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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R. _____

To direct the Secretary of Transportation to establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail and highway projects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DENHAM introduced the following bill; which was referred to the Committee on _____

A BILL

To direct the Secretary of Transportation to establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of rail and highway projects, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NEPA Reciprocity
5 Act”.

1 **SEC. 2. USE OF ALTERNATIVE ENVIRONMENTAL REVIEW**
2 **AND APPROVAL PROCEDURES UNDER STATE**
3 **LAWS FOR RAIL AND HIGHWAY PROJECTS.**

4 (a) ESTABLISHMENT.—

5 (1) IN GENERAL.—The Secretary shall establish
6 a program to eliminate duplicative environmental re-
7 views and approvals under State and Federal law of
8 projects. Under this program, a State may use State
9 laws and procedures to conduct reviews and make
10 approvals in lieu of Federal environmental laws and
11 regulations, consistent with the provisions of this
12 section.

13 (2) PARTICIPATING STATES.—All States are eli-
14 gible to participate in the program.

15 (3) SCOPE OF ALTERNATIVE REVIEW AND AP-
16 PROVAL PROCEDURES.—For purposes of this sec-
17 tion, alternative environmental review and approval
18 procedures may include one or more of the following:

19 (A) Substitution of one or more State envi-
20 ronmental laws for one or more Federal envi-
21 ronmental laws, if the Secretary determines in
22 accordance with this section that the State envi-
23 ronmental laws provide environmental protec-
24 tion and opportunities for public involvement
25 that are substantially equivalent to the applica-
26 ble Federal environmental laws.

1 (B) Substitution of one or more State reg-
2 ulations for Federal regulations implementing
3 one or more Federal environmental laws, if the
4 Secretary determines in accordance with this
5 section that the State regulations provide envi-
6 ronmental protection and opportunities for pub-
7 lic involvement that are substantially equivalent
8 to the Federal regulations.

9 (b) APPLICATION.—To participate in the program, a
10 State shall submit to the Secretary an application con-
11 taining such information as the Secretary may require, in-
12 cluding—

13 (1) a full and complete description of the pro-
14 posed alternative environmental review and approval
15 procedures of the State;

16 (2) for each State law or regulation included in
17 the proposed alternative environmental review and
18 approval procedures of the State, an explanation of
19 the basis for concluding that the law or regulation
20 meets the requirements under subsection (a)(3); and

21 (3) evidence of having sought, received, and ad-
22 dressed comments on the proposed application from
23 the public and appropriate Federal environmental
24 resource agencies.

1 (c) REVIEW OF APPLICATION.—The Secretary
2 shall—

3 (1) review an application submitted under sub-
4 section (b);

5 (2) approve or disapprove the application in ac-
6 cordance with subsection (d) not later than 90 days
7 after the date of the receipt of the application; and

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

11 (d) APPROVAL OF STATE PROGRAMS.—

12 (1) IN GENERAL.—The Secretary shall approve
13 each such application if the Secretary finds that the
14 proposed alternative environmental review and ap-
15 proval procedures of the State are substantially
16 equivalent to the applicable Federal environmental
17 laws and Federal regulations.

18 (2) EXCLUSION.—The National Environmental
19 Policy Act of 1969 and the Endangered Species Act
20 of 1973 (16 U.S.C. 1531 et seq.) shall not apply to
21 any decision by the Secretary to approve or dis-
22 approve any application submitted pursuant to this
23 section.

24 (e) COMPLIANCE WITH PERMITS.—Compliance with
25 a permit or other approval of a project issued pursuant

1 to a program approved by the Secretary under this section
2 shall be considered compliance with the Federal laws and
3 regulations identified in the program approved by the Sec-
4 retary pursuant to this section.

5 (f) REVIEW AND TERMINATION.—

6 (1) REVIEW.—All State alternative environ-
7 mental review and approval procedures approved
8 under this section shall be reviewed by the Secretary
9 not less than once every 5 years.

10 (2) PUBLIC NOTICE AND COMMENT.—In con-
11 ducting the review process under paragraph (1), the
12 Secretary shall provide notice and an opportunity for
13 public comment.

14 (3) EXTENSIONS AND TERMINATIONS.—At the
15 conclusion of the review process, the Secretary may
16 extend the State alternative environmental review
17 and approval procedures for an additional 5-year pe-
18 riod or terminate the State program.

19 (g) REPORT TO CONGRESS.—Not later than 2 years
20 after the date of enactment of this section, and annually
21 thereafter, the Secretary shall submit to Congress a report
22 that describes the administration of the program.

23 (h) DEFINITIONS.—For purposes of this section:

24 (1) ENVIRONMENTAL LAW.—The term “envi-
25 ronmental law” includes any law that provides pro-

1 cedural or substantive protection, as applicable, for
2 the natural or built environment with regard to the
3 construction and operation of projects.

4 (2) FEDERAL ENVIRONMENTAL LAWS.—The
5 term “Federal environmental laws” means laws gov-
6 erning the review of environmental impacts of, and
7 issuance of permits and other approvals for, the con-
8 struction and operation of projects, including section
9 102(2)(C) of the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
11 Federal Water Pollution Control Act (33 U.S.C.
12 1344), section 106 of the National Historic Preser-
13 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
14 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
15 cies Act of 1973 (16 U.S.C. 1536(a)(2),
16 1538(a)(1)(B), 1539(a)(1)(B)).

17 (3) PROJECT.—The term “project” means any
18 project eligible for federal assistance under title 23,
19 subtitle V of title 49, or chapter 53 of title 49 of the
20 United States Code, or involves the participation of
21 more than one Department of Transportation modal
22 administration or secretarial office.