



New Senate Permitting Bill to REPAIR Broken Judicial Review

Washington, DC – Tuesday, October 31, 2023 – ClearPath Action released the following statement endorsing the Revising and Enhancing Project Authorizations Impacted by Review (REPAIR) Act, introduced by Sen. Bill Cassidy, M.D. (R-LA). The REPAIR Act is co-sponsored by Sens. Steve Daines (R-MT), Jim Risch (R-ID), Cynthia Lummis (R-WY), Roger Marshall (R-KS) and Mike Crapo (R-ID).

“Too many clean energy projects experience delays of years, sometimes decades, largely because of a broken permitting system, and obstructive litigation practices,” said **Rich Powell, CEO of ClearPath Action**. “Senator Cassidy’s bill strikes the right balance – allowing legitimate judicial review while halting the never-ending cycle impeding America’s ability to deploy billions of dollars of capital to the energy projects our country desperately needs.”

The current system benefits those who seek to delay as opposed to those who seek to build. That dynamic may have made sense four decades ago when policymakers enacted laws focused on stopping bad outcomes. Today, this system is outdated. The pace and scale necessary to build clean energy infrastructure projects to reliably meet our energy demand and lower emissions is not something the authors of the 1970s environmental laws could have imagined.

“We thank Senator Cassidy for his ongoing leadership on the issue of permitting and reforming the regulatory system. The uncertainty of an adjudication system in both its time and scope is further hindering the ability of our nation to meet its net-zero goal by 2050,” added **Powell**.

Some of the key provisions of the REPAIR Act include:

- The bill moves the focus of lawsuits challenging federal environmental permits away from the National Environmental Policy Act (NEPA).
- Instead, the bill shifts the focus to the core of meeting the Clean Air Act, the Clean Water Act, the Endangered Species Act or any other natural resource protection, public health, and/or occupational safety laws.
- Requires lawsuits to be filed within 30 days to avoid prolonged delays before the courts can consider claims. There are too many instances of suits filed years after permits are issued by parties who seek to delay projects already approved.
- Eliminates the practice of “court shopping,” the practice where challengers select a district court they deem more favorable to their cause, by requiring claims to be filed in the federal district court in which the project is located or the district in which the largest financial investment for the project is made.

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- Creates a database of permit challenges not yet adjudicated within 90 days of filing.
- Sets and enforces timelines to address court-identified issues through a final remediation plan prepared by the Federal Permitting Improvement Steering Council (FPISC) and eliminates the ability to file a new suit based on the final FPISC remediation plan.

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About ClearPath Action

ClearPath Action 501(c)(4) advocates for more clean energy innovation, modernized permitting and regulatory reform, America's global competitiveness for manufacturing, and unlocking more American resources — solutions drawn from our friends at ClearPath. Learn more at clearpathaction.org. Follow us on Twitter: @ClearPathAction, @powellrich

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