



Full Responsibility and Expedited Enforcement (FREE) Act

Section-by-Section

Sec. 1 – Short Title

This Act may be cited as the 'Full Responsibility and Expedited Enforcement Act' or the 'FREE Act'.

Sec. 2 – Findings

Congress finds that the current federal permitting system often involves broad discretion, combined with a lack of time constraints, which results in a tedious, time-consuming, and expensive process. Permit by rule is proposed as a more efficient alternative, allowing for specific written standards and streamlined approval processes.

Sec. 3 – Permit by Rule

Agencies must evaluate their permits and report to Congress within 240 days, including a list of permits, requirements, review steps, and an assessment of whether permit by rule could replace the current system. Agencies must establish a permit by rule application process within 12 months, where applications are deemed granted if they meet all requirements and are not contested within 180 days. Agencies may contact applicants to correct missing certifications. Agencies may deny applications if requirements are not met and can audit for compliance. Agencies must report on the transition to permit by rule and its implementation. For permits identified within the agencies as those that could use a permit by rule, agencies shall issue a permit by rule.

Sec. 3 (b) – Establishment of Processes for Permitting by Rule

Not later than 12 months after the date on which the report to Congress is submitted for each type of permit issued by the agency for which permit by rule could in whole or in part replace the current system, the head of each agency shall establish by rule a permitting by rule application process that:

1. Specifies each substantive standard that must be certified by an applicant.
 2. Allows an applicant to file an application that contains only each required certification and any supporting documentation.
 3. Deems an application for a permit granted after 180 days if the agency has not otherwise approved or disapproved the application and if the application contains each certification.
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Sec. 3 (b)(2) – Correction of Application

The agency shall contact an applicant within 7 days after application submission if any required certification is missing.

Sec. 3 (b)(3) – Audit of Application

The head of an agency may audit a permit application and verify certifications of compliance and may include reasonable requests for documentation.

Sec. 3 (b)(4) – Disapproval of Application and Enforcement

An agency may only disapprove an application submitted for a permit under permit by rule if a requirement or substantive standard was not met by the application, informs the applicant of how to correct the application, provides a reasonable opportunity to make the correction before the final action of the agency, and states the facts and reasoning for the denial.

Sec. 3 (b)(4)(C) – Direct Appeal

An applicant whose application is disapproved, may appeal such disapproval, corrective action, suspension, or revocation in United States district court.

Sec. 3 (b)(4)(D) – Burden of Proof

In an appeal under subparagraph (C), the agency shall bear the burden of proof to show that an application was lawfully disapproved or that the agency lawfully required corrective action or suspended or revoked a permit.

Sec. 3 (b)(4)(E) – Attorney’s Fees

If the court finds that the agency was not substantially justified in disapproving, requiring corrective action under, suspending, or revoking a permit, the agency shall pay the attorney fees and costs of the applicant.

Sec. 3(c) – Congressional Oversight

No later than 2 years after the date on which the report is submitted, the head of each agency shall submit to Congress a report on the implementation of the permitting by rule.

Sec. 3 (d) – Concurrent Use of Previous Permitting System

If the agency determines that the current permitting system provides value that permitting by rule does not, but that permit by rule could in whole or in part replace the current system for issuing the type of permit, the agency may maintain both the current system and permit by rule, and the applicant may choose which system to use.



Sec. 3 (e) – GAO Reports

Not later than 90 days after the expiration of the deadline to submit the reports required under subsection (a), the GAO Comptroller General shall submit to Congress a report on the completeness and accuracy of the agencies' reports. 180 days after submission by the agencies' reports required under subsection (c), the Comptroller General shall submit to Congress a report on the implementation progress by agencies.

Sec. 3 (f) – Definitions

Provides definitions for terms used in the Act, including 'agency,' 'rule,' 'completed application,' 'permit by rule,' and 'substantive standard.'