED RELIABILITY.—The term ‘im-
12 proved reliability’ means that, on balance, consid-
13 ering each of the matters described in subpara-
14 graphs (A) through (D), reliability is improved in a
15 material manner that benefits customers through at
16 least one of the following:

17 “(A) Facilitating compliance with a man-
18 datory standard for reliability approved by the
19 Commission under section 215.

20 “(B) A reduction in expected unserved en-
21 ergy, loss of load hours, or loss of load prob-
22 ability (as defined by the ERO).

23 “(C) Facilitating compliance with a tariff
24 requirement or process for resource adequacy
25 on file with the Commission.

1 “(D) Any other similar material improve-
2 ment, including a reduction in correlated outage
3 risk.

4 “(5) INTERREGIONAL TRANSMISSION FACIL-
5 ITY.—The term ‘interregional transmission facility’
6 means a transmission facility that—

7 “(A) is located within 2 or more neigh-
8 boring transmission planning regions; or

9 “(B) significantly impacts the ability of 1
10 or more transmission planning regions to trans-
11 mit electric energy among neighboring trans-
12 mission planning regions.

13 “(6) REGIONAL TRANSMISSION FACILITY.—The
14 term ‘regional transmission facility’ means a trans-
15 mission facility that—

16 “(A) is located within 1 transmission plan-
17 ning region; and

18 “(B) is not an interregional transmission
19 facility.

20 “(7) TRANSMISSION PLANNING REGION.—

21 “(A) IN GENERAL.—The term ‘trans-
22 mission planning region’—

23 “(i) when used in a geographical
24 sense, means a region for which the Com-
25 mission determines that electric trans-

mission planning is appropriate, such as a region established in accordance with Order No. 1000 of the Commission, entitled ‘Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities’ (76 Fed. Reg. 49842 (August 11, 2011)); and

“(ii) when used in a corporate sense, means the Transmission Organization or other entity responsible for planning or operating electric transmission facilities within a region described in clause (i).

“(B) EXCLUSION.—The term ‘transmission planning region’ does not include the Electric Reliability Council of Texas or the region served by members of the Electric Reliability Council of Texas.

“(b) JURISDICTION.—

“(1) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

“(2) OTHER UTILITIES.—

“(A) IN GENERAL.—For the purposes of this section, the Commission shall have jurisdiction over all transmitting utilities, including transmitting utilities described in section

1 201(f), but excluding any ERCOT utility (as
2 defined in section 212(k)(2)(B)) and any ex-
3 empt transmitting utility that does not volun-
4 tarily subject itself to Commission jurisdiction
5 for the purposes of this section.

6 “(B) CLARIFICATION.—Being subject to
7 Commission jurisdiction for the purposes of this
8 section shall not make an entity described in
9 section 201(f) a public utility for the purposes
10 of section 201(e).

11 “(c) RULEMAKING REQUIREMENT.—Not later than
12 180 days after the date of enactment of this section, the
13 Commission shall, consistent with the requirements of this
14 section, by rule—

15 “(1) require each transmission planning region
16 to establish a process for planning for regional
17 transmission facilities in accordance with this sec-
18 tion;

19 “(2) require neighboring transmission planning
20 regions to jointly establish a process for planning
21 interregional transmission facilities in accordance
22 with this section;

23 “(3) require each transmission planning region
24 to submit to the Commission for approval—

1 “(A) a regional transmission planning
2 process; and

3 “(B) a joint interregional transmission
4 planning process with each of its neighboring
5 transmission planning regions, which require-
6 ment may, at the discretion of the transmission
7 planning region, be satisfied through the sub-
8 mission of—

9 “(i) a separate joint interregional
10 transmission planning process with each of
11 its neighboring transmission planning re-
12 gions; or

13 “(ii) 1 or more joint interregional
14 transmission planning processes, any of
15 which may be submitted with any 1 or
16 more of its neighboring transmission plan-
17 ning regions; and

18 “(4) establish rate treatments for regional and
19 interregional transmission planning and cost alloca-
20 tion.

21 “(d) TRANSMISSION PLANNING PROCESS ELE-
22 MENTS.—The Commission shall require, within the rule
23 under subsection (c), that regional and joint interregional
24 transmission planning processes contain the following ele-
25 ments:

1 “(1) COMPATIBILITY.—A common set of input
2 assumptions and models, on a consistent timeline,
3 that—

4 “(A) allow for the joint identification and
5 selection of specific interregional transmission
6 facilities, and individual identification and selec-
7 tion of specific regional transmission facilities,
8 by transmission planning regions, for construc-
9 tion or modification, including through the use
10 of advanced transmission conductors (including
11 superconductors) and reconductoring;

12 “(B) consider, to the extent reasonable and
13 economical, modifications that maximize the
14 transmission capabilities of existing towers,
15 structures, or rights-of-way; and

16 “(C) consider interactions with existing re-
17 gional, interregional, and supplemental trans-
18 mission plans and planning processes.

19 “(2) TRANSMISSION BENEFITS.—A common set
20 of benefits for regional and interregional trans-
21 mission planning and cost allocation, including—

22 “(A) improved reliability;

23 “(B) reduced congestion;

24 “(C) reduced power losses;

1 “(D) greater carrying capacity that deliv-
2 ers improved reliability or reductions in the cost
3 of delivered power;

4 “(E) reduced operating reserve require-
5 ments; and

6 “(F) improved access to generation that
7 achieves reductions in the cost of delivered
8 power.

9 “(3) SELECTION CRITERIA.—Criteria governing
10 the selection by transmission planning regions, for
11 construction or modification, of regional and inter-
12 regional transmission facilities that—

13 “(A) provide improved reliability;

14 “(B) protect or benefit consumers; and

15 “(C) are consistent with the public inter-
16 est.

17 “(e) DEADLINE; UPDATES.—The regional and joint
18 interregional transmission planning processes required to
19 be submitted to the Commission pursuant to the rule
20 under subsection (c) shall be—

21 “(1) submitted to the Commission not later
22 than 2 years after the date of enactment of this sec-
23 tion; and

24 “(2) updated not less frequently than once
25 every 4 years.

1 “(f) COMMISSION REVIEW.—The Commission shall—

2 “(1) review each regional and joint inter-
3 regional transmission planning process submitted
4 pursuant to the rule under subsection (c); and

5 “(2) approve the regional or joint interregional
6 transmission planning process if the Commission
7 finds that the process—

8 “(A) meets the requirements of subsection
9 (d);

10 “(B) allocates costs in accordance with
11 subsection (g);

12 “(C) ensures that all rates, charges, terms,
13 and conditions will be just and reasonable and
14 not unduly discriminatory or preferential; and

15 “(D) is consistent with the public interest.

16 “(g) COST ALLOCATION.—

17 “(1) TRANSMISSION TARIFFS.—For the pur-
18 poses of this section and except as provided in para-
19 graph (2), any transmitting utility that owns, con-
20 trols, or operates electric transmission facilities con-
21 structed or modified as a result of this section shall
22 file a tariff or tariff revision with the Commission
23 pursuant to section 205 and the regulations of the
24 Commission allocating the costs of the new or modi-
25 fied transmission facilities.

1 “(2) EXCEPTION.—In the case of an exempt
2 transmitting utility that owns, controls, or operates
3 electric transmission facilities described in para-
4 graph (1), the Commission, notwithstanding section
5 211A(c), shall require the exempt transmitting util-
6 ity to provide transmission services over such facili-
7 ties pursuant to section 211A and the regulations of
8 the Commission allocating the costs of the new or
9 modified transmission facilities.

10 “(3) REQUIREMENT.—The Commission shall
11 require that tariffs or tariff revisions filed under this
12 section are just and reasonable and allocate the
13 costs of providing service to customers that benefit,
14 in accordance with the cost-causation principle and
15 at least roughly commensurate with the benefits, in-
16 cluding through the benefits described in subsection
17 (d)(2).

18 “(4) RATEPAYER PROTECTION.—Customers
19 that receive no benefit, or benefits that are trivial in
20 relation to the costs sought to be allocated, from
21 electric transmission facilities constructed or modi-
22 fied under this section shall not be involuntarily allo-
23 cated any of the costs of those transmission facili-
24 ties.

1 “(h) COMPLIANCE.—Compliance with a Commission
2 order or rulemaking effective as of the date of enactment
3 of this section, including orders published in the Federal
4 Register on April 28, 2025, December 6, 2024, and June
5 11, 2024, shall constitute compliance with the regional
6 transmission planning and cost allocation requirements of
7 this section.

8 “(i) CONSTRUCTION PERMIT.—For the purposes of
9 obtaining a construction permit under section 216(b), a
10 project that is selected by 1 or more transmission planning
11 regions pursuant to a regional or joint interregional trans-
12 mission plan in accordance with this section shall be con-
13 sidered to satisfy paragraphs (2) through (5) and, if appli-
14 cable, (6) of that section.

15 “(j) FAILURE TO SUBMIT PLANNING PROCESS.—In
16 the event that neighboring transmission planning regions
17 (in the case of an interregional planning process) or a sin-
18 gle planning region (in the case of a regional planning
19 process) fails to submit to the Commission a regional or
20 joint interregional transmission planning process, as appli-
21 cable, under this section, the Commission shall, as the
22 Commission determines to be appropriate, grant a request
23 to extend the time for submission of the planning process
24 for not more than 6 months after the deadline the Com-

1 mission requires for compliance with the rule under sub-
2 section (c).

3 “(k) NEPA.—For purposes of the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

5 “(1) any approval of a regional or joint inter-
6 regional transmission planning process under sub-
7 section (f) shall not be considered a major Federal
8 action; and

9 “(2) any permit granted under section 216(b)
10 for a project that is selected by transmission plan-
11 ning regions pursuant to a joint interregional trans-
12 mission plan shall be considered a major Federal ac-
13 tion.”.

14 **SEC. 2104. IMPROVEMENTS RELATING TO LOCAL TRANS-**
15 **MISSION PLANNING AND DEVELOPMENT.**

16 Part II of the Federal Power Act (16 U.S.C. 824 et
17 seq.) (as amended by section 2103) is amended by adding
18 at the end the following:

19 **“SEC. 226. OVERSIGHT OF LOCAL TRANSMISSION PLAN-**
20 **NING AND DEVELOPMENT.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COMMISSION.—The term ‘Commission’
23 means the Federal Energy Regulatory Commission.

1 “(2) LOCAL TRANSMISSION FACILITY.—The
2 term ‘local transmission facility’ means an electric
3 transmission facility—

4 “(A) that is located entirely within the
5 service territory of a single public utility; and

6 “(B) the cost of which is recovered entirely
7 from transmission customers within that service
8 territory.

9 “(3) REFERRING STATE.— The term ‘referring
10 State’ means 1 or more States making a referral
11 under subsection (b).

12 “(4) REGIONAL TRANSMISSION FACILITY.—The
13 term ‘regional transmission facility’ means an elec-
14 tric transmission facility the cost of which is recov-
15 ered from transmission customers located within
16 more than 1 service territory but within a single
17 transmission planning region.

18 “(5) TRANSMISSION PLANNING REGION.—The
19 term ‘transmission planning region’ means a region
20 for which the Commission determines that electric
21 transmission planning is appropriate, such as a re-
22 gion established in accordance with Order No. 1000
23 of the Commission, entitled ‘Transmission Planning
24 and Cost Allocation by Transmission Owning and

1 Operating Public Utilities’ (76 Fed. Reg. 49842
2 (August 11, 2011)).

3 “(b) STATE REFERRAL AUTHORITY.—

4 “(1) IN GENERAL.—Not later than 1 year after
5 the date of enactment of this section, the Commis-
6 sion shall, by rule, establish procedures by which 1
7 or more States may refer a public utility to the
8 Commission for an investigation into the processes
9 used by the public utility for planning and devel-
10 oping local transmission facilities.

11 “(2) REQUIREMENTS.—A referral under para-
12 graph (1) shall include, at a minimum—

13 “(A) a description of the 1 or more proc-
14 esses used by the public utility for local trans-
15 mission planning and development about which
16 the referring State is concerned;

17 “(B) a description of the harm that those
18 processes may be causing to wholesale or retail
19 electric customers within the referring State;
20 and

21 “(C) a description of the efforts that the
22 referring State has taken to resolve its concerns
23 about the identified local transmission planning
24 and development processes prior to referral to
25 the Commission.

1 “(c) COMMISSION ACTION TO EXERCISE OVERSIGHT
2 OF LOCAL TRANSMISSION PLANNING AND DEVELOP-
3 MENT.—

4 “(1) IN GENERAL.—On receipt of a referral
5 under subsection (b) from a referring State, the
6 Commission shall—

7 “(A) notice for initial public comment the
8 initiation of an investigation; and

9 “(B) concurrently with that notice, certify
10 an investigative team to be composed of—

11 “(i) 1 or more individuals from the
12 Office of Enforcement and Regulatory Ac-
13 counting of the Commission; and

14 “(ii) up to 3 representatives appointed
15 by the referring State.

16 “(2) AUTHORITY OF INVESTIGATIVE TEAM.—
17 An investigative team certified under paragraph
18 (1)(B) shall have all investigative authorities that
19 would be available to the Commission or Commission
20 staff in proceedings under or relating to the author-
21 ity of the Commission under section 222.

22 “(3) PRELIMINARY FINDINGS REPORT.—If an
23 investigative team certified under paragraph (1)(B)
24 concludes that the processes used by a public utility
25 for planning and developing local transmission facili-

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1 ties are not resulting in the selection of the more ef-
2 ficient or cost-effective local transmission facilities or
3 that those processes are interfering with the proc-
4 esses of the relevant transmission planning region
5 for planning and developing regional transmission
6 facilities, the investigative team shall issue a prelimi-
7 nary findings report to the Commission explaining
8 that conclusion and recommending a remedy.

9 “(4) COMMISSION RESPONSE TO REPORT.—

10 “(A) NOTICE AND COMMENT.—On receipt
11 of a preliminary findings report under para-
12 graph (3), the Commission shall notice the re-
13 port for comment.

14 “(B) ORDER.—After reviewing the record,
15 including any comments received under sub-
16 paragraph (A), the Commission shall issue an
17 order taking any such action as would be avail-
18 able to the Commission in a proceeding under
19 section 222 that the Commission determines to
20 be appropriate, which may include 1 or more of
21 the following remedies:

22 “(i) Requiring changes to the proc-
23 esses used by the applicable public utility
24 for planning local transmission facilities.

1 “(ii) Reducing the return on equity of
2 the public utility with respect to local
3 transmission facilities.

4 “(iii) Eliminating the presumption of
5 prudence for local transmission facilities
6 planned or developed by the public utility.

7 “(iv) A fine, payable to the referring
8 State, of up to \$5,000,000 for each local
9 transmission facility—

10 “(I) that was developed or ener-
11 gized during the period beginning 60
12 days before the referral under sub-
13 section (b) and ending on the date on
14 which the order under this subpara-
15 graph is issued; and

16 “(II) the development or ener-
17 gizing of which the Commissions de-
18 termines—

19 “(aa) was imprudent; and

20 “(bb) caused financial harm
21 to wholesale or retail electric cus-
22 tomers within the referring State.

23 “(v) Any other appropriate remedy.

1 “(d) SAVINGS PROVISION.—Nothing in this section
2 limits or impairs any authority of the Commission under
3 any other provision of law.”.

4 **SEC. 2105. PROHIBITION OF RIGHT OF FIRST REFUSAL.**

5 Part II of the Federal Power Act (16 U.S.C. 824 et
6 seq.) (as amended by section 2104) is amended by adding
7 at the end the following:

8 **“SEC. 227. PROHIBITION OF RIGHT OF FIRST REFUSAL.**

9 “Notwithstanding any rule or order of the Federal
10 Energy Regulatory Commission in effect as of the date
11 of enactment of this section, a Federal right of first re-
12 fusual is prohibited with respect to a transmission facility
13 selected in a regional or interregional transmission plan
14 for the purposes of cost allocation.”.

15 **SEC. 2106. CONSOLIDATED PLANNING PROCESS.**

16 Part III of the Federal Power Act is amended by in-
17 serting after section 317 (16 U.S.C. 825p) the following:

18 **“SEC. 318. CONSOLIDATED PLANNING PROCESS.**

19 “(a) CONSOLIDATED GENERATION AND TRANS-
20 MISSION PLANNING.—Not later than 18 months after the
21 date of enactment of the Bipartisan American Afford-
22 ability and Jobs Act of 2026, the Federal Energy Regu-
23 latory Commission (referred to in this section as the ‘Com-
24 mission’) shall issue a rule requiring each transmission
25 planning region (as defined in section 225(a)) to file a

1 consolidated interconnection and regional transmission
2 planning process that—

3 “(1) jointly evaluates electric transmission fa-
4 cilities and the generating capacity reasonably an-
5 ticipated to be needed to meet future forecasted de-
6 mand and forecasted generation over the next 20
7 years;

8 “(2) routinely identifies and publishes resource
9 and fuel-neutral planned interconnection locations
10 for generating capacity and an upfront, fixed, zonal,
11 per-megawatt cost for each planned interconnection
12 location; and

13 “(3) establishes a streamlined generator cluster
14 study process with a single decision point, meaning-
15 ful and nonrefundable financial security, and with-
16 drawal penalties sufficient to deter speculative
17 projects.

18 “(b) DEADLINE; UPDATES.—The consolidated inter-
19 connection and regional transmission planning process re-
20 quired to be filed with the Commission pursuant to the
21 rule under subsection (a) shall be—

22 “(1) filed with the Commission not later than
23 2 years after the date of enactment of the Bipar-
24 tisan American Affordability and Jobs Act of 2026;
25 and

1 “(2) updated not less frequently than once
2 every 2 years.

3 “(c) COMMISSION REVIEW.—The Commission shall—

4 “(1) review each consolidated interconnection
5 and regional transmission planning process filed
6 pursuant to the rule under subsection (a); and

7 “(2) approve the consolidated interconnection
8 and regional transmission planning process if the
9 Commission finds that the process—

10 “(A) ensures that all rates, charges, terms,
11 and conditions will be just and reasonable and
12 not unduly discriminatory or preferential; and

13 “(B) is consistent with the public inter-
14 est.”.

15 **SEC. 2107. RATEPAYER PROTECTION.**

16 (a) FERC PRICING POLICY FOR TRANSMISSION
17 SERVICES PROVIDED BY PUBLIC UTILITIES AND TRANS-
18 MITTING UTILITIES.—

19 (1) FINDINGS.—Congress finds that—

20 (A) it is not just and reasonable within the
21 meaning of sections 205 and 206 of the Federal
22 Power Act (16 U.S.C. 824d, 824e) for any pub-
23 lic utility or transmitting utility to maintain
24 rates, terms, or conditions of service that, by
25 their terms, charge less than the embedded

1 costs and incremental expansion costs to eligible
2 customers seeking transmission service from
3 computational load owners and computational
4 load operators;

5 (B) transmission service costs should be
6 fully assigned to computational load owners and
7 computational load operators so as to minimize
8 or avoid the cost burden on other customers;
9 and

10 (C) computational load owners and com-
11 putational load operators should incur the full
12 cost of the transmission service they require.

13 (2) DEFINITIONS.—In this subsection:

14 (A) 1994 TRANSMISSION PRICING POLICY
15 STATEMENT.—The term “1994 transmission
16 pricing policy statement” means the policy
17 statement issued by the Commission on October
18 26, 1994, and published in the Federal Register
19 on November 3, 1994, relating to “Inquiry Con-
20 cerning the Commission’s Pricing Policy for
21 Transmission Services Provided by Public Utili-
22 ties Under the Federal Power Act; Policy State-
23 ment” (59 Fed. Reg. 55031).

1 (B) COMMISSION.—The term “Commis-
2 sion” means the Federal Energy Regulatory
3 Commission.

4 (C) COMPUTATIONAL LOAD OPERATOR.—
5 The term “computational load operator” means
6 the entity that operates a computational load
7 site.

8 (D) COMPUTATIONAL LOAD OWNER.—The
9 term “computational load owner” means the
10 entity that owns a computational load site.

11 (E) COMPUTATIONAL LOAD SITE.—The
12 term “computational load site” means 1 or
13 more buildings, structures, or installations at a
14 single location that—

15 (i) primarily contain information tech-
16 nology infrastructure used for—

17 (I) creating, executing, and deliv-
18 ering software applications and serv-
19 ices;

20 (II) artificial intelligence train-
21 ing, deployment, and delivery;

22 (III) cryptocurrency mining; or

23 (IV) other computational activi-
24 ties at a data center; and

1 (ii) are supplied through electrical
2 equipment that is connected to the bulk-
3 power system (as defined in section 215(a)
4 of the Federal Power Act (16 U.S.C.
5 824o(a))).

6 (F) PUBLIC UTILITY.—The term “public
7 utility” has the meaning given the term in sec-
8 tion 201(e) of the Federal Power Act (16
9 U.S.C. 824(e)).

10 (G) TRANSMITTING UTILITY.—The term
11 “transmitting utility” has the meaning given
12 the term in section 3 of the Federal Power Act
13 (16 U.S.C. 796).

14 (3) REVISION OF POLICY STATEMENT.—

15 (A) IN GENERAL.—Not later than 270
16 days after the date of enactment of this Act,
17 the Commission shall revise the 1994 trans-
18 mission pricing policy statement—

19 (i) to require public utilities and
20 transmitting utilities to charge eligible cus-
21 tomers seeking transmission service on be-
22 half of computational load owners and
23 computational load operators the embedded
24 cost and the incremental cost of trans-
25 mission service; and

1 (ii) to ensure that any incremental
2 costs paid are credited to the annual trans-
3 mission revenue requirement of the appli-
4 cable public utility or transmitting utility
5 to prevent double recovery from other cus-
6 tomers.

7 (B) REQUIREMENT.—In revising the 1994
8 transmission pricing policy statement under
9 subparagraph (A), the Commission shall pro-
10 vide for a lower cost of transmission service for
11 eligible customers seeking transmission service
12 on behalf of computational load owners and
13 computational load operators that elect non-
14 firm transmission service.

15 (4) RULEMAKING.—

16 (A) NOTICE OF PROPOSED RULE-
17 MAKING.—Not later than 270 days after the
18 date on which a revised transmission pricing
19 policy statement is published in the Federal
20 Register under paragraph (3), the Commission
21 shall issue a notice of proposed rulemaking re-
22 quiring public utilities and transmitting utili-
23 ties—

24 (i) to establish or revise transmission
25 rates for eligible customers seeking trans-

1 mission service for computational load
2 owners and computational load operators
3 in accordance with that revised trans-
4 mission pricing policy statement; and

5 (ii) to require standardized analysis to
6 identify upgrades for a computational load
7 site and cost reduction options, as the
8 Commission may require by rule.

9 (B) FINAL RULE.—Not later than 1 year
10 after the date on which the notice of proposed
11 rulemaking described in subparagraph (A) is
12 issued, the Commission shall issue a final rule
13 requiring public utilities and transmitting utili-
14 ties to establish or revise transmission rates for
15 eligible customers seeking transmission service
16 for computational load owners and computa-
17 tional load operators.

18 (b) RATEPAYER PROTECTION FOR DATA CENTER
19 AND HIGH-DENSITY COMPUTING LOAD.—Part II of the
20 Federal Power Act (16 U.S.C. 824 et seq.) (as amended
21 by section 2105) is amended by adding at the end the fol-
22 lowing:

23 **“SEC. 228. RATEPAYER PROTECTION FOR DATA CENTER**
24 **AND HIGH-DENSITY COMPUTING LOAD.**

25 “(a) DEFINITIONS.—In this section:

1 “(1) COMMISSION.—The term ‘Commission’
2 means the Federal Energy Regulatory Commission.

3 “(2) COVERED LOAD.—The term ‘covered load’
4 means electric load that—

5 “(A) is attributable to 1 or more data cen-
6 ters or high-density computing facilities located
7 at a single site, or at multiple sites under com-
8 mon ownership or control; and

9 “(B) equals or exceeds 20 megawatts or, in
10 the case of data centers or high-density com-
11 puting facilities developed in phases, is reason-
12 ably expected to equal or exceed 20 megawatts
13 at full buildout.

14 “(3) DATA CENTER OR HIGH-DENSITY COM-
15 PUTING FACILITY.—

16 “(A) IN GENERAL.—The term ‘data center
17 or high-density computing facility’ means a fa-
18 cility, or group of co-located facilities, the pri-
19 mary purpose of which is to house computing,
20 networking, or data storage equipment used to
21 process, store, or transmit digital data, includ-
22 ing equipment used for—

23 “(i) artificial intelligence training or
24 inference;

1 “(ii) cloud computing or data hosting;

2 or

3 “(iii) cryptocurrency mining or other
4 distributed-ledger or digital-asset computa-
5 tion.

6 “(B) EXCLUSION.—The term ‘data center
7 or other high-density computing facility’ does
8 not include computing or data storage equip-
9 ment that is ancillary to a facility the primary
10 purpose of which is a commercial or industrial
11 activity other than an activity described in sub-
12 paragraph (A).

13 “(4) EMBEDDED AVERAGE COST.—The term
14 ‘embedded average cost’ means the average cost of
15 service reflected in the rates otherwise in effect for
16 the customer class that would apply to the applicable
17 covered load.

18 “(5) INCREMENTAL COST.—The term ‘incre-
19 mental cost’ means the cost that would be avoided
20 had a specific covered load not been served by the
21 electric utility, including all costs to construct, own,
22 and operate power generation or storage resources
23 and electric transmission and distribution services
24 associated with serving the covered load, based on
25 costs estimated by the electric utility at or around

1 the time that the covered load becomes operational
2 and subject to approval by the Commission or a
3 State, as appropriate.

4 “(6) STATE.—The term ‘State’ includes the ap-
5 plicable State commission and any other State au-
6 thority having jurisdiction over retail electric service.

7 “(7) TRANSMISSION SERVICE CATEGORY.—The
8 term ‘transmission service category’ means a class of
9 transmission service provided under a tariff on file
10 with the Commission, including—

11 “(A) network integration transmission
12 service;

13 “(B) point-to-point transmission service;
14 and

15 “(C) any interim, non-firm, contract de-
16 mand, or other service that limits—

17 “(i) the quantity of energy a load may
18 withdraw from the transmission system; or

19 “(ii) the conditions under which the
20 load may withdraw energy from the trans-
21 mission system.

22 “(b) RATEPAYER PROTECTION FLOOR.—

23 “(1) NO SUBSIDY OF COVERED LOAD.—No por-
24 tion of the incremental cost may be allocated to, or
25 recovered in the rates of, any customer other than

1 a covered load, subject to the limitations described
2 in subsection (e).

3 “(2) SURPLUS PERMITTED.—Paragraph (1)
4 does not limit the authority of the Commission or a
5 State under subsection (e) to recover from covered
6 loads amounts in excess of incremental cost and to
7 credit those amounts to other customers as a rebate
8 or a reduction to the utility costs that are used as
9 a basis for the calculation of customer rates.

10 “(3) CONTINUING RECOVERY ON EXIT.—A rate,
11 charge, or agreement for service to a covered load
12 shall be designed to recover from the covered load
13 the full incremental cost of the electric utility, and
14 such recovery shall continue notwithstanding the ter-
15 mination by the covered load of a contract or other
16 agreement pertaining to the sale of electric energy,
17 or the cessation by the covered load of the purchase
18 of electric energy, before that incremental cost has
19 been fully recovered.

20 “(4) FINANCIAL ASSURANCE.—Before con-
21 structing, or making an upgrade to, a generation,
22 transmission, or distribution facility necessary to
23 serve a covered load, an electric utility shall require
24 the covered load to provide financial assurances or
25 contributions sufficient to cover the cost of the facil-

1 ity or upgrade, subject to the condition that any fi-
2 nancial assurances or contributions provided by the
3 applicable covered load to a public utility or Trans-
4 mission Organization for the same facility or up-
5 grade shall be credited against the requirement of
6 this paragraph.

7 “(c) STATE AUTHORITY TO HOLD OPEN SEASONS
8 AND SET COVERED-LOAD RATES.—

9 “(1) IN GENERAL.—Notwithstanding any other
10 provision of this Act or any rule or order of the
11 Commission, and consistent with subsection (b)(3), a
12 State may, with respect to retail electric service to
13 covered loads—

14 “(A) establish rates, charges, or contract
15 terms that recover more than the embedded av-
16 erage cost, and more than the incremental cost,
17 of serving a covered load;

18 “(B) require that revenue collected from a
19 covered load in excess of incremental cost be
20 credited or applied to reduce the rates of other
21 retail customers;

22 “(C) in effectuating the policy described in
23 this subsection, use an open season or competi-
24 tive solicitation to allocate among covered loads
25 the opportunity to obtain and contract for retail

1 electric service, making awards in such manner
2 as returns the greatest benefit to other rate-
3 payers on a present value basis, notwith-
4 standing the order in which applications or re-
5 quests for service are received from covered
6 loads or any other basis for making such
7 awards, subject to the condition that each
8 award under such an open season or competi-
9 tive solicitation shall specify the maximum
10 quantity of firm demand awarded, in
11 megawatts, and the transmission service cat-
12 egory on the basis of which the covered load is
13 to be served;

14 “(D) condition the provision of retail elec-
15 tric service to a covered load on the procure-
16 ment, construction, or contracting by the cov-
17 ered load for new generation resources suffi-
18 cient to serve the demand of the covered load;
19 and

20 “(E) condition the provision of retail elec-
21 tric service to a covered load on the covered
22 load taking, or agreeing to take, a transmission
23 service category that limits—

1 “(i) the quantity of energy the covered
2 load may withdraw from the transmission
3 system; or

4 “(ii) the conditions under which the
5 covered load may withdraw energy from
6 the transmission system.

7 “(2) PRIORITY OF STATE COMPETITIVE SOLICI-
8 TATIONS.—

9 “(A) BROAD DISCRETION.—For purposes
10 of an open solicitation, a State shall, with re-
11 spect to retail electric service to a covered load,
12 be afforded broad discretion to conduct, to au-
13 thorize an electric utility to conduct, or to re-
14 quire an electric utility to conduct, a competi-
15 tive solicitation or open season to allocate the
16 opportunity to interconnect, or to obtain service
17 for, a covered load.

18 “(B) ELECTRIC UTILITY FILING.—An elec-
19 tric utility may file to conduct a solicitation or
20 open season described in subparagraph (A).

21 “(C) AUTHORITY TO REQUIRE.—A State
22 may require an electric utility to conduct an
23 open season described in subparagraph (A).

24 “(d) PROTECTION OF AMERICAN INDUSTRY.—A
25 State may treat covered loads as a separate class of serv-

1 ice, and may establish rates, charges, terms, conditions,
2 and interconnection or service priorities for covered loads
3 that differ from, and that are less favorable than, those
4 applicable to other large industrial, manufacturing, or
5 commercial loads.

6 “(e) RULES OF CONSTRUCTION.—

7 “(1) STATE AND FEDERAL AUTHORITY.—Ex-
8 cept as expressly provided in subsection (c), nothing
9 in this section expands or diminishes the jurisdiction
10 of the Commission or of any State, including State
11 authority over retail electric service, rate design, and
12 resource planning.

13 “(2) RECOGNITION OF RESERVED STATE AU-
14 THORITY.—

15 “(A) IN GENERAL.—The authority de-
16 scribed in subsection (c)(1) is an attribute of
17 the reserved authority of the States over retail
18 electric service.

19 “(B) CLARIFICATION.—This section—

20 “(i) recognizes and confirms the au-
21 thority described in subparagraph (A); and

22 “(ii) is not the source of that author-
23 ity.

24 “(f) APPLICABILITY.—

1 “(1) PROSPECTIVE APPLICATION.—Subsections
2 (b) and (c) apply to a covered load that intercon-
3 nects on or after the date of enactment of this sec-
4 tion.

5 “(2) EXISTING ARRANGEMENTS.—An arrange-
6 ment to serve a covered load that was approved by
7 the Commission or by a State before the date of en-
8 actment of this section shall remain in effect.”.

9 **SEC. 2108. DISPATCHABLE ENERGY SYSTEMS MARKET AC-**
10 **CESS.**

11 (a) DEFINITIONS.—Section 3 of the Federal Power
12 Act (16 U.S.C. 796) is amended by adding at the end the
13 following:

14 “(30) QUALIFYING BEHIND-THE-METER DIS-
15 TRIBUTED ENERGY SYSTEM FACILITY; QUALIFYING
16 BTM DES FACILITY.—The term ‘qualifying behind-
17 the-meter distributed energy system facility’ or
18 ‘qualifying BTM DES facility’ means a facility
19 that—

20 “(A) is an energy storage system (includ-
21 ing a battery energy storage system), a fuel cell
22 system, a generator, or other resource—

23 “(i) that can be brought online within
24 15 minutes of being called on for deploy-
25 ment; and

1 “(ii) the output of which can be dis-
2 patched and adjusted at the signal of the
3 system operator;

4 “(B) is located behind the meter of a retail
5 customer of a distribution utility (as defined in
6 section 217(a));

7 “(C) has a rated capacity of not less than
8 5 kilowatts; and

9 “(D) maintains metering and telemetry ca-
10 pabilities that—

11 “(i) are sufficient to dispatch the fa-
12 cility, account for withdrawals from and
13 injections to the grid, and communicate all
14 relevant operational data from the facility;
15 and

16 “(ii) are not required to include equip-
17 ment owned or installed by the distribution
18 utility (as so defined), and may include the
19 use of device-level equipment, including in-
20 verters.

21 “(31) QUALIFYING BEHIND-THE-METER DIS-
22 TRIBUTED ENERGY SYSTEM AGGREGATION; QUALI-
23 FYING BTM DES AGGREGATION.—The term ‘quali-
24 fying behind-the-meter distributed energy system ag-
25 gregation’ or ‘qualifying BTM DES aggregation’

1 means an aggregation of 2 or more qualifying BTM
2 DES facilities—

3 “(A) with a combined capacity of not less
4 than 100 kilowatts; and

5 “(B) that maintains aggregation-level me-
6 tering and telemetry capabilities sufficient to
7 facilitate the dispatch and market settlement of
8 the aggregation.”.

9 (b) RULE OF CONSTRUCTION.—Section 201 of the
10 Federal Power Act (16 U.S.C. 824) is amended by adding
11 at the end the following:

12 “(h) QUALIFYING BTM DES FACILITIES AND AG-
13 GREGATIONS.—The designation of a facility as a quali-
14 fying BTM DES facility or an aggregation of 2 or more
15 facilities as a qualifying BTM DES aggregation does not,
16 of itself, subject any of the following to the jurisdiction
17 of the Commission:

18 “(1) The facility or aggregation.

19 “(2) The retail electric service provided to or
20 for the facility or aggregation.

21 “(3) The distribution service on which the facil-
22 ity or aggregation relies.”.

23 (c) WHOLESALE MARKET ACCESS FOR QUALIFYING
24 BTM DES AGGREGATIONS.—Part II of the Federal

1 Power Act (16 U.S.C. 824 et seq.) (as amended by section
2 2107(b)) is amended by adding at the end the following:

3 **“SEC. 229. WHOLESALE MARKET ACCESS FOR QUALIFYING**
4 **BTM DES AGGREGATIONS.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) COMMISSION.—The term ‘Commission’
7 means the Federal Energy Regulatory Commission.

8 “(2) DOUBLE COMPENSATION.—The term ‘dou-
9 ble compensation’ means payment through or by
10 both a wholesale market and a State-jurisdictional
11 retail market or program for providing the same
12 service during the same time interval.

13 “(b) JUST AND REASONABLE PRACTICES.—Effective
14 on the date that is 18 months after the date of enactment
15 of this section, it shall not be just and reasonable within
16 the meaning of sections 205 and 206 for any Transmission
17 Organization to maintain rates, terms, or conditions of
18 service that, by their terms and to the extent that such
19 rates, terms, and conditions directly affect wholesale rates,
20 prevent the participation of any qualifying BTM DES ag-
21 gregation in wholesale energy, capacity, or ancillary serv-
22 ices markets administered by the Transmission Organiza-
23 tion.

1 “(c) PROHIBITED PRACTICES.—The following prac-
2 tices shall not be considered to be just and reasonable
3 within the meaning of sections 205 and 206:

4 “(1) Imposing metering, telemetry, or equip-
5 ment requirements that are inconsistent with the
6 definitions of the terms ‘qualifying BTM DES facil-
7 ity’ and ‘qualifying BTM DES aggregation’ in sec-
8 tion 3.

9 “(2) Requiring a qualifying BTM DES facility
10 or qualifying BTM DES aggregation to participate
11 in the energy market as a precondition to partici-
12 pating in the capacity market.

13 “(3) Requiring the joint participation with any
14 resource co-located with a Qualifying BTM DES fa-
15 cility as a condition for inclusion in a qualifying
16 BTM DES aggregation.

17 “(4) Any other practice otherwise described in
18 subsection (b).

19 “(d) COMPLIANCE FILINGS.—

20 “(1) TRANSMISSION ORGANIZATION FILINGS.—
21 Not later than 180 days after the date of enactment
22 of this section, each Transmission Organization that
23 administers a wholesale market subject to the juris-
24 diction of the Commission shall file with the Com-
25 mission proposed rates, terms, and conditions of

1 service that comply with the requirements of this
2 section.

3 “(2) COMMISSION ACTION.—Not later than 180
4 days after the filing of a proposal under paragraph
5 (1), the Commission shall—

6 “(A) approve the proposal if the Commis-
7 sion determines that the proposal complies with
8 this section; or

9 “(B) require or impose such changes as
10 the Commission determines to be just, reason-
11 able, and in compliance with this section.

12 “(e) COMPLAINTS.—

13 “(1) IN GENERAL.—The Commission shall act
14 on the merits of any complaint alleging noncompli-
15 ance with this section not later than 180 days after
16 the date on which the complaint is filed.

17 “(2) CONSOLIDATION.—To maximize adminis-
18 trative efficiency, the Commission may consolidate
19 and act upon related complaints with respect to a
20 given Transmission Organization.

21 “(f) DUAL PARTICIPATION; PROHIBITION ON DOU-
22 BLE COMPENSATION.—

23 “(1) PRESERVATION OF STATE PROGRAM ELIGI-
24 BILITY.—Participation by a qualifying BTM DES
25 facility in a State-jurisdictional retail market or pro-

1 gram shall not disqualify the qualifying BTM DES
2 facility from participating in a wholesale market ad-
3 ministered by a Transmission Organization, and
4 nothing in this section requires a qualifying BTM
5 DES facility to participate in any wholesale market.

6 “(2) PROHIBITION ON DOUBLE COMPENSA-
7 TION.—No qualifying BTM DES facility or quali-
8 fying BTM DES aggregation shall receive double
9 compensation.

10 “(3) QUALIFYING BTM DES RATE FILING.—

11 “(A) IN GENERAL.—Not later than 180
12 days after the date of enactment of this section,
13 each Transmission Organization shall file with
14 the Commission under section 205 revisions to
15 its tariff establishing settlement, metering, and
16 telemetry protocols that exclude from wholesale
17 market settlement the quantity of energy, ancil-
18 lary service, or capacity, evaluated on a service-
19 by-service basis, for which a qualifying BTM
20 DES facility has received or will receive com-
21 pensation under a State-jurisdictional retail
22 market or program, such that, for example, a
23 BTM DES facility that has earned retail energy
24 credit but not ancillary services or capacity
25 credit may receive wholesale compensation for

1 capacity and ancillary services without receiving
2 any wholesale energy compensation.

3 “(B) ELECTRIC UTILITIES.—Each public
4 utility that provides distribution service to a
5 qualifying BTM DES facility shall provide to
6 the applicable Transmission Organization and
7 aggregator, in a form and on a schedule estab-
8 lished by the Transmission Organization, the
9 interval metering data and program-participa-
10 tion information necessary to implement sub-
11 paragraph (A), subject to such protections for
12 customer-specific information as the applicable
13 State commission may require.

14 “(C) CERTIFICATION.—

15 “(i) IN GENERAL.—Each aggregator
16 shall certify to the applicable Transmission
17 Organization, on a schedule established by
18 the Commission—

19 “(I) each State-jurisdictional re-
20 tail market or program from which
21 each qualifying BTM DES facility has
22 received compensation; and

23 “(II) on the basis of final deter-
24 minations made by the Commission
25 arising from the proceedings initiated

1 under subparagraph (A), that no
2 qualifying BTM DES facility in its
3 aggregation has retained double com-
4 pensation during the certification pe-
5 riod.

6 “(ii) TREATMENT.—A certification
7 under this subparagraph shall constitute a
8 statement made to the Commission for
9 purposes of sections 316 and 316A.

10 “(4) COMPLAINT WITH RESPECT TO DOUBLE
11 COMPENSATION.—

12 “(A) IN GENERAL.—Any person, electric
13 utility, State, municipality, or State commission
14 aggrieved by alleged double compensation may
15 file a complaint pursuant to section 206.

16 “(B) PROCEDURE.—In a proceeding initi-
17 ated pursuant to a complaint under subpara-
18 graph (A), if a qualifying BTM DES facility or
19 qualifying BTM DES aggregation that is the
20 subject of the complaint meets the eligibility re-
21 quirements of both a wholesale market and a
22 State-jurisdictional program, the complainant in
23 that proceeding shall—

24 “(i) bear the burden of proof before
25 the Commission; and

1 “(ii) demonstrate that—

2 “(I) double compensation has in
3 fact occurred or is imminent; and

4 “(II) such double compensation
5 could not be avoided through reason-
6 able adjustments to—

7 “(aa) wholesale market com-
8 pensation received by the applica-
9 ble qualifying BTM DES facility
10 or qualifying BTM DES aggrega-
11 tion; or

12 “(bb) the retail bill associ-
13 ated with the qualifying BTM
14 DES facility or qualifying BTM
15 DES aggregation, using metering
16 and telemetry data that meets
17 the requirements of the wholesale
18 market.

19 “(C) LIMITATION.—A complaint under
20 subparagraph (A) shall be filed not later than
21 5 years after the date on which the alleged dou-
22 ble compensation was received.

23 “(5) WHOLESALE MARKET COMPENSATION AD-
24 JUSTMENT.—If the Commission determines that
25 double compensation could be avoided through an

1 adjustment to a rate, term, or condition of service
2 under the jurisdiction of the Commission pursuant
3 to section 205, the Commission may initiate a pro-
4 ceeding consistent with section 206 to eliminate dou-
5 ble compensation.

6 “(6) DISGORGEMENT; PENALTIES.—

7 “(A) DISGORGEMENT.—If the Commission
8 finds that double compensation has occurred,
9 the Commission shall order disgorgement of the
10 full amount of the double compensation re-
11 ceived.

12 “(B) PENALTIES.—If the Commission de-
13 termines that double compensation has been
14 knowingly retained, the Commission may order
15 penalties, which may include—

16 “(i) monetary penalties of up to 3
17 times the amount of the double compensa-
18 tion received for each day that the double
19 compensation was knowingly retained after
20 the date of receipt, without regard to the
21 limitations described in section 206(b); and

22 “(ii) suspension or termination of the
23 participation of a qualifying BTM DES fa-
24 cility, qualifying BTM DES aggregation,
25 or aggregator in a wholesale market ad-

1 ministered by a Transmission Organiza-
2 tion.

3 “(g) ANNUAL REPORTING.—Each qualifying BTM
4 DES facility and qualifying BTM DES aggregation par-
5 ticipating in a wholesale market under this section shall
6 submit to the Commission, not later than March 30 of
7 each year, a public report that summarizes and quantifies
8 all services provided by the qualifying BTM DES facility
9 or qualifying BTM DES aggregation during the preceding
10 calendar year to—

11 “(1) wholesale markets subject to the jurisdic-
12 tion of the Commission; and

13 “(2) State-jurisdictional retail markets and pro-
14 grams within regions subject to the jurisdiction of
15 the Commission.”.

16 (d) DISTRIBUTION UTILITY INTERCONNECTION AND
17 NON-INTERFERENCE.—Part II of the Federal Power Act
18 (16 U.S.C. 824 et seq.) (as amended by subsection (c))
19 is amended by adding at the end the following:

20 **“SEC. 230. DISTRIBUTION UTILITY OBLIGATIONS WITH RE-**
21 **SPECT TO QUALIFYING BTM DES FACILITIES**
22 **AND QUALIFYING BTM DES AGGREGATIONS.**

23 “(a) DEFINITIONS.—In this section:

24 “(1) COMMISSION.—The term ‘Commission’
25 means the Federal Energy Regulatory Commission.

1 “(2) DISTRIBUTION UTILITY; LOAD-SERVING
2 ENTITY.—The terms ‘distribution utility’ and ‘load-
3 serving entity’ have the meanings given those terms
4 in section 217(a).

5 “(b) INTERCONNECTION OBLIGATION.—

6 “(1) IN GENERAL.—Except as otherwise pro-
7 vided by State law or by the State regulatory au-
8 thority with jurisdiction over the distribution utility,
9 any distribution utility located within the geographic
10 footprint of an organized wholesale market adminis-
11 tered by a Transmission Organization shall inter-
12 connect any behind-the-meter resource that is eligi-
13 ble to participate in that wholesale market, including
14 any qualifying BTM DES facility or qualifying BTM
15 DES aggregation, in a timely fashion and with
16 rates, terms, and conditions of service that—

17 “(A) allow the behind-the-meter resource
18 to export energy to the grid, if applicable; and

19 “(B) do not prevent, impede, or unreason-
20 ably condition the participation of the behind-
21 the-meter resource in the wholesale market.

22 “(2) SAVINGS PROVISION.—Nothing in this sub-
23 section authorizes the Commission to prescribe the
24 rates, terms, or conditions of distribution-level inter-
25 connection service.

1 “(c) ACCEPTANCE OF WHOLESALE MARKET METER-
2 ING DATA.—

3 “(1) IN GENERAL.—Any distribution utility or
4 load-serving entity providing retail electric service to
5 a customer at whose premises a qualifying BTM
6 DES facility or qualifying BTM DES aggregation is
7 located shall accept the same metering and telemetry
8 data used by the wholesale market for purposes of
9 market participation by that qualifying BTM DES
10 facility or qualifying BTM DES aggregation.

11 “(2) REQUIREMENT.—The manner in which the
12 data described in paragraph (1) is used to adjust the
13 retail bill of a customer, including any adjustment to
14 account for energy exported or withdrawn, shall be
15 determined by the State regulatory authority having
16 jurisdiction over retail rates.

17 “(d) PROHIBITION ON INTERFERENCE.—

18 “(1) IN GENERAL.—No distribution utility shall
19 purposefully use its control over the distribution sys-
20 tem or retail sales to prevent any behind-the-meter
21 resource eligible to participate in a wholesale market
22 subject to the jurisdiction of the Commission from
23 participating in such wholesale market.

24 “(2) CERTAIN ACTIONS.—Nothing in this sub-
25 section limits a distribution utility from taking ac-

1 tions reasonably necessary to maintain the safety,
2 reliability, or operations of the distribution system.

3 “(e) COMMISSION ENFORCEMENT.—

4 “(1) IN GENERAL.—The Commission shall have
5 authority to enforce the provisions of this section,
6 and any person may file with the Commission a
7 complaint alleging a violation of this section.

8 “(2) REQUIREMENT.—The Commission shall
9 act on the merits of any complaint filed under para-
10 graph (1) not later than 180 days after the date on
11 which the complaint is filed.

12 “(f) APPLICABILITY TO PUBLIC POWER AND CER-
13 TAIN COOPERATIVES.—Except to the extent that compli-
14 ance is required under State law, the requirements of sub-
15 sections (b), (c), and (d) shall be voluntary with respect
16 to distribution utilities that are entities described in sec-
17 tion 201(f).”.

18 (e) ESTABLISHMENT OF PROGRAM TO FACILITATE
19 VOLUNTARY STREAMLINED PROCESS FOR LOCAL PER-
20 MITTING OF QUALIFYING DISTRIBUTED ENERGY SYS-
21 TEMS.—

22 (1) DEFINITIONS.—In this subsection:

23 (A) AUTHORITY HAVING JURISDICTION.—

24 The term “authority having jurisdiction” means

1 any State, county, local, or Tribal office or offi-
2 cial with jurisdiction—

3 (i) to issue permits relating to quali-
4 fying distributed energy systems;

5 (ii) to conduct inspections to enforce
6 the requirements of a relevant code or
7 standard relating to qualifying distributed
8 energy systems; or

9 (iii) to approve the installation of, or
10 the equipment and materials used in the
11 installation of, qualifying distributed en-
12 ergy systems.

13 (B) QUALIFYING DISTRIBUTED ENERGY
14 SYSTEM.—The term “qualifying distributed en-
15 ergy system” means any equipment or mate-
16 rials installed in, on, or near a building or
17 premises to support onsite or local energy use,
18 including equipment or materials, the primary
19 function of which is—

20 (i) to generate electricity from distrib-
21 uted renewable energy sources, including
22 solar photovoltaic systems or similar solar
23 energy technologies;

1 (ii) to store and discharge electricity
2 from batteries with a capacity of at least
3 2 kilowatt hours;

4 (iii) to charge a plug-in electric drive
5 vehicle at a power rate of at least 2 kilo-
6 watts; or

7 (iv) to refuel a hydrogen fuel cell elec-
8 tric vehicle.

9 (C) SECRETARY.—The term “Secretary”
10 means the Secretary of Energy.

11 (2) PROGRAM.—Not later than 180 days after
12 the date of enactment of this Act, the Secretary, in
13 consultation with trade associations and other enti-
14 ties representing distributed energy system install-
15 ers, organizations representing State, local, and
16 Tribal governments engaged in permitting, and
17 other interested stakeholders, shall carry out a pro-
18 gram to further develop, expand, and support the
19 adoption of a voluntary streamlined permitting and
20 inspection process for authorities having jurisdiction
21 to use for the permitting of qualifying distributed
22 energy systems.

23 (3) ACTIVITIES OF THE PROGRAM.—In carrying
24 out the program established under paragraph (2),
25 the Secretary shall—

1 (A) further develop and expand an exem-
2 plary streamlined permitting process that in-
3 cludes an online permitting platform—

4 (i) for expediting, standardizing, and
5 streamlining permitting; and

6 (ii) that authorities having jurisdiction
7 may voluntarily use to receive, review, and
8 approve permit applications relating to
9 qualifying distributed energy systems;

10 (B) establish targets for the adoption of a
11 streamlined, expedited permitting process by
12 authorities having jurisdiction;

13 (C) provide technical assistance and train-
14 ing directly or indirectly to authorities having
15 jurisdiction on using and adopting the exem-
16 plary streamlined permitting process described
17 in subparagraph (A), including the adoption of
18 any necessary building codes;

19 (D) develop a voluntary inspection protocol
20 and related tools to expedite, standardize, and
21 streamline the inspection of qualifying distrib-
22 uted energy systems, including—

23 (i) by investigating the potential for
24 using remote inspections;

1 (ii) by investigating the potential for
2 sample-based inspection for distributed en-
3 ergy system installers with a demonstrated
4 track record of high-quality work; and

5 (iii) by investigating opportunities to
6 integrate the voluntary inspection protocol
7 into the online permitting platform de-
8 scribed in subparagraph (A) and the plat-
9 forms of government software providers;
10 and

11 (E) take any other action to expedite,
12 standardize, streamline, or improve the process
13 for permitting, inspecting, or interconnecting
14 qualifying distributed energy systems.

15 (4) SUPPORT SERVICES.—The Secretary shall—

16 (A) support the provision of technical as-
17 sistance to authorities having jurisdiction, any
18 administrator of the online permitting platform
19 described in paragraph (3)(A), government soft-
20 ware providers, and any other entity determined
21 appropriate by the Secretary in carrying out the
22 activities described in paragraph (3); and

23 (B) provide such financial assistance as
24 the Secretary determines appropriate from any
25 funds appropriated to carry out this subsection.

1 (5) AUTHORITY HAVING JURISDICTION CERTIFI-
2 CATION PROGRAM.—

3 (A) IN GENERAL.—The Secretary may cer-
4 tify authorities having jurisdiction that imple-
5 ment the exemplary streamlined permitting
6 process described in paragraph (3)(A).

7 (B) PROCESS.—The Secretary may confer
8 a certification under subparagraph (A) through
9 existing programs within the Department of
10 Energy.

11 (C) PRIZES.—The Secretary may award
12 prizes to authorities having jurisdiction, using
13 funds appropriated to the Secretary to carry
14 out this subsection, to encourage authorities
15 having jurisdiction to adopt the exemplary
16 streamlined permitting process or the voluntary
17 inspection protocol established under subpara-
18 graphs (A) and (D) of paragraph (3), respec-
19 tively.

20 (6) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated to the Sec-
22 retary to carry out this subsection \$20,000,000 for
23 each of fiscal years 2026 through 2031.

1 **SEC. 2109. ADVANCED TRANSMISSION TECHNOLOGIES.**

2 (a) IN GENERAL.—Part II of the Federal Power Act
3 (16 U.S.C. 824 et seq.) (as amended by section 2108(d))
4 is amended by adding at the end the following:

5 **“SEC. 231. USE OF ADVANCED TRANSMISSION TECH-**
6 **NOLOGIES.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ADVANCED TRANSMISSION TECH-
9 NOLOGY.—The term ‘advanced transmission tech-
10 nology’ has the meaning given the term in section
11 1223(a) of the Energy Policy Act of 2005 (42
12 U.S.C. 16422(a)).

13 “(2) BEST-AVAILABLE TRANSMISSION CON-
14 DUCTOR.—The term ‘best-available transmission
15 conductor’ means a transmission conductor that, as
16 determined by the Commission—

17 “(A) provides the greatest feasible and
18 commercially available energy-carrying capacity
19 at a given voltage level;

20 “(B) provides the highest feasible and
21 commercially available electrical efficiency at
22 that voltage level; and

23 “(C) provides the greatest available level of
24 mechanical performance, including mitigating
25 thermal sag at the maximum rated trans-

1 mission-carrying capacity of the applicable
2 transmission facility.

3 “(3) COMMISSION.—The term ‘Commission’
4 means the Federal Energy Regulatory Commission.

5 “(4) COVERED PROJECT.—The term ‘covered
6 project’ means the construction of a new trans-
7 mission facility, or the modification, upgrade, re-
8 placement, or reconductoring of an existing trans-
9 mission facility, subject to the jurisdiction of the
10 Commission under section 201(b).

11 “(b) USE OF ADVANCED TRANSMISSION TECH-
12 NOLOGIES.—In exercising its authority under sections 205
13 and 206, the Commission shall require that public utilities
14 use advanced transmission technologies, including best-
15 available transmission conductors, when carrying out cov-
16 ered projects.

17 “(c) PRESUMPTION OF PRUDENCE FOR ADVANCED
18 TRANSMISSION TECHNOLOGIES.—In any filing seeking to
19 recover the cost of an advanced transmission technology
20 for a covered project, and in any proceeding to determine
21 whether that cost may be recovered through rates, the
22 Commission shall presume that—

23 “(1) the use of an advanced transmission tech-
24 nology is a prudent practice; and

1 “(2) the costs associated with the use of an ad-
2 vanced transmission technology are just and reason-
3 able.

4 “(d) APPLICABILITY.—The requirements of this sec-
5 tion apply only to public utilities and only with respect
6 to covered projects.

7 “(e) RULEMAKING.—

8 “(1) IN GENERAL.—Not later than 1 year after
9 the date of enactment of this section, the Commis-
10 sion shall issue an order or rule to implement this
11 section.

12 “(2) REQUIREMENTS.—In issuing an order or
13 rule under paragraph (1), the Commission shall—

14 “(A) require that public utilities conduct,
15 on Commission-established timelines, recurring
16 evaluations—

17 “(i) to determine whether the benefits
18 associated with deploying advanced trans-
19 mission technologies through 1 or more
20 covered projects, including benefits to the
21 current transmission system of the applica-
22 ble public utility, outweigh the costs (such
23 that the applicable benefit-cost ratio is
24 greater than 1);

1 “(ii) that include a least-cost analysis
2 with respect to the transmission system of
3 the applicable public utility; and

4 “(iii) that evaluate whether the costs
5 for which recovery is sought reflect due
6 care to minimize the total cost of the appli-
7 cable covered projects;

8 “(B) require public utilities to conduct, on
9 Commission-established timelines, recurring
10 evaluations to consider planning and construc-
11 tion timelines for new transmission assets and
12 risks and impacts of potential delays;

13 “(C) require that, if the benefits of 1 or
14 more advanced transmission technologies out-
15 weigh the costs (such that the applicable ben-
16 efit-cost ratio is greater than 1), the applicable
17 public utility shall deploy the advanced trans-
18 mission technologies on a timeline determined
19 by the Commission;

20 “(D) require that decisions on whether to
21 implement advanced transmission technologies
22 based on the recurring evaluations under sub-
23 paragraphs (A) and (B) are reported to the
24 Commission, in a manner determined by the
25 Commission;

1 “(E) in consultation with the Secretary of
2 Energy, establish a methodology for deter-
3 mining whether a transmission conductor is a
4 best-available transmission conductor for pur-
5 poses of this section;

6 “(F) ensure that the methodology estab-
7 lished under subparagraph (E) is consistent
8 with the criteria described in clauses (i)
9 through (iii) of subparagraph (A);

10 “(G) provide for periodic review and up-
11 dating of the methodology established under
12 subparagraph (E) not less frequently than an-
13 nually to reflect improvements in technology,
14 materials, and system performance; and

15 “(H) determine a penalty for any public
16 utility that fails to deploy the relevant advanced
17 transmission technologies when the applicable
18 benefit-cost ratio is greater than 1 in a time-
19 frame determined by the Commission, including
20 a reduction of the effective return on equity for
21 the transmission system of the public utility.”.

22 (b) DEFINITION OF ADVANCED TRANSMISSION
23 TECHNOLOGY.—Section 1223(a) of the Energy Policy Act
24 of 2005 (42 U.S.C. 16422(a)) is amended—

1 (1) in paragraph (18), by striking “and” at the
2 end;

3 (2) by redesignating paragraph (19) as para-
4 graph (23); and

5 (3) by inserting after paragraph (18) the fol-
6 lowing:

7 “(19) dynamic line rating;

8 “(20) advanced power flow control;

9 “(21) transmission topology optimization;

10 “(22) high-performance conductors; and”.

11 **SEC. 2110. EXPEDITING GENERATOR INTERCONNECTION**
12 **QUEUES.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Federal Energy Regu-
15 latory Commission shall initiate a rulemaking to revise the
16 pro forma Large Generator Interconnection Procedures
17 promulgated pursuant to section 35.28(f) of title 18, Code
18 of Federal Regulations (or a successor regulation), to re-
19 quire public utility transmission providers to share and
20 employ, as appropriate, queue management practices with
21 respect to the use of computing technologies, including ar-
22 tificial intelligence, machine learning, and automation, in
23 evaluating and processing interconnection requests, in
24 order to expedite study results with respect to those re-
25 quests.

1 (b) REQUIREMENT.—The Federal Energy Regulatory
2 Commission shall reopen the rulemaking under subsection
3 (a) not less frequently than once every 4 years to deter-
4 mine whether additional steps are required to ensure that
5 public utility transmission providers are adequately de-
6 ploying advanced computing technologies.

7 **SEC. 2111. GRID DATA ACCESS.**

8 (a) IN GENERAL.—Part II of the Federal Power Act
9 (16 U.S.C. 824 et seq.) (as amended by section 2109(a))
10 is amended by adding at the end the following:

11 **“SEC. 232. GRID DATA ACCESS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) BULK-POWER SYSTEM.—The term ‘bulk-
14 power system’ has the meaning given the term in
15 section 215(a).

16 “(2) COMMISSION.—The term ‘Commission’
17 means the Federal Energy Regulatory Commission.

18 “(3) COVERED STUDY.—The term ‘covered
19 study’ means a generation or load interconnection
20 study, facilities study, feasibility study, or affected-
21 system study required under a tariff on file with the
22 Commission.

23 “(4) GRID DATA.—

24 “(A) IN GENERAL.—The term ‘grid data’
25 means data, in any format, reasonably nec-

1 essary for a covered study, including models,
2 assumptions, forecasts, facility data, operating
3 data, and other study inputs.

4 “(B) INCLUSIONS.—The term ‘grid data’
5 includes any data category identified by the
6 Commission, in consultation with the Secretary
7 of Energy, the Electric Reliability Organization
8 (as defined in section 215(a)), transmission
9 providers, National Laboratories (as defined in
10 section 2 of the Energy Policy Act of 2005 (42
11 U.S.C. 15801)), and entities with automated
12 grid-study software experience, for purposes of
13 this section.

14 “(5) TRANSMISSION PROVIDER.—

15 “(A) IN GENERAL.—The term ‘trans-
16 mission provider’ means a public utility, Re-
17 gional Transmission Organization, Independent
18 System Operator, or other entity administering
19 an open access transmission tariff.

20 “(B) EXCLUSION.—The term ‘trans-
21 mission provider’ does not include an exempt
22 transmitting utility (as defined in section
23 225(a)) that does not voluntarily subject itself
24 to Commission jurisdiction for the purposes of
25 this section.

1 “(b) GRID DATA DUTIES.—

2 “(1) DATA SUFFICIENCY.—Each transmission
3 provider shall obtain, assemble, maintain, and use
4 the grid data regarding its transmission system that
5 is necessary for the transmission provider to conduct
6 covered studies.

7 “(2) SECURE DATA USE.—A transmission pro-
8 vider may designate a person or tool assisting the
9 transmission provider in a covered study as its rep-
10 resentative for the purpose of making any requests
11 in accordance with paragraph (3), subject to para-
12 graph (6).

13 “(3) DATA REQUESTS.—

14 “(A) IN GENERAL.—A transmission pro-
15 vider may request the grid data necessary to
16 complete a covered study from any relevant
17 user, owner, or operator of the bulk-power sys-
18 tem that possesses or controls such data.

19 “(B) REQUIREMENT.—Subject to subpara-
20 graph (C), any person from whom grid data is
21 requested under subparagraph (A) shall provide
22 requested grid data not later than 15 days after
23 receiving the request.

24 “(C) ALTERNATIVE TIMELINE.—The Com-
25 mission may establish, by data category, alter-

1 native timelines for providing grid data in re-
2 sponse to a request under subparagraph (A).

3 “(4) DATA INTEROPERABILITY.—Grid data
4 maintained pursuant to paragraph (1) and provided
5 pursuant to paragraph (3) shall be provided in a for-
6 mat that is usable or convertible by the requesting
7 party with no impact on the scope or level of granu-
8 larity in which the data is maintained or used, in-
9 cluding by direct data transfer, application program-
10 ming interface access, or secure compute-over-data
11 access.

12 “(5) DATA CURRENCY.—Each person providing
13 grid data under paragraph (3) shall—

14 “(A) provide accurate, complete, and cur-
15 rent grid data; and

16 “(B) report, on Commission-established
17 timelines, any material changes needed to main-
18 tain the accuracy of the grid data or any re-
19 lated models or studies, including covered stud-
20 ies.

21 “(6) DATA SAFEGUARDS.—

22 “(A) IN GENERAL.—Grid data under this
23 section shall be handled under applicable law
24 and Commission-approved confidentiality and
25 data security requirements.

1 “(B) MANNER OF ACCESS.—The require-
2 ments described in subparagraph (A) may gov-
3 ern the manner of access to grid data, but may
4 not be used to withhold grid data if access can
5 be provided consistent with those requirements.

6 “(7) COST RECOVERY.—A public utility or
7 transmission provider may file rates, charges, or tar-
8 iffs pursuant to section 205 to recover the costs of
9 complying with this section.

10 “(c) ENFORCEMENT.—

11 “(1) RELIABILITY AND PENALTIES.—Failure to
12 comply with the duties under subsection (b) shall be
13 considered a matter affecting the reliable operation
14 of the bulk-power system under section 215, and
15 noncompliance by a public utility shall be subject to
16 section 316A.

17 “(2) COMPLIANCE ORDERS.—The Commission
18 may, by order, require compliance with this section
19 by any person required to provide or make available
20 grid data under this section.

21 “(3) EXPEDITED COMPLAINT.—Not later than
22 60 days after a complaint alleging a violation of this
23 section is filed, the Commission shall, if the Commis-
24 sion determines that a violation has occurred, issue
25 an order requiring compliance, including interim re-

1 lief needed to prevent unreasonable delay in a cov-
2 ered study.

3 “(d) IMPLEMENTATION.—

4 “(1) IN GENERAL.—The Commission may issue
5 such rules or orders, including pursuant to section
6 206, as are necessary to carry out this section.

7 “(2) REQUIREMENT.—The Commission shall
8 issue at least 1 rule or order described in paragraph
9 (1) not later than 1 year after the date of enactment
10 of this section.”.

11 (b) AUTOMATED STUDY REFERENCE SPECIFICA-
12 TION.—

13 (1) PUBLICATION.—Not later than 1 year after
14 the date of enactment of this Act, the Federal En-
15 ergy Regulatory Commission and the Secretary of
16 Energy, in consultation with the Electric Reliability
17 Organization (as defined in section 215(a) of the
18 Federal Power Act (16 U.S.C. 824o(a))), trans-
19 mission providers (as defined in section 232(a) of
20 that Act), National Laboratories (as defined in sec-
21 tion 2 of the Energy Policy Act of 2005 (42 U.S.C.
22 15801)), and entities with automated grid-study
23 software experience, shall publish a reference speci-
24 fication identifying the data categories, formats or
25 conversion standards, update frequencies, and vali-

1 dation standards needed to enable full automation of
2 interconnection studies, including system impact
3 studies, without supplemental data requests during
4 the study.

(2) EFFECT.—This section, including the pendency of publication of the reference specification described in paragraph (1), shall not delay, limit, or narrow the application of section 232 of the Federal Power Act.

(3) UPDATES.—The Federal Energy Regulatory Commission may update the reference specification published under paragraph (1) through a noticed proceeding not more frequently than once every 3 years.

15 SEC. 2112. POWER MARKETING ADMINISTRATIONS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 2111(a)) is amended by adding at the end the following:

19 “SEC. 233. COMPENSATION FLEXIBILITY TO ADDRESS RE-
20 TENTION AND HIRING ISSUES AT THE FED-
21 ERAL POWER MARKETING AGENCIES.

22 “(a) EMPLOYEE COMPENSATION PROGRAM.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 law, rule, regulation, or directive relating to the pay-
25 ment of Federal employees (other than chapter 83

1 of title 5, United States Code), the Administrator of
2 each Federal power marketing agency (referred to in
3 this section as an ‘Administrator’) shall develop, im-
4 plement, and, as appropriate, update, based on the
5 results of an annual review under paragraph (4), a
6 compensation plan that specifies and fixes the com-
7 pensation (including salary or any other pay, bo-
8 nuses, benefits, incentives, and any other form of re-
9 muneration) for employees of the Federal power
10 marketing agency, including members of the Senior
11 Executive Service (as defined in section 2101a of
12 title 5, United States Code).

13 “(2) INITIAL COMPENSATION PLAN.—

14 “(A) IN GENERAL.—Not later than 1 year
15 after the date of enactment of the Bipartisan
16 American Affordability and Jobs Act of 2026,
17 each Administrator shall, in consultation with
18 the Director of the Office of Personnel Manage-
19 ment, and subject to confirmation and approval
20 by the Secretary of Energy, which shall not be
21 unreasonably withheld, develop an initial com-
22 pensation plan under paragraph (1).

23 “(B) IMPLEMENTATION.—Not later than 1
24 year after the date on which the initial com-
25 pensation plan is developed under subparagraph

1 (A), each Administrator shall implement the
2 initial compensation plan.

3 “(3) REQUIREMENTS.—A compensation plan
4 developed under paragraph (1) shall—

5 “(A) be based on an annual survey of the
6 prevailing compensation for similar positions in
7 the public sectors of the electric industry;

8 “(B) be consistent with the approved an-
9 nual general and administrative budget of the
10 applicable Federal power marketing agency and
11 encourage the widest diversified use of electric
12 power at the lowest possible rates to consumers
13 consistent with sound business principles;

14 “(C) provide that education, experience,
15 level of responsibility, geographic differences,
16 and retention and recruitment needs are to be
17 taken into account in determining the com-
18 pensation of employees of the applicable Fed-
19 eral power marketing agency; and

20 “(D) provide that the individual total com-
21 pensation of the applicable Administrator and
22 any employee of the applicable Federal power
23 marketing agency shall be comparable to and
24 competitive with similar positions among con-
25 sumer-owned utilities in—

1 “(i) the Western Interconnection, if
2 the Federal power marketing agency is lo-
3 cated in the Western Interconnection; or

4 “(ii) the Eastern Interconnection, if
5 the Federal power marketing agency is lo-
6 cated in the Eastern Interconnection.

7 “(4) ANNUAL REVIEW.—

8 “(A) IN GENERAL.—Annually, each Ad-
9 ministrator shall review and update, as appro-
10 priate, the compensation plan developed under
11 paragraph (1).

12 “(B) COMPENSATION OF ADMINISTRA-
13 TORS.—Notwithstanding any other law, rule,
14 regulation, or directive relating to the payment
15 of an Administrator (other than chapter 83 of
16 title 5, United States Code), the Secretary of
17 Energy shall periodically review and update, as
18 appropriate, the compensation of each Adminis-
19 trator consistent with paragraph (3)(D).

20 “(C) PUBLICATION OF INFORMATION.—
21 Each Administrator shall include in the quar-
22 terly public business review of the Adminis-
23 trator or any other appropriate public review of
24 the operations and finances of the applicable
25 Federal power marketing agency information on

1 the applicable annual compensation plan review
2 under subparagraph (A), including information
3 on the amount of salaries of any employees
4 whose annual salaries would exceed the annual
5 rate payable for positions at Level IV of the
6 Executive Schedule under section 5315 of title
7 5, United States Code.

8 “(5) ANNUAL PUBLICATION.—Annually, each
9 Administrator shall publish the compensation plan
10 developed under paragraph (1) or updated under
11 paragraph (4), as applicable.

12 “(b) APPOINTMENT; EMPLOYMENT.—

13 “(1) IN GENERAL.—An Administrator may, as
14 the Administrator determines to be necessary to
15 carry out the functions of the Administrator under
16 applicable law, subject to applicable civil service
17 laws—

18 “(A) appoint any officers and employees;

19 “(B) employ laborers, mechanics, and
20 workers for construction work or the operation
21 and maintenance of electrical facilities; and

22 “(C) fix the compensation of individuals
23 appointed under subparagraph (A) or (B), re-
24 spectively, consistent with the applicable com-

1 pensation plan developed under subsection
2 (a)(1).

3 “(2) EXEMPTION FROM CERTAIN CIVIL SERVICE
4 LAWS.—In carrying out the authority provided by
5 paragraph (1), an Administrator shall be exempt
6 from chapters 34, 43, 51, 53, 57, and 59 of title 5,
7 United States Code.

8 “(3) APPLICATION OF MERIT SYSTEM PRIN-
9 CIPLES.—Employees of a Federal power marketing
10 agency are subject to the application of the merit
11 system principles set forth in section 2301 of title 5,
12 United States Code, to the extent that the principles
13 apply to a wholly owned Government corporation.

14 “(4) EMPLOYMENT OF PHYSICIANS.—An Ad-
15 ministrator may employ physicians, without regard
16 to the civil service laws (including regulations), to
17 perform physical examinations of employees or pro-
18 spective employees of the applicable Federal power
19 marketing agency who are or may become laborers,
20 mechanics, and workers described in paragraph
21 (1)(B).

22 “(5) EMPLOYMENT OF EXPERTS.—An Adminis-
23 trator may appoint, without regard to the civil serv-
24 ice laws (including regulations), any experts that the
25 Administrator determines to be necessary to carry

1 out the functions of the Administrator under appli-
2 cable law.”.

3 **SEC. 2113. FERC FEE ASSESSMENTS.**

4 Part III of the Federal Power Act is amended by in-
5 serting after section 318 (as added by section 2106) the
6 following:

7 **“SEC. 318A. PERIODIC REVIEW OF FEES AND CHARGES.**

8 “Not less frequently than once every 5 years, the
9 Federal Energy Regulatory Commission shall—

10 “(1) undertake a review to determine whether
11 the fees and charges the Federal Energy Regulatory
12 Commission assesses under this Act and other laws,
13 including section 3401 of the Omnibus Budget Rec-
14 onciliation Act of 1986 (42 U.S.C. 7178), are suffi-
15 cient to allow the Federal Energy Regulatory Com-
16 mission to handle its workload in an expedient man-
17 ner; and

18 “(2) submit to the Committee on Energy and
19 Natural Resources of the Senate, the Committee on
20 Energy and Commerce of the House of Representa-
21 tives, the Committee on Appropriations of the Sen-
22 ate, and the Committee on Appropriations of the
23 House of Representatives a report describing that
24 review and the results of that review.”.

1 **SEC. 2114. COLLECTION OF DATA ON COMPUTATIONAL**
2 **LOAD ENTITIES.**

3 (a) DEFINITION OF DATA CENTER ENTITY.—

4 (1) IN GENERAL.—In this section, the term
5 “data center entity” means an end-user, or group of
6 co-located end-users, the primary purpose of which
7 is to house computing, networking, or data storage
8 equipment used to process, store, or transmit digital
9 data, including equipment used for—

10 (A) artificial intelligence training or infer-
11 ence;

12 (B) cloud computing or data hosting; or

13 (C) cryptocurrency mining or other distrib-
14 uted-ledger or digital-asset computation.

15 (2) EXCLUSION.—In this section, the term
16 “data center entity” does not include computing or
17 data storage equipment that is ancillary to a facility
18 the primary purpose of which is commercial or in-
19 dustrial activity other than an activity described in
20 paragraph (1).

21 (b) DATA COLLECTION.—Not later than 90 days be-
22 fore the first April 1 after the date of enactment of this
23 Act, the Administrator of the Energy Information Admin-
24 istration shall revise Form 861 of the Energy Information
25 Administration to include load from data center entities.

1 **SEC. 2115. CONFORMING AMENDMENTS; SAVINGS PROVI-**
2 **SION.**

3 (a) CONFORMING AMENDMENTS.—Section 201 of the
4 Federal Power Act (16 U.S.C. 824) is amended—

5 (1) in subsection (b)(2)—

6 (A) in the first sentence, by striking “and
7 222” and inserting “222, 225, 226, 226A, 227,
8 228, 229, 230, 231, 232, and 233”; and

9 (B) in the second sentence, by striking “or
10 222” and inserting “222, 225, 226, 226A, 227,
11 228, 229, 230, 231, 232, or 233”; and

12 (2) in subsection (e)—

13 (A) by striking “206(f),”; and

14 (B) by striking “or 222” and inserting
15 “222, 225, 226, 226A, 227, 228, 229, 230,
16 231, 232, or 233”.

17 (b) SAVINGS PROVISION.—Nothing in this title or an
18 amendment made by this title grants authority to the Fed-
19 eral Energy Regulatory Commission under the Federal
20 Power Act (16 U.S.C. 791a et seq.) over sales of electric
21 energy at retail or the local distribution of electricity.

22 **TITLE II—ENERGY PERMITTING**
23 **Subtitle A—Accelerating Claims**

24 **SEC. 2201. ACCELERATING CLAIMS.**

25 (a) DEFINITIONS.—In this section:

26 (1) AUTHORIZATION.—

1 (A) IN GENERAL.—The term “authoriza-
2 tion” means any lease, right-of-way, easement,
3 permit, approval, order, finding, determination,
4 or other administrative decision that is required
5 or authorized under Federal law (including reg-
6 ulations) to design, plan, site, construct, recon-
7 struct, or commence operations of a project, in-
8 cluding any determination by a Federal depart-
9 ment or agency that additional authorizations
10 are not necessary.

11 (B) INCLUSIONS.—The term “authoriza-
12 tion” includes—

13 (i) agency approvals of lease sales,
14 permits, rights-of-way, or plans required to
15 explore for, develop, or produce energy or
16 minerals under—

17 (I) the Mineral Leasing Act (30
18 U.S.C. 181 et seq.);

19 (II) the Act of August 7, 1947
20 (commonly known as the “Mineral
21 Leasing Act for Acquired Lands”) (30
22 U.S.C. 351 et seq.);

23 (III) the Act of July 31, 1947
24 (commonly known as the “Materials

1 Act of 1947”) (61 Stat. 681, chapter
2 406; 30 U.S.C. 601 et seq.);

3 (IV) sections 2319 through 2344
4 of the Revised Statutes (commonly
5 known as the “Mining Law of 1872”)
6 (30 U.S.C. 22 et seq.);

7 (V) the Outer Continental Shelf
8 Lands Act (43 U.S.C. 1331 et seq.);

9 (VI) the Geothermal Steam Act
10 of 1970 (30 U.S.C. 1001 et seq.);

11 (VII) title V of the Federal Land
12 Policy and Management Act of 1976
13 (43 U.S.C. 1761 et seq.); or

14 (VIII) title I of the Naval Petro-
15 leum Reserves Production Act (42
16 U.S.C. 6501 et seq.);

17 (ii) statements or permits for a
18 project under sections 7 and 10 of the En-
19 dangered Species Act of 1973 (16 U.S.C.
20 1536, 1539); and

21 (iii) agency approvals under the
22 Healthy Forests Restoration Act of 2003
23 (16 U.S.C. 6501 et seq.) of hazardous fuel
24 reduction and forest restoration projects.

1 (2) ENVIRONMENTAL DOCUMENT.—The term
2 “environmental document” includes any of the fol-
3 lowing, as prepared under the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

5 (A) An environmental assessment.

6 (B) A finding of no significant impact.

7 (C) An environmental impact statement.

8 (D) A record of decision.

9 (3) PROJECT.—The term “project” means a
10 project—

11 (A) proposed for—

12 (i) the construction or operation of in-
13 frastructure—

14 (I) to develop, produce, generate,
15 store, transport, or distribute energy;

16 (II) to capture, remove, trans-
17 port, or store carbon dioxide; or

18 (III) to mine, extract, beneficiate,
19 or process minerals; or

20 (ii) hazardous fuel reduction and for-
21 est restoration for the protection of infra-
22 structure or communities from wildfire;
23 and

24 (B) subject to the requirements that—

1 (i) an environmental document be pre-
2 pared; and

3 (ii) the applicable agency issue an au-
4 thorization of the activity.

5 (4) PROJECT SPONSOR.—The term “project
6 sponsor” means an entity, including any private,
7 public, or public-private entity, seeking an authoriza-
8 tion for a project.

9 (b) STATUTE OF LIMITATIONS.—Notwithstanding
10 any other provision of law, a civil action arising under
11 Federal law seeking judicial review of a final agency action
12 granting or denying an authorization shall be barred un-
13 less the civil action is filed by the date that is 150 days
14 after the date on which the grant or denial of the author-
15 ization is required to be made public under subsection (c),
16 unless a shorter time is specified in the Federal law pursu-
17 ant to which judicial review is allowed.

18 (c) DATE.—For the purpose of subsection (b), a final
19 agency action granting or denying an authorization shall
20 be made public not later than 3 days after that final agen-
21 cy action is taken.

22 (d) EXPEDITED REVIEW.—A reviewing court shall
23 set for expedited consideration any civil action arising
24 under Federal law seeking judicial review of a final agency
25 action granting or denying an authorization.

1 (e) REMANDED ACTIONS.—

2 (1) IN GENERAL.—If the reviewing court re-
3 mands a final Federal agency action granting or de-
4 nying an authorization to the Federal agency for
5 further proceedings, whether on a motion by the
6 court, the agency, or another party, the court shall
7 set a reasonable schedule and deadline for the agen-
8 cy to act on remand, which shall not exceed 180
9 days from the date on which the order of the court
10 was issued, unless a longer time period is necessary
11 to comply with applicable law.

12 (2) EXPEDITED TREATMENT OF REMANDED AC-
13 TIONS.—The head of the Federal agency to which a
14 court remands a final Federal agency action under
15 paragraph (1) shall take such actions as may be nec-
16 essary to provide for the expeditious disposition of
17 the action on remand in accordance with the sched-
18 ule and deadline set by the court under that para-
19 graph.

20 (f) TREATMENT OF SUPPLEMENTAL OR REVISED
21 ENVIRONMENTAL DOCUMENTS.—For the purpose of sub-
22 section (b), granting or denying an authorization following
23 the preparation of a supplemental or revised environ-
24 mental document, when required, shall be considered to
25 be a separate final agency action.

1 (g) NOTICE.—Not later than 30 days after the date
2 on which an agency is served a copy of a petition for re-
3 view or a complaint in a civil action described in sub-
4 section (b), the head of the agency shall notify the project
5 sponsor of the filing of the petition or complaint.

6 (h) PERMITTING COUNCIL.—Nothing in this title
7 precludes a project from being designated as a covered
8 project (as defined in section 41001 of the FAST Act (42
9 U.S.C. 4370m)) for the purposes of title XLI of that Act
10 (42 U.S.C. 4370m et seq.).

11 **Subtitle B—Federal Onshore**
12 **Energy Leasing and Permitting**

13 **SEC. 2211. PERMITTING COMPLIANCE ON NON-FEDERAL**
14 **LAND.**

15 (a) IN GENERAL.—Notwithstanding the Mineral
16 Leasing Act (30 U.S.C. 181 et seq.), the Federal Oil and
17 Gas Royalty Management Act of 1982 (30 U.S.C. 1701
18 et seq.), or subpart 3162 of part 3160 of title 43, Code
19 of Federal Regulations (or successor regulations), but sub-
20 ject to any applicable State or Tribal requirements and
21 subsection (c), the Secretary of the Interior shall not re-
22 quire a permit to drill for an oil and gas lease under the
23 Mineral Leasing Act (30 U.S.C. 181 et seq.) for an action
24 occurring within an oil and gas drilling or spacing unit
25 if—

1 (1) the well is located on non-Federal land and
2 the Federal Government owns less than 50 percent
3 of the oil and gas minerals within the oil and gas
4 drilling or spacing unit;

5 (2) the well is located on non-Federal land over-
6 lying a non-Federal mineral estate, but some portion
7 of the wellbore enters and produces from the Fed-
8 eral mineral estate subject to the lease; or

9 (3) the well is located on non-Federal land over-
10 lying a non-Federal mineral estate, but some portion
11 of the wellbore traverses but does not produce from
12 the Federal mineral estate subject to the lease.

13 (b) NOTIFICATION.—For each State permit to drill
14 or drilling plan that would impact or extract oil and gas
15 owned by the Federal Government—

16 (1) each lessee of Federal minerals in the unit,
17 or designee of a lessee, shall—

18 (A) notify the Secretary of the Interior of
19 the submission of a State application for a per-
20 mit to drill or drilling plan on submission of the
21 application; and

22 (B) provide a copy of the application de-
23 scribed in subparagraph (A) to the Secretary of
24 the Interior not later than 5 days after the date
25 on which the permit or plan is submitted; and

1 (2) each lessee, designee of a lessee, or applica-
2 ble State shall notify the Secretary of the Interior of
3 the approved State permit to drill or drilling plan
4 not later than 45 days after the date on which the
5 permit or plan is approved.

6 (c) NONAPPLICABILITY TO INDIAN LANDS.—Sub-
7 section (a) shall not apply to—

8 (1) any land located within the boundaries of
9 an Indian reservation, pueblo, or rancheria; or

10 (2) any land not located within the boundaries
11 of an Indian reservation, pueblo, or rancheria, the
12 title to which is held—

13 (A) in trust by the United States for the
14 benefit of an Indian Tribe or an individual In-
15 dian;

16 (B) by an Indian Tribe or an individual In-
17 dian, subject to restriction against alienation
18 under laws of the United States; or

19 (C) by a dependent Indian community.

20 (d) EFFECT.—Nothing in this section affects—

21 (1) other authorities of the Secretary of the In-
22 terior under the Federal Oil and Gas Royalty Man-
23 agement Act of 1982 (30 U.S.C. 1701 et seq.); or

1 (2) the amount of royalties due to the Federal
2 Government from the production of the Federal min-
3 erals within the oil and gas drilling or spacing unit.

4 (e) AUTHORITY ON NON-FEDERAL LAND.—Section
5 17(g) of the Mineral Leasing Act (30 U.S.C. 226(g)) is
6 amended—

7 (1) by striking the subsection designation and
8 all that follows through “Secretary of the Interior,
9 or” in the first sentence and inserting the following:
10 “(g)(1) The Secretary of the Interior, or”; and

11 (2) by adding at the end the following:

12 “(2)(A) In the case of an oil and gas lease under this
13 Act on land described in subparagraph (B) located within
14 an oil and gas drilling or spacing unit, nothing in this Act
15 authorizes the Secretary of the Interior—

16 “(i) to require a bond to protect non-Federal
17 land;

18 “(ii) to enter non-Federal land without the con-
19 sent of the applicable landowner;

20 “(iii) to impose mitigation requirements; or

21 “(iv) to require approval for surface reclama-
22 tion.

23 “(B) Land referred to in subparagraph (A) is land
24 where—

1 “(i) the well is located on non-Federal land and
2 the Federal Government owns less than 50 percent
3 of the minerals within the oil and gas drilling or
4 spacing unit;

5 “(ii) the well is located on non-Federal land
6 overlying a non-Federal mineral estate, but some
7 portion of the wellbore enters and produces from the
8 Federal mineral estate subject to the lease; or

9 “(iii) the well is located on non-Federal land
10 overlying a non-Federal mineral estate, but some
11 portion of the wellbore traverses but does not
12 produce from the Federal mineral estate subject to
13 the lease.”.

14 **SEC. 2212. RIGHTS-OF-WAY ACROSS INDIAN LAND.**

15 The Act of February 5, 1948 (62 Stat. 17, chapter
16 45), is amended—

17 (1) in the first section (62 Stat. 17, chapter 45;
18 25 U.S.C. 323), by striking “That the Secretary of
19 the Interior be, and he is hereby, empowered to”
20 and inserting the following:

21 **“SECTION 1. RIGHTS-OF-WAY FOR ALL PURPOSES ACROSS**
22 **INDIAN LAND.**

23 “The Secretary of the Interior may”;

24 (2) in section 2 (62 Stat. 18, chapter 45; 25
25 U.S.C. 324), by striking “organized under the Act

1 of June 18, 1934 (48 Stat. 984), as amended; the
2 Act of May 1, 1936 (49 Stat. 1250); or the Act of
3 June 26, 1936 (49 Stat. 1967),”; and

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

5 **“SEC. 8. TRIBAL GRANTS OF RIGHTS-OF-WAY.**

6 “(a) RIGHTS-OF-WAY.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 an Indian tribe may grant a right-of-way over and
9 across the Tribal land of the Indian tribe for any
10 purpose.

11 “(2) AUTHORITY.—A right-of-way granted
12 under paragraph (1) shall not require the approval
13 of the Secretary of the Interior or a grant by the
14 Secretary of the Interior under section 1 if the right-
15 of-way granted under that paragraph is executed in
16 accordance with a Tribal regulation approved by the
17 Secretary of the Interior under subsection (b).

18 “(b) REVIEW OF TRIBAL REGULATIONS.—

19 “(1) TRIBAL REGULATION SUBMISSION AND AP-
20 PROVAL.—

21 “(A) SUBMISSION.—An Indian tribe seek-
22 ing to grant a right-of-way under subsection (a)
23 shall submit for approval a Tribal regulation
24 governing the granting of rights-of-way over
25 and across the Tribal land of the Indian tribe.

1 “(B) APPROVAL.—Subject to paragraph
2 (2), the Secretary of the Interior shall have the
3 authority to approve or disapprove any Tribal
4 regulation submitted under subparagraph (A).

5 “(2) CONSIDERATIONS FOR APPROVAL.—

6 “(A) IN GENERAL.—The Secretary of the
7 Interior shall approve a Tribal regulation sub-
8 mitted under paragraph (1)(A), if the Tribal
9 regulation—

10 “(i) is consistent with any regulations
11 (or successor regulations) issued by the
12 Secretary of the Interior under section 6;
13 and

14 “(ii) provides for an environmental re-
15 view process that includes—

16 “(I) the identification and eval-
17 uation of any significant impacts the
18 proposed action may have on the envi-
19 ronment; and

20 “(II) a process for ensuring—

21 “(aa) that the public is in-
22 formed of, and has a reasonable
23 opportunity to comment on, any
24 significant environmental impacts
25 of the proposed action identified

1 by the Indian tribe under sub-
2 clause (I); and

3 “(bb) the Indian tribe pro-
4 vides a response to each relevant
5 and substantive public comment
6 on the significant environmental
7 impacts identified by the Indian
8 tribe under subclause (I) before
9 the Indian tribe approves the
10 right-of-way.

11 “(B) APPLICABLE LAWS.—The Secretary
12 of the Interior, in making a decision to approve
13 a Tribal regulation under this subsection, shall
14 not be subject to—

15 “(i) the National Environmental Pol-
16 icy Act of 1969 (42 U.S.C. 4321 et seq.);

17 “(ii) section 306108 of title 54,
18 United States Code; or

19 “(iii) the Endangered Species Act of
20 1973 (16 U.S.C. 1531 et seq.).

21 “(3) REVIEW PROCESS.—

22 “(A) IN GENERAL.—Not later than 180
23 days after the date on which the Indian tribe
24 submits a Tribal regulation to the Secretary of

1 the Interior under paragraph (1)(A), the Sec-
2 retary of the Interior shall—

3 “(i) review the Tribal regulation;

4 “(ii) approve or disapprove the Tribal
5 regulation; and

6 “(iii) notify the Indian tribe that sub-
7 mitted the Tribal regulation of the ap-
8 proval or disapproval.

9 “(B) WRITTEN DOCUMENTATION.—If the
10 Secretary of the Interior disapproves a Tribal
11 regulation submitted under paragraph (1)(A),
12 the Secretary of the Interior shall include with
13 the disapproval notification under subparagraph
14 (A)(iii) written documentation describing the
15 basis for the disapproval.

16 “(C) EXTENSION.—The Secretary of the
17 Interior may, after consultation with the Indian
18 tribe that submitted a Tribal regulation under
19 paragraph (1)(A), extend the 180-day period
20 described in subparagraph (A).

21 “(4) FEDERAL ENVIRONMENTAL REVIEW.—
22 Notwithstanding paragraphs (2) and (3), if an In-
23 dian tribe carries out a project or activity funded by
24 a Federal agency, the Indian tribe may rely on the
25 environmental review process of the applicable Fed-

1 eral agency rather than any Tribal environmental re-
2 view process required under this subsection.

3 “(c) DOCUMENTATION.—An Indian tribe granting a
4 right-of-way under subsection (a) shall provide to the Sec-
5 retary of the Interior—

6 “(1) a copy of the right-of-way, including any
7 amendments or renewals; and

8 “(2) if the right-of-way allows for compensation
9 to be made directly to the Indian tribe, documenta-
10 tion of payments that are sufficient, as determined
11 by the Secretary of the Interior, as to enable the
12 Secretary of the Interior to discharge the trust re-
13 sponsibility of the United States under subsection
14 (d).

15 “(d) TRUST RESPONSIBILITY.—

16 “(1) IN GENERAL.—The United States shall
17 not be liable for losses sustained by any party to a
18 right-of-way granted under subsection (a).

19 “(2) AUTHORITY OF THE SECRETARY.—

20 “(A) IN GENERAL.—Pursuant to the au-
21 thority of the Secretary of the Interior to fulfill
22 the trust obligation of the United States to the
23 applicable Indian tribe under Federal law (in-
24 cluding regulations), the Secretary of the Inte-
25 rior may, on reasonable notice from the applica-

1 ble Indian tribe and at the discretion of the
2 Secretary of the Interior, enforce the provisions
3 of, or cancel, any right-of-way granted by the
4 Indian tribe under subsection (a).

5 “(B) AUTHORITY.—The enforcement or
6 cancellation of a right-of-way under subpara-
7 graph (A) shall be conducted using regulatory
8 procedures issued under section 6.

9 “(e) COMPLIANCE.—

10 “(1) IN GENERAL.—An interested party, after
11 exhaustion of any applicable Tribal remedies, may
12 submit a petition to the Secretary of the Interior, at
13 such time and in such form as determined by the
14 Secretary of the Interior, to review the compliance of
15 an applicable Indian tribe with a Tribal regulation
16 approved by the Secretary of the Interior under sub-
17 section (b).

18 “(2) VIOLATIONS.—If the Secretary of the Inte-
19 rior determines that a Tribal regulation was violated
20 after conducting a review under paragraph (1), the
21 Secretary of the Interior may take any action the
22 Secretary of the Interior determines to be necessary
23 to remedy the violation, including rescinding the ap-
24 proval of the Tribal regulation and reassuming re-

1 sponsibility for approving rights-of-way through the
2 trust land of the applicable Indian tribe.

3 “(3) DOCUMENTATION.—If the Secretary of the
4 Interior determines that a Tribal regulation was vio-
5 lated after conducting a review under paragraph (1),
6 the Secretary of the Interior shall—

7 “(A) provide written documentation, with
8 respect to the Tribal regulation that has been
9 violated, to the appropriate interested party and
10 Indian tribe;

11 “(B) provide the applicable Indian tribe
12 with a written notice of the alleged violation;
13 and

14 “(C) prior to the exercise of any remedy,
15 including rescinding the approval for the appli-
16 cable Tribal regulation or reassuming responsi-
17 bility for approving rights-of-way through the
18 trust land of the applicable Indian tribe, pro-
19 vide the applicable Indian tribe with—

20 “(i) a hearing that is on the record;
21 and

22 “(ii) a reasonable opportunity to cure
23 the alleged violation.

1 “(f) SAVINGS CLAUSE.—Nothing in this section af-
2 fects the application of any Tribal regulations issued
3 under Federal environmental law.

4 “(g) EFFECT OF TRIBAL REGULATIONS.—An ap-
5 proved Tribal regulation under subsection (b) shall not
6 preclude an Indian tribe from, in the discretion of the In-
7 dian tribe, consenting to the grant of a right-of-way by
8 the Secretary of the Interior under section 1.

9 “(h) TERMS OF RIGHT-OF-WAY.—The compensation
10 for, and terms of, a right-of-way granted under subsection
11 (a) will be determined by—

12 “(1) negotiations by the Indian tribe; or

13 “(2) the regulations of the Indian tribe.

14 “(i) JURISDICTION.—The grant of a right-of-way
15 under subsection (a) does not waive the sovereign immu-
16 nity of the Indian tribe or diminish the jurisdiction of that
17 Indian tribe over the Tribal land subject to the right-of-
18 way, unless otherwise provided in—

19 “(1) the grant of the right-of-way; or

20 “(2) the regulations of the Indian tribe.”.

21 **SEC. 2213. ACCELERATING RENEWABLE ENERGY PERMIT-**
22 **TING.**

23 (a) DEFINITIONS.—In this section:

24 (1) ELIGIBLE PROJECT.—The term “eligible
25 project” has the meaning given the term in section

1 3101 of the Energy Act of 2020 (43 U.S.C. 3001)
2 (as amended by subsection (d)).

3 (2) PREVIOUSLY DISTURBED OR DEVELOPED.—

4 The term “previously disturbed or developed” has
5 the meaning given the term in section
6 1021.410(g)(1) of title 10, Code of Federal Regula-
7 tions (as in effect on July 2, 2025).

8 (b) DEADLINE FOR CONSIDERATION OF APPLICA-
9 TIONS FOR RIGHTS-OF-WAY.—

10 (1) COMPLETENESS OF REVIEW.—

11 (A) IN GENERAL.—Not later than 30 days
12 after the date on which the Secretary of the In-
13 terior or the Secretary of Agriculture, as appli-
14 cable, receives an application for a right-of-way
15 under section 501 of the Federal Land Policy
16 and Management Act of 1976 (43 U.S.C. 1761)
17 for an eligible project, the applicable Secretary
18 shall—

19 (i) notify the applicant that the appli-
20 cation is complete; or

21 (ii) notify the applicant that informa-
22 tion is missing from the application and
23 specify any information that is required to
24 be submitted for the application to be com-
25 plete.

1 (B) ENVIRONMENTAL IMPACT STATE-
2 MENT.—For an eligible project that requires an
3 environmental impact statement for an applica-
4 tion submitted under subparagraph (A), the
5 Secretary of the Interior or the Secretary of
6 Agriculture, as applicable, shall issue a notice of
7 intent not later than 90 days after the date on
8 which the applicable Secretary determines that
9 an application is complete under subparagraph
10 (A).

11 (2) COST RECOVERY AND ISSUANCE OR DEFER-
12 RAL.—

13 (A) IN GENERAL.—Not later than 30 days
14 after the date on which an applicant submits a
15 complete application for a right-of-way under
16 paragraph (1), the Secretary of the Interior or
17 the Secretary of Agriculture, as applicable,
18 shall, if a cost recovery agreement is required
19 under section 2804.14 of title 43, Code of Fed-
20 eral Regulations (or successor regulations), or
21 section 251.58 of title 36, Code of Federal Reg-
22 ulations (or successor regulations), issue a cost
23 recovery agreement.

24 (B) DECISION.—Not later than 30 days
25 after the date on which an applicant submits a

1 complete application for a right-of-way under
2 paragraph (1), the Secretary of the Interior or
3 the Secretary of Agriculture, as applicable,
4 shall—

5 (i) grant or deny the application, if
6 the requirements under the National Envi-
7 ronmental Policy Act of 1969 (42 U.S.C.
8 4321 et seq.) and any other applicable law
9 have been completed; or

10 (ii) defer the decision on the applica-
11 tion and provide to the applicant notice—

12 (I) that specifies steps that the
13 applicant can take for the decision on
14 the application to be issued; and

15 (II) of a list of actions that need
16 to be taken by the agency in order to
17 comply with applicable law, and
18 timelines and deadlines for completing
19 those actions.

20 (c) LOW DISTURBANCE ACTIVITIES FOR RENEWABLE
21 ENERGY PROJECTS.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of enactment of this Act, to facilitate
24 timely permitting of eligible projects, the Secretary
25 of the Interior and the Secretary of Agriculture shall

1 each develop or adopt 1 or more categorical exclu-
2 sions, including allowing for extraordinary cir-
3 cumstances under which the categorical exclusion
4 shall not be available, under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
6 for low disturbance activities necessary for renewable
7 energy projects.

8 (2) ACTIVITIES DESCRIBED.—Low disturbance
9 activities referred to in paragraph (1) are the fol-
10 lowing:

11 (A) Individual surface disturbances of less
12 than 5 acres that have undergone site-specific
13 analysis in a document prepared pursuant to
14 the National Environmental Policy Act of 1969
15 (42 U.S.C. 4321 et seq.) that has been pre-
16 viously completed.

17 (B) Activities at a location at which the
18 same type of activity has previously occurred
19 within 5 years prior to the date of commence-
20 ment of the activity.

21 (C) Activities on previously disturbed or
22 developed land for which an approved land use
23 plan or any environmental document prepared
24 pursuant to the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.) analyzed

1 such activity as reasonably foreseeable, so long
2 as such plan or document was approved within
3 5 years prior to the date of the activity.

4 (D) The installation, modification, oper-
5 ation, or removal of commercially available solar
6 photovoltaic systems located on—

7 (i) a building or other structure (such
8 as a rooftop, parking lot, or facility, or
9 mounted to signage, lighting, gates, or
10 fences); or

11 (ii) previously disturbed or developed
12 land comprising less than 10 acres.

13 (E) Maintenance of a minor activity, other
14 than any construction or major renovation, or a
15 building or facility.

16 (F) Preliminary geotechnical investiga-
17 tions.

18 (G) The construction and removal of mete-
19 orological evaluation towers.

20 (d) DEFINITION OF ELIGIBLE PROJECT.—Paragraph
21 (4) of section 3101 of the Energy Act of 2020 (43 U.S.C.
22 3001) is amended by inserting “or store” after “gen-
23 erate”.

1 (e) RENEWABLE ENERGY PROJECT REVIEW STAND-
2 ARDS.—Section 3102 of the Energy Act of 2020 (43
3 U.S.C. 3002) is amended—

4 (1) by redesignating subsection (f) as sub-
5 section (g); and

6 (2) by inserting after subsection (e) the fol-
7 lowing:

8 “(f) RENEWABLE ENERGY PROJECT REVIEW STAND-
9 ARDS.—Not later than 2 years after the date of enactment
10 of the Bipartisan American Affordability and Jobs Act of
11 2026, for the purpose of encouraging standardized reviews
12 and facilitating the permitting of eligible projects, the Na-
13 tional Renewable Energy Coordination Office of the Bu-
14 reau of Land Management shall promulgate renewable en-
15 ergy project review standards to be adopted by regional
16 renewable energy coordination offices.”.

17 **SEC. 2214. ELECTRIC GRID PROJECTS.**

18 (a) DEFINITION OF PREVIOUSLY DISTURBED OR DE-
19 VELOPED.—In this section, the term “previously disturbed
20 or developed” has the meaning given the term in section
21 1021.410(g)(1) of title 10, Code of Federal Regulations
22 (or successor regulations).

23 (b) RULEMAKING.—Not later than 180 days after the
24 date of enactment of this Act, to facilitate timely permit-
25 ting, the Secretary of the Interior and the Secretary of

1 Agriculture shall each develop or adopt 1 or more categor-
2 ical exclusions, including allowing for extraordinary cir-
3 cumstances under which the categorical exclusion shall not
4 be available, under the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4321 et seq.) for the following activi-
6 ties:

7 (1) Placement of an electric transmission or
8 distribution facility in an approved right-of-way cor-
9 ridor, including a corridor designated under section
10 368 of the Energy Policy Act of 2005 (42 U.S.C.
11 15926).

12 (2) Any repair, maintenance, replacement, up-
13 grade, modification, optimization, or minor reloca-
14 tion of, or addition to, an existing electric trans-
15 mission or distribution facility or associated infra-
16 structure, including electrical substations, within an
17 existing right-of-way or on otherwise previously dis-
18 turbed or developed land, including reconductoring
19 and installation of grid-enhancing technologies.

20 (3) Construction, operation, upgrade, or decom-
21 missioning of a battery or other energy storage tech-
22 nology on previously disturbed or developed land.

1 **SEC. 2215. HARDROCK MINING MILL SITES.**

2 (a) MULTIPLE MILL SITES.—Section 2337 of the Re-
3 vised Statutes (30 U.S.C. 42) is amended by adding at
4 the end the following:

5 “(c) ADDITIONAL MILL SITES.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) MILL SITE.—The term ‘mill site’
8 means a location of public land that is reason-
9 ably necessary for waste rock or tailings dis-
10 posal or other operations reasonably incident to
11 mineral development on, or production from
12 land included in a plan of operations.

13 “(B) OPERATIONS; OPERATOR.—The
14 terms ‘operations’ and ‘operator’ have the
15 meanings given those terms in section 3809.5
16 of title 43, Code of Federal Regulations (as in
17 effect on the date of enactment of this sub-
18 section).

19 “(C) PLAN OF OPERATIONS.—The term
20 ‘plan of operations’ means a plan of operations
21 that an operator must submit and the Secretary
22 of the Interior or the Secretary of Agriculture,
23 as applicable, must approve before an operator
24 may begin operations, in accordance with, as
25 applicable—

1 “(i) subpart 3809 of part 3800 of title
2 43, Code of Federal Regulations (or suc-
3 cessor regulations establishing application
4 and approval requirements); and

5 “(ii) part 228 of title 36, Code of
6 Federal Regulations (or successor regula-
7 tions establishing application and approval
8 requirements).

9 “(D) PUBLIC LAND.—The term ‘public
10 land’ means land owned by the United States
11 that is open to location under sections 2319
12 through 2344 of the Revised Statutes (30
13 U.S.C. 22 et seq.), including—

14 “(i) land that is mineral-in-character
15 (as defined in section 3830.5 of title 43,
16 Code of Federal Regulations (as in effect
17 on the date of enactment of this sub-
18 section));

19 “(ii) nonmineral land (as defined in
20 section 3830.5 of title 43, Code of Federal
21 Regulations (as in effect on the date of en-
22 actment of this subsection)); and

23 “(iii) land where the mineral char-
24 acter has not been determined.

1 “(2) AUTHORIZATION.—Notwithstanding sub-
2 sections (a) and (b), where public land is needed by
3 the proprietor of a lode or placer claim for oper-
4 ations in connection with any lode or placer claim
5 within the proposed plan of operations, the propri-
6 etor may—

7 “(A) locate and include within the plan of
8 operations as many mill site claims under this
9 subsection as are reasonably necessary for its
10 operations; and

11 “(B) use or occupy public land in accord-
12 ance with an approved plan of operations.

13 “(3) MILL SITES CONVEY NO MINERAL
14 RIGHTS.—A mill site under this subsection does not
15 convey mineral rights to the locator.

16 “(4) SIZE OF MILL SITES.—A location of a sin-
17 gle mill site under this subsection shall not exceed
18 5 acres.

19 “(5) MILL SITE AND LODE OR PLACER CLAIMS
20 ON SAME TRACTS OF PUBLIC LAND.—A mill site
21 may be located under this subsection on a tract of
22 public land on which the claimant or operator main-
23 tains a previously located lode or placer claim.

24 “(6) EFFECT ON MINING CLAIMS.—The loca-
25 tion of a mill site under this subsection shall not af-

1 fect the validity of any lode or placer claim, or any
2 rights associated with such a claim.

3 “(7) PATENTING.—A mill site under this sec-
4 tion shall not be eligible for patenting.

5 “(8) SAVINGS PROVISIONS.—Nothing in this
6 subsection—

7 “(A) diminishes any right (including a
8 right of entry, use, or occupancy) of a claimant;

9 “(B) creates or increases any right (includ-
10 ing a right of exploration, entry, use, or occu-
11 pancy) of a claimant on land that is not open
12 to location under the general mining laws;

13 “(C) modifies any provision of law or any
14 prior administrative action withdrawing land
15 from location or entry;

16 “(D) limits the right of the Federal Gov-
17 ernment to regulate mining and mining-related
18 activities (including requiring claim validity ex-
19 aminations to establish the discovery of a valu-
20 able mineral deposit) in areas withdrawn from
21 mining, including under—

22 “(i) the general mining laws;

23 “(ii) the Federal Land Policy and
24 Management Act of 1976 (43 U.S.C. 1701
25 et seq.);

1 “(iii) the Wilderness Act (16 U.S.C.
2 1131 et seq.);

3 “(iv) sections 100731 through 100737
4 of title 54, United States Code;

5 “(v) the Endangered Species Act of
6 1973 (16 U.S.C. 1531 et seq.);

7 “(vi) division A of subtitle III of title
8 54, United States Code (commonly re-
9 ferred to as the ‘National Historic Preser-
10 vation Act’); or

11 “(vii) section 4 of the Act of July 23,
12 1955 (commonly known as the ‘Surface
13 Resources Act of 1955’) (69 Stat. 368,
14 chapter 375; 30 U.S.C. 612);

15 “(E) restores any right (including a right
16 of entry, use, or occupancy, or right to conduct
17 operations) of a claimant that—

18 “(i) existed prior to the date on which
19 the land was closed to, or withdrawn from,
20 location under the general mining laws;
21 and

22 “(ii) that has been extinguished by
23 such closure or withdrawal; or

1 “(F) modifies section 404 of division E of
2 the Consolidated Appropriations Act, 2024
3 (Public Law 118–42).”.

4 (b) CLAIM MAINTENANCE FEE FOR ADDITIONAL
5 MILL SITES.—Section 10101(a)(1) of the Omnibus Budg-
6 et Reconciliation Act of 1993 (30 U.S.C. 28f(a)(1)) is
7 amended, in the first sentence, by inserting “, except the
8 holders of each mill site located under subsection (c) of
9 section 2337 of the Revised Statutes (30 U.S.C. 42) shall
10 pay to the Secretary of the Interior, on or before Sep-
11 tember 1 of each year, to the extent provided in advance
12 in appropriations Acts, a claim maintenance fee of \$400
13 per site” after “respectively”.

14 (c) APPLICATION OF MINERAL LEASING ACT FOR
15 ACQUIRED LANDS TO HARDROCK MINERALS.—

16 (1) HARDROCK MINERALS.—Section 2 of the
17 Mineral Leasing Act for Acquired Lands (30 U.S.C.
18 351) is amended—

19 (A) in the sixth sentence, by striking “The
20 term” and all that follows through “embrace”
21 and inserting the following:

22 “(5) OIL.—The term ‘oil’ means”;

23 (B) in the fifth sentence, by striking
24 “‘Lease’” and inserting the following:

25 “(3) LEASE.—The term ‘lease’”;

1 (C) by striking the fourth sentence and in-
2 serting the following:

3 “(4) MINERAL LEASING LAWS.—The term ‘min-
4 eral leasing laws’ means—

5 “(A) the Mineral Leasing Act (30 U.S.C.
6 181 et seq.);

7 “(B) the Act of April 17, 1926 (44 Stat.
8 301, chapter 158; 30 U.S.C. 271 et seq.);

9 “(C) the Act of February 7, 1927 (44
10 Stat. 1057, chapter 66; 30 U.S.C. 281 et seq.);
11 and

12 “(D) all Acts amendatory or supple-
13 mentary to any of the Acts described in sub-
14 paragraphs (A) through (C).”;

15 (D) in the third sentence, by striking
16 “‘Secretary’” and inserting the following:

17 “(6) SECRETARY.—The term ‘Secretary’”;

18 (E) in the second sentence—

19 (i) by striking “(36 Stat.” and all
20 that follows through the period at the end
21 and inserting “(commonly known as the
22 ‘Weeks Law’) (36 Stat. 961, chapter 186;
23 16 U.S.C. 552 et seq.).”; and

1 (ii) by striking “‘Acquired lands’ or
2 ‘lands acquired by the United States’ in-
3 clude” and inserting the following:

4 “(1) ACQUIRED LANDS; LANDS ACQUIRED BY
5 THE UNITED STATES.—The terms ‘acquired lands’
6 and ‘lands acquired by the United States’ mean”;

7 (F) in the first sentence, by striking “As
8 used in this Act ‘United States’” and inserting
9 the following: “In this Act:

10 “(7) UNITED STATES.—The term ‘United
11 States’”;

12 (G) by moving the paragraphs so as to ap-
13 pear in numerical order; and

14 (H) by inserting after paragraph (1) (as so
15 designated) the following:

16 “(2) HARDROCK MINERAL.—

17 “(A) IN GENERAL.—The term ‘hardrock
18 mineral’ includes deposits of—

19 “(i) minerals found in sedimentary or
20 other rocks;

21 “(ii) base metals;

22 “(iii) precious metals;

23 “(iv) industrial minerals; and

24 “(v) precious and semi-precious
25 gemstones.

1 “(B) EXCLUSIONS.—The term ‘hardrock
2 mineral’ does not include deposits of—

3 “(i) coal;

4 “(ii) oil;

5 “(iii) oil shale;

6 “(iv) gas;

7 “(v) sodium;

8 “(vi) potassium;

9 “(vii) sulfur; or

10 “(viii) mineral materials subject to
11 disposition under the Act of July 31, 1947
12 (commonly known as the ‘Materials Act of
13 1947’) (61 Stat. 681, chapter 406; 30
14 U.S.C. 601 et seq.).”.

15 (2) DEPOSITS SUBJECT TO LEASE.—Section 3
16 of the Mineral Leasing Act for Acquired Lands (30
17 U.S.C. 352) is amended, in the first sentence, by
18 striking “and sulfur” and inserting “sulfur, and
19 hardrock minerals”.

20 (d) ABANDONED HARDROCK MINE FUND.—

21 (1) ESTABLISHMENT.—There is established in
22 the Treasury of the United States a separate ac-
23 count, to be known as the “Abandoned Hardrock
24 Mine Fund” (referred to in this subsection as the
25 “Fund”).

1 (2) SOURCE OF DEPOSITS.—

2 (A) IN GENERAL.—Any amounts collected
3 by the Secretary of the Interior pursuant to the
4 claim maintenance fee under section
5 10101(a)(1) of the Omnibus Budget Reconcili-
6 ation Act of 1993 (30 U.S.C. 28f(a)(1)) on mill
7 sites located under subsection (c) of section
8 2337 of the Revised Statutes (30 U.S.C. 42)
9 shall be deposited into the Fund.

10 (B) HARDROCK MINERALS.—Section 6(a)
11 of the Mineral Leasing Act for Acquired Lands
12 (30 U.S.C. 355(a)) is amended by adding at the
13 end the following: “Beginning on the date of
14 enactment of the Bipartisan American Afford-
15 ability and Jobs Act of 2026, any receipts de-
16 rived from leases of hardrock minerals pursuant
17 to section 3 that would otherwise be paid into
18 the Treasury shall be deposited into the Aban-
19 doned Hardrock Mine Fund established by sec-
20 tion 205(d) of the Bipartisan American Afford-
21 ability and Jobs Act of 2026.”.

22 (3) USE.—The Secretary of the Interior may
23 make expenditures from amounts available in the
24 Fund, without further appropriations or fiscal year
25 limitation, only to carry out section 40704 of the In-

1 frastructure Investment and Jobs Act (30 U.S.C.
2 1245).

3 (4) ALLOCATION OF FUNDS.—Amounts made
4 available under paragraph (3)—

5 (A) shall be allocated in accordance with
6 section 40704(e)(1) of the Infrastructure In-
7 vestment and Jobs Act (30 U.S.C. 1245(e)(1));

8 (B) may be transferred in accordance with
9 section 40704(e)(2) of that Act (30 U.S.C.
10 1245(e)(2)); and

11 (C) may be used for the administration of
12 the Fund and section 40704 of the Infrastruc-
13 ture Investment and Jobs Act (30 U.S.C. 1245)
14 in amounts not to exceed 5 percent of amounts
15 deposited into the Fund.

16 (e) CLERICAL AMENDMENTS.—Section 10101 of the
17 Omnibus Budget Reconciliation Act of 1993 (30 U.S.C.
18 28f) is amended—

19 (1) by striking “the Mining Law of 1872 (30
20 U.S.C. 28–28e)” each place it appears and inserting
21 “sections 2319 through 2344 of the Revised Stat-
22 utes (30 U.S.C. 22 et seq.)”;

23 (2) in subsection (a)—

24 (A) in paragraph (1)—

1 (i) in the second sentence, by striking
2 “Such claim maintenance fee” and insert-
3 ing the following:

4 “(B) FEE.—The claim maintenance fee
5 under subparagraph (A)”; and

6 (ii) in the first sentence, by striking
7 “The holder of” and inserting the fol-
8 lowing:

9 “(A) IN GENERAL.—The holder of”; and
10 (B) in paragraph (2)—

11 (i) in the second sentence—

12 (I) by striking “the Mining Law
13 of 1872 (30 U.S.C. 28 to 28e)” and
14 inserting “sections 2319 through
15 2344 of the Revised Statutes (30
16 U.S.C. 22 et seq.)”; and

17 (II) by striking “Such claim
18 maintenance fee” and inserting the
19 following:

20 “(B) FEE.—The claim maintenance fee
21 under subparagraph (A)”; and

22 (ii) in the first sentence, by striking
23 “The holder of” and inserting the fol-
24 lowing:

25 “(A) IN GENERAL.—The holder of”; and

1 (3) in subsection (b)—

2 (A) in the second sentence, by striking

3 “The location fee” and inserting the following:

4 “(2) FEE.—The location fee”; and

5 (B) in the first sentence, by striking “The

6 claim main tenance fee” and inserting the fol-

7 lowing:

8 “(1) IN GENERAL.—The claim maintenance

9 fee”.

10 **Subtitle C—Geothermal Leasing**
11 **and Permitting**

12 **SEC. 2221. GEOTHERMAL OBSERVATION TEST PROJECTS.**

13 The Geothermal Steam Act of 1970 (30 U.S.C. 1001

14 et seq.) is amended by adding at the end the following:

15 **“SEC. 30. GEOTHERMAL OBSERVATION TEST PROJECTS.**

16 **“(a) DEFINITIONS.—In this section:**

17 **“(1) CASUAL USE.—The term ‘casual use’, with**

18 **respect to a geothermal observation test project,**

19 **means activities ordinarily resulting in no or neg-**

20 **ligible disturbance of public land or resources.**

21 **“(2) CATEGORICAL EXCLUSION.—The term**

22 **‘categorical exclusion’ has the meaning given the**

23 **term in section 3 of the National Environmental**

24 **Policy Act of 1969.**

1 “(3) DOWNHOLE.—The term ‘downhole’ means
2 a well or borehole dug or drilled into the subsurface
3 of the earth for the purposes of resource confirma-
4 tion or potential use.

5 “(4) GEOTHERMAL OBSERVATION TEST
6 PROJECT.—The term ‘geothermal observation test
7 project’ means using geothermal technologies to drill
8 a test, monitor, calibration, or other similar type of
9 exploratory drilling process well for geothermal re-
10 sources on land for which the Secretary concerned
11 has issued a lease under this Act, that—

12 “(A) causes an allowable amount of total
13 disturbance;

14 “(B) does not include any permanent
15 roads;

16 “(C) is developed—

17 “(i) with the deepest cemented casing
18 string less than 12 inches of downhole size
19 in diameter;

20 “(ii) in a manner that does not re-
21 quire off-road motorized access other than
22 to and from the well site along an identi-
23 fied off-road route;

24 “(iii) with temporary road access, if
25 needed to enable access to the geothermal

1 observation test project location, subject to
2 the requirement that—

3 “(I) construction of the tem-
4 porary road access is remediated as
5 close as reasonably practicable to
6 original condition following completion
7 of the geothermal observation test
8 project work; or

9 “(II) the temporary road access,
10 with any additional permanent im-
11 provements, is included as part of the
12 full review required under the Na-
13 tional Environmental Policy Act of
14 1969 (42 U.S.C. 4321 et seq.) if the
15 leaseholder intends to proceed with
16 geothermal energy use for—

17 “(aa) the production of elec-
18 tricity;

19 “(bb) industrial processes;

20 “(cc) agricultural processes;

21 “(dd) brine mineral extrac-
22 tion;

23 “(ee) direct heating and
24 cooling uses; or

1 “(ff) any combination of
2 items (aa) through (ee); and

3 “(iv) with the use of rubber-tired
4 digging or drilling equipment vehicles;

5 “(D) is completed in less than 1 year—

6 “(i) including the removal of any sur-
7 face infrastructure from the site, unless—

8 “(I) the party conducting the
9 geothermal observation test project
10 submits to the Secretary concerned by
11 not later than 60 days after the date
12 of first exploration drilling an exten-
13 sion request for additional time to
14 complete the observation project, in
15 which the request provides justifica-
16 tion indicating why granting an exten-
17 sion is necessary; and

18 “(II) the Secretary concerned
19 grants an extension under subclause
20 (I), if requested; or

21 “(ii) not including removal of any sur-
22 face infrastructure from the site so long as
23 the geothermal developer intends to pro-
24 ceed with resource development directly
25 following the test phase of the project and

1 into processes required under the National
2 Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.); and

4 “(E) requires the restoration of the project
5 site as part of any new review required under
6 the National Environmental Policy Act of 1969
7 (42 U.S.C. 4321 et seq.) within 3 years of the
8 date of first exploration drilling to approxi-
9 mately the condition that existed at the time
10 the project began, unless the site is subse-
11 quently used as part of energy development
12 under the lease.

13 “(5) GEOTHERMAL TECHNOLOGY.—The term
14 ‘geothermal technology’ means technology designed
15 to extract heat from the subsurface of the earth and
16 that is used to drill—

17 “(A) hydrothermal project test wells;

18 “(B) enhanced geothermal system moni-
19 toring wells;

20 “(C) closed loop geothermal system cali-
21 bration wells; and

22 “(D) similar types of subsurface disturb-
23 ances through non-production wells to assess
24 the viability of the heat resources of the earth.

1 “(6) SECRETARY CONCERNED.—The term ‘Sec-
2 retary concerned’ means—

3 “(A) the Secretary of Agriculture, with re-
4 spect to National Forest System land; and

5 “(B) the Secretary, with respect to public
6 lands.

7 “(7) SURFACE INFRASTRUCTURE.—The term
8 ‘surface infrastructure’ means all equipment, mate-
9 rials, facilities, and other items used in the drilling
10 of a geothermal observation test project.

11 “(8) TOTAL DISTURBANCE.—

12 “(A) IN GENERAL.—The term ‘total dis-
13 turbance’ means a geothermal observation test
14 project that causes not more than 10 acres of
15 disturbance from—

16 “(i) soil or vegetation disruption at
17 the location of each geothermal observation
18 test project; and

19 “(ii) soil or vegetation disruption dur-
20 ing access or egress to the geothermal ob-
21 servation test project site.

22 “(B) ALLOWANCE.—

23 “(i) MULTIPLE PROJECTS.—For in-
24 stances of multiple geothermal observation

1 test projects, the acres of total disturbance
2 allowed shall—

3 “(I) be equal to the total number
4 of geothermal observation test
5 projects multiplied by 10 acres; and

6 “(II) not exceed 100 total acres.

7 “(ii) ACCESS OR EGRESS.—For soil or
8 vegetation disruption during access or
9 egress to a geothermal observation test
10 project site, the acres of total soil or vege-
11 tation disruption allowed shall be equal to
12 the acres of total disturbance allowed
13 minus the acres of soil or vegetation dis-
14 ruption caused by the geothermal observa-
15 tion test project.

16 “(b) CATEGORICAL EXCLUSION.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this section, the Secretary
19 concerned shall develop a categorical exclusion for
20 geothermal observation test projects.

21 “(2) ADMINISTRATION.—In developing and ad-
22 ministering the categorical exclusion under para-
23 graph (1), the Secretary concerned shall—

1 “(A) comply with the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et
3 seq.); and

4 “(B) apply any applicable extraordinary
5 circumstance under section 46.215 of title 43,
6 Code of Federal Regulations (or a successor
7 regulation), in determining whether to use the
8 categorical exclusion.

9 “(c) NON-MAJOR FEDERAL ACTION.—

10 “(1) IN GENERAL.—Activities that are casual
11 use shall not be considered a major Federal action
12 under the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.).

14 “(2) NOTICE OF INTENT.—A party wishing to
15 conduct activities that are casual use shall provide to
16 the Secretary a notice of intent to carry out those
17 activities at least 30 days before the start of the ac-
18 tivities.”.

19 **SEC. 2222. GEOTHERMAL ROYALTIES.**

20 (a) DEFINITIONS.—

21 (1) IN GENERAL.—Section 2 of the Geothermal
22 Steam Act of 1970 (30 U.S.C. 1001) is amended—

23 (A) in the matter preceding subsection (a),
24 by striking “As used in this Act, the term—”
25 and inserting “In this Act:”;

1 (B) in each of subsections (a) through (d),
2 by striking the semicolon at the end and insert-
3 ing a period;

4 (C) in subsection (e), by striking “geo-
5 thermal steam or associated”;

6 (D) in subsection (f)—

7 (i) in the matter preceding paragraph
8 (1), by striking “Significant” and inserting
9 “significant”; and

10 (ii) by redesignating paragraphs (1)
11 through (4) as subparagraphs (A) through
12 (D), respectively, and indenting appro-
13 priately;

14 (E) in subsection (g), by striking “; and”
15 and inserting a period;

16 (F) by redesignating subsections (a)
17 through (g) as paragraphs (8), (4), (5), (1),
18 (7), (9), and (2), respectively, and indenting
19 and moving the paragraphs so as to appear in
20 numerical order;

21 (G) in each of paragraphs (1), (2), (4),
22 (5), (7), (8), and (9)—

23 (i) by inserting “The term” after the
24 paragraph designation; and

1 (ii) by inserting a paragraph heading,
2 the text of which comprises the term de-
3 fined in that paragraph;

4 (H) by inserting after paragraph (2) (as so
5 redesignated) the following:

6 “(3) GEOTHERMAL ELECTRIC GENERATING FA-
7 CILITY.—

8 “(A) IN GENERAL.—The term ‘geothermal
9 electric generating facility’ means a facility, in-
10 cluding all necessary equipment or structures
11 (including turbines, cooling equipment, and
12 other equipment), that converts geothermal re-
13 sources into electricity.

14 “(B) SEPARATE FACILITIES.—A plant or
15 site of a facility described in subparagraph (A)
16 shall be considered a new or separate facility
17 from the facility described in subparagraph (A)
18 only if no turbines are shared with that existing
19 facility.”; and

20 (I) by inserting after paragraph (5) (as so
21 redesignated) the following:

22 “(6) IN-SERVICE DATE.—The term ‘in-service
23 date’, with respect to a geothermal electric gener-
24 ating facility, means the date on which the geo-

1 thermal electric generating facility begins oper-
2 ating.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 6(i) of the Geothermal Steam
5 Act of 1970 (30 U.S.C. 1005(i)) is amended by
6 striking “as defined in section 2(c) herein”.

7 (B) Section 28(a)(1) of the Geothermal
8 Steam Act of 1970 (30 U.S.C. 1026(a)(1)) is
9 amended in the matter preceding subparagraph
10 (A) by striking “, as defined in section 2(f),”.

11 (b) GEOTHERMAL ROYALTIES.—Section 5(a)(1) of
12 the Geothermal Steam Act of 1970 (30 U.S.C.
13 1004(a)(1)) is amended—

14 (1) in subparagraph (A)—

15 (A) by inserting “with respect to a geo-
16 thermal electric generating facility producing
17 electricity from geothermal resources,” before
18 “not less than”;

19 (B) by inserting “by such facility” after
20 “produced”; and

21 (C) by striking “the first 10 years of pro-
22 duction under the lease” and inserting “each
23 year of the 10-year period following the in-serv-
24 ice date of the geothermal electric generating
25 facility”; and

1 (2) in subparagraph (B)—

2 (A) by inserting “with respect to a geo-
3 thermal electric generating facility producing
4 electricity from geothermal resources,” before
5 “not less than”;

6 (B) by inserting “by such facility” after
7 “produced”; and

8 (C) by striking “such 10-year period” and
9 inserting “the 10-year period described in sub-
10 paragraph (A)”.

11 **SEC. 2223. GEOTHERMAL LEASING REFORM.**

12 (a) ANNUAL LEASING.—Section 4(b) of the Geo-
13 thermal Steam Act of 1970 (30 U.S.C. 1003(b)) is amend-
14 ed—

15 (1) in paragraph (2), by striking “2 years” and
16 inserting “year”;

17 (2) by adding at the end the following:

18 “(5) REPLACEMENT SALES.—If a lease sale
19 under paragraph (1) for a year is cancelled or de-
20 layed, the Secretary shall conduct a replacement sale
21 during the same year.”.

22 (b) DEADLINES FOR CONSIDERATION OF GEO-
23 THERMAL DRILLING PERMITS.—Section 4 of the Geo-
24 thermal Steam Act of 1970 (30 U.S.C. 1003) is amended
25 by adding at the end the following:

1 “(h) DEADLINES FOR CONSIDERATION OF GEO-
2 THERMAL DRILLING PERMITS.—

3 “(1) NOTICE.—Not later than 30 days after the
4 date on which the Secretary receives an application
5 for any geothermal drilling permit, the Secretary
6 shall—

7 “(A) provide written notice to the appli-
8 cant that the application is complete; or

9 “(B) notify the applicant that information
10 is missing and specify any information that is
11 required to be submitted for the application to
12 be complete.

13 “(2) ISSUANCE OR DEFERRAL.—

14 “(A) IN GENERAL.—Not later than 30
15 days after the Secretary has provided written
16 notice to an applicant for a geothermal drilling
17 permit that the application for such permit is
18 complete pursuant to paragraph (1)(A), the
19 Secretary shall—

20 “(i) issue the permit, if the require-
21 ments under the National Environmental
22 Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.) and other applicable law have been
24 completed within the timeframe; or

1 “(ii) defer the decision on the permit
2 and provide to the applicant a notice—

3 “(I) that specifies any steps that
4 the applicant could take for the per-
5 mit to be issued; and

6 “(II) that includes a list of ac-
7 tions that need to be taken by the
8 agency to comply with applicable law,
9 together with timelines and deadlines
10 for taking those actions, which shall
11 not exceed the deadlines specified in
12 section 107(g) of the National Envi-
13 ronmental Policy Act of 1969 (42
14 U.S.C. 4336a(g)).

15 “(B) DEADLINE FOR DEFERRED DECISIONS.—If the Secretary defers a decision on a
16 permit under subparagraph (A)(ii), the Sec-
17 retary shall issue a decision on the permit not
18 later than 10 days after—

19 “(i) the applicant takes any steps
20 specified under subparagraph (A)(ii)(I);
21 and
22

23 “(ii) the agency takes the actions de-
24 scribed in subparagraph (A)(ii)(II) in ac-

1 cordance with any applicable timelines and
2 deadlines.”.

3 **SEC. 2224. GEOTHERMAL OMBUDSMAN AND PERMITTING**
4 **TASK FORCE.**

5 (a) DEFINITIONS.—In this section:

6 (1) BUREAU.—The term “Bureau” means the
7 Bureau of Land Management.

8 (2) GEOTHERMAL AUTHORIZATION.—The term
9 “geothermal authorization” means any license, per-
10 mit, approval, finding, determination, or other ad-
11 ministrative decision issued by the Bureau (includ-
12 ing any interagency consultation) that is required or
13 authorized under Federal law in order to site, con-
14 struct, reconstruct, or commence operation of a
15 project that—

16 (A) is located in whole or in part on land
17 subject to geothermal leasing under section 3 of
18 the Geothermal Steam Act of 1970 (30 U.S.C.
19 1002); and

20 (B) uses geothermal energy to generate
21 heat or electricity.

22 (3) GEOTHERMAL OMBUDSMAN.—The term
23 “Geothermal Ombudsman” means the Geothermal
24 Ombudsman appointed under subsection (b)(1).

1 (4) TASK FORCE.—The term “Task Force”
2 means the Geothermal Permitting Task Force estab-
3 lished under subsection (c)(1).

4 (b) GEOTHERMAL OMBUDSMAN.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date of enactment of this Act, the Secretary of
7 the Interior shall appoint from within the Bureau an
8 individual to serve as Geothermal Ombudsman.

9 (2) DUTIES.—The Geothermal Ombudsman
10 shall—

11 (A) act as a liaison between—

12 (i) the individual field, district, and
13 State offices of the Bureau;

14 (ii) the Division Chief of the National
15 Renewable Energy Coordination Office of
16 the Bureau; and

17 (iii) the Director of the Bureau;

18 (B) provide dispute resolution services for
19 disputes between the individual field, district,
20 and State offices of the Bureau and applicants
21 for geothermal authorizations;

22 (C) monitor and facilitate permit proc-
23 essing practices and timelines across individual
24 field offices of the Bureau;

1 (D) develop best practices for the permit-
2 ting and leasing process for geothermal re-
3 sources; and

4 (E) coordinate with the Federal Permitting
5 Improvement Steering Council.

6 (c) GEOTHERMAL PERMITTING TASK FORCE.—

7 (1) ESTABLISHMENT.—Not later than 60 days
8 after the date of enactment of this Act, the Sec-
9 retary of the Interior shall establish within the Bu-
10 reau a task force, to be known as the “Geothermal
11 Permitting Task Force”.

12 (2) LEADERSHIP.—The Task Force shall be
13 headed by the Geothermal Ombudsman.

14 (3) PERMITTING SUPPORT.—The Task Force
15 shall support the duties of the Geothermal Ombuds-
16 man under subsection (b).

17 (4) CROSS-OFFICE PERSONNEL ASSIGN-
18 MENTS.—

19 (A) IN GENERAL.—The Geothermal Om-
20 budsman, acting as head of the Task Force,
21 may coordinate with any bureau or office of the
22 Department of the Interior to assign personnel
23 with relevant expertise to assist with the com-
24 pletion of geothermal authorizations in Bureau
25 field, district, or State offices other than the of-

1 ficial duty stations at which such personnel are
2 located if—

(i) the applicable bureau or office determines that such an assignment will not materially delay ongoing completion of geothermal authorizations within the applicable official duty station; and

8 (ii) approval is received from the head
9 of that official duty station.

(B) ASSIGNED PERSONNEL REQUIREMENTS.—An employee assigned to assist with the completion of geothermal authorizations pursuant to subparagraph (A) shall—

(i) work in-person full-time at an official office of the Department of the Interior;

(ii) as the Geothermal Ombudsman determines to be necessary, travel to the Bureau field, district, or State office with jurisdiction over the geothermal authorizations to which the employee has been assigned;

(iii) participate as part of the team of personnel working on geothermal author-

izations to which the employee has been assigned; and

(iv) regularly report to the head of the Bureau field, district, or State office with jurisdiction over the geothermal authorizations to which the employee has been assigned.

(C) RETENTION ALLOWANCES.—

(i) IN GENERAL.—Subject to the availability of appropriations, the Geothermal Ombudsman may pay a retention allowance to an employee assigned to assist with the completion of geothermal authorizations under subparagraph (A).

(ii) REQUIREMENTS.—A retention allowance under clause (i)—

(I) shall be stated as the percentage of the rate of basic pay of the applicable employee, subject to the condition that such an allowance may not exceed 25 percent of that rate of basic pay;

(II) may not be considered to be part of the basic pay of the employee;

1 (III) may not be appealed on re-
2 duction or elimination; and

3 (IV) shall be paid at the same
4 time and in the same manner as the
5 basic pay of the employee is paid.

6 (iii) FACTORS FOR CONSIDERATION.—

7 In paying a retention allowance under
8 clause (i), the Geothermal Ombudsman
9 shall take into consideration—

10 (I) any specialized expertise of
11 the applicable employee relating to
12 geothermal authorizations;

13 (II) the demonstrated need to re-
14 tain an employee to meet the perform-
15 ance improvement objectives for geo-
16 thermal authorization timelines and
17 develop best practices for completion
18 of geothermal authorizations; and

19 (III) the difficulty in recruiting
20 or replacing qualified personnel with
21 relevant expertise relating to geo-
22 thermal authorizations.

23 (D) SAVINGS CLAUSE.—The assignment of
24 personnel pursuant to this paragraph shall not
25 alter the underlying jurisdiction of any office of

1 the Bureau with respect to geothermal author-
2 izations.

3 (d) REPORT.—The Geothermal Ombudsman shall
4 submit to the Committee on Energy and Natural Re-
5 sources of the Senate and the Committee on Natural Re-
6 sources of the House of Representatives an annual report
7 that—

8 (1) describes the activities of the Task Force
9 during the preceding year; and

10 (2) evaluates the effectiveness of geothermal au-
11 thorization processing during the preceding year.

12 **SEC. 2225. NO FEDERAL PERMIT REQUIRED FOR GEO-**
13 **THERMAL ACTIVITIES ON CERTAIN LAND.**

14 The Geothermal Steam Act of 1970 (30 U.S.C. 1001
15 et seq.) (as amended by section 2221) is amended by add-
16 ing at the end the following:

17 **“SEC. 31. NO FEDERAL PERMIT REQUIRED FOR GEO-**
18 **THERMAL ACTIVITIES ON CERTAIN LAND.**

19 “(a) EXPLORATION AND PRODUCTION ACTIVITIES.—
20 The Secretary shall not require an operator to obtain a
21 Federal drilling permit for geothermal exploration and
22 production activities conducted on a non-Federal surface
23 estate, provided that—

24 “(1) the United States holds an ownership in-
25 terest of less than 50 percent of the subsurface geo-

1 thermal estate to be accessed by the proposed action;
2 and

3 “(2) the operator submits to the Secretary a
4 State permit to conduct geothermal exploration and
5 production activities on the non-Federal surface es-
6 tate.

7 “(b) NOTIFICATION.—For each State permit to drill
8 or drilling plan that would impact or extract oil and gas
9 owned by the Federal Government—

10 “(1) each lessee of Federal minerals in the unit,
11 or designee of a lessee, shall—

12 “(A) notify the Secretary of the submission
13 of a State application for a permit to drill or
14 drilling plan on submission of the application;
15 and

16 “(B) provide a copy of the application de-
17 scribed in subparagraph (A) to the Secretary
18 not later than 5 days after the date on which
19 the permit or plan is submitted; and

20 “(2) each lessee, designee of a lessee, or appli-
21 cable State shall notify the Secretary of the ap-
22 proved State permit to drill or drilling plan not later
23 than 45 days after the date on which the permit or
24 plan is approved.

1 “(c) NONAPPLICABILITY TO INDIAN LAND.—Sub-
2 section (a) shall not apply to—

3 “(1) any land located within the boundaries of
4 an Indian reservation, pueblo, or rancheria; or

5 “(2) any land not located within the boundaries
6 of an Indian reservation, pueblo, or rancheria, the
7 title to which is held—

8 “(A) in trust by the United States for the
9 benefit of an Indian Tribe or an individual In-
10 dian;

11 “(B) by an Indian Tribe or an individual
12 Indian, subject to restriction against alienation
13 under laws of the United States; or

14 “(C) by a dependent Indian community.

15 “(d) EFFECT.—

16 “(1) IN GENERAL.—Nothing in this section
17 shall affect the amount of royalties due to the
18 United States under this Act from the production of
19 electricity using geothermal resources (other than di-
20 rect use of geothermal resources) or the production
21 of any byproducts.

22 “(2) ONSITE REVIEWS AND INSPECTIONS.—The
23 Secretary may conduct onsite reviews and inspec-
24 tions to ensure proper accountability, measurement,

1 and reporting of the production described in sub-
2 section (a), and payment of royalties.”.

3 **SEC. 2226. EFFECT OF PENDING CIVIL ACTIONS ON PROC-**
4 **ESSING APPLICATIONS RELATING TO GEO-**
5 **THERMAL LEASING.**

6 Section 4 of the Geothermal Steam Act of 1970 (30
7 U.S.C. 1003) (as amended by section 2223(b)) is amended
8 by adding at the end the following:

9 “(i) EFFECT OF PENDING CIVIL ACTIONS ON PROC-
10 ESSING APPLICATIONS RELATING TO GEOTHERMAL
11 LEASING.—

12 “(1) DEFINITION OF AUTHORIZATION.—In this
13 subsection, the term ‘authorization’ means any li-
14 cense, permit, approval, finding, determination, or
15 other administrative decision issued by a Federal
16 agency, or any interagency consultation, that is re-
17 quired or authorized under Federal law (including
18 regulations) in order to site, construct, reconstruct,
19 or commence operation of a geothermal project ad-
20 ministered by a Federal agency.

21 “(2) REQUIREMENT TO PROCESS APPLICA-
22 TIONS.—Notwithstanding any pending civil action
23 that affects an application for a geothermal drilling
24 permit, sundry notice, notice to proceed, right-of-
25 way, or any other authorization under a valid exist-

1 ing geothermal lease, the Secretary shall, unless a
2 Federal court vacates or provides injunctive relief
3 for the applicable geothermal lease, geothermal drill-
4 ing permit, sundry notice, notice to proceed, right-
5 of-way, or other authorization, approve and issue, or
6 deny, each such application not later than 60 days
7 after completing all requirements under applicable
8 Federal laws (including regulations), including the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.), the Endangered Species Act of
11 1973 (16 U.S.C. 1531 et seq.), and division A of
12 subtitle III of title 54, United States Code.

13 “(3) NO NEW AUTHORITY FOR FEDERAL
14 COURTS.—Nothing in this subsection modifies any
15 existing authority of a Federal court to vacate or
16 provide injunctive relief for a geothermal lease, geo-
17 thermal drilling permit, sundry notice, notice to pro-
18 ceed, right-of-way, or other authorization.”.

19 **SEC. 2227. COST RECOVERY FROM GEOTHERMAL LEASING,**
20 **PERMITTING, AND INSPECTIONS.**

21 (a) IN GENERAL.—Section 6 of the Geothermal
22 Steam Act of 1970 (30 U.S.C. 1005) is amended by add-
23 ing at the end the following:

24 “(j) COST RECOVERY.—

1 “(1) IN GENERAL.—During the period begin-
2 ning on the date of enactment of the Bipartisan
3 American Affordability and Jobs Act of 2026 and
4 ending on September 30, 2033, the Secretary may
5 require an applicant for, or holder of, a geothermal
6 lease to reimburse the United States for all reason-
7 able administrative and other costs incurred by the
8 United States from—

9 “(A) processing the application for the
10 geothermal lease, including any application for
11 an operations plan, geothermal drilling permit,
12 utilization plan, site license, facility construc-
13 tion permit, commercial use permit, and any
14 other approval associated with a geothermal
15 lease; and

16 “(B) inspecting and monitoring—

17 “(i) geophysical exploration activities;

18 “(ii) the drilling, plugging, or aban-
19 donment of wells; and

20 “(iii) the construction, operation, ter-
21 mination, or reclamation of any well site or
22 facility for the utilization of geothermal re-
23 sources pursuant to the geothermal lease.

24 “(2) FACTOR FOR CONSIDERATION.—In deter-
25 mining whether to require reimbursement under

1 paragraph (1), the Secretary shall take into consid-
2 eration whether there is in existence a cooperative
3 cost-share agreement between the United States and
4 the holder of a geothermal lease.

5 “(3) ADJUSTMENTS.—The Secretary may re-
6 duce the amount required to be reimbursed under
7 paragraph (1) if the Secretary determines that—

8 “(A) full reimbursement would impose on
9 the applicant an economic hardship; or

10 “(B) a less-than-full reimbursement is nec-
11 essary to promote the greatest use of geo-
12 thermal resources.

13 “(4) USE.—The amounts reimbursed under this
14 subsection shall be—

15 “(A) credited to the currently applicable
16 appropriation, account, or fund of the Depart-
17 ment of the Interior as discretionary offsetting
18 collections; and

19 “(B) available only to the extent provided
20 in advance in appropriations Acts for—

21 “(i) processing applications for geo-
22 thermal leases, including any applications
23 for operations plans, geothermal drilling
24 permits, utilization plans, site licenses, fa-
25 cility construction permits, commercial use

1 permits, and any other approval associated
2 with geothermal leases; and
3 “(ii) inspecting and monitoring—
4 “(I) geophysical exploration ac-
5 tivities;
6 “(II) the drilling, plugging, or
7 abandonment of wells; and
8 “(III) the construction, oper-
9 ation, termination, or reclamation of
10 any well site or facility for the utiliza-
11 tion of geothermal resources pursuant
12 to geothermal leases.”.

13 (b) REPORT.—

14 (1) IN GENERAL.—Not later than 5 years after
15 the date of enactment of this Act, the Secretary of
16 the Interior, in consultation with representatives of
17 the geothermal industry and other stakeholders,
18 shall submit to the Committee on Energy and Nat-
19 ural Resources of the Senate and the Committee on
20 Natural Resources of the House of Representatives,
21 and make publicly available on the website of the
22 Department of the Interior, a report that includes—
23 (A) an assessment of how the amendment
24 made by subsection (a) affected the geothermal
25 program of the Bureau of Land Management;

1 (B) any recommendations for reauthoriza-
2 tion of subsection (j) of section 6 of the Geo-
3 thermal Steam Act of 1970 (30 U.S.C. 1005)
4 (as added by subsection (a)); and

5 (C) any other recommendations for up-
6 dates to—

7 (i) subsection (j) of section 6 of the
8 Geothermal Steam Act of 1970 (30 U.S.C.
9 1005) (as so added); or

10 (ii) the geothermal program of the
11 Bureau of Land Management.

12 (2) CONSIDERATIONS.—In developing the re-
13 port under paragraph (1), the Secretary of the Inte-
14 rior shall solicit facts or information from represent-
15 atives of the geothermal industry and other stake-
16 holders.

17 **SEC. 2228. PUBLICATION OF GOLD BOOK FOR GEO-**
18 **THERMAL OPERATIONS ON FEDERAL LAND.**

19 (a) IDENTIFICATION.—Not later than 1 year after
20 the date of enactment of this Act, the Secretary of the
21 Interior, in consultation with other relevant Federal agen-
22 cies, shall identify standard procedures and guidelines for
23 efficient and environmentally responsible geothermal leas-
24 ing and permitting to the extent such standard procedures
25 and guidelines are not addressed in the fourth edition of

1 the document of the Bureau of Land Management entitled
2 “Surface Operating Standards and Guidelines for Oil and
3 Gas Exploration and Development”, commonly known as
4 the “Gold Book”, and most recently revised in 2007.

5 (b) PUBLICATION.—

6 (1) IN GENERAL.—Not later than 270 days
7 after identifying standard procedures and guidelines
8 under subsection (a), the Secretary of the Interior
9 shall publish an updated version of the Gold Book,
10 incorporating any changes necessary to support effi-
11 cient and environmentally responsible geothermal
12 leasing and permitting, for use by the field offices of
13 the Bureau of Land Management and geothermal
14 operators.

15 (2) RENAMING.—The Secretary of the Interior
16 shall rename the Gold Book as the Secretary deter-
17 mines to be appropriate to reflect the incorporation
18 of standard procedures and guidelines relating to
19 geothermal development.

20 (c) CONSULTATION.—Before publishing an updated
21 version of the Gold Book under subsection (b)(1), the Sec-
22 retary of the Interior shall consult with—

23 (1) other relevant Federal agencies, including
24 field offices of the Bureau of Land Management;
25 and

1 (2) outside stakeholders, including developers
2 and other experts.

3 (d) PERIODIC REVISION.—The Secretary of the Inte-
4 rior shall—

5 (1) not less frequently than once every 5 years,
6 review the most recent version of the Gold Book (or
7 a successor to that book); and

8 (2) as the Secretary of the Interior determines
9 to be necessary to support efficient and environ-
10 mentally responsible geothermal leasing and permit-
11 ting, publish an updated version of the Gold Book
12 (or a successor).

13 (e) INCLUSIONS.—Each updated version of the Gold
14 Book (or a successor to that book) shall include standard
15 procedures and guidelines for ensuring the efficient review
16 and approval of environmentally responsible geothermal
17 development, including—

18 (1) exploration and geophysical operations;

19 (2) permitting lease operations;

20 (3) compliance with all applicable laws (includ-
21 ing regulations);

22 (4) construction and maintenance; and

23 (5) drilling, production, and utilization oper-
24 ations.

1 **SEC. 2229. NEPA REVIEW.**

2 Section 390 of the Energy Policy Act of 2005 (42
3 U.S.C. 15942) is amended—

4 (1) by striking subsection (a) and inserting the
5 following:

6 “(a) NEPA REVIEW.—Action by the Secretary of the
7 Interior in managing public land, or the Secretary of Agri-
8 culture in managing National Forest System land, with
9 respect to an activity described in subsection (b) shall not
10 be considered a major Federal action under the National
11 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
12 seq.) if the activity is conducted pursuant to the Mineral
13 Leasing Act (30 U.S.C. 181 et seq.) or the Geothermal
14 Steam Act of 1970 (30 U.S.C. 1001 et seq.) for the pur-
15 pose of exploration or development of oil, gas, or geo-
16 thermal resources.”;

17 (2) in subsection (b)—

18 (A) in paragraph (2), by striking “or gas”
19 and inserting “, gas, or geothermal”;

20 (B) in paragraph (3), by striking “or gas”
21 and inserting “, gas, or geothermal”;

22 (C) by striking “NEPA” each place it ap-
23 pears and inserting “the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et
25 seq.)”;

1 (D) in paragraph (4), by striking “5” and
2 inserting “10”;

3 (E) by redesignating paragraph (5) as
4 paragraph (6); and

5 (F) by inserting after paragraph (4) the
6 following:

7 “(5) For the purposes of geothermal, placement
8 of an electric transmission or distribution line of not
9 more than 20 miles in length in an approved right-
10 of-way corridor, so long as the corridor was ap-
11 proved within 10 years prior to the date of place-
12 ment of the transmission or distribution line.”; and

13 (3) by adding at the end the following:

14 “(c) EFFECT.—

15 “(1) IN GENERAL.—Nothing in this section af-
16 fects the requirement for a drilling permit for the
17 conduct of any activity described in subsection (b)
18 pursuant to—

19 “(A) the Mineral Leasing Act (30 U.S.C.
20 181 et seq.); or

21 “(B) the Geothermal Steam Act of 1970
22 (30 U.S.C. 1001 et seq.).

23 “(2) REQUIREMENTS.—Notwithstanding section
24 17(p)(2)(A) of the Mineral Leasing Act (30 U.S.C.
25 226(p)(2)(A)) or subsection (h)(2)(A)(i) of section 4

1 of the Geothermal Steam Act of 1970 (30 U.S.C.
2 1003), activities described in subsection (b) that re-
3 quire a drilling permit under the Mineral Leasing
4 Act (30 U.S.C. 1001 et seq.) or a geothermal drill-
5 ing permit under the Geothermal Steam Act of 1970
6 (30 U.S.C. 1001 et seq.) shall not have any require-
7 ments under the National Environmental Policy Act
8 of 1969 (42 U.S.C. 4321 et seq.).”.

9 **Subtitle D—Hydropower**

10 **SEC. 2231. IDENTIFYING AND REMOVING MARKET BAR-**
11 **RIERS TO HYDROPOWER.**

12 (a) DEFINITION OF COMMISSION.—In this section,
13 the term “Commission” means the Federal Energy Regu-
14 latory Commission.

15 (b) REPORT ON HYDROPOWER MARKET BAR-
16 RIERS.—

17 (1) IN GENERAL.—Not later than 270 days
18 after the date of enactment of this Act, the Commis-
19 sion, in consultation with the Secretary of Energy,
20 shall submit to the Committee on Energy and Nat-
21 ural Resources of the Senate and the Committee on
22 Energy and Commerce of the House of Representa-
23 tives a report—

24 (A) describing any market barriers to the
25 development and proper compensation of con-

1 ventional, storage, conduit, and emerging hy-
2 dropower technologies related to—

3 (i) rules of Transmission Organiza-
4 tions (as defined in section 3 of the Fed-
5 eral Power Act (16 U.S.C. 796));

6 (ii) regulations or policies—

7 (I) of the Commission; or

8 (II) under the Federal Power Act
9 (16 U.S.C. 791a et seq.); or

10 (iii) other Federal and State laws and
11 policies unique to hydropower development,
12 operation, and regulation, as compared to
13 other sources of electricity;

14 (B) containing recommendations of the
15 Commission for reducing market barriers de-
16 scribed in subparagraph (A);

17 (C) identifying and determining any regu-
18 latory, market, procurement, or cost recovery
19 mechanisms that would—

20 (i) encourage development of conven-
21 tional, storage, conduit, and emerging hy-
22 dropower technologies; and

23 (ii) properly compensate conventional,
24 storage, conduit, and emerging hydropower

1 technologies for the full range of services
2 provided to the electric grid, including—

3 (I) balancing electricity supply
4 and demand;

5 (II) ensuring grid reliability;

6 (III) providing ancillary services;

7 (IV) contributing to the
8 decarbonization of the electric grid;
9 and

10 (V) integrating intermittent
11 power sources into the grid in a cost-
12 effective manner; and

13 (D) identifying ownership and development
14 models that could reduce market barriers to the
15 development of conventional, storage, conduit,
16 and emerging hydropower technologies, includ-
17 ing—

18 (i) opportunities for risk-sharing
19 mechanisms and partnerships, including
20 co-ownership models; and

21 (ii) opportunities to foster lease-sale
22 and lease-back arrangements with publicly
23 owned electric utilities.

24 (2) TECHNICAL CONFERENCE AND PUBLIC
25 COMMENT.—In preparing the report under para-

1 graph (1), the Commission shall solicit public input,
2 including by convening a technical conference and
3 providing an opportunity for public submission of
4 written comments on a draft report.

5 **SEC. 2232. CERTAIN CONDITIONS ON ISSUANCE OF LI-**
6 **CENSES.**

7 Section 4(e) of the Federal Power Act (16 U.S.C.
8 797(e)) is amended, in the first proviso, by inserting “and
9 are reasonably related to the effects of the project” after
10 “of such reservation”.

11 **SEC. 2233. HYDROPOWER MAINTENANCE AND TEMPORARY**
12 **ADJUSTMENTS.**

13 (a) ALTERATIONS IN PROJECT WORKS.—Section
14 10(b) of the Federal Power Act (16 U.S.C. 803(b)) is
15 amended by adding at the end the following: “Except as
16 previously provided in this subsection, the Commission
17 shall require prior approval of a ‘substantial alteration or
18 addition’ to project works or to project operations con-
19 sisting of any significant modification of the project works
20 or operation of the project that is not in conformity with
21 the project plans previously approved by the Commission.
22 The Commission shall not require approval of any alter-
23 ation or addition as determined pursuant to regulations
24 promulgated under section 2233(c) of the Bipartisan
25 American Affordability and Jobs Act of 2026 or any tem-

1 porary variance to the project operations necessitated by
2 circumstances beyond the reasonable control of the li-
3 censee, including extreme weather, natural disasters,
4 equipment failures, or other unforeseen circumstances.”.

5 (b) MAINTENANCE AND REPAIR OF PROJECT
6 WORKS.—Section 10(c) of the Federal Power Act (16
7 U.S.C. 803(c)) is amended by inserting after the first sen-
8 tence the following: “The Commission shall not require ap-
9 proval or an amendment to a project license for any rou-
10 tine maintenance, repair, or replacement of any portion
11 of a project works necessary to maintain the project works
12 in accordance with this subsection.”.

13 (c) GUIDANCE AND PROCESS.—

14 (1) GUIDANCE.—Not later than 90 days after
15 the date of enactment of this Act, the Federal En-
16 ergy Regulatory Commission shall issue a notice of
17 proposed rulemaking proposing a process or consid-
18 erations for determining a “substantial alteration or
19 addition”, “nonsubstantial alteration or addition”,
20 and “routine maintenance, repair, or replacement”
21 to a hydropower project works based on the results
22 of the Notice of Inquiry of the Federal Energy Reg-
23 ulatory Commission entitled “Authorizations for
24 Certain Post-Licensing Activities at Hydroelectric
25 Projects” (90 Fed. Reg. 53310; Docket No. RM26-

1 3-000) issued on November 20, 2025, initially sched-
2 uled to close on January 26, 2026, but extended and
3 officially closed on February 10, 2026.

4 (2) PROCESS.—Not later than 180 days after
5 the date of the issuance of the notice of proposed
6 rulemaking under paragraph (1), and after public
7 notice and opportunity for comment, the Federal
8 Energy Regulatory Commission shall promulgate a
9 final rule establishing—

10 (A) standards for determining a “substan-
11 tial alteration or addition”, “nonsubstantial al-
12 teration or addition”, and “routine mainte-
13 nance, repair, or replacement” to a hydropower
14 project works; and

15 (B) a formal process, as appropriate, for
16 determining whether a proposed alteration or
17 addition constitutes a “substantial alteration or
18 addition” under the final rule that requires ap-
19 proval of the Federal Energy Regulatory Com-
20 mission under section 10(b) of the Federal
21 Power Act (16 U.S.C. 803(b)).

22 (3) EFFECT.—The rule promulgated under
23 paragraph (2) shall establish a process or consider-
24 ations for determining which licensee-requested

1 project alterations require the approval of the Fed-
2 eral Energy Regulatory Commission.

3 (d) SAVINGS CLAUSE.—Nothing in this section or an
4 amendment made by this section—

5 (1) affects any authority of the Commission—

6 (A) to require notice from a licensee under
7 subsection (a) or (b) of section 10 of the Fed-
8 eral Power Act (16 U.S.C. 803); or

9 (B) to enforce requirements of that section
10 or the terms of a license issued under part I of
11 the Federal Power Act (16 U.S.C. 792 et seq.)
12 with respect to the safety of any dam and ap-
13 purtenant works and structures; or

14 (2)(A) precludes any prompt, informal consulta-
15 tion between the licensee and the Commission, at the
16 request of the licensee or the Commission, with re-
17 spect to the safety of any dam and appurtenant
18 works and structures in advance of work to be un-
19 dertaken under section 10 of the Federal Power Act
20 (16 U.S.C. 803); or

21 (B) affects any authority of the Commission to
22 require changes in advance of the work described in
23 subparagraph (A) to protect the safety of any dam
24 and appurtenant works and structures.

1 **SEC. 2234. MICRO HYDROKINETIC ENERGY PROJECTS.**

2 Part I of the Federal Power Act (16 U.S.C. 792 et
3 seq.) is amended by adding at the end the following:

4 **“SEC. 37. LICENSING OF MICRO HYDROKINETIC ENERGY**
5 **PROJECTS.**

6 “(a) DEFINITION OF MICRO HYDROKINETIC ENERGY
7 PROJECT.—In this section, the term ‘micro hydrokinetic
8 energy project’—

9 “(1) means a project that—

10 “(A) has an installed capacity of not more
11 than 5 megawatts; and

12 “(B) converts to electric energy the
13 hydrokinetic energy from a generator driven by
14 a turbine from—

15 “(i) waves, tides, or currents in
16 oceans, estuaries, or tidal areas; or

17 “(ii) free flowing water in rivers,
18 lakes, streams, or man-made channels; and

19 “(2) does not include a project that impounds
20 water to generate electricity.

21 “(b) AUTHORIZATION.—The Commission may issue
22 a license in accordance with this section for a term of not
23 less than 10, and not more than 20, years for the con-
24 struction, operation, and maintenance of project works for
25 a micro hydrokinetic energy project.

26 “(c) EXPEDITED LICENSING PROCESS.—

1 “(1) NOTIFICATION OF INTENT.—

2 “(A) FILING OF NOTIFICATION.—An appli-
3 cant for a license under this section shall com-
4 mence the licensing process by filing a notifica-
5 tion of intent with the Commission.

6 “(B) EXISTING LICENSE DEADLINE.—Not-
7 withstanding section 15(b)(1), an applicant for
8 a license under this section shall file a notifica-
9 tion of intent under subparagraph (A) not later
10 than 2 years before the expiration of an existing
11 license, if applicable.

12 “(2) FILING OF APPLICATION.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), an applicant for a license
15 under this section shall submit to the Commis-
16 sion an application not later than 1 year after
17 the date on which the applicant files a notifica-
18 tion of intent under paragraph (1).

19 “(B) EXISTING LICENSE DEADLINE.—Not-
20 withstanding section 15(c)(1), an applicant for
21 a license under this section shall file an applica-
22 tion with the Commission not later than 1 year
23 before the date of expiration of the term of an
24 existing license, if applicable.

1 “(3) DEADLINE FOR ISSUANCE.—The Commis-
2 sion shall take final action on an application for a
3 license under this section not later than 1 year after
4 the date on which the application is filed under
5 paragraph (2).

6 “(4) SCHEDULE FOR FINAL ACTION.—To the
7 extent reasonably practicable, the Commission and
8 any applicable conditioning or permitting agencies
9 shall establish, with respect to each micro
10 hydrokinetic energy project that is the subject of a
11 notification of intent to apply for a license under
12 this section, a joint schedule that permits the timely
13 completion of decisions required to be made with re-
14 spect to, and the timely issuance of, authorizations
15 required under Federal law by the Commission and
16 the conditioning or permitting agencies, subject to
17 the requirement that any joint schedule established
18 under this paragraph shall comply with the deadline
19 for final action established under paragraph (3).

20 “(d) REGULATIONS.—

21 “(1) IN GENERAL.—Not later than 180 days
22 after the date of enactment of this section, the Com-
23 mission shall promulgate regulations to implement
24 this section in a manner that expedites the deploy-
25 ment of micro hydrokinetic energy projects while en-

1 suring the safe operation of the micro hydrokinetic
2 energy project in compliance with applicable Federal
3 and State laws.

4 “(2) INCLUSION.—The regulations promulgated
5 under paragraph (1) shall provide for the use of 1
6 or more categorical exclusions, including allowing for
7 extraordinary circumstances under which the cat-
8 egorical exclusion shall not be available, under the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) for low disturbance activities
11 necessary for micro hydrokinetic energy projects.

12 “(e) REPORT TO CONGRESS.—The Commission shall
13 submit to Congress a report describing the impacts of the
14 micro hydrokinetic energy projects licensed under this sec-
15 tion on the environment, the economy, and the reliability
16 and affordability of electricity not later than the earlier
17 of—

18 “(1) the date that is 5 years after the date of
19 enactment of this section; and

20 “(2) the date on which the first 50 micro
21 hydrokinetic energy projects licensed under this sec-
22 tion have been operational for not less than 1 year.

23 “(f) SAVINGS CLAUSE.—Nothing in this section af-
24 fects any authority of the Commission, at the election of
25 an applicant, to license the construction, operation, and

1 maintenance of project works for a micro hydrokinetic en-
2 ergy project under any other provision of this part.”.

3 **Subtitle E—Hiring and Retention**

4 **SEC. 2241. FEDERAL ENERGY REGULATORY COMMISSION** 5 **STAFFING.**

6 (a) CONSULTATION REQUIREMENT.—Section 401(k)
7 of the Department of Energy Organization Act (42 U.S.C.
8 7171(k)) is amended—

9 (1) by striking paragraph (6); and

10 (2) by redesignating paragraph (7) as para-
11 graph (6).

12 (b) CERTIFICATION REQUIREMENTS.—Section
13 401(k)(2)(A) of the Department of Energy Organization
14 Act (42 U.S.C. 7171(k)(2)(A)) is amended by striking “or
15 mathematical” and inserting “mathematical, economic, or
16 legal”.

17 **SEC. 2242. NORTHWEST POWER AND CONSERVATION COUN-** 18 **CIL.**

19 Section 4(c)(10)(B) of the Pacific Northwest Electric
20 Power Planning and Conservation Act (16 U.S.C.
21 839b(c)(10)(B)) is amended by inserting “since the date
22 of enactment of the Bipartisan American Affordability and
23 Jobs Act of 2026” before the period at the end.

1 **SEC. 2243. FEDERAL ENERGY REGULATORY COMMISSION**
2 **PERSONNEL SAFETY.**

3 The Federal Energy Regulatory Commission may au-
4 thorize employees of the Federal Energy Regulatory Com-
5 mission to perform law enforcement duties as needed to
6 ensure the safety of the Chairman and Commissioners of
7 the Federal Energy Regulatory Commission in the per-
8 formance of the official duties of the Chairman and Com-
9 missioners, respectively.

10 **Subtitle F—Offshore Energy**

11 **SEC. 2251. OFFSHORE ENERGY.**

12 (a) OUTER CONTINENTAL SHELF LANDS ACT.—Sec-
13 tion 8(p) of the Outer Continental Shelf Lands Act (43
14 U.S.C. 1337(p)) is amended—

15 (1) in paragraph (4)(I), by striking “prevention
16 of interference with reasonable uses” and inserting
17 “prevention of unreasonable interference with other
18 uses”;

19 (2) by striking paragraph (10) and inserting
20 the following:

21 “(10) APPLICABILITY.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), this subsection does not
24 apply to any area on the outer Continental
25 Shelf within the exterior boundaries of any unit
26 of the National Park System, the National

1 Wildlife Refuge System, the National Marine
2 Sanctuary System, or any National Monument.

3 “(B) EXCEPTION.—Notwithstanding sub-
4 paragraph (A), the Secretary, in consultation
5 with the Secretary of Commerce under section
6 304(d) of the National Marine Sanctuaries Act
7 (16 U.S.C. 1434(d)), may grant rights-of-way
8 on the outer Continental Shelf within units of
9 the National Marine Sanctuary System for the
10 transmission of electricity.”; and

11 (3) by adding at the end the following:

12 “(11) DURATION OF PERMITS IN MARINE SANC-
13 TUARIES.—Notwithstanding section 310(c)(2) of the
14 National Marine Sanctuaries Act (16 U.S.C.
15 1441(c)(2)), any permit or authorization granted
16 under that Act that authorizes the installation, oper-
17 ation, or maintenance of electric transmission cables
18 on a right-of-way granted by the Secretary described
19 in paragraph (10)(B) shall be issued for a term
20 equal to the duration of the right-of-way granted by
21 the Secretary.”.

22 (b) SAVINGS CLAUSE.—Nothing in this section, or an
23 amendment made by this section, modifies the limitations
24 described in section 50265(b)(2) of Public Law 117–169
25 (43 U.S.C. 3006(b)(2)).

1 **SEC. 2252. OFFSHORE ENERGY TRANSMISSION.**

2 (a) DEFINITIONS.—In this section:

3 (1) BACKBONE LINE.—The term “backbone
4 line” means a transmission line that connects mul-
5 tiple offshore transmission substitutions.

6 (2) FEDERAL AUTHORIZATION.—

7 (A) IN GENERAL.—The term “Federal au-
8 thorization” means any authorization required
9 under Federal law in order to site an offshore
10 transmission facility.

11 (B) INCLUSIONS.—The term “Federal au-
12 thorization” includes such permits, special use
13 authorizations, certifications, opinions, or other
14 approvals as may be required under Federal law
15 in order to site an offshore transmission facil-
16 ity.

17 (3) OFFSHORE GENERATION FACILITY.—The
18 term “offshore generation facility” means a facility
19 that—

20 (A) is located on the outer Continental
21 Shelf; and

22 (B) produces electric energy.

23 (4) OFFSHORE TRANSMISSION FACILITY.—

24 (A) IN GENERAL.—The term “offshore
25 transmission facility” means a facility, such as
26 a line or cable, and any related infrastructure

1 or equipment, such as a substation or converter
2 station, that is used for the transmission of
3 electric energy—

4 (i) between 2 or more offshore genera-
5 tion facilities, including—

6 (I) offshore generation facilities
7 within a single offshore energy
8 project; and

9 (II) offshore generation facilities
10 in different offshore energy projects;
11 or

12 (ii) between 1 or more offshore gen-
13 eration facilities and an interconnection
14 with an onshore electric grid.

15 (B) INCLUSIONS.—The term “offshore
16 transmission facility” includes a radial line, a
17 backbone line, and any transmission line.

18 (5) OPTIMAL POINT OF INTERCONNECTION.—
19 The term “optimal point of interconnection” means
20 a point of interconnection that minimizes—

21 (A) delays;

22 (B) local impacts; and

23 (C) the need for grid updates.

24 (6) OUTER CONTINENTAL SHELF.—The term
25 “outer Continental Shelf” has the meaning given the

1 term in section 2 of the Outer Continental Shelf
2 Lands Act (43 U.S.C. 1331).

3 (7) RADIAL LINE.—The term “radial line”
4 means a transmission line that is used to link 1 or
5 more offshore energy projects to the bulk-power sys-
6 tem (as defined in section 215(a) of the Federal
7 Power Act (16 U.S.C. 824o(a))).

8 (8) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (9) STATE.—The term “State” has the mean-
11 ing given the term in section 2 of the Outer Conti-
12 nental Shelf Lands Act (43 U.S.C. 1331).

13 (b) IDENTIFICATION OF PREFERRED ROUTES.—

14 (1) IN GENERAL.—

15 (A) INITIAL IDENTIFICATION.—Not later
16 than 2 years after the date of enactment of this
17 Act, the Secretary and the Secretary of Energy
18 (referred to in this subsection as the “Secre-
19 taries”), in coordination with relevant Federal
20 agencies involved in the permitting of offshore
21 generation facilities and offshore transmission
22 facilities, shall identify preferred routes on the
23 outer Continental Shelf for transmission cables
24 and sub-seabed infrastructure (where such
25 routes have not yet been identified), including—

1 (i) between offshore generation facili-
2 ties; and

3 (ii) between offshore generation facili-
4 ties and optimal points of interconnection
5 with onshore electric grids.

6 (B) PERIODIC REVIEW.—Not less fre-
7 quently than once every 3 years after the initial
8 identification of preferred routes in accordance
9 with subparagraph (A), the Secretaries, in co-
10 ordination with relevant Federal agencies in-
11 volved in the permitting of offshore generation
12 facilities and offshore transmission facilities,
13 shall—

14 (i) determine whether additional pre-
15 ferred routes are needed; and

16 (ii) if applicable, identify any addi-
17 tional preferred routes.

18 (2) CONSIDERATIONS.—In identifying preferred
19 routes under paragraph (1), the Secretaries shall
20 take into account—

21 (A) existing rights-of-way and existing sub-
22 seabed infrastructure;

23 (B) the optimal points of interconnection
24 between offshore generation facilities and on-
25 shore electric grids; and

1 (C) impacts on the marine environment,
2 including critical habitats or protected areas,
3 marine organisms, including protected or en-
4 dangered species, and other ocean users, includ-
5 ing fisheries.

6 (c) SITING, PERMITTING, AND AUTHORIZATIONS.—

7 (1) LEAD AGENCY.—With respect to an off-
8 shore transmission facility, the Department of the
9 Interior shall act as the lead agency for purposes of
10 coordinating all applicable Federal authorizations
11 and related environmental reviews of the facility.

12 (2) RULEMAKING.—

13 (A) IN GENERAL.—Not later than 2 years
14 after the date of enactment of this Act, the Sec-
15 retary, in coordination with other relevant Fed-
16 eral agencies, shall issue, pursuant to section 5
17 of the Outer Continental Shelf Lands Act (43
18 U.S.C. 1334), a final rule relating to Federal
19 authorizations for offshore transmission facili-
20 ties.

21 (B) CONSIDERATIONS.—In carrying out
22 subparagraph (A), the Secretary shall con-
23 sider—

1 (i) establishing 1 or more procedures
2 for soliciting information about existing
3 and potential rights-of-way;

4 (ii) establishing a process for deter-
5 mining interest in the use of 1 or more
6 rights-of-way, including backboned or
7 meshed rights-of-way;

8 (iii) establishing a process for the
9 issuance of rights-of-way, on a competitive
10 or noncompetitive basis, as appropriate,
11 which may include consideration of wheth-
12 er a developer—

13 (I) has an award from a State
14 via a competitive process;

15 (II) has an existing agreement to
16 interconnect a transmission project; or

17 (III) has submitted an inter-
18 connection request in accordance with
19 the pro forma Large Generator Inter-
20 connection Procedures promulgated
21 pursuant to section 35.28(f) of title
22 18, Code of Federal Regulations (or
23 successor regulations);

24 (iv) any requirements relating to envi-
25 ronmental reviews for—

1 (I) independent transmission
2 projects; and

3 (II) transmission projects within
4 existing rights-of-way; and

5 (v) the requirements described in sec-
6 tion 8(p)(4) of the Outer Continental Shelf
7 Lands Act (43 U.S.C. 1337(p)(4)).

8 (3) AMENDMENT.—Section 8(p)(3) of the Outer
9 Continental Shelf Lands Act (43 U.S.C. 1337(p)(3))
10 is amended—

11 (A) by striking “, the Secretary shall issue
12 a lease, easement, or right-of-way” and insert-
13 ing the following: “(43 U.S.C. 1337 note; Pub-
14 lic Law 109–58), the Secretary—

15 “(A) shall issue a lease or easement”; and

16 (B) in subparagraph (A) (as so des-
17 ignated)—

18 (i) by striking “lease, easement, or
19 right-of-way” and inserting “lease or ease-
20 ment”; and

21 (ii) by striking the period at the end
22 and inserting the following: “; and

23 “(B) may issue a right-of-way on a com-
24 petitive or noncompetitive basis, as the Sec-
25 retary determines to be appropriate.”.

TITLE III—HISTORIC PRESERVATION

3 SEC. 2301. HISTORIC PRESERVATION.

4 (a) ELIGIBILITY FOR INCLUSION ON NATIONAL REG-
5 ISTER.—Section 302706 of title 54, United States Code,
6 is amended—

7 (1) in subsection (a), by striking the subsection
8 designation and all that follows through “Property
9 of traditional religious and” and inserting the fol-
10 lowing:

11 “(a) ELIGIBILITY.—

12 “(1) DEFINITION OF PROPERTY OF TRADI-
13 TIONAL RELIGIOUS OR CULTURAL IMPORTANCE.—In
14 this subsection, the term ‘property of traditional reli-
15 gious or cultural importance’ means an identifiable
16 geographic location or feature at which an event of
17 continuing religious or cultural significance to a liv-
18 ing community occurred, including any prehistoric or
19 historic district, site, building, structure, or object,
20 and any existing artifacts or material remains at
21 that district, site, building, structure, or object.

22 “(2) DETERMINATION.—Property of traditional
23 religious or”; and

24 (2) in subsection (b), by striking “subsection
25 (a)” and inserting “subsection (a)(2)”.

1 (b) PROGRAM EVALUATION.—

2 (1) STATE PROGRAMS.—Section 302302 of title
3 54, United States Code, is amended—

4 (A) in subsection (a)—

5 (i) in the subsection heading, by strik-
6 ing “Occur” and inserting “Occur”; and

7 (ii) by striking “4” and inserting “2”;

8 (B) in subsection (b)—

9 (i) by striking “If” and inserting the
10 following:

11 “(1) IN GENERAL.—If”;

12 (ii) in paragraph (1) (as so des-
13 ignated), by striking “within a reasonable
14 period of time” and inserting “within 2
15 years of the date of the disapproval”; and

16 (iii) by adding at the end the fol-
17 lowing:

18 “(2) COMPLIANCE WITH TIMELINES.—A State
19 program shall not be considered consistent with this
20 division under paragraph (1) if the applicable State
21 Historic Preservation Officer does not regularly
22 comply with timelines for consultation, complete con-
23 sultation expeditiously, or meet required metrics
24 under this division.

1 “(3) DISAPPROVAL.—If the Secretary dis-
2 approves of a State program or a major aspect of
3 a State program under paragraph (1), the Secretary
4 shall require the suspension in whole or in part of—

5 “(A) any contracts and cooperative agree-
6 ments among the Secretary and the applicable
7 State and State Historic Preservation Officer;
8 and

9 “(B) any grants distributed through the
10 Historic Preservation Fund to the applicable
11 State and State Historic Preservation Officer.

12 “(4) REVIEW.—If the Secretary determines
13 under paragraph (1) that a State program remains
14 not consistent, or has not made acceptable progress
15 towards becoming consistent, with this division with-
16 in the 2-year timeline described in that paragraph,
17 the Secretary shall assume all or part of the func-
18 tions of the State Historic Preservation Officer until
19 the date on which the State Historic Preservation
20 Officer demonstrates that the State program is con-
21 sistent under paragraph (1).”; and

22 (C) in subsection (d)(2)—

23 (i) in the matter preceding subpara-
24 graph (A), by inserting “shall” after “Sec-
25 retary”;

1 (ii) in subparagraph (A)—

2 (I) by striking “may conduct
3 periodic fiscal audits” and inserting
4 “not less frequently than every 4
5 years, conduct fiscal audits”; and

6 (II) by striking “as needed”; and

7 (iii) in subparagraph (B), by striking
8 “shall”.

9 (2) TRIBAL PROGRAMS.—

10 (A) IN GENERAL.—Chapter 3027 of title
11 54, United States Code, is amended by adding
12 at the end the following:

13 **“§ 302707. Program evaluation**

14 “(a) WHEN EVALUATION SHOULD OCCUR.—Periodi-
15 cally, but not less frequently than every 2 years after the
16 date on which a tribal program has been approved to as-
17 sume functions and responsibilities under section 302702,
18 the Secretary, in consultation with the Council under ap-
19 plicable provisions of this division, and in cooperation with
20 the Tribal Historic Preservation Officer, shall evaluate the
21 tribal program to determine whether the tribal program
22 is consistent with this division.

23 “(b) DISAPPROVAL OF PROGRAM.—

24 “(1) IN GENERAL.—If, at any time, the Sec-
25 retary determines that a major aspect of a tribal

1 program is not consistent with this division, the Sec-
2 retary shall disapprove the tribal program and sus-
3 pend in whole or in part any contracts or cooperative
4 agreements with the Indian tribe and the Tribal
5 Historic Preservation Officer under this division,
6 until the program is consistent with this division,
7 unless the Secretary determines that the tribal pro-
8 gram will be made consistent with this division with-
9 in 2 years of the date of the disapproval.

10 “(2) COMPLIANCE WITH TIMELINES.—A tribal
11 program shall not be considered consistent with this
12 division under paragraph (1) if the applicable Tribal
13 Historic Preservation Officer does not regularly
14 comply with timelines for consultation, complete con-
15 sultation expeditiously, or meet required metrics
16 under this division.

17 “(3) DISAPPROVAL.—If the Secretary dis-
18 approves of a tribal program or a major aspect of
19 a tribal program under paragraph (1), the Secretary
20 shall require the suspension in whole or in part of—

21 “(A) any contracts or cooperative agree-
22 ments among the Secretary and the applicable
23 Indian tribe and Tribal Historic Preservation
24 Officer; and

1 “(B) any grants distributed through the
2 Historic Preservation Fund to the applicable
3 Indian tribe and Tribal Historic Preservation
4 Officer.

5 “(4) REVIEW.—If the Secretary determines
6 under paragraph (1) that a tribal program remains
7 not consistent, or has not made acceptable progress
8 towards becoming consistent, with this division with-
9 in the 2-year timeline described in that paragraph,
10 the Secretary shall assume all or part of the func-
11 tions of the Tribal Historic Preservation Officer
12 until the date on which the Tribal Historic Preserva-
13 tion Officer demonstrates that the State program is
14 consistent under paragraph (1).

15 “(c) OVERSIGHT.—The Secretary, in consultation
16 with Tribal Historic Preservation Officers, shall establish
17 oversight methods to ensure tribal program consistency
18 and quality without imposing undue review burdens on
19 Tribal Historic Preservation Officers.

20 “(d) FISCAL AUDIT AND MANAGEMENT SYSTEM.—

21 “(1) SUBSTITUTION FOR COMPARABLE FED-
22 ERAL SYSTEMS.—At the discretion of the Secretary,
23 a system of fiscal audit and management of the In-
24 dian tribe may be substituted for comparable Fed-

1 eral systems, subject to the conditions that the sys-
2 tem of the Indian tribe—

3 “(A) establishes and maintains substan-
4 tially similar accountability standards; and

5 “(B) provides for independent professional
6 peer review.

7 “(2) FISCAL AUDITS AND REVIEW BY SEC-
8 RETARY.—The Secretary shall—

9 “(A) not less frequently than every 4
10 years, conduct periodic fiscal audits of tribal
11 programs approved under this chapter; and

12 “(B) ensure that the tribal programs meet
13 applicable accountability standards.

14 “(3) ISDEAA AUDIT SUBSTITUTION.—An audit
15 conducted to meet the requirements of section 5 of
16 the Indian Self-Determination and Education Assist-
17 ance Act (25 U.S.C. 5305) of a tribal program shall
18 meet the requirements of this subsection, subject to
19 the requirement that the audit shall be submitted to
20 each of the Director, the Director of the Bureau of
21 Indian Affairs, and the Council.”.

22 (3) CONFORMING AMENDMENT.—Section
23 302702 of title 54, United States Code, is amended,
24 in the matter preceding paragraph (1), by striking

1 “302302 and 302303” and inserting “302303 and
2 302707”.

3 (4) CLERICAL AMENDMENT.—The table of sec-
4 tions for chapter 3027 of title 54, United States
5 Code, is amended by adding at the end the fol-
6 lowing:

“302707. Program evaluation.”.

7 (c) EFFECT OF UNDERTAKING ON HISTORIC PROP-
8 erty.—Section 306108 of title 54, United States Code,
9 is amended—

10 (1) in the second sentence, by striking “The
11 head of the Federal agency” and inserting the fol-
12 lowing:

13 “(2) OPPORTUNITY TO COMMENT.—The head
14 of any Federal agency described in paragraph (1)”;

15 (2) in the first sentence, by striking “The head
16 of any Federal agency having direct or indirect” and
17 inserting the following:

18 “(b) ADVERSE EFFECT OF THE UNDERTAKING.—

19 “(1) IN GENERAL.—The head of any Federal
20 agency having direct”;

21 (3) by inserting before subsection (b) (as so
22 designated) the following:

23 “(a) DEFINITIONS.—In this section:

24 “(1) ADVERSE EFFECT OF THE UNDER-
25 TAKING.—

1 “(A) IN GENERAL.—The term ‘adverse ef-
2 fect of the undertaking’ means a consequence of
3 an undertaking that—

4 “(i) is reasonably foreseeable; and

5 “(ii) directly alters the characteristics
6 of a historic property in a manner that
7 would diminish the integrity of the loca-
8 tion, design, setting, materials, workman-
9 ship, or association of the historic prop-
10 erty.

11 “(B) EXCLUSIONS.—The term ‘adverse ef-
12 fect of the undertaking’ does not include—

13 “(i) any visual, atmospheric, or audi-
14 ble element, unless the visual, atmospheric,
15 or audible element would have a direct im-
16 pact on a historic property that would sig-
17 nificantly diminish the eligible characteris-
18 tics of the historic property;

19 “(ii) any temporary alteration to a
20 historic property that is limited to the time
21 it takes to complete an undertaking; or

22 “(iii) any effect on a portion of the
23 historic property other than an adverse ef-
24 fect to the character-defining features,
25 such as contributing elements, cultural-use

1 locations, or access points, that signifi-
2 cantly contribute to the qualification of the
3 property for inclusion on the National Reg-
4 ister.

5 “(2) AREA OF POTENTIAL EFFECTS.—

6 “(A) IN GENERAL.—The term ‘area of po-
7 tential effects’ means the area within which an
8 undertaking may cause an effect described in
9 paragraph (1)(A).

10 “(B) EXCLUSION.—The term ‘area of po-
11 tential effects’ does not include any geographic
12 area affected solely by a portion of a project,
13 activity, or program that is not subject to Fed-
14 eral control or responsibility.

15 “(3) MADE PUBLIC.—The term ‘made public’,
16 with respect to a final agency action, means that the
17 final agency action is published in a single location
18 on the primary website of the applicable Federal
19 agency with—

20 “(A) hyperlinks to the final agency action
21 prominently displayed on the website; and

22 “(B) the date of initial publication of the
23 final agency action displayed and maintained on
24 the website.

25 “(4) REASONABLY FORESEEABLE.—

1 “(A) IN GENERAL.—The term ‘reasonably
2 foreseeable’, with respect to an adverse effect of
3 the undertaking, means an effect of the under-
4 taking that shares a reasonably close causal re-
5 lationship to, and is proximately caused by, the
6 undertaking being considered.

7 “(B) EXCLUSIONS.—The term ‘reasonably
8 foreseeable’, with respect to an adverse effect of
9 the undertaking, does not include—

10 “(i) any adverse effect of the under-
11 taking that is speculative or attenuated
12 from the undertaking; or

13 “(ii) any adverse effect of the under-
14 taking relating to an unrelated prior, sepa-
15 rate existing, or potential future under-
16 taking.

17 “(5) STATE HISTORIC PRESERVATION OFFI-
18 CER.—The term ‘State Historic Preservation Offi-
19 cer’ means—

20 “(A) the official designated and appointed
21 pursuant to section 302301(1) to administer
22 the State Historic Preservation Program; or

23 “(B) a representative designated to act for
24 the official described in subparagraph (A).

1 “(6) TRIBAL HISTORIC PRESERVATION OFFI-
2 CER.—The term ‘Tribal Historic Preservation Offi-
3 cer’ means the Tribal official designated pursuant to
4 section 302702(2) who has assumed the duties of
5 the State Historic Preservation Officer for purposes
6 of compliance with subsection (b) within the bound-
7 aries of the applicable tribal land.

8 “(7) UNDERTAKING.—

9 “(A) IN GENERAL.—The term ‘under-
10 taking’ means a project, activity, or program
11 that—

12 “(i) requires a Federal permit, license,
13 or approval; and

14 “(ii) is subject to substantial Federal
15 control and responsibility.

16 “(B) EXCLUSION.—The term ‘under-
17 taking’ does not include—

18 “(i) any portion of a project, activity,
19 or program over which a Federal agency
20 does not exercise substantial control or re-
21 sponsibility over the outcome;

22 “(ii) a project, activity, or program
23 for which the only Federal involvement is
24 a loan, loan guarantee, grant (including a
25 capitalization grant), cost-share award, or

1 other form of financial assistance that is
2 not for the primary purpose of historic
3 preservation;

4 “(iii) a project, activity, or program
5 that consists of minor restoration, rehabili-
6 tation, repair, maintenance, stabilization,
7 hazardous material remediation, structure
8 hardening, provision of handicapped ac-
9 cess, or other similar minor projects that
10 do not diminish the integrity of a historic
11 property;

12 “(iv) a project, activity, or program
13 that is a survey or work completed to con-
14 duct consultations;

15 “(v) a project, activity, or program
16 that—

17 “(I) is any alteration to a historic
18 property that is necessary for public
19 safety; and

20 “(II) does not diminish the integ-
21 rity of the historic property;

22 “(vi) an activity or decision that is
23 non-discretionary and made in accordance
24 with the statutory authority of the Federal
25 agency;

1 “(vii) any—

2 “(I) renewal of a special use per-
3 mit on the expiration of the special
4 use permit if no substantive changes
5 are made from the original special use
6 permit; or

7 “(II) transfer of ownership of a
8 special use permit;

9 “(viii) the implementation of, or any
10 act or omission under, a memorandum of
11 agreement, programmatic agreement, or
12 other instrument executed in connection
13 with compliance with this section, after the
14 date on which a determination has been
15 made under subsection (c); or

16 “(ix) the continuation, operation,
17 maintenance, or post-approval implementa-
18 tion of a project, activity, or program after
19 the determination has been made under
20 subsection (c), except that a subsequent
21 discrete decision of a Federal agency to
22 amend or materially modify a determina-
23 tion made under subsection (c) is itself an
24 undertaking, to the extent provided in this
25 section.”; and

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

2 “(c) CONSULTATION.—

3 “(1) IN GENERAL.—The responsibilities of a
4 Federal agency under this section shall be limited to
5 historic properties within the area of potential ef-
6 fects identified by the Federal agency.

7 “(2) INITIATION AND REPORT.—

8 “(A) IN GENERAL.—Not later than 30
9 days after the date of receipt of a request for
10 review of a proposed project, activity, or pro-
11 gram under this section, the applicable Federal
12 official shall determine whether the proposed
13 project, activity, or program is an undertaking
14 subject to the requirements of this section.

15 “(B) ESTABLISHMENT OF AREA OF PO-
16 TENTIAL EFFECTS AND IDENTIFICATION AND
17 DETERMINATION OF HISTORIC PROPERTIES.—

18 “(i) IN GENERAL.—If the applicable
19 Federal official determines under subpara-
20 graph (A) that the proposed project, activ-
21 ity, or program is an undertaking, the ap-
22 plicable Federal official shall establish the
23 area of potential effects for the under-
24 taking.

1 “(ii) IDENTIFICATION OF HISTORIC
2 PROPERTIES.—The applicable Federal offi-
3 cial shall identify and determine any his-
4 toric properties within the area of potential
5 effects.

6 “(iii) CONSULTATION.—For purposes
7 of establishing the area of potential effects
8 for the undertaking and identifying and
9 determining any historic properties under
10 clauses (i) and (ii), respectively, the appli-
11 cable Federal official may consult with any
12 applicable State Historic Preservation Offi-
13 cers, Tribal Historic Preservation Officers,
14 Indian tribes, or Native Hawaiian organi-
15 zations, local governments, and project, ac-
16 tivity, or program applicants.

17 “(iv) INCORPORATION OF INFORMA-
18 TION.—Upon a determination made under
19 subparagraph (A), before establishing the
20 area of potential effects under clause (i) or
21 identifying and determining historic prop-
22 erties under clause (ii), the applicable Fed-
23 eral official shall seek, discuss, as appro-
24 priate, and incorporate, as applicable, in-
25 formation from each applicable State His-

1 toric Preservation Officer, Tribal Historic
2 Preservation Officer, Indian tribe, or Na-
3 tive Hawaiian organization, local govern-
4 ment, and project, activity, or program ap-
5 plicant, if the information is communicated
6 to the applicable Federal official not later
7 than 30 days after the date on which the
8 Federal official submits a request for such
9 information.

10 “(C) PROGRAM ALTERNATIVE.—If the ap-
11 plicable Federal official determines under sub-
12 paragraph (A) that the proposed project, activ-
13 ity, or program is an undertaking that is gov-
14 erned by a program alternative authorized
15 under section 800.14 of title 36, Code of Fed-
16 eral Regulations (or successor regulations), in-
17 cluding an alternate procedure, programmatic
18 agreement, exempted category, standard treat-
19 ment, or program comment, the applicable Fed-
20 eral official may follow the applicable program
21 alternative with respect to the undertaking.

22 “(D) DETERMINATION OF EFFECTS.—

23 “(i) IN GENERAL.—If the applicable
24 Federal official determines that a proposed
25 project, activity, or program is an under-

1 taking under subparagraph (A), the appli-
2 cable Federal official shall determine
3 whether there are any adverse effects of
4 the undertaking within the area of poten-
5 tial effects.

6 “(ii) NO ADVERSE EFFECTS.—The
7 applicable Federal official shall have no
8 further obligations under this section if the
9 applicable Federal official determines
10 under clause (i) that—

11 “(I) the proposed project, activ-
12 ity, or program is an undertaking for
13 which there are no adverse effects of
14 the undertaking;

15 “(II) the undertaking does not
16 have the potential to cause adverse ef-
17 fects of the undertaking; or

18 “(III) historic properties are not
19 present.

20 “(iii) REPORT.—If the applicable Fed-
21 eral official determines under subpara-
22 graph (A) that the proposed project, activ-
23 ity, or program is an undertaking, for
24 which there will be adverse effects of the
25 undertaking, as determined under clause

1 (i), not later than 60 days after the date
2 of the determination under subparagraph
3 (A), the applicable Federal official shall
4 complete and submit for review to the ap-
5 plicable State Historic Preservation Offi-
6 cer, Tribal Historic Preservation Officer,
7 Indian tribe, Native Hawaiian organiza-
8 tion, local government, and project, activ-
9 ity, or program applicant under this divi-
10 sion a report that—

11 “(I) identifies whether historic
12 properties are present within the area
13 of potential effects; and

14 “(II) if historic properties are
15 present within the area of potential
16 effects—

17 “(aa) identifies the area of
18 potential effects for the under-
19 taking;

20 “(bb) identifies the historic
21 properties within the area of po-
22 tential effects;

23 “(cc) considers only the por-
24 tion of the property within the
25 area of potential effects;

1 “(dd) documents the adverse
2 effects of the undertaking;

3 “(ee) identifies prudent and
4 feasible measures within the area
5 of potential effects to avoid, mini-
6 mize, or mitigate the adverse ef-
7 fects of the undertaking;

8 “(ff) identifies and explains
9 any case in which, as applicable,
10 the applicable Federal official has
11 decided not to require such pru-
12 dent and feasible measures be-
13 cause, in the sole discretion of
14 the applicable Federal official
15 and as otherwise allowed by law,
16 other considerations outweigh the
17 consideration of historic preserva-
18 tion as to any or all adverse ef-
19 fects of the undertaking; and

20 “(gg) does not identify
21 measures described in item (ee)
22 that are not prudent or would
23 occur outside the area of poten-
24 tial effects, unless the project, ac-
25 tivity, or program applicant has

1 submitted a written request for
2 alternative mitigation measures.

3 “(3) DETERMINATION.—

4 “(A) IN GENERAL.—Not later than 90
5 days after the date of submission of a report
6 under paragraph (2)(D)(iii), unless a shorter
7 timeline is agreed to by the State Historic Pres-
8 ervation Officer or Tribal Historic Preservation
9 Officer and each applicable Indian tribe, Native
10 Hawaiian organization, and local government,
11 the applicable Federal official, in consultation
12 with the applicable State Historic Preservation
13 Officer and Tribal Historic Preservation Offi-
14 cer, Indian tribe, Native Hawaiian organization,
15 and local government under this division,
16 shall—

17 “(i) determine, based on the report,
18 that—

19 “(I)(aa) the adverse effects of the
20 undertaking would not so diminish the
21 integrity of the historic property to
22 the extent that the historic property
23 would be made ineligible for listing on
24 the National Register; and

1 “(bb) the obligations of the Fed-
2 eral official under this section shall be
3 satisfied; or

4 “(II)(aa) in the sole discretion of
5 the Federal official and as otherwise
6 allowed by law, other considerations
7 outweigh the consideration of historic
8 preservation as to any or all adverse
9 effects of the undertaking; and

10 “(bb) the obligations of the Fed-
11 eral official under this section shall be
12 satisfied; or

13 “(ii) reach an agreement with the ap-
14 plicable State Historic Preservation Officer
15 and Tribal Historic Preservation Officer,
16 Indian tribe, Native Hawaiian organiza-
17 tion, local government, and project, activ-
18 ity, or program applicant that describes
19 how the adverse effects of the undertaking
20 would be avoided, minimized, or mitigated.

21 “(B) NO AGREEMENT.—

22 “(i) CONSULTATION PERIOD.—If an
23 agreement is not reached under clause (ii)
24 of subparagraph (A) within the 90-day pe-
25 riod described in that subparagraph, dur-

1 ing the 60-day period beginning imme-
2 diately after the end of that 90-day period,
3 there shall be a period of consultation
4 among the applicable Federal official,
5 State Historic Preservation Officer and
6 Tribal Historic Preservation Officer, In-
7 dian tribe, Native Hawaiian organization,
8 and local government.

9 “(ii) FORMAL ADVISORY COM-
10 MENTS.—

11 “(I) REQUEST.—If an agreement
12 is not reached under clause (i) within
13 the 60-day period described in that
14 clause, the head of the Federal agency
15 shall request formal advisory com-
16 ments from the Council with respect
17 to the applicable undertaking.

18 “(II) RESPONSE.—Not later than
19 45 days after the date on which the
20 Council receives a request under sub-
21 clause (I), the Council shall submit to
22 the head of the Federal agency the
23 formal advisory comments requested.

24 “(III) FINAL DETERMINATION.—
25 Not later than 30 days after the date

1 on which the head of the Federal
2 agency receives the formal advisory
3 comments from the Council under
4 subclause (II), the head of the Fed-
5 eral agency (or an agency official dele-
6 gated by the head of the Federal
7 agency) shall make a final determina-
8 tion on the undertaking that dem-
9 onstrates how the formal advisory
10 comments were considered.

11 “(IV) SATISFACTION OF OBLIGA-
12 TIONS.—Effective on the date on
13 which a final determination is made
14 under subclause (III), the obligations
15 of the applicable Federal agency
16 under this section shall be satisfied.

17 “(C) MULTIPLE DETERMINATIONS.—If an
18 undertaking involves multiple corridors or large
19 land areas, the applicable Federal official may
20 issue multiple determinations under subpara-
21 graph (A) in a phased process.

22 “(4) LEAD FEDERAL AGENCY.—

23 “(A) IN GENERAL.—If more than 1 Fed-
24 eral agency has jurisdiction over a project, ac-
25 tivity, or program that is determined to be an

1 undertaking, the 1 or more applicable Federal
2 agencies shall designate a lead Federal agency
3 to comply with the requirements of this sub-
4 section.

5 “(B) PRESUMPTION.—If a lead Federal
6 agency has been designated for purposes of
7 complying with the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.),
9 the lead Federal agency designated for purposes
10 of complying with that Act shall serve as the
11 lead Federal agency for purposes of this sub-
12 section unless the applicable Federal agencies
13 jointly determine that another Federal agency
14 is better suited to carry out the responsibilities
15 of the lead Federal agency under this sub-
16 section.

17 “(C) WRITTEN REQUEST; DESIGNATION BY
18 SECRETARY.—If the 1 or more applicable Fed-
19 eral agencies do not designate a lead Federal
20 agency under subparagraph (A) by the date
21 that is 15 days after the date on which the ap-
22 plicable Federal agencies receive notice of a
23 proposed undertaking—

24 “(i) in the case of an undertaking ini-
25 tiated by an applicant, the applicant may

1 submit to the Secretary a written request
2 for the Secretary to designate a lead Fed-
3 eral agency; or

4 “(ii) in the case of an undertaking ini-
5 tiated by the Federal Government, the Sec-
6 retary shall designate a lead Federal agen-
7 cy.

8 “(D) FAILURE TO SIGN PROGRAMMATIC
9 AGREEMENT.—The failure of the head of a
10 Federal agency that is not the lead Federal
11 agency to be a signatory to a programmatic
12 agreement under this subsection shall not affect
13 the conduct of the project, activity, or program
14 subject to the programmatic agreement.

15 “(5) TIMELINES FOR CONSULTATION.—

16 “(A) INITIATION.—If a project, activity, or
17 program requires the preparation of an environ-
18 mental document under the National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et
20 seq.), any consultation with respect to the
21 project, activity, or program required for pur-
22 poses of this subsection shall initiate not later
23 than the date of initiation of the environmental
24 review.

25 “(B) COMPLETION.—

“(i) IN GENERAL.—The consultation process initiated under subparagraph (A) shall be completed not later than the date on which the applicable environmental document under section 107(g) of the National Environmental Policy Act of 1969 (42 U.S.C. 4336a(g)) is completed with respect to the undertaking, unless the Secretary approves an extension of the deadline due to extraordinary circumstances beyond the control, and not due to any actions, of the consulting parties.

“(ii) FAILURE TO COMPLETE BY DEADLINE.—If the consultation process initiated under subparagraph (A) is not complete by the later of the deadline established under clause (i) or the date extended under that clause, the consultation requirement for purposes of this subsection, each State Historic Preservation Officer, Tribal Historic Preservation Officer, and employee within Senior Executive Service (as defined in section 2101a of title 5) that has supervisory authority over personnel in a relevant agency that has a substantive

1 role or responsibility in the consultation,
2 shall spend not less than 50 percent of the
3 workweek, as determined pursuant to title
4 5 or other applicable law, to remedy the
5 failure.

6 “(iii) CAUSES OF ACTION.—

7 “(I) RIGHT TO PETITION.—A
8 project, activity, or program applicant
9 may obtain judicial review of the com-
10 pliance by a Federal agency with the
11 deadline established under clause (i)
12 by filing a complaint with a court of
13 competent jurisdiction in which a sub-
14 stantial part of the applicable pro-
15 posed project, activity, or program is
16 situated.

17 “(II) REMEDY.—If a court of
18 competent jurisdiction under this
19 clause finds that a Federal agency has
20 failed to act in accordance with this
21 subsection, the court shall provide in-
22 junctive relief, as appropriate, to give
23 effect to this subsection and retain ju-
24 risdiction to ensure compliance with
25 any such relief.

1 “(III) EXPEDITED PROCEDURES;
2 TIME TO DECIDE.—The reviewing
3 court under this clause shall—

4 “(aa) establish an expedited
5 schedule for briefing and disposi-
6 tion; and

7 “(bb) issue a decision as ex-
8 peditiously as practicable.

9 “(C) PARTICIPATION OF STATE HISTORIC
10 PRESERVATION OFFICER OR TRIBAL HISTORIC
11 PRESERVATION OFFICER.—

12 “(i) IN GENERAL.—If the State His-
13 toric Preservation Officer, Tribal Historic
14 Preservation Officer, Indian tribe, Native
15 Hawaiian organization, or local govern-
16 ment fails to respond within 30 days of re-
17 ceipt of a request for review of any report
18 or finding by the applicable Federal offi-
19 cial, the applicable Federal official shall
20 proceed to the determination under para-
21 graph (3)(A).

22 “(ii) SUBSEQUENT INVOLVEMENT.—If
23 a State Historic Preservation Officer, Trib-
24 al Historic Preservation Officer, Indian
25 tribe, Native Hawaiian organization, or

1 local government that fails to respond by
2 the deadline described in clause (i) re-en-
3 ters the consultation process required for
4 purposes of this subsection, the applicable
5 Federal official—

6 “(I) shall not be required to re-
7 consider any previous report or find-
8 ing; and

9 “(II) may consult with the Coun-
10 cil in lieu of the State Historic Pres-
11 ervation Officer, Tribal Historic Pres-
12 ervation Officer, Indian tribe, Native
13 Hawaiian organization, or local gov-
14 ernment.

15 “(iii) No SUBSTANTIVE OBJEC-
16 TIONS.—If the State Historic Preservation
17 Officer, Tribal Historic Preservation Offi-
18 cer, Indian tribe, Native Hawaiian organi-
19 zation, local government, or Council, as ap-
20 plicable, has entered the consultation proc-
21 ess required for purposes of this sub-
22 section, but does not provide any sub-
23 stantive objections by the date that is 30
24 days after the date of receipt of a report
25 or finding, the applicable Federal official

1 shall proceed to the determination under
2 paragraph (3)(A).

3 “(iv) SUBSTANTIVE OBJECTIONS.—If
4 the State Historic Preservation Officer,
5 Tribal Historic Preservation Officer, In-
6 dian tribe, Native Hawaiian organization,
7 local government, or Council, as applicable,
8 has entered the consultation process re-
9 quired for purposes of this subsection and
10 provides substantive objections with re-
11 spect to any of the matters included in the
12 applicable report under items (aa) through
13 (ff) of paragraph (2)(D)(iii)(II) by the
14 date that is 30 days after the date of re-
15 ceipt of the report, not later than 30 days
16 after the date of receipt of the objections,
17 the applicable Federal official—

18 “(I) shall provide a response ex-
19 plaining how the Federal agency has
20 considered the substantive objections
21 in the report; and

22 “(II) may provide a supplemental
23 report.

24 “(v) FULFILLMENT OF CONSULTING
25 OBLIGATIONS.—On the provision of a re-

1 sponse under clause (iv)(I), the obligation
2 of the applicable Federal official to consult
3 for purposes of this subsection shall be
4 considered to be fulfilled with respect to
5 the report.

6 “(vi) AGREEMENT.—If a State His-
7 toric Preservation Officer, Tribal Historic
8 Preservation Officer, Indian tribe, Native
9 Hawaiian organization, or local govern-
10 ment fails to respond to an agreement
11 under this subparagraph, the applicable
12 Federal official may enter into the agree-
13 ment with the Council in lieu of the State
14 Historic Preservation Officer, Tribal His-
15 toric Preservation Officer, Indian tribe,
16 Native Hawaiian organization, or local gov-
17 ernment.

18 “(6) COORDINATION WITH NEPA.—For any un-
19 dertaking subject to the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.), the ap-
21 plicable Federal official may use the preparation of
22 a draft environmental document that the Federal
23 agency prepares under that Act to comply with the
24 report required under paragraph (2)(D)(iii) if the
25 applicable Federal official—

1 “(A) has notified each applicable State
2 Historic Preservation Officer or Tribal Historic
3 Preservation Officer, Indian tribe, Native Ha-
4 waiian organization, local government, and the
5 Council of the intent to use the environmental
6 document for that purpose; and

7 “(B) determines that the draft environ-
8 mental document includes each of the compo-
9 nents required to be in the report under para-
10 graph (2)(D)(iii).

11 “(7) PROGRAMMATIC AGREEMENTS.—

12 “(A) BY FEDERAL AGENCY.—The head of
13 any Federal agency shall, in consultation with
14 the Council, develop and implement pro-
15 grammatic agreements to govern categories of
16 undertakings that are—

17 “(i) determined to normally have no
18 adverse effects of the undertaking;

19 “(ii) similar and repetitive in nature;
20 or

21 “(iii) routine management activities
22 undertaken at Federal installations, facili-
23 ties, or other land management units.

24 “(B) BY STATE AND TRIBAL HISTORIC
25 PRESERVATION OFFICERS.—

1 “(i) IN GENERAL.—A State Historic
2 Preservation Officer or a Tribal Historic
3 Preservation Officer may develop and im-
4 plement programmatic agreements within
5 their applicable jurisdiction to govern cat-
6 egories of undertakings that are—

7 “(I) determined to normally have
8 no adverse effects of the undertaking;
9 or

10 “(II) similar and repetitive in na-
11 ture.

12 “(ii) MULTIPLE PROGRAMMATIC
13 AGREEMENTS.—If a Federal agency and a
14 State Historic Preservation Officer or
15 Tribal Historic Preservation Officer each
16 have programmatic agreements governing
17 the same category of undertakings, the
18 programmatic agreement of the State His-
19 toric Preservation Officer or Tribal His-
20 toric Preservation Officer shall be applied
21 to the applicable category of undertakings.

22 “(8) QUALIFIED HISTORIC PRESERVATION OF-
23 FICERS.—The Secretary shall collaborate with Tribal
24 Historic Preservation Officers, tribal leaders, and
25 relevant nonprofit organizations to develop standard

1 requirements for Tribal Historic Preservation Offi-
2 cers that reflects the traditional knowledge, exper-
3 tise, and access to traditional cultural leaders re-
4 quired for a successful tribal historic preservation
5 program.

6 “(9) JUDICIAL REVIEW.—

7 “(A) DEFINITION OF AGENCY ACTION.—In
8 this paragraph, the term ‘agency action’ has the
9 meaning given the term in section 551 of title
10 5.

11 “(B) ROLE OF THE COURT.—In reviewing
12 a claim of whether an undertaking complies
13 with the requirements of this division, a court—

14 “(i) shall afford substantial deference
15 to the agency; and

16 “(ii) may not substitute the judgment
17 of the court for the judgment of the agen-
18 cy.

19 “(C) REMEDY.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii) and notwithstanding
22 any other provision of law, if a court deter-
23 mines that an agency action does not com-
24 ply with the requirements of this division,
25 the only remedy the court may order is to

1 remand, without vacatur or issuance of an
2 injunction, the applicable agency action to
3 the Federal agency with—

4 “(I) specific instructions to cor-
5 rect errors or deficiencies found by
6 the court; and

7 “(II) a reasonable schedule and
8 deadline for the agency to act on re-
9 mand, which shall not exceed 180
10 days after the date on which the order
11 of the court was entered.

12 “(ii) PRELIMINARY INJUNCTIONS.—

13 “(I) IN GENERAL.—Notwith-
14 standing clause (i) and subject to sub-
15 clause (II), a court may issue a pre-
16 liminary injunction for the applicable
17 agency action when—

18 “(aa) there is a substantial
19 likelihood the agency action vio-
20 lates a Federal law (other than
21 this division or the National En-
22 vironmental Policy Act of 1969
23 (42 U.S.C. 4321 et seq.));

24 “(bb) necessary to prevent
25 irreparable harm to the plaintiff;

1 “(cc) the balance of equities
2 favors the plaintiff; and

3 “(dd) a preliminary injunc-
4 tion is in the public interest.

5 “(II) REQUIREMENTS.—The ef-
6 fective period of a preliminary injunc-
7 tion issued by a court under subclause
8 (I) shall be not longer than the time
9 the court finds is reasonably nec-
10 essary—

11 “(aa) for the correction of
12 the violation described in sub-
13 clause (I)(aa); and

14 “(bb) to prevent the irrep-
15 arable harm described in sub-
16 clause (I)(bb).

17 “(D) LIMITATIONS ON CLAIMS.—

18 “(i) IN GENERAL.—Notwithstanding
19 chapter 7 of title 5, a claim described in
20 subparagraph (B) shall be barred unless—

21 “(I) except in a case in which a
22 shorter deadline is specified under
23 Federal law, the claim is filed not
24 later than 150 days after the later
25 of—

1 “(aa) the date on which the
2 final agency action is made pub-
3 lic; and

4 “(bb) the applicable State
5 Historic Preservation Officer or
6 Tribal Historic Preservation Offi-
7 cer is notified of the final agency
8 action;

9 “(II) the claim is filed by a party
10 that has suffered or imminently will
11 suffer direct harm from the agency
12 action; and

13 “(III) in the case of an agency
14 action for which there was a public
15 comment period with respect to the
16 agency action, the claim—

17 “(aa) is filed by a party that
18 submitted a substantive and
19 unique comment—

20 “(AA) during the public
21 comment period by the no-
22 ticed comment deadline; and

23 “(BB) that was suffi-
24 ciently detailed to put the
25 applicable Federal agency on

1 notice of the issue for which
2 the party seeks review; and
3 “(bb) concerns the same
4 subject matter raised in the com-
5 ment submitted during the public
6 comment period.

7 “(ii) APPLICATION.—The require-
8 ments of subclauses (II) and (III) of clause
9 (i) shall not apply with respect to a claim
10 in which a State Historic Preservation Of-
11 ficer, Tribal Historic Preservation Officer,
12 Indian tribe, Native Hawaiian organiza-
13 tion, or local government has provided de-
14 tailed notice in writing during the con-
15 sultation process that—

16 “(I) puts the applicable Federal
17 agency on notice of the agency action;
18 and

19 “(II) sufficiently identifies any
20 issues relating to that agency action
21 for which the party seeks review
22 under this paragraph.

23 “(iii) SUPPLEMENTAL FINDINGS DOC-
24 UMENTS.—

1 “(I) IN GENERAL.—If an agency
2 issues a supplemental findings docu-
3 ment in response to a court order re-
4 manding an agency action, the dead-
5 line described in clause (i)(I) shall be
6 the date on which the agency makes
7 public the supplemental findings docu-
8 ment.

9 “(II) LIMITATION.—A claim for
10 review of an agency action described
11 in subparagraph (B) shall be limited
12 to information contained in the final
13 supplemental findings document that
14 was not contained in a previous find-
15 ings document.

16 “(E) PROCEDURAL MATTERS FOR
17 CLAIMS.—

18 “(i) ORIGINAL JURISDICTION.—Ex-
19 cept with respect to a claim brought under
20 paragraph (5)(B)(iii), the courts of appeals
21 of the United States shall have original
22 and exclusive jurisdiction over a claim for
23 review of an agency action described in
24 subparagraph (B).

1 “(ii) SUPPLEMENTAL JURISDIC-
2 TION.—The courts of appeals of the
3 United States shall have supplemental ju-
4 risdiction over other claims related to the
5 validity of the final agency action at issue
6 in the claim within the original jurisdiction
7 of the court of appeals.

8 “(iii) RANDOM ASSIGNMENT OF
9 CASES.—To the maximum extent prac-
10 ticable, a court of appeals of the United
11 States shall randomly assign judges ap-
12 pointed, designated, or assigned to sit as
13 judges of the court to hear claims in a
14 manner to avoid the appearance of favor-
15 itism or bias.

16 “(iv) DEADLINE FOR RESOLUTION.—
17 A court of appeals of the United States
18 shall render a final judgment with respect
19 to a claim for review of an agency action
20 described in subparagraph (B) as expedi-
21 tiously as possible.

22 “(10) CHALLENGES TO PROGRAMMATIC AGREE-
23 MENTS.—

24 “(A) IN GENERAL.—A party that is not a
25 signatory to a programmatic agreement entered

1 into for purposes of this subsection may not
2 bring a civil action to challenge the implementa-
3 tion of the programmatic agreement.

4 “(B) JUDICIAL REVIEW.—No court shall
5 have jurisdiction to hear or consider any action
6 pertaining to the implementation of a pro-
7 grammatic agreement entered into for purposes
8 of this subsection that is brought by a party de-
9 scribed in subparagraph (A).

10 “(d) NO POST-DEADLINE REQUIREMENT FOR RE-
11 INITIATION.—The identification of a property for, nomina-
12 tion of a property to, or listing of a property on the Na-
13 tional Register after the date on which the head of the
14 Federal agency initiates a review under this section shall
15 not require the head of the Federal agency to delay, re-
16 open, supplement, or otherwise modify the review or con-
17 sultation process under this section.”.

18 (d) CONFORMING AMENDMENT.—Section 306114 of
19 title 54, United States Code, is amended by striking the
20 second sentence.

1 **SEC. 2302. FUNDING FOR THE HISTORIC PRESERVATION**
2 **FUND; USE AND AVAILABILITY; GRANTS FOR**
3 **TRIBAL HISTORIC PRESERVATION OFFICERS;**
4 **ADDITIONAL FUNDING.**

5 (a) FUNDING FOR HISTORIC PRESERVATION
6 FUND.—Section 303102 of title 54, United States Code,
7 is amended to read as follows:

8 **“§ 303102. Funding**

9 “There is authorized to be appropriated for deposit
10 in the Historic Preservation Fund \$200,000,000 for each
11 of fiscal years 2027 through 2036.”.

12 (b) USE AND AVAILABILITY.—Section 303103 of title
13 54, United States Code, is amended to read as follows:

14 **“SEC. 303103. USE AND AVAILABILITY.**

15 “Any amounts deposited in the Historic Preservation
16 Fund under section 303102 for fiscal year 2027 and each
17 fiscal year thereafter shall be made available for expendi-
18 ture for fiscal year 2028 and each fiscal year thereafter,
19 without further appropriation or fiscal year limitation, to
20 carry out this division (including programs made available
21 from the Historic Preservation Fund).”.

22 (c) GRANTS FOR TRIBAL HISTORIC PRESERVATION
23 OFFICERS.—Section 302703 of title 54, United States
24 Code, is amended—

25 (1) by striking “In consultation” and inserting
26 the following:

1 “(a) IN GENERAL.—In consultation”; and

2 (2) by adding at the end the following:

3 “(b) GRANT PROGRAM FOR TRIBAL HISTORIC PRES-
4 ERVATION OFFICERS.—

5 “(1) IN GENERAL.—The Secretary shall estab-
6 lish a competitive grant program under which the
7 Secretary shall award to Tribal Historic Preserva-
8 tion Officers grants to develop an online database to
9 maintain—

10 “(A) all records relating to the assumption
11 by the applicable Indian tribe of the functions
12 of the State Historic Preservation Officer under
13 section 302702, including all determinations,
14 findings, or agreements, and all supporting doc-
15 umentation; and

16 “(B) a comprehensive list of properties of
17 traditional religious or cultural importance (as
18 defined in section 302706(a)(1)) to the Indian
19 tribe.

20 “(2) COORDINATION REQUIRED.—Tribal His-
21 toric Preservation Officers shall coordinate with the
22 heads of Federal agencies and State Historic Preser-
23 vation Officers to establish a system in which the
24 database developed under paragraph (1) may be
25 accessed by relevant Federal officials and State His-

1 toric Preservation Officers to conduct consultation
2 under section 306108.

3 “(3) LIMITATION.—Nothing in this section re-
4 quires a recipient of a grant under this subsection
5 to disclose information to the public about the loca-
6 tion, character, or ownership of a historic property
7 or property of traditional cultural or religious impor-
8 tance if the disclosure of the information may—

9 “(A) cause significant harm or risk to the
10 integrity of the property; or

11 “(B) in the case of a property of tradi-
12 tional cultural or religious importance, impede
13 the use of the property by practitioners.

14 “(4) REVIEW.—Not later than 90 days after
15 the end of the fiscal year in which funds from a
16 grant are provided to a Tribal Historic Preservation
17 Officer under this subsection, the applicable Tribal
18 Historic Preservation Officer shall submit to the
19 Secretary a report that describes—

20 “(A) the use of the funds; and

21 “(B) the status of the development of the
22 online database using the grant funds.

23 “(5) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated to the Sec-

- 1 retary to carry out this subsection \$20,000,000 for
- 2 each of fiscal years 2027 through 2030.”.