

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

---

IN THE SENATE OF THE UNITED STATES

---

Mr. CRUZ introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

---

**A BILL**

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Permitting  
5 Modernization Act of 2023”.

6 **SEC. 2. FEDERAL PERMITTING MODERNIZATION.**

7 (a) PERMITTING PROCESS IMPROVEMENT.—Section  
8 41003 of the FAST Act (42 U.S.C. 4370m–2) is amend-  
9 ed—

1 (1) in subsection (b)(4)(A), by striking “or (C)”  
2 and inserting “or (D)”; and

3 (2) in subsection (c)(2)—

4 (A) in subparagraph (A), by striking “sub-  
5 paragraph (C)” and inserting “subparagraph  
6 (D)”;

7 (B) by redesignating subparagraphs (B)  
8 through (G) as subparagraphs (C) through (H),  
9 respectively;

10 (C) by inserting after subparagraph (A)  
11 the following:

12 “(B) NOTICE OF INTENT AND SCOPING.—

13 “(i) IN GENERAL.—The permitting  
14 timetable under subparagraph (A) shall re-  
15 quire that not later than 5 business days  
16 after the Coordinated Project Plan is re-  
17 quired to be established under paragraph  
18 (1)(A), the lead agency shall publish in the  
19 Federal Register a notice of intent to pre-  
20 pare the relevant environmental document  
21 required by NEPA.

22 “(ii) ENVIRONMENTAL IMPACT STATE-  
23 MENTS.—If the relevant environmental  
24 document required by NEPA is an envi-  
25 ronmental impact statement, the notice of

1 intent required under clause (i) and the  
2 permitting timetable under subparagraph  
3 (A) shall provide for a public scoping pe-  
4 riod of not longer than 60 days, which  
5 shall begin not later than 30 days after the  
6 date on which the notice of intent is pub-  
7 lished.”;

8 (D) in clause (i)(IV) of subparagraph (E)  
9 (as so redesignated), by striking “subparagraph  
10 (B)” and inserting “subparagraph (C)”;

11 (E) in clause (i) of subparagraph (G) (as  
12 so redesignated), by striking “subparagraph  
13 (D)” and inserting “subparagraph (E)”;

14 (F) in clause (iii) of subparagraph (H) (as  
15 so redesignated), by striking “subparagraph  
16 (F)” and inserting “subparagraph (G)”.

17 (b) COORDINATION OF REQUIRED REVIEWS.—Sec-  
18 tion 41005 of the FAST Act (42 U.S.C. 4370m-4) is  
19 amended—

20 (1) by redesignating subsections (f) and (g) as  
21 subsections (g) and (h), respectively; and

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

24 “(f) FINAL ENVIRONMENTAL IMPACT STATEMENT.—





1                   “(ii) allow the project sponsor to re-  
2                   submit the draft detailed statement in ac-  
3                   cordance with subparagraph (B).

4                   “(D) SAVINGS PROVISION.—The proce-  
5                   dures under this paragraph shall not relieve any  
6                   agency of—

7                   “(i) any responsibilities for the scope,  
8                   objectivity, and content of an environ-  
9                   mental impact statement; or

10                   “(ii) any other responsibility under  
11                   NEPA.”.

12                   (c) PRELIMINARY INJUNCTIVE RELIEF IN NEPA AC-  
13                   TIONS.—Section 41007 of the FAST Act (42 U.S.C.  
14                   4370m–6) is amended—

15                   (1) by redesignating subsections (c) through (e)  
16                   as subsections (d) through (f), respectively;

17                   (2) in subsection (b), in the matter preceding  
18                   paragraph (1), by striking “In addition” and insert-  
19                   ing “Subject to subsection (c), in addition”; and

20                   (3) by inserting after subsection (b) the fol-  
21                   lowing:

22                   “(c) PRELIMINARY INJUNCTIVE RELIEF IN NEPA  
23                   ACTIONS.—In the case of an action pertaining to an envi-  
24                   ronmental review conducted under NEPA, a court shall  
25                   not issue a temporary restraining order or preliminary in-

1 junction against an agency or a project sponsor in connec-  
2 tion with the review or authorization of a covered project  
3 unless the court, in the discretion of the court, determines  
4 that—

5           “(1) the environmental review has failed sub-  
6           stantially and materially to comply with the require-  
7           ments of NEPA; and

8           “(2) the failure described in paragraph (1) can-  
9           not be cured by supplementing the environmental  
10          document or other mitigation and monitoring meas-  
11          ures.”.