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Bipartisan American Affordability and Jobs Act (BAAJA) of 2026: Analysis of Division A, Title I, Including National Environmental Policy Act Provisions

November 6, 2026

Congressional Research Service
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R49510

CRS REPORT
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SUMMARY

R49510

November 6, 2026

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Bipartisan American Affordability and Jobs Act (BAAJA) of 2026: Analysis of Division A, Title I, Including National Environmental Policy Act Provisions

The Bipartisan American Affordability and Jobs Act of 2026 (BAAJA; S. 5653) was introduced on September 30, 2026. The bill as introduced contains seven titles within two divisions, the first of which—Division A—aims to reform certain federal environmental review and permitting processes (e.g., those contained within the National Environmental Policy Act [NEPA], Clean Water Act, Endangered Species Act) and provide new provisions associated with project certainty and judicial review. Division B contains reforms to the National Historic Preservation Act and has provisions focused on specific project types (e.g., electricity transmission lines, natural gas pipelines, geothermal energy development), including some broader reforms to permitting processes and reviews across project types. This report provides background on the permitting and environmental review processes. It also analyzes BAAJA provisions specific to Division A, Title I, which primarily include proposed amendments to NEPA (Subtitles A [§§1101-1110] and B [§1121]) and provisions broadly related to federal permitting improvements (Subtitle C [§1131-1133]) as compared to existing NEPA requirements.

Section 1101 of BAAJA would specify that NEPA prescribes a procedure to inform the public about environmental effects of federal actions, describes the result of the NEPA process as an informational document, and does not mandate a particular outcome. Section 1102 would reorganize NEPA's definitions, remove two existing definitions, modify several existing definitions, add 15 new definitions, and make conforming amendments. For example, it would expand the list of exclusions in the definition of "major federal action," remove the definition of "participating Federal agencies," and add definitions for terms such as "authorization" and "make public." Section 1103 would require federal agencies to update their agency-specific NEPA procedures and direct the Council on Environmental Quality (CEQ) to promote standardized implementation of NEPA. Section 1104 would require federal agencies to implement NEPA consistent with minimum functional requirements and data and technology standards (as specified in BAAJA Section 1121). Section 1105 would amend the process for determining whether and what level of environmental review applies to a proposed action.

Section 1106 would, among other changes, expand requirements governing the roles and responsibilities of lead, joint lead, and cooperating agencies for federal decisions "relating to an authorization"; add interagency scheduling, coordination, and deadline requirements; eliminate consideration of certain alternatives; specify aspects of CEQ's role in resolving disputes associated with participating agencies and deadlines; place limitations on when an agency is required to consider new scientific or technical research; provide administrative consequences if an agency misses a deadline for an environmental review or related authorization; expand judicial review for missed deadlines; and specify annual reporting requirements for agencies and CEQ. Section 1107 would extend the timeline for reliance on programmatic environmental documents. Section 1108 would require CEQ to maintain a central public record of all categorical exclusions (CEs) and specify the criteria under which agencies could use a listed CE maintained by another agency. Section 1109 would establish application completeness and level of review determination deadlines and require project sponsors to submit specified permitting, stakeholder engagement, and other information in a permitting-related application. Section 1110 would affect the timing, venue, available remedies, and other considerations associated with judicial review of NEPA claims and potentially related claims, including a 150-day statute of limitations to file a claim and a general prohibition on any judicial remedy imposing vacatur or injunctive relief if based on a NEPA violation, among other requirements.

Subtitle B (Section 1121) would direct CEQ to lead development of electronic tools for environmental reviews and authorizations and create an interconnected federal permitting data system with a common and publicly accessible authorization portal. Section 1121 would also increase authorized annual CEQ appropriations from $1 million to $5 million. Subtitle C (Sections 1131-1133) would require CEQ to maintain an online database to provide information on and track the status of environmental reviews and related authorizations for specified environmental documents.

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Overview

The Bipartisan American Affordability and Jobs Act of 2026 (BAAJA; S. 5653) was introduced on September 30, 2026. The bill as introduced contains seven titles within two divisions, which aim to reform certain federal environmental review and permitting processes to expedite a wide range of project types, with an emphasis on energy-related projects.

BAAJA is organized according to two divisions:

- Division A—Committee on Environment and Public Works—has four titles: the National Environmental Policy Act of 1969 (NEPA), the Clean Water Act (CWA), the Endangered Species Act of 1973 (ESA), and Project Certainty.
- Division B—Committee on Energy and Natural Resources—has three titles: Electric Transmission, Energy Permitting, and Historic Preservation.

This report examines the subtitles and sections in BAAJA specific to NEPA (Division A, Title I):

- Subtitle A—Declaration of Environmental Policy
  - Section 1101. Purposes; procedure; savings provision
  - Section 1102. Definitions
  - Section 1103. Implementing procedures
  - Section 1104. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts
  - Section 1105. Procedure for determination of level of review
  - Section 1106. Timely and unified Federal reviews
  - Section 1107. Programmatic environmental document
  - Section 1108. Use of categorical exclusions by other agencies
  - Section 1109. Applications for authorizations
  - Section 1110. Judicial review
- Subtitle B—Council on Environmental Quality
  - Section 1121. Council on Environmental Quality
- Subtitle C—Federal Permitting Improvement
  - Section 1131. Definitions
  - Section 1132. Environmental Review and Permitting Tracker
  - Section 1133. Permitting Improvement Fund

The report provides background on the permitting and review provisions BAAJA would amend and compares each NEPA-related provision in BAAJA to existing NEPA requirements.

Background on Environmental Reviews and Federal Permitting

Certain activities that support the nation's economy and infrastructure, including energy production, transportation, and natural resource development, require one or more federal authorizations.[1] Many federal permitting processes (e.g., issuing permits, licensing, or granting rights-of-way across federal lands) require compliance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. §§4321 et seq.). NEPA establishes a national policy with respect to environmental quality and a process for integrating environmental considerations into federal decisionmaking (i.e., through an *environmental review*). Although NEPA often informs federal action—and thus decisions relating to certain authorizations—it does not itself authorize or prohibit projects; rather, it operates alongside the substantive statutes that govern individual federal authorizations.

Congress made substantial amendments to NEPA in the Fiscal Responsibility Act of 2023 (FRA; P.L. 118-5).[2] Among other changes, the FRA amended NEPA to address circumstances in which the statute applies, the procedure for determining the level of review, page and time limits, and the use of programmatic environmental documents.[3] Congress amended NEPA again in the FY2025 budget reconciliation act (P.L. 119-21) to allow project sponsors to pay a fee for expedited environmental reviews.[4] Congress has also enacted and considered a variety of other measures that would affect various aspects of NEPA with respect to federal permitting processes. One such example is Title 41 of the Fixing America's Surface Transportation Act ("FAST-41"; P.L. 114-94).[5] Among other things, FAST-41 established the Federal Permitting Improvement Steering Council ("Permitting Council"), authorized a streamlined administrative process for certain covered infrastructure projects, and directed the Permitting Council to identify the types of environmental reviews and authorizations most commonly required for certain types of infrastructure projects. It also directed the Permitting Council to maintain an online database known as the "Permitting Dashboard" to track the status of federal environmental reviews and authorizations for covered projects.[6] FAST-41 is an example of a separate statutory federal

[1] The statutory and administrative steps through which federal agencies review proposed projects or activities and issue any required federal authorizations are generally referred to as *federal permitting* or the *federal permitting process*. The federal permitting process can involve multiple agencies, laws, and regulations. For a list of common federal environmental reviews, authorizations, licenses, permits, approvals, findings, determinations, and other administrative decisions, see Permitting Council, "Federal Environmental Review and Authorization Inventory," https://www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory.

[2] Fiscal Responsibility Act (FRA; P.L. 118-5).

[3] 42 U.S.C. §4336e(11) defines a *programmatic environmental document* as "an [environmental impact statement] or [environmental assessment] analyzing all or some of the environmental effects of a policy, program, plan, or group of related actions."

[4] Section 60026 of P.L. 119-21 added Section 112 to the National Environmental Policy Act (NEPA) authorizing project sponsors to pay a fee for environmental reviews that cut NEPA's statutory deadlines in half, reducing the deadline of an environmental impact statement (EIS) from two years to one year and an environmental assessment (EA) from one year to 180 days. For additional information on NEPA's levels of review, see CRS In Focus IF12560, *National Environmental Policy Act: An Overview*, by Kristen Hite and Heather McPherron.

[5] 42 U.S.C. §§4370m et seq.

[6] The statutory criteria for eligibility under Title 41 of the Fixing America's Surface Transportation Act (FAST-41) are codified within the definition of *covered project* in 42 U.S.C. §4370m(6). See the Permitting Dashboard, https://www.permits.performance.gov/projects.

process that coordinates schedules for environmental reviews, authorizations, and permitting decisions for certain infrastructure projects that meet specific criteria for eligibility.[7]

Division A Title I of BAAJA would affect environmental reviews and certain procedural aspects of federal permitting. NEPA's *environmental reviews* serve as inputs to federal decisionmaking on permitting and other federal activities. Statutory requirements for permitting processes other than environmental reviews—such as deadlines and coordination between agencies—are not found in NEPA but rather in other laws. BAAJA would amend NEPA to connect the environmental review process to additional aspects of federal permitting and authorizations—for example, by setting a unified schedule for the timing of certain decisions.

While NEPA's environmental review requirements apply broadly across the federal government, the specific federal permitting requirements and the agencies involved for any particular project depend on factors such as the nature of the proposed action, applicable jurisdictions, and anticipated environmental impacts. Though beyond the scope of this report, state and local permits (e.g., zoning approvals, land use permits, and state-specific environmental certifications) are often required in addition to the approvals or requirements imposed at the federal level.

Unless Congress exempts an action from environmental review, NEPA requires agencies, prior to making final decisions, to assess reasonably foreseeable environmental effects, identify "irreversible and irretrievable" resource commitments, and consider a reasonable range of alternatives for "*major Federal actions* significantly affecting the quality of the human environment."[8] A federal agency's issuance of a permit or other authorization is often considered a major federal action under NEPA.[9] During an environmental review, agencies typically consider and analyze social, ecological, and health impacts. NEPA does not require agencies to select the most environmentally protective outcome or any other specific alternative option. Rather, for major federal actions likely to have significant impacts, NEPA requires agencies to conduct thorough analyses before making final decisions.

How a federal agency demonstrates compliance with NEPA depends on the level of the proposed action's impacts. If the proposed action has "a reasonably foreseeable significant effect on the quality of the human environment," an agency prepares an environmental impact statement (EIS).[10] If the proposed action "does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown," an agency

[7] Title 41 of Fixing America's Surface Transportation Act (FAST-41) established the Federal Permitting Improvement Steering Council and set requirements including scheduling, coordination, and judicial review of covered projects; see 42 U.S.C. §§4370m–4370m12. Covered projects are typically infrastructure projects that are valued over $200 million and require an EIS and another federal authorization, although the Council can designate other types of covered projects; see 42 U.S.C. §4370m(6). FAST-41 is codified in subchapter IV of Chapter 55 of Title 42; NEPA is codified in subchapters I and II of the same chapter.

[8] 42 U.S.C. §4332(2)(C) (emphasis added).

[9] Section 4336e(10) defines *major federal action* as an action that an agency "determines is subject to substantial Federal control and responsibility," subject to certain exclusions. For example, NEPA excludes actions with no or minimal federal funding and those with no or minimal federal involvement where the agency cannot control the outcome of the project; see 42 U.S.C. §4336e(10)(B). Additionally, NEPA does not apply to actions that are exempted by statute or involve nondiscretionary agency functions, or where the preparation of an environmental document would conflict with another provision of federal law; see 42 U.S.C. §4336(a). Congress also may designate statutory exemptions for certain agency actions, removing the requirement for environmental review or compliance with NEPA altogether. For example, in Section 316 of P.L. 93-288 (42 U.S.C. §5159), Congress exempted certain natural disaster and emergency response actions from NEPA requirements by declaring that such actions were not "major federal actions significantly affecting the quality of the human environment."

[10] 42 U.S.C. §4336(b)(1).

typically prepares an environmental assessment (EA).[11] An agency is not required to prepare an EIS or EA for a proposed agency action if the action is covered by one of the agency's own categorical exclusions (CEs) or if another agency's CE is applied to the action consistent with 42 U.S.C. §4336c.[12]

NEPA establishes a procedural framework for evaluating the environmental impacts of a given project and for informing federal agency decisionmaking; it does not itself confer authority to approve or deny a project or replace the need for specific permits or other authorizations mandated by regulatory statutes. In contrast, federal permitting statutes grant agencies substantive decisionmaking authority and define the criteria under which an authorization may be issued. In practice, agencies often integrate NEPA analyses with permitting requirements.[13] NEPA documents may inform permitting decisions; completion of NEPA does not guarantee issuance of a permit, and a permit may be denied after an environmental document is finalized.

Table 1 provides an analysis of the NEPA-related provisions in BAAJA (Division A, Title I) compared to current requirements. The first column in the table specifies the relevant section number from BAAJA and, where needed to denote different portions of the bill within longer sections, identifies specific provisions based on the *U.S. Code* citation included in the bill text.

[11] 42 U.S.C. §4336(b)(2).

[12] 42 U.S.C. §4336(a)(2). Categorical exclusions (CEs) are not exemptions from the NEPA process; rather, they are typically used for actions that an agency does repeatedly and expects will routinely not result in significant impacts. Further, 42 U.S.C. §4336e(1) defines a *categorical exclusion* as a category of actions that a federal agency has determined normally does not significantly affect the quality of the human environment. Congress also may choose to enact CEs legislatively; see CRS Report R48595, *Legislative Categorical Exclusions Under the National Environmental Policy Act*.

[13] 42 U.S.C. §§4336a(2)(D) and 4336a(b) specify that lead agencies shall coordinate any environmental review, permit, or authorization required to carry out the proposed agency action and to the extent practicable, all agencies shall evaluate those actions in a single environmental document. This means that compliance requirements of any additional environmental laws (e.g., the Endangered Species Act [ESA]) should be identified (but not necessarily completed) during the NEPA process. If full compliance is not possible by the time the final NEPA document is prepared, the document should reflect consultation with the appropriate agencies and provide reasonable assurance that requirements will be met.

Table 1. National Environmental Policy Act (NEPA) Provisions in the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA) as Introduced (Division A, Title I), Compared with Current Requirements

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
Section 1101. Purposes; Procedure; Savings Provision		
Section 1101 Purposes; procedure; savings provision	Would reorganize the four existing purposes in NEPA Section 2 as subsection (a) without substantively changing them. Would add two new provisions to NEPA Section 2 stating that • NEPA prescribes a procedure through which agencies "consider and inform the public about the reasonably foreseeable environmental effects of major [f]ederal actions on the human environment of the United States" and that the result is an information document for consideration in federal decisionmaking; and • nothing in NEPA mandates a particular outcome resulting from following the NEPA procedure.	• NEPA Section 2 is an overarching statement of congressional purpose. **(42 U.S.C. §4321)** • The Supreme Court has repeatedly held that NEPA requires agencies to consider relevant environmental information before acting but does not dictate the substantive decision an agency must make or mandate a particular outcome. See, for example, *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168 (2025).
Section 1102. Definitions		
Section 1102(a) Definitions—In General	Would relocate NEPA's definitions from Section 111 to a new proposed NEPA Section 3 and make them applicable to both of NEPA's titles.	NEPA's definitions are located at the end of Title I, NEPA Section 111 and expressly apply only within that title. **(42 U.S.C. §4336e)**
Section 1102(a) Definitions[b] *(new terms)*	Would newly define 15 additional terms, including • *agency CERPO* to mean the chief environmental review and permitting officer of each key permitting agency; • *authorization* to mean "any lease, right-of-way, easement, license, permit, approval, finding, determination, or other administrative decision issued by a [f]ederal agency or any interagency consultation that is required or authorized under Federal law to implement a proposed agency action"; • *Chairman* to mean the Chairman of the Council on Environmental Quality (CEQ); • *eNEPA technologies* to mean "digital tools, applications, and other technological capabilities used by agencies to support the responsibilities of the agency with respect to environmental review or other types of authorizations";	• NEPA does not define these 15 new terms in 42 U.S.C. §4336e. • Four of the terms are defined in Title 41 of the Fixing America's Surface Transportation Act ("FAST-41"; P.L. 114-94) (see 42 U.S.C. §4370m), including • *agency CERPO*, which means the chief environmental review and permitting officer of an agency, as designated by the head of the agency under 42 U.S.C. §4370m–1(b)(2)(A)(iii)(I); • *authorization*, which means "any license, permit, approval, finding, determination, or other administrative decision issued by an agency and any interagency consultation that is required or authorized under Federal law in order to site, construct, reconstruct, or commence operations of a *covered project* administered by a [f]ederal agency or, in the case of a

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• *environmental infrastructure program or authority* to mean "a program or authority of the Secretary of the Army to provide assistance to a non-Federal interest for carrying out water-related environmental infrastructure or environmental assistance and resource protection and development projects," including 41 specific statutory programs, and authorizing the Secretary of the Army to identify similar programs; • *environmental review* to mean "the agency procedures and processes for preparing an environmental document for a proposed agency action under this Act"; • *Indian tribe* to have the meaning used in the Indian Self-Determination and Education Assistance Act (25 U.S.C. §5304); • *key permitting agency* to mean any agency that "commonly engages in environmental review or other types of authorizations," identifying13 specific departments or agencies to be included and authorizing the CEQ Chairman to designate additional agencies; • *made public/make public* to mean with respect to a document, "that the document is published in a single location on the primary website of the applicable Federal agency" (the definition would also include requirements for including hyperlinks and the date of initial publication on the website); • *project sponsor* to mean "an entity, including any Federal, private, public-private, State, local (including a county, borough, parish, city, and any other political subdivision of a State), or Tribal entity, that seeks an authorization for a proposed agency action"; • *record of decision* to mean "a document, which may be issued concurrent with or following a final environmental document, that explains the decision of an agency with respect to a proposed agency action"; • *record of stakeholder engagement* to mean "a document, not to exceed 20 pages, including any citations or appendices, detailing pre-application engagement of a project sponsor with local governmental, Tribal, and community entities relating to an authorization for a proposed agency action for which an environmental review is required" and includes only	[s]tate that chooses to participate in the environmental review and authorization process in accordance with [42 U.S.C. §4370m–2(c)(3)(A)], a State agency"; • *environmental review*, which means "the agency procedures and processes for applying a categorical exclusion or for preparing an environmental assessment, an environmental impact statement, or other document required under NEPA"; and • *project sponsor*, which means "an entity, including any private, public, or public-private entity, seeking an authorization for a covered project."

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• a list of pre-application engagement by the project sponsor with federal agencies; and • a list of pre-application engagement with state, local, and tribal officials, and local communities, including feedback received and how it was incorporated into the proposed agency action; • *state* to mean 1 of the 50 states, or the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, or the U.S. Virgin Islands; • *state agency* to mean "any agency, department, board, commission, or other government entity of a State"; and • *statement of purpose and need* to mean a brief summary by the lead agency that clearly explains the underlying purpose of the proposed agency action; the need for the proposed agency action; and the goals of the project sponsor, as applicable.	
Section 1102(a) Definitions[b] *(definitions removed)*	Would remove the definitions of *proposal* and *participating federal agency*.	• NEPA Section 111(8) defines a *participating federal agency* as "a [f]ederal agency participating in an environmental review or authorization of an action." **(42 U.S.C. §4336e(8))** • NEPA Section 111(12) defines *proposal* as a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and can meaningfully evaluate its effects." **(42 U.S.C. §4336e(12))**
Section 1102(a) Definitions[b] *(definitions retained with non-substantive changes)*	Would retain definitions of the following seven terms with no or nonsubstantive changes: *Council*; *environmental assessment* (EA); *environmental document*; *environmental impact statement* (EIS); *finding of no significant impact* (FONSI); *programmatic environmental document*; and *special expertise*.	• NEPA Section 111(3) defines *Council* as the Council on Environmental Quality (CEQ). **(42 U.S.C. §4336e(3))** • NEPA Section 111(4) defines *EA* as an EA prepared under NEPA Section 106(b)(2). **(42 U.S.C. §4336e(4))** • NEPA Section 111(5) defines *environmental document* as an EIS, an EA, or a FONSI. **(42 U.S.C. §4336e(5))** • NEPA Section 111(6) defines *EIS* as a detailed written statement that is required by NEPA Section 102(2)(C). **(42 U.S.C. §4336e(6))**

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
		• NEPA Section 111(7) defines *FONSI* as a determination by a federal agency that a proposed agency action does not require the issuance of an EIS. **(42 U.S.C. §4336e(7))** • NEPA Section 111(11) defines *programmatic environmental document* as an EIS or EA analyzing all or some of the environmental effects of a policy, program, plan, or group of related actions. **(42 U.S.C. §4336e(11))** • NEPA Section 111(13) defines *special expertise* as statutory responsibility, agency mission, or related program experience. **(42 U.S.C. §4336e(13))**
Section 1102(a) Definitions[b] *(definitions retained with substantive changes)*	Would modify definitions of the following three terms with substantive changes: • *categorical exclusion* (CE) to specify that CEs are not limited to only those established by a federal agency and would extend the definition to include CEs "Congress deems by statute"; • *cooperating agency* to specify that a local agency can include "a county, borough, parish, city, and any other political subdivision of a State"; and • *lead agency* to update the referenced designation procedures in proposed Section 107(a)(1) and to add designation criteria related to CEQ's designation responsibilities in proposed Section 107(a)(1)(B)(ii).	• NEPA Section 111(1) defines a *CE* as "a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of section 102(2)(C)." **(42 U.S.C. §4336e(1))** • NEPA Section 111(2) defines a *cooperating agency* as "any Federal, State, Tribal, or local agency that has been designated as a cooperating agency under section 107(a)(3)." **(42 U.S.C. §4336e(3))** • NEPA Section 111(9) defines a *lead agency* with respect to a proposed agency action as (1) the agency that proposed that action; or (2) if there are two or more federal agencies involved, the agency designated under NEPA Section 107(a)(1). **(42 U.S.C. §4336e(9))**
Section 1102(a) Definitions[b] *(expansion of exclusions to the definition of major federal action)*	Would amend NEPA's definition of *major federal action* to expand the list of exclusions from 7 to 14, including the following: • Carrying forward four existing exclusions with nonsubstantive revisions, including those in NEPA §§111(10)(B)(ii), (iv), (v), and (vii). • Substantively modifying the following existing exclusions in • NEPA Section 111(10)(B)(i) to specify an exclusion for a "proposed agency action associated with a non-federal project or undertaking" and to add "for which the only federal involvement is a loan guarantee or loan";	• NEPA Section 102(2)(C) requires all federal agencies to include in "every recommendation or report on proposals for legislation and other major [f]ederal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on the environmental impact of the proposed action." **(42 U.S.C. §4332(2)(C))** • NEPA Section 111(10) defines *major federal action* as "an action that the agency carrying out such action determines is subject to substantial federal control and responsibility." **(42 U.S.C. §4336e(10)(A))**

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• NEPA Section 110(10)(B)(iii) to add "grants, capitalization grants, cost share awards" to the list of financial assistance and to raise the threshold from "sufficient control" to "predominant control and responsibility" over either the subsequent use of the fund or the "environmental effect" of the action; and • NEPA Section 111(10)(B)(vi) to narrow consideration of effects to those within the "territory of the United States or the outer Continental Shelf." • New exclusions for the following: • "routine agency actions that are administrative in nature" provided that the cost of the action is less than $10 million; and • "a proposed agency action, the effects of which were previously evaluated by another agency in compliance with this Act." • New exclusions for "any proposed agency action associated with" the following: • the repair, reconstruction, restoration, retrofit, or replacement of lifeline infrastructure, defined as "public works and utilities, including transportation facilities and infrastructure, oil and gas pipelines, electrical power and communication facilities and infrastructure, and water supply and sewage treatment facilities," given that the action does not change its function or increase its capacity by more than 20%, and if applicable, add through travel lanes; • geothermal observation test projects defined under the Geothermal Steam Act of 1970, as amended by BAAJA Section 2221; • specified activities to maintain or increase the capacity of the electric grid under the Federal Power Act, as amended by BAAJA Section 2102(a); • specified activities carried out under the Natural Gas Act, as amended by BAAJA Section 2102(b); and	• NEPA Section 111(10)(B) identifies seven *major federal action* exclusions: • "Non-federal action" with no or minimal federal funding, or with no or minimal federal involvement where an agency cannot control the project's outcome. **(42 U.S.C. §4336e(10)(B)(i))** • Federal funding provided solely through general revenue-sharing funds that do not give the federal agency compliance or enforcement responsibility over the subsequent use of the funds. **(42 U.S.C. §4336e(10)(B)(ii))** • Loans, loan guarantees, and other forms of financial assistance when the agency lacks "sufficient control and responsibility" over the subsequent use of the assistance or the effects of the action. **(42 U.S.C. §4336e(10)(B)(iii))** • Business loan guarantees provided by the Small Business Administration under Sections 7(a) or (b) of the Small Business Act or Title V of the Small Business Investment Act. **(42 U.S.C. §4336e(10)(B)(iv))** • Bringing of judicial or administrative civil or criminal enforcement action. **(42 U.S.C. §4336e(10)(B)(v))** • Extraterritorial activities or decisions with effects located entirely "outside of the jurisdiction of the United States." **(42 U.S.C. §4336e(10)(B)(vi))** • Nondiscretionary agency activities or decisions made in accordance with the agency's statutory authority. **(42 U.S.C. §4336e(10)(B)(vii))**

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• projects carried out under a U.S. Army Corps continuing authority program or specified environmental infrastructure program or authority if the federal share of the project's cost does not exceed $50 million.	
Section 1102(b) Conforming Amendments	Would make conforming amendments to other statutes that cite the current definitions section of NEPA Section 111.	Not applicable.
Section 1103. Implementing Procedures		
Section 1103 Implementing Procedures	Would add a new subsection (b) to NEPA Section 103 to require each federal agency to revise its NEPA regulations, procedures, or policies within 180 days after enactment of BAAJA to implement NEPA's "intent, purposes, and procedures," including BAAJA's amendments; and a new subsection (c) to direct CEQ to promote standardized procedures across all federal agencies; and (d) authorize CEQ to provide technical assistance to an agency upon that agency's request.	NEPA Section 103 contains an implementation provision associated with NEPA's original enactment that required agencies to review and propose measures to conform with the intent, purposes, and procedures set forth in NEPA and submit those to the President by July 1, 1971. NEPA Section 102(2)(B) requires all federal agencies to develop methods and procedures in consultation with CEQ to "ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." **(42 U.S.C. §4332(2)(B); 42 U.S.C. §4333)** For decades, CEQ maintained government-wide regulations for implementing NEPA—in 40 C.F.R. Parts 1500-1508—that served as standardized minimum requirements for federal agencies to implement NEPA. In response to Executive Order 14154, CEQ rescinded its regulations in 2025. For more information on the rescission, see CRS In Focus IF12960, *Council on Environmental Quality Rescinds NEPA Regulations: Legal and Policy Considerations*, by Heather McPherron et al.
Section 1104. Cooperation of Agencies; Reports; Availability of Information; Recommendations; International and National Coordination of Efforts		
Section 1104(1)	• Would specify that the methods and procedures required by NEPA Section §102(2)(B) would be "to implement the requirements of [NEPA]." • Would add a new requirement that the methods and procedures required by NEPA Section 102(2)(B) be consistent with "minimum	• NEPA Section 102(2)(B) requires agencies, in consultation with CEQ, to identify and develop methods and procedures to "ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." **(42 U.S.C. §4332(2)(B))**

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	functional requirements and data and technology standards for agency implementation of eNEPA technologies."	• In 2023, Congress amended NEPA to authorize CEQ to study and report on eNEPA technologies; see NEPA Section 110. **(42 U.S.C. §4336d)**
Section 1104(2)	Would replace *responsible official* with *lead agency* in NEPA Section 102(2)(C); *proposal* with *proposed agency action* in NEPA Section 102(2)(C)(ii) and in the undesignated matter following clause (v); and *Council on Environmental Quality* with *Council* in the undesignated matter following NEPA Section 102(2)(C)(v) and NEPA Section 102(2)(L). (emphasis added)	• NEPA Section 102(2)(C) requires "the *responsible official*" to prepare an EIS for any proposal for legislation and other major federal actions significantly affecting the quality of the human environment. (emphasis added) • The undesignated matter following NEPA Section 102(2)(C)(v) states that the EIS "shall be made available to the President, the Council on Environmental Quality and to the public." • NEPA Section 102(2)(L) states that all federal agencies shall "assist the Council on Environmental Quality established by title II of this Act." **(42 U.S.C. §4332)**
Section 1105. Procedure for Determination of Level of Review		
Sections 1105(1)(A) and 1105(2)(B)(i)-(ii) Procedure for Determination of Level of Review	Would amend NEPA Section 106 to allow a lead agency to determine that no environmental document is required by applying one or a combination of CEs (excluding "multiple applications of the same or similar [CEs] that are based on size, acreage, or dollar amount thresholds") of the agency, another agency's CE consistent with NEPA Section 109, a CE established by Congress, or another provision of law.	• NEPA Section 106 establishes threshold determinations that identify the circumstances under which an agency is not required to prepare an environmental document (i.e., EA or EIS). One threshold is where an action is excluded under "one of the agency's [CEs], another agency's [CEs] consistent with section 109 of [NEPA], or another provision of law." **(42 U.S.C. §4336)** • NEPA Section 106 does not expressly include any language addressing multiple CEs or CEs established by Congress. CEQ's updated April 2026 CE guidance states that agency procedures may allow multiple CEs to cover different components of a single action.[c] Courts have at times come to different conclusions regarding an agency's use of multiple CEs. Compare, for example, Oak Ridge Envtl. Peace All. v. Perry, 412 F. Supp. 3d 786, 859 (E.D. Tenn. 2019) (concluding the agency improperly invoked a combination of 69 CEs to avoid conducting a more detailed impact analysis) with Los Padres ForestWatch v. U.S. Forest Serv., No. CV 22-2781-JFW (SKX), 2023 WL 5667533, at *11 (C.D. Cal. July 19, 2023), aff'd, 2024

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
		WL 4750504 (9th Cir. Nov. 12, 2024) (upholding the Forest Service's use of multiple CEs in a single proposed action where each was separately considered to apply to the overall proposed action and discussing how other courts have allowed this practice).
Section 1105(1)(D) Threshold Determinations	Would add two conditions to NEPA Section 106 for when an agency is not required to prepare an environmental document (EA or EIS): • the proposed agency action relates to a project or action that has been (1) reviewed pursuant to a state environmental review statute or certain tribal environmental reviews and (2) the lead agency determines that the review serves a similar function as federal agency compliance with NEPA; or • the agency determines that compliance with the requirements of another federal law for the proposed agency action would serve a "similar function" as compliance with NEPA.	NEPA Section 106(a) establishes threshold determinations that identify the circumstances under which an agency is not required to prepare an environmental document for a proposed agency action but it does not provide a general authority to substitute compliance with the requirements of another federal law for NEPA. **(42 U.S.C. 4336(a))** In some instances, federal agencies—based on earlier guidance that preceded the 2023 NEPA amendments—have determined that other federal statutes serve a similarly equivalent function as NEPA and have allowed compliance with another statute to satisfy NEPA review requirements. Court cases have affirmed that NEPA review is not necessary when a federal agency's action complies with another federal statute that is "functionally equivalent" to NEPA. See, for example, Env't Def. Fund, Inc. v. EPA, 489 F.2d 1247 (D.C. Cir. 1973) Pac. Legal Found. v. Andrus, 657 F.2d 829, 834 (6th Cir. 1981). To date, the application of the "functional equivalence" doctrine has been limited to federal statutes concerning federal agency compliance with NEPA. NEPA Section 102(2)(G) permits a state agency to prepare an EIS for certain federally funded actions, given certain specified conditions; however, NEPA does not provide a general authority to substitute a state or tribal review for a federal environmental document. **(42 U.S.C. §4332(2)(G))** At times, Congress has also authorized specific agencies to allow • states to assume responsibilities for NEPA compliance (see, e.g., 23 U.S.C. §327); • states to substitute state environmental laws for NEPA, subject to findings that the state requirements are "at least as stringent as" the corresponding federal requirements (see, e.g., 23 U.S.C. §330); or

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
		• Tribes to authorize certain activities on tribal lands without case-by-case approval by the Secretary of the Interior (Secretary, as delegated to the Bureau of Indian Affairs), provided the Tribe has an environmental review process meeting specified statutory requirements (see, e.g., 25 U.S.C. §§415(h) and 3504(e)).
Section 1105(2)(B)(iii) Project Sponsor Request	Would add a new provision to NEPA Section 106 that would specify that once a lead agency has begun preparing an EA, the agency must discontinue the EA and prepare an EIS if requested by the project sponsor.	NEPA does not include a similar provision allowing the project sponsor to request that an agency prepare an EIS. Under NEPA Section 106(b), an agency must prepare an EIS when a proposed action has a reasonably foreseeable significant effect on the human environment. Agencies otherwise prepare an EA for actions that do not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown and there are no applicable CEs or other exemptions under another provision of law. **(42 U.S.C. §4336(b))**
Section 1105(3) Effect of Threshold Determination on Other Agencies	Would add a new subsection (c) to NEPA Section 106 that would bind other agencies to the lead agency's threshold determination by specifying that if the lead agency determines that an environmental document is not required, then no other agency shall prepare an environmental document "with respect to the proposed agency action."	NEPA does not include a similar provision that would bind all agencies to the lead agency's threshold determination. As currently implemented, agencies may reach different determinations regarding a proposed action's anticipated environmental impacts and their significance and which level of review is necessary to support their decision. Under NEPA Section 107(b), "to the extent practicable, if a proposed agency action will require action by more than one [f]ederal agency and the lead agency has determined that it requires preparation of an environmental document, the lead and cooperating agencies shall evaluate the proposal in a single environmental document." **(42 U.S.C. §4336a(b))**
Section 1106. Timely and Unified Federal Reviews		
42 U.S.C. §4336a(a)(1)(A) Lead Agency—Designation	Would amend NEPA's process of designating a "lead agency" to • specify that it applies when more than one federal agency is "required by law to make a decision relating to an authorization"; • specify that a lead agency is a federal agency that proposed the action; and	NEPA Section 107(a) states that a lead agency must be designated when there is more than one *participating agency* (defined as a federal agency participating in an environmental review or authorization of an action; see 42 U.S.C. §4336e(8)) based on specified criteria: • magnitude of the agency's involvement;

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• add language referencing "proposed agency action" (which is not defined in BAAJA) to existing criteria for selecting the lead agency.	• authority to approve or disapprove the project; • expertise related to the environmental effects of the action; • duration of the agency's involvement; and • sequencing of the agency's involvement. **(42 U.S.C. §4336a(a)(1)(A))**
42 U.S.C. §4336a(a)(1)(B) Lead Agency—Delay in Designation	Would amend NEPA Section 107(a)(1)(4) to shorten the process for designating a lead agency following a request from an affected project sponsor or another agency. Specifically, it would • limit those eligible to submit such a request to the project sponsor rather than any affected "person"; • change the initial waiting period after a request is originally shared among participating agencies and CEQ from 45 days to 21 days before the original requestor could submit a follow-up request to CEQ for designation, • change the time agencies have to respond to the CEQ request from 20 days to 14 days, and • direct CEQ to make a final determination within 21 days from the follow-up request. Would also provide that CEQ's determination of a lead agency under this process is "final and conclusive," and not subject to judicial review.	NEPA Section 107(a) provides that any affected federal, state, tribal, or local agency or other affected "person" may submit a request for lead agency designation to a federal agency participating in the environmental review. Upon receipt of the request, the receiving federal agency would have to transmit it to other participating agencies as well as CEQ. If after 45 days of the submission, the lead agency has not been designated, then the original requestor (if affected by a lack of such designation) may submit a follow-up request asking the Chairman of CEQ to designate a lead agency. Upon transmission of the follow-up request by CEQ, agencies have 20 days to reply. In any event, if 40 days have passed from CEQ's transmission and no lead agency has been designated, CEQ is authorized to determine the lead agency. **(42 U.S.C. §4336a(a))**
42 U.S.C. §4336a(a)(1)(C) Role of the Lead Agency	Would add several new responsibilities of the lead agency in NEPA Section 107(a)(2), including to • notify the CEQ Chairman if another agency's authorization or action may be responsible for failure to meet the schedule established by the lead agency; • define the purpose and need, reasonable alternatives, and reasonably foreseeable environmental effects of the proposed action that are within the lead agency's jurisdiction, "subject to the condition that the alternatives may include the use of land under the jurisdiction of another [f]ederal agency" designated as a cooperating agency;	NEPA does not expressly allocate agency responsibility to define and determine the purpose and need, alternatives, reasonably foreseeable effects of an action, or provide direction on selecting alternatives (including any specific alternatives affecting tribal trust resources). • NEPA Section 107(a)(2) assigns the lead agency general responsibility for supervising preparation of the environmental document; requesting cooperating agency participation, considering their analysis, and meeting with them upon request; and developing a schedule—in consultation with cooperating agencies, the project sponsor, and other "appropriate" entities—for completion of any "environmental

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• presume that selecting the "no action alternative" would have negative effects for any proposed agency action initiated by an Indian Tribe that would be carried out on or directly affect land or resources held in trust for that Tribe; and • eliminate from consideration any action alternative that does not both fulfill the purpose and need and meet the goals of a nonfederal project sponsor. Would also amend NEPA to remove text directing the lead agency to request a delaying agency take appropriate measures to comply with the schedule, although provisions in BAAJA Section 1106(4) would impose new administrative and other consequences in the event of delay.	review, permit, or authorization required to carry out the proposed agency action." **(42 U.S.C. §4336a(a)(2))** • NEPA Section 107(a)(2)(E) directs the lead agency to notify the agency responsible for a potential schedule failure and request corrective measures, rather than notifying CEQ. **(42 U.S.C. §4336a(a)(2)(E))** • NEPA Section 102(2)(C)(iii) requires that an EIS identify and evaluate a reasonable range of alternatives to the proposed federal action that are technically and economically feasible and meet the purpose and need of the proposal, including an analysis of the environmental effects from not taking action (i.e., the no-action alternative). The goals of the project sponsor are not explicitly required to be considered as a part of this process, although agency-specific procedures may provide for their consideration. **(42 U.S.C. §4332(2)(C)(iii))**

42 U.S.C. §4336a (a)(2)(A) Cooperating Agencies—Designation	• Would modify the processes and requirements for designating cooperating agencies in NEPA Section 107(a) by
	  • restricting the scope of cooperating agencies to only those with jurisdiction by law and not those with special expertise;
	  • specifying that a "local agency" designated as a cooperating agency may include "a county, borough, parish, city, and any other political subdivision of a State"; and
	  • adding a new provision specifying that designation as a cooperating agency does not give or expand an agency's authority or jurisdiction over the proposed agency action.
	• Would also specify certain deadlines associated with the participation of cooperating agencies, including the following:
	  • Not later than 30 days after the lead agency publishes a notice of intent (NOI) to prepare an EIS or informs the project sponsor that an EA is necessary, the lead agency must identify and invite "all [f]ederal and non-[f]ederal agencies and governmental entities likely to require or provide authorization with respect to a proposed agency action" to become a cooperating agency; the
		• NEPA does not prescribe deadlines related to the identification, invitation, or response of cooperating agencies.
		• NEPA Section 107(a)(3) specifies that a lead agency may designate any federal, state, tribal, or local agencies with jurisdiction by law or special expertise as cooperating agencies. **(42 U.S.C. §4336(a)(3))**
		• NEPA Section 107(a)(2)(B) requires the lead agency to seek cooperating agency participation at the earliest practicable time. **(42 U.S.C. §4336(a)(2)(B))**

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	cooperating agency has seven days to accept or deny the invitation. • If the lead agency identifies any agency that has "jurisdiction by law with respect to any environmental impact involved in a proposed agency action," and which was not previously identified, the lead agency must (1) not later than seven days after identification, invite the agency to become a cooperating agency and (2) not later than 14 days after the agency accepts, update the schedule to incorporate the new cooperating agency's participation.	
42 U.S.C. §4336a(a)(2)(B) Role of the Cooperating Agencies	• Would specify that cooperating agency comments must be limited to matters relating to the jurisdiction by law of the cooperating agency with respect to • "the reasonably foreseeable environmental effects of the proposed agency action"; and • "any applicable authorization required of the cooperating agency." • Would specify that a cooperating agency may, with the agreement of the lead agency, assist in the preparation of an environmental document. • Would specify that the cooperating agency would be bound by the *statement of purpose and need* of the proposed agency action (as determined by the lead agency) and could consider only alternatives that the lead agency determined were reasonable.	• NEPA does not specify similar substantive limitations on cooperating agency comments, expressly bind them to the lead agency's defined purpose and need, or limit consideration to alternatives that the lead agency determines are reasonable. • NEPA Section 107(a) specifies that cooperating agencies must submit comments according to the project schedule and that the lead agency must give consideration to a cooperating agency's analysis or proposal. **(42 U.S.C. §4336a)** • Additionally, the Clean Air Act Section 309 (42 U.S.C. §7609) requires the Environmental Protection Agency (EPA) to review and comment in writing (and make public its comments) on any legislation or regulations proposed by a federal agency and any newly authorized federal construction project or other major federal agency action requiring an EIS. This provision of the Clean Air Act also requires publication and a referral to CEQ for any determination by the EPA Administrator that any legislation, action, or regulation is "unsatisfactory from the standpoint of public health or welfare or environmental quality."
42 U.S.C. §4336a (b)(1)-(2) Coordination of Agencies Participating in an Environmental Review	• Would require the lead agency to prepare a schedule for the "applicable proposed agency action" not later than 30 days after each agency accepts or rejects the invitation to become a cooperating agency. • If a proposed agency action would require action by more than one federal agency and the lead agency has determined that an	• NEPA does not prescribe deadlines related to the development of the schedule. • NEPA Section 107(b) directs lead and cooperating agencies to evaluate a proposed agency action that requires an EA or EIS in a single document "to the extent practicable." **(42 U.S.C. §4336a(b))**

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	environmental document is necessary, would require agencies "to the maximum extent practicable" to • evaluate the action in a single environmental document; • carry out agency obligations "concurrently, and in conjunction with, other environmental reviews and authorizations" (absent statutory constraints); and • carry out agency activities in a way that is coordinated, environmentally responsible, and enables the lead agency to meet the established deadlines.	
42 U.S.C. §4336a(b)(3) Consideration of Timing	• Would specify that agencies are not required to consider "any scientific or technical research that becomes publicly available" after the publication date for a NOI or decision to prepare an environmental document. • Would provide that a federal agency "may not delay the issuance of an environmental document or a final agency action, including any decision or determination, on the basis of awaiting new scientific or technical research or information."	• NEPA Section 106 authorizes agencies to make use of "any reliable data source" but specifies that they are not required to prepare new scientific or technical research in deciding whether to apply a CE or prepare an EA or EIS unless "essential" for a reasoned choice among alternatives and not time- or cost-prohibitive. **(42 U.S.C. §4336(b)(3))** • NEPA Section 107 (which concerns the review process after determining the level of review) is silent with respect to how new information is considered.
42 U.S.C. §4336a(c) Public Review	Would generally maintain the requirements that the NOI include a request for public comment on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action, but would specify that each NOI to prepare an EIS must • be published in the *Federal Register;* • include a description of the general location and geospatial information for the proposed agency action; and • have a 45- to 60-day comment period unless the project sponsor and lead agency agree to a longer deadline (up to 75 days).	• NEPA Section 107(c) requires that each NOI to prepare an EIS must include a request for public comment on alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action. **(42 U.S.C. §4336a(c))** • NEPA Section 107(c) does not prescribe the comment period length.
42 U.S.C. §4336a(f) Sponsor Preparation and Use of Existing Documents	Would add a new provision to NEPA Section 107(f) requiring a lead agency—upon a project sponsor's request—to consider and, as appropriate, adopt or incorporate by reference the analysis and documentation prepared for a proposed agency action under the laws and procedures of a state or Indian Tribe if the lead agency determines	• NEPA Section 107(f) requires federal agencies to prescribe procedures to allow project sponsors to prepare an EA or EIS under the supervision of the agency. **(42 U.S.C. §4336a(f))**

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	that the review serves a similar function as federal agency compliance with NEPA.	• NEPA Section 102(2)(G) permits a state agency to prepare an EIS for certain federally funded actions, given certain specified conditions**. (42 U.S.C. §4332(2)(G))** • NEPA does not provide a general authority to substitute a state or tribal review for a federal environmental document.
42 U.S.C. §4336a(g)(1)(A) Deadlines—EAs	Would retain the general one-year deadline for an EA but add or modify criteria associated with deadlines that would • narrow the start of the one-year deadline to the earlier of the date on which the lead agency (1) determines that the preparation of an EA is necessary or (2) notifies the project sponsor that the application for the action is complete; • require the lead agency to, within seven days of issuing and making public the EA, ◦ issue a FONSI; or ◦ publish an NOI to prepare an EIS. • require that if the lead agency publishes a FONSI, it would be required to issue and make public a decision on all authorizations for the proposed agency action no later than the following specified times: ◦ 90 days for federal agencies participating in the environmental review; and ◦ 120 days for federal agencies not participating in the environmental review.	• NEPA §107(g)(1)(B) specifies a one-year deadline to complete an EA based on the earlier of the date on which the lead agency ◦ determines that the preparation of an EA is necessary; ◦ notifies the applicant that the application to establish a right-of-way for the action is complete; or ◦ issues a NOI to prepare an EA. **(42 U.S.C. §4336a(g)(1)(B))** • NEPA §112(a)(4)(A) also specifies that project sponsors can pay certain fees to accelerate the deadlines for an EA to six months. **(42 U.S.C. §4336f(a)(4)(A))** • Timelines (if/as applicable) for processing and approving federal authorizations are generally governed by other agency- or action-specific statutes, agency regulations, and procedures (see, e.g., 16 U.S.C. §§792 et seq. for program-specific timing provisions for hydropower licensing). • Agency actions may also be subject to broader procedural statutes, including the Administrative Procedure Act (APA; 5 U.S.C. §§551-559) and/or FAST-41 (see, e.g., 42 U.S.C. §4370m-2 for specific timing provisions for projects covered under FAST-41).
42 U.S.C. §4336a(g)(1)(B) Deadlines—EISs	Would retain the general two-year deadline for an EIS but add or modify criteria associated with deadlines that would • Narrow the start of the two-year deadline to the earlier of the date on which the lead agency (1) determines that the preparation of an EIS is necessary; or (2) notifies the project sponsor that the application for the action is complete;	• NEPA Section 107(g)(1)(B) specifies a two-year deadline to complete an EIS based on the earlier of the date on which the lead agency ◦ determines that the preparation of an EIS is necessary; ◦ notifies the applicant that the application to establish a right-of-way for the action is complete; or

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	• Require the lead agency to issue a *record of decision* not later than 45 days after the date on which it published an EIS.
	• Require agencies to issue a decision on all outstanding authorizations for the proposed agency action no later than the following specified times after the publication of the EIS:
	  • 90 days for all federal agencies participating in the environmental review; and
	  • 120 days for all federal agencies not participating in the environmental review for the proposed agency action.
		• issues a NOI to prepare an EIS. **(42 U.S.C. §4336a(g)(1)(A))**
		• NEPA Section 112(a)(4)(B) also specifies that project sponsors can pay certain fees to accelerate the deadlines for an EIS to one year. **(42 U.S.C. §4336f(a)(4)(B))**
		• NEPA does not specify a deadline by which a ROD must be issued or subsequent deadlines for approval of authorizations. Timelines (if/as applicable) for processing and approving federal authorizations are generally governed by other agency- or action-specific statutes, agency regulations, and procedures (see, e.g., 16 U.S.C. §§792 et seq. for program-specific timing provisions for hydropower licensing).
		• Agency actions may also be subject to broader procedural statutes, including the APA and/or FAST-41 (see, e.g., 42 U.S.C. §4370m-2 for specific timing provisions for projects covered under FAST-41).

42 U.S.C. §4336a(g)(1)(C) Deadlines—Dispute Resolution	Would add a new subsection to NEPA Section 107 on dispute resolution procedures that would
	• define an *eligible dispute or delay* as a dispute or delay concerning an environmental review or authorization that involves more than one federal agency for which a project sponsor sends a notification to the CEQ Chairman (the provision does not specify the details required of the submitted notification);
	• require the CEQ Chairman, in consultation with each federal agency participating in the environmental review for a proposed agency action, to
	  • the maximum extent practicable, meet the deadlines established under the dispute resolution section and project-specific deadlines pursuant to the schedule developed under NEPA Section 107(a)(1)(C)(iv), as amended by BAAJA established by the lead agency; and
	  • "facilitate resolution" of an eligible dispute or delay—including an anticipated delay—not later than 30 days after the receipt of a notification of a project sponsor;
		• NEPA neither authorizes nor prohibits project sponsors from notifying CEQ of any delay and does not require CEQ to act on any such notification.
		• NEPA Section 107(h) provides that the head of each lead agency annually must report to congressional committees of jurisdiction on any EA or EIS that did not meet its statutory deadline and explain the basis of the delay. **(42 U.S.C. §4336a(h))**

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	• direct the CEQ Chairman, if there is no resolution by 14 days following the 30-day post-notification facilitation deadline, to "determine a resolution" and "order the relevant agencies" to act with that determination "as soon as practicable"; and • specify that such order shall be final and conclusive; not subject to judicial review; and for judicial review and compliance purposes, "constitute full compliance with and satisfaction of any requirement for interagency consultation, coordination, concurrence, authorization, or other procedural obligation under Federal law that is the subject of the dispute or delay."	
42 U.S.C. §4336a(g)(2) Deadlines—Delay	Would amend NEPA Section 107(g)(2) to allow extension of a deadline in NEPA Section 107(g)(1), as amended by BAAJA, only with the consent of the project sponsor, and only for so long as necessary to complete the applicable environmental document (i.e., EIS, EA, or FONSI). BAAJA would amend NEPA Section 107(g)(1), as noted above, to add deadlines for completing authorizations after the completion of an EA or EIS. The amended NEPA Section 107(g)(2) would only provide, however, for the extension of deadlines in Section 107(g)(2) to the extent needed to complete the environmental document.	NEPA Section 107(g)(2) allows an agency to extend a deadline to prepare an environmental document following consultation with (but not necessarily consent by) the project sponsor. **(42 U.S.C. §4336a(g)(2))**
42 U.S.C. §4336a(g)(3) Deadlines—Failure to Act	Would establish consequences for any *key permitting agency* (as defined in BAAJA Section 1102) except for the Secretary of Defense that misses either an extended deadline pursuant to BAAJA Section 1106(4)(B) or a deadline following the CEQ Chairman's determination under the dispute resolution provisions in BAAJA Section 1106(4)(A). The consequences would include the following: • After 30 days have passed since the CEQ Chairman's determination of resolution under NEPA Section 107(g)(1)(C), as amended by BAAJA, the relevant designated agency permitting officer (CERPO, as defined in BAAJA Section 1102) and any senior supervisory career employee with "a substantive role or responsibility in reviewing the applicable environmental document or authorization that remains unpublished or unissued" must spend at least 50% of their workweek to "remedy the failure." • After more than 60 days have passed since the CEQ Chairman's determination or agreed extension and the key permitting agency	NEPA does not have comparable consequences for an agency's failure to meet statutory deadlines.

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	has not issued the applicable environmental document as well as "all outstanding authorizations" for a proposed agency action, then the head of any key permitting agency may not travel more than 25 miles from their official duty station until the key permitting agency has issued the applicable environmental document as well as "all outstanding authorizations related to the proposed agency action."	
42 U.S.C. §4336a(g)(4) Deadlines—Causes of Action	Would expand NEPA's judicial review provision for a project sponsor to judicially enforce missed deadlines under NEPA. While NEPA already provides for project sponsors to obtain judicial review to enforce environmental review deadlines in this section (i.e., one year for an EA and two years for an EIS), BAAJA §1106 would add a right of review for related authorization decision deadlines (i.e., issuing all scheduled authorizations 90-120 days after environmental review is complete). It would require courts to expedite proceedings and issue a decision "as expeditiously as practicable"—generally within 120 days after a petition is filed. In the event a court finds an agency failed to show a valid basis for delay (based on any of six available exceptions), BAAJA would direct a court to issue an order requiring a decision on the covered application not later than 60 days after the date on which the order is issued.	• NEPA Section 107(g)(3) allows a project sponsor to seek judicial review of an agency's alleged failure to comply with the one-year deadline for completing an EA or two-year deadline for completing an EIS. To the extent there is any existing deadline for a related authorization deadline, enforcement would rely on any independent statutory authority governing the underlying agency action. **(42 U.S.C. §4336a(g)(3))** • If there is no independent authority, the APA provides that a court may compel agency action "unlawfully withheld or unreasonably delayed." (**5 U.S.C. §706(1)**)
42 U.S.C. §4336a(h) Report	• Would modify the existing congressional reporting requirements in NEPA Section 107(h). • Would require the head of all lead agencies to submit annual reports to the CEQ Chairman by April 15 on specified information, including ◦ each environmental document that was not completed by the statutory deadlines in NEPA Section 107(g) including the agency component responsible, the expected completion; ◦ each environmental document that commenced before the enactment of the Fiscal Responsibility Act of 2023 (P.L. 118-5) and is not yet completed, with an explanation for the failure; ◦ details of the on-time completion rate of each key permitting agency with respect to the deadlines in NEPA Section 107(g); and	• NEPA Section 107(h) directs lead agencies to report annually to Congress on the EAs and EISs that missed the statutory deadlines in NEPA Section 107(g) and provide an explanation for the failure to meet deadlines. **(42 U.S.C. §4336a(h))** • NEPA Section 107(h)(2) requires those reports to include specified information, including ◦ the agency component responsible; ◦ the expected completion of the EA or EIS; and ◦ the dates on which (1) the lead agency notified the applicant that the "application to establish a right-of-way for the major federal action" was complete; (2) the lead agency began scoping; or (3) the lead agency issued the NOI to prepare the EA or EIS. **(42 U.S.C. §4336a(h)(2))**

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	• details of the progress of each key permitting agency in adhering to the deadlines in NEPA Section 107(g) as compared to the completion rate during the preceding year. • Would further require each federal agency's report, described above, to include • the agency component responsible; • the expected completion of the environmental document; and • the earlier of the dates on which (1) the lead agency determined that it would prepare an EA or an EIS; or (2) the lead agency notified the project sponsor that their application was complete. • Would require the Chairman of CEQ to compile the reports, recommend performance improvement of the federal agencies in adhering to the deadlines, and submit to Congress—Senate Committee on Environment and Public Works and the House Committee on Natural Resources—by June 15 each year.	
Section 1107. Programmatic Environmental Document		
Section 1107 Programmatic Environmental Document	Would amend NEPA Section 108 to extend the timeline for reliance on a programmatic environmental document—an EIS or EA analyzing all or some of the environmental effects of a policy, program, plan or group of related actions—from 5 years to 10 years.	NEPA Section 108 specifies that federal agencies may rely on a programmatic environmental document for which judicial review was available for five years, unless during that time there are "substantial new circumstances or information about the significance of adverse effects that bear on the analysis," and beyond five years so long as the agency reevaluates the analysis and the underlying assumptions to ensure that the analysis remains valid. **(42 U.S.C. §4336b)**
Section 1108. Use of Categorical Exclusions by Other Agencies		
Section 1108(a) Agency Notification to Council	Would amend NEPA Section 109 to require all federal agencies to notify CEQ of all CEs available—including those administratively created, established by Congress, or adopted—within 30 days of BAAJA's enactment. After the initial CE submission agencies would be required to notify CEQ within seven days whenever the agency creates a new CE, one is established for that agency by Congress, or the agency adopts another agency's CE.	While NEPA Section 109 generally authorizes an agency to adopt a CE listed in another agency's NEPA procedures, there is no comparable requirement to notify CEQ of any CEs.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
Section 1108(b) Record of CEs	Section 1108(b) would amend NEPA Section 109 to require CEQ to maintain an accurate and publicly available record of all CEs.	NEPA does not require CEQ to maintain a database of CEs. Agency CEs generally are included in each agency's NEPA procedures.
Section 1108(c) Adoption of CEs by Other Agencies	Section 1108(c) would amend NEPA Section 109 to expressly allow a federal agency to adopt a categorical exclusion of another federal agency listed in the categorical exclusion record maintained by CEQ established by NEPA Section 109(b), as amended by BAAJA and described above. Section 1108 also proposes to amend the existing list of adoption requirements to specify that the CE could be one that was established by Congress and that the agency must publicly document the adoption of the CE.	NEPA Section 109 authorizes an agency to adopt a CE listed in another agency's NEPA procedures, but it does not expressly address adoption of a CE established by Congress. **(42 U.S.C. §4336c)**
Section 1109. Applications for Authorizations		

Section 1109 Application for Authorizations—Application Sufficiency	• Would replace current NEPA Section 110—which required CEQ to conduct a study and report to Congress on developing a permitting portal—with a new Section 110 addressing applications for federal authorizations.
	• Would require that, unless a shorter deadline is established by another law, for a proposed agency action for which a project sponsor submitted an application for a federal authorization, the federal agency would have 60 days to
	  • document receipt of the application; and
	  • notify the sponsor that the application is complete or notify the project sponsor that it is incomplete and request, in writing, any additional information needed to determine that the application is complete.
	• Would provide that, after determining an application was complete, a federal agency would have 60 days to determine the level of review and to
	  • notify the project sponsor that the proposed agency action will not require preparation of an environmental document (i.e., it is not a major federal action or excluded pursuant to a CE);
	  • notify the project sponsor that the proposed agency action will require preparation of an EA; or
		NEPA does not establish a generally applicable deadline by which a federal agency must determine whether an application for an authorization is complete.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• issue an NOI to prepare an EIS. • Would specify that if the federal agency initially determines that the application was incomplete, the 60-day level of review determination starts on the date on which the federal agency receives the additional information from the project sponsor.	

Section 1109 Application for Authorizations—Additional Application Information	• Would require a project sponsor to provide three categories of information in addition to the information otherwise required for the authorization for any application requiring an EA or EIS:
	  • "a list of every known [f]ederal, [s]tate, Tribal, or local authorization required to complete the proposed agency action";
	  • "a record of stakeholder engagement for the proposed agency action as of the date of the application"; and
	  • "a brief description of a statement of purpose and need for the proposed agency action, including, to the extent practicable, the location of the project and any known alternatives."
	• BAAJA Section 1102(a) would separately define *record of stakeholder engagement* as "a document, not to exceed 20 pages, including any citations or appendices, detailing pre-application engagement of a project sponsor with local governmental, Tribal, and community entities relating to an authorization for a proposed agency action for which an environmental review is required," and describes certain inclusions.
	• BAAJA Section 1110 would separately specify that the completeness of the record of stakeholder engagement would not be reviewable.
		NEPA does not require similar application requirements across all federal authorization programs. Agencies may require a project sponsor to submit certain information through their individual permitting regulations, application forms, pre-application procedures, or NEPA guidance.

Section 1110. Judicial Review		
Section 1110 Judicial Review	BAAJA Section 1110 would govern legal challenges to an agency's compliance with an environmental review under NEPA and would apply to claims filed on or after enactment seeking judicial review "under any provision of Federal law of an authorization based on a claim that an environmental review failed to be properly conducted" pursuant to NEPA. Barring certain exceptions, would	Claims alleging noncompliance with NEPA's environmental review provisions are typically brought under the APA, which is generally unavailable if another statute provides for judicial review. Plaintiffs typically have up to six years to file an APA claim pursuant to 28 U.S.C. §2401. In NEPA cases brought under the APA, courts typically require that the agency was on notice of the concern if there was an opportunity to comment.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• prohibit legal challenges to an agency's compliance with NEPA environmental reviews, unless filed within 150 days of when the authorization was published in the *Federal Register*, if following preparation an EIS, or otherwise *made public* (as defined in BAAJA Section 1102); by plaintiffs who submitted comments (if a public comment opportunity was provided) with sufficient detail to put the agency on notice of the issue for which the plaintiffs seek judicial review; and alleging an "actual injury in fact amounting to a direct and immediate harm"; • provide that claims are filed directly in the federal courts of appeals and provide supplemental jurisdiction for "other claims related to the validity of the authorization at issue"; and • bar judicial review of claims regarding whether a final agency action complies with NEPA "for any omission from the list" described in the definition of *record of stakeholder engagement* detailing "pre-application engagement of a project sponsor with local governmental, Tribal, and community entities related to an authorization." In the event that a court were to find noncompliance with NEPA for claims covered under BAAJA Section 1110, this provision would generally require that the authorization remain in effect during remand, authorize the underlying project activity to proceed while NEPA violations were remedied, and require a court remanding the applicable authorization to provide specific instructions to correct errors or deficiencies and set a deadline for the agency to act on remand, not to exceed 180 days. Specifically, for covered claims, BAAJA Section 1110 would not allow courts to vacate the agency action and would also bar permanent injunctions in their entirety. BAAJA Section 1110 would allow a court to award a preliminary injunction only if (1) there is a substantial likelihood the authorization violates a Federal law other than NEPA or National Historic Preservation Act; (2) "necessary to prevent irreparable harm to the plaintiff"; (3) the balance of equities favors the plaintiff; and (4) "a preliminary injunction is in the public interest." In other words, the only remedy for a claim covered under this provision that identified only NEPA violations would be to send the matter back to the lead agency to address the violations, while the underlying project or action proceeds.	To have a case heard in court, plaintiffs must meet minimum *standing* requirements including demonstrating an injury in fact that is fairly traceable to the challenged action and that can be remedied by a court (see Lujan v. Defs. of Wildlife, 504 U.S. 555, 560 (1992)). To establish *injury in fact*, a plaintiff must allege concrete, particularized, and imminent or actual harm to a legally protected interest resulting from defendant's alleged conduct (see Spokeo, Inc. v. Robins, 578 U.S. 330, 340 (2016)). Procedural injuries such as NEPA violations can be sufficient to establish injury if a plaintiff shows a concrete interest affected by deprivation of a procedural right (see, e.g., Summers v. Earth Island Instit., 555 U.S. 488, 496 (2009)). Courts have recognized vacatur as the "ordinary" remedy under the APA for a NEPA violation. If a court determines an agency's action with respect to NEPA requires reconsideration or a potential change, it may order remand with or without vacatur, often based on the seriousness of the deficiencies and disruptive consequences if vacatur were ordered; (see Allied-Signal, Inc. v. U.S. Nuclear Regul. Comm'n, 988 F.2d 146, 150–51 (D.C. Cir. 1993)). A preliminary injunction (i.e., pre-trial order) is an "extraordinary remedy" that is "never awarded as a matter of right"; see Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7 (2009). To obtain a preliminary injunction, a plaintiff must show (1) a likelihood of irreparable harm in the absence of preliminary relief, (2) a likelihood of success on the merits, (3) that the balance of the equities tips in the plaintiff's favor, and (4) that an injunction is in the public interest (see *Winter*, 555 U.S. at 24). A plaintiff seeking a permanent injunction (i.e., post-judgment order) must demonstrate (1) irreparable injury; (2) that there are no other adequate remedies available (such as monetary damages) to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction (see Monsanto Co. v. Geertson Seed Farms, 561 U.S. 139, 156–57 (2010)).

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
		For NEPA cases, the duration of any vacatur or injunctive relief typically lasts as long as necessary to cure the NEPA violation.
Subtitle B—Council on Environmental Quality		
Section 1121. Council on Environmental Quality		
Section 1121(a) ENEPA Technologies—In General	Would strike current NEPA Section 209, which contains NEPA's general authorization of appropriations and replace it with new NEPA Section 209 that would detail requirements for establishing a government-wide eNEPA technology program.	NEPA Section 209 authorizes appropriations of up to $1 million annually to carry out NEPA but does not establish a permitting technology program. NEPA Section 110 separately directed CEQ to study electronic permitting technologies and a unified portal and report back to Congress. CEQ completed that study in 2024; the study provision in NEPA Section 110 does not itself require implementation of the report's recommendations. Agencies currently use varying case-management, public comment, geospatial, and document systems. The Permitting Council—as directed by FAST-41—maintains a separate Permitting Dashboard for covered projects.
42 U.S.C. §4347(a) Definitions	Would newly define four terms used throughout NEPA Section 209, as amended by BAAJA, including • *authorization data* to mean any relevant data for a federal agency to determine the effect of an action on the environment for which an authorization is required and whether to issue such authorization and any community input or public comment on such determinations; • *data architecture* to mean the design and organization of data systems, including frameworks for data storage, processing, and exchange; • *data standards* to mean agreed-on specification for data formats, structures, and definitions to ensure consistency and vendor neutral interoperablility; and • *minimum functional requirements* to mean the nine requirements specified in proposed Section 209(b)(2)(A)(ii), which includes several automated and digital tools for document and project management activities.	No comparable provision in NEPA; NEPA does not define these terms or establish a statutory vocabulary for environmental review and permitting technologies. CEQ's administratively established NEPA and Permitting Data and Technology Standard currently provides common terminology and data structures for agency systems, but that standard is not codified in NEPA.[d]

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
42 U.S.C. §4347(b) Establishment of Data Standards and Publication of Implementation Guidance	• Would require CEQ—in consultation with the Chief Information Officers (CIO) Council, Office of Management and Budget (OMB), and each key permitting agency—to develop, publish, and maintain data standards for the collection and curation of authorization data within 60 days of BAAJA's enactment. • Would require CEQ—within 120 days of BAAJA's enactment—to publish guidance for each federal agency responsible for environmental review or authorizations to implement the data standards and minimum functional requirements, including specified inclusions. Proposed Section 209(b)(2) describes the minimum functional requirements as ◦ application sharing data enabling automated transfer of environmental review and authorization data; ◦ automated project screening to assess project sponsor-provided information for completeness and accuracy and to determine whether a CE or other general authorization may apply to an action that is subject to specified restrictions on how the automated screening may be used; ◦ public availability of screening criteria and related decision models; ◦ automated case or project management tools; ◦ integrated geographic information system analysis tools; ◦ document management tools that preserve metadata associated with geospatial analysis and other analytic processes to enable artificial intelligence assisted analysis of past decisions; ◦ automated comment analysis tools; ◦ administrative record management tools; and ◦ common or interoperable federal agency services that integrate shared services, applications, and common user experiences for federal agency staff, project sponsors, and the public.	• No comparable provision in NEPA; NEPA does not require government-wide data standards for authorization data or specified technology functions. • NEPA Section 110 required CEQ to study the potential for online and digital technologies and report to Congress, with no requirement to establish operational requirements for agencies. **(42 U.S.C. §4336d)** • Some comparable requirements currently exist through executive branch policy. An April 2025 presidential memorandum[e] directed CEQ to, among other things, issue a Permitting Technology Action Plan that called for a data and technology standard and minimum functional requirements and directed specified permitting agencies to adopt and implement them. CEQ subsequently issued the 2025 Permitting Technology Action Plan.[f]

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
42 U.S.C. §4347(c) Agency Implementation	• Would require the head of each key permitting agency to compare its existing systems with the new standards, assess compliance, estimate implementation dates, and submit an implementation plan within 90 days of BAAJA's enactment. • Would require the head of each key permitting agency to implement the data standards and minimum functional requirements not later than 180 days after BAAJA's enactment. • Would require the CIO—in consultation with the CERPO—of each key permitting agency to submit a report not less than two times a year to CEQ and OMB on the agency's progress in meeting the requirements proposed in Section 209(c), as amended by BAAJA.	No comparable provision in NEPA; NEPA does not require government-wide implementation of data standards or minimum functional requirements. Some comparable requirements currently exist through executive branch policy. An April 2025 presidential memorandum[e] directed CEQ to, among other things, issue a Permitting Technology Action Plan that called for a data and technology standard and minimum functional requirements and directed specified permitting agencies to adopt and implement them. CEQ subsequently issued the 2025 Permitting Technology Action Plan.[f]

42 U.S.C. §4347(d) Development of eNEPA Technologies	• Would direct CEQ—in consultation with General Services Administration (GSA), the CIO Council, OMB, and each key permitting agency—to design, test, and build prototype tools for environmental reviews and authorizations and then develop and maintain an *ePermit unified interagency data system* consisting of interconnected agency systems for managing environmental reviews and authorizations that would
	  • serve as a platform for tracking and displaying real-time data on environmental reviews and authorizations;
	  • include a mechanism for dissemination of information to local communities;
	  • allow project sponsors to submit all required documentation;
	  • support agency exchange and collaborative review of documents;
	  • integrate geospatial data;
	  • automate submission and process timelines; and
	  • track specified metrics over time.
	• Would require that the portal be accessible to Congress, federal agencies, and the public to the extent practicable and consistent with other law.
		• No comparable provision in NEPA; NEPA does not require a single government-wide portal offering all the functions, metrics, and other requirements specified in this provision.
		• CEQ has established a Permitting Innovation Center[g] to, among other things, design and test prototype software systems. Agencies otherwise continue to use a combination of agency-specific applications or other project tracking systems. The FAST-41 Permitting Dashboard,[h] for example, publicly displays schedules and milestone information for covered projects, while individual agencies often maintain separate systems for applications, environmental documents, public comments, and authorization decisions.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• Would require that direct access be provided to Congress for aggregated performance information and certain data and configuration information associated with artificial intelligence support systems and training materials used to support environmental review or authorization activities. • Would require CEQ to oversee a shared services pilot within one year of BAAJA's enactment and, to the maximum extent practicable, develop and implement the ePermit unified interagency data system not later than December 1, 2028.	
42 U.S.C. §4347(e) Agency and Personnel Performance	• Would require CEQ to develop outcome-based performance measures to assess federal agency and personnel performance with respect to environmental reviews and authorizations and, in developing those measures, to consider how eNEPA technologies assist in the assessment of performance and opportunities for CEQ to use the funds established in BAAJA Section 1133(a) to facilitate higher performance with respect to environmental reviews and authorizations.[f]	• NEPA Section 107(h) requires the head of each lead agency to submit a report annually to the specified congressional committees regarding missed deadlines for environmental documents but does not establish government-wide performance measures for agencies or personnel or require CEQ to submit progress reports toward the unified interagency data system or assess agency performance. **(42 U.S.C. §4336a(h)** • FAST-41 directs the Permitting Council to develop recommended schedules for covered projects and issue best practice recommendations that may include performance metrics, but that framework applies principally to FAST-41 covered projects and does not establish the government-wide NEPA and personnel performance system contemplated by BAAJA Section 1121(a). **(42 U.S.C. §4370m-1)**
42 U.S.C. §4347(f) Authority to Enter Into Contracts	Would authorize CEQ to enter into contracts or other arrangements with federal agencies, private organizations, and businesses for analyses, service, and products, as necessary, to carry out the requirements of NEPA Section 209, as amended by BAAJA.	NEPA Section 203 authorizes CEQ to employ officers, employees, experts, consultants, and volunteers as necessary to carry out its functions; it does not contain the specific contracting language proposed by this provision. **(42 U.S.C. §4343)**
42 U.S.C. §4347(g) Annual Report	Would require the CEQ Chairman—in consultation with the CIO Council and other relevant federal agencies—to submit a report not less than annually to the Senate Committee on Environment and Public Works and the House Committee on Natural Resources that includes information on	No comparable provision in NEPA.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• the development progress of the ePermit unified interagency data system; and • the performance of each key permitting agency as compared to the previous year.	
42 U.S.C. §4347(h) Savings Provision	• Would add a new provision to NEPA stating that the eNEPA technologies sections do not authorize CEQ or a federal agency to impose regulatory processes or requirements beyond those expressly established by NEPA or another law. • Would also provide that the eNEPA technologies may not be limited by project type or have their use restricted by project type.	• No comparable provision in NEPA. • Existing federal technology initiatives operate subject to the agencies' underlying statutory authorities or through other executive branch administrative efforts (for example, the April 15, 2026, Presidential Memorandum, *Updating Permitting Technology for the 21st Century*, among other things, directed CEQ to issue a Permitting Technology Action Plan for modernizing permitting and environmental review process technology).[f]
Section 1121(a) Section 210 Authorization of Appropriations	Would move NEPA's Authorization of Appropriations from NEPA Section 209 to a new Section 210 "Authorization of Appropriations" to NEPA that would authorize $5 million each fiscal year to carry out NEPA.	NEPA Section 209 authorizes up to $1 million each fiscal year to carry out "the provisions of this Act." **(42 U.S.C. §4347)**
Section 1121(b) Technical Amendment	Would make a technical amendment to NEPA Section 202 to remove the text providing "Council" as the shorthand for CEQ without substantively changing any requirements.	NEPA Section 202 states that "[t]here is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the 'Council')." **(42 U.S.C. §4342)**
Subtitle C—Federal Permitting Improvement		
Section 1131. Definitions		
Section 1131 Definitions	BAAJA Section 1131 does not amend NEPA; rather, it creates its own stand-alone law that would incorporate some terms and definitions from NEPA and newly define terms used in Subtitle C, including • *applicable deadlines* to mean the deadline described in NEPA Section 107, as amended by BAAJA; • *applicable schedule* to mean the schedule established by the lead agency for completing any environmental review or authorization to carry out a proposed agency action under NEPA Section 107, as amended by BAAJA;	• No comparable provision in NEPA. • FAST-41 separately uses project-specific permitting timetables for covered projects and tracks agency compliance with those timetables on the Permitting Dashboard (42 U.S.C. §4370m-2). Its terminology and requirements apply within the FAST-41 framework rather than to NEPA reviews generally.

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	• *Tracker* to mean the Environmental Review and Permitting Tracker required under BAAJA Section 1132; and • *transparency project* to mean a proposed agency action requiring preparation of an EIS or a proposed agency action requiring an EA when the EA remains incomplete 13 months after the applicable one-year deadline established under proposed NEPA Section 107(g)(1)(A), as amended by BAAJA.	
Section 1132. Environmental Review and Permitting Tracker		
Section 1132 Environmental Review and Permitting Tracker	• Would require the CEQ Chairman—in coordination with GSA—to maintain an online database known as the "Environmental Review and Permitting Tracker" to monitor the status of federal environmental reviews and authorizations for each *transparency project* (as defined in BAAJA Section 1131). Environmental reviews associated with a federal agency's development of a rule under the APA would be explicitly excluded. The CEQ Chairman would be required to create an entry according to the following specified timelines: ◦ For all EISs, no later than 14 days after publication of the NOI to prepare an EIS in the *Federal Register.* ◦ For delayed EAs, no later than 13 months and 14 days after the applicable one-year EA deadline. • Would require CEQ to maintain and publish up-to-date data for specified information, including ◦ the project's location and major features; ◦ statement of purpose and need; ◦ contact information of the project sponsor and lead agency; and ◦ status of any directly related litigation. • Would require CEQ to provide quarterly updates on the status of compliance for each agency with respect to the applicable schedule and deadlines as well as any modifications thereto (with	• No comparable provision in NEPA. • Clean Air Act Section 309 (42 U.S.C. §7609) requires the Administrator of EPA to review and comment in writing on all EISs; EPA posts those comment letters and EISs in an EIS database.[i] FAST-41 requires the Permitting Council Executive Director to maintain the Permitting Dashboard, which tracks environmental reviews and authorizations for FAST-41 "covered projects" according to certain timing requirements and may include certain other projects when the Executive Director determines that a Dashboard entry would be "in the interest of transparency." **(42 U.S.C. §4370m-2(b))**

BAAJA Section and Provision[a]	BAAJA (S. 5653)	Current NEPA Requirements
	explanations of whether any delay is attributable to an agency or project sponsor).	
Section 1133. Permitting Improvement Fund		

Section 1133 Permitting Improvement Fund	• Would establish a "Permitting Improvement Fund" in the Treasury for the purpose of improving the performance of key permitting agencies in conducting timely environmental reviews and authorizations required under NEPA.
	• Would authorize annual appropriations of $20 million to the Fund for fiscal years 2027 through 2033.
	• Would authorize the CEQ Chairman to transfer amounts in the Fund to key permitting agencies for the following specified purposes:
	  • interagency details and employee rotations;
	  • professional development;
	  • additional support for agency project managers;
	  • standardization of processes among regional and field offices;
	  • improved opportunities for public engagement; or
	  • any other use that the CEQ Chairman determines is consistent with the Fund's purpose.
	• Would also specify that the use of the funds may not affect an agency's impartial decisionmaking concerning environmental review or authorizations, either procedurally or substantively.
		• NEPA does not establish a dedicated fund administered by CEQ for transfers to agencies to improve environmental review and permitting performance.
		• NEPA Section 209 contains a general annual authorization of up to $1 million to carry out the provisions of NEPA. **(42 U.S.C. §4347)**
		• FAST-41 establishes a separate Environmental Review Improvement Fund (ERIF), administered by the Permitting Council Executive Director, to transfer amounts to federal, state, tribal, and local governments to facilitate timely environmental reviews and authorizations for FAST-41 projects and certain other projects under that statute (42 U.S.C. §4370m-8). FAST-41 ERIF authorizes appropriated amounts to be placed in that fund and separately authorizes fee support.

Source: CRS.

a. This column specifies the relevant section number from BAAJA and, where needed to denote different portions of the bill within longer sections, identifies where in the *U.S. Code* specific provisions would be codified based on the *U.S. Code* citation included in the bill text. The *U.S. Code* citations, where provided, are denoted in italics.

b. For ease of comparison, this table groups the definitions amended by BAAJA Section 1102 into five analytical categories: (1) new terms, (2) terms currently defined in NEPA that BAAJA would remove, (3) terms currently defined in NEPA that BAAJA would retain with no or nonsubstantive changes, (4) terms currently defined in NEPA that BAAJA would retain with minor substantive changes; and (5) exclusions from the term "major federal action" that BAAJA would expand. These

categories do not appear in BAAJA. The table treats changes that could alter the term's meaning, scope, or application as substantive. Because BAAJA would add or modify 10 exclusions from "major federal action," the table addresses those exclusions separately from other substantive definitional changes.

c. Memorandum from Katherine R. Scarlett, Chairman, Council on Environmental Quality (CEQ), to heads of federal departments and agencies, "Establishing, Revising, Adopting, and Applying Categorical Exclusions Under the National Environmental Policy Act," April 9, 2026, p. 9, https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Categorical-Exclusion-Guidance-2026.pdfhttps://nepa.gov/node/227.

d. Council on Environmental Quality (CEQ), Permitting Innovation Center, "NEPA and Permitting Data and Technology Standard," October 30, 2026, https://permitting.innovation.gov/resources/data-standard/.

e. White House, "Updating Permitting Technology for the 21st Century," presidential memorandum of April 15, 2025, https://www.whitehouse.gov/presidential-actions/2025/04/updating-permitting-technology-for-the-21st-century/.

f. CEQ, *Permitting Technology Action Plan*, May 30, 2026, https://permitting.innovation.gov/CEQ_Permitting_Technology_Action_Plan.pdf.

g. CEQ, "About the Permitting Innovation Center," October 30, 2026, https://permitting.innovation.gov/about/.

h. Federal Permitting Improvement Steering Council, "Permitting Dashboard," October 30, 2026, https://www.permits.performance.gov/projects.

i. Environmental Protection Agency, "Environmental Impact Statement (EIS) Database," October 30, 2026, https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search/.

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