



ClearPath Action: House Republicans' NEPA Reforms Make Clean Energy Innovation Possible

Washington, DC – Tuesday, September – Today, the House Select Committee on the Climate Crisis Ranking Member Garret Graves (R-LA) introduced a new House Republican regulatory reform bill, H.R. 8333, the Building U.S. Infrastructure through Limited Delays & Efficient Reviews (BUILDER) Act. The BUILDER Act will modernize the National Environmental Policy Act (NEPA) to improve project reviews and accelerate the scale-up of new clean energy technologies and critical infrastructure projects.

“We need more innovation and less regulation to set up a suite of moonshots for key clean innovation technologies we’ll need to decarbonize affordably and reliably. Policymakers should work towards a bipartisan climate solution based on the principle of more innovation and less regulation for clean technologies,” **said Rich Powell, Executive Director of ClearPath Action.** “First, we must innovate. Unnecessary regulatory hurdles needlessly slow down projects. Then, we must deploy technology to prove it at scale and bring down costs, and export the proven technology to new clean energy markets.”

Ranking Member Graves, House Republican Leader Kevin McCarthy (R-CA), and House Natural Resources Committee Republicans [released a summary](#) of the provisions included below:

- ***Statutory Clarity and Section 102(2)(C) of NEPA.*** Section 102(2)(C) contains NEPA’s principal requirements. The bill amends this section to clarify and narrow agency considerations to "reasonably foreseeable environmental impacts with a reasonably close causal relationship to the proposed action," "reasonably foreseeable adverse environmental effects," and "a reasonable number of alternatives to the proposed action that are technically and economically feasible, are within the jurisdiction of the agency, meet the purpose and need of the proposed action, and, where applicable, meet the goals of the applicant." These provisions align with and reinforce changes made in CEQ’s final rule, including the deletion of “Cumulative Impact” and clarifying the meaning of “Effects” (§1502.15,1502.16,1508.1 of CEQ’s final rule).
- ***Interagency Coordination and Streamlining.*** Under NEPA, unlike other environmental statutes, no individual agency has enforcement authority with regard to the Act’s requirements. The bill amends NEPA to add key elements of CEQ’s final rule (§ 1501.7 and §1501.8) and the One Federal Decision policy, including development by the lead agency of a joint schedule, procedures to elevate delays or disputes, preparation of a single EIS and joint ROD to the extent practicable, and a two-year goal for completion of environmental reviews.

- ***NEPA Thresholds and Levels of Review.*** Reinforcing CEQ’s final rule (§ 1501.1), section 106 of the bill amends NEPA adding threshold considerations for assessing whether NEPA applies to a proposed activity or is otherwise fulfilled through another statute with which an agency must comply. This recognizes that the application of NEPA by Congress and the courts has evolved over the last four decades in light of numerous other statutory requirements implemented by Federal agencies. The section also includes provisions facilitating adoption of categorical exclusions where the action is substantially the same as an action previously categorically excluded by another agency.
- ***Major Federal action.*** Amends NEPA to align with and reinforce CEQ’s revisions to the definition of major federal action (§ 1508.1), clarifying that NEPA is expressly limited to actions that are "subject to Federal control and responsibility," excluding nondiscretionary decisions made pursuant to an agency's statutory authority. The definition establishes a threshold consideration that is independent of the significance of the impacts that may follow from the action. The definition also includes examples of actions that are not “major Federal actions.”
- ***Scientific Accuracy and Modern Technology.*** Reinforcing § 1502.23 of CEQ’s rule, the bill includes provisions requiring agencies to make use of reliable existing data sources and clarifies that NEPA does not require undertaking new scientific and technical research to inform analyses.
- ***Recognition of the Sovereign Rights, Expertise of Tribes.*** CEQ adds “Tribal” to the phrase “State and local” throughout the final rule to ensure consultation with Tribal entities and to reflect existing NEPA practice to coordinate or consult with affected Tribal governments. The bill incorporates these changes with the addition of sections 107 and 109.
- ***Judicial Review.*** Sec. 108 of the bill requires those who have abused or weaponized NEPA in the past to have participated meaningfully in the NEPA process before filing suit and provides a reasonable timeline to file those lawsuits.

MEDIA CONTACT

Luke Bolar
 bolar@clearpathaction.org
 (202) 355-3677

ABOUT CLEARPATH ACTION

ClearPath Action’s vision is that America leads in affordably powering the world with reliable clean energy. ClearPath Action's mission is to develop and advance conservative policies that accelerate clean energy innovation. To advance that mission, ClearPath Action develops cutting-edge policy and collaborates with academics and industry. Learn more at clearpathaction.org. Follow us on Twitter: @ClearPathAction, @JayFaison1, @powellrich