

REDUCING AND ELIMINATING DUPLICATIVE
ENVIRONMENTAL REGULATIONS ACT

APRIL 9, 2026.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GUTHRIE, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 6398]

The Committee on Energy and Commerce, to whom was referred
the bill (H.R. 6398) to amend the Clean Air Act relating to review
by the Environmental Protection Agency of proposed legislation,
having considered the same, reports favorably thereon without
amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 6398 is to amend the Clean Air Act (CAA) Section 309 removing the duplicative requirement for the Environmental Protection Agency (EPA) to review and provide written comments on federal construction projects or other actions by a federal agency that are already subject to environmental review under the National Environmental Policy Act (NEPA).

BACKGROUND AND NEED FOR LEGISLATION

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

In 1969, Congress passed the National Environmental Policy Act (NEPA) which established a “national policy [to] encourage productive and enjoyable harmony between man and his environment,” with the goal of reducing environmental impacts to promote “the understanding of the ecological systems and natural resources important to” the United States.¹ “NEPA itself does not mandate particular results” in order to accomplish these ends.² Instead, NEPA sets forth procedural requirements for federal agencies to ensure they consider the environmental effects of proposed actions before making a decision.³

NEPA established the Council on Environmental Quality (CEQ) to advise presidents on environmental policy, issue federal regulations interpreting NEPA, assist Federal agencies in their implementation of NEPA, and oversee the implementation of other environmental initiatives.⁴

Prior to 2023, NEPA directed federal agencies to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, an environmental impact statement (EIS) that included: (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.⁵

At the time, CEQ regulations allowed an agency to prepare a more limited document, an Environmental Assessment (EA) to determine whether the action is “major” and whether it will “significantly affect” the environment.⁶ Prior to the 2023 amendments “major action” was defined to “include actions with effects that may be major and which are potentially subject to Federal control and responsibility.”⁷ Effects was defined as include: (a) direct effects, which are caused by the action and occur at the same time and place,” and “(b) indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still rea-

¹*Department of Transportation v. Public Citizen*, 541 U.S. 752, 756, 124 S. Ct. 2204, 159 L. Ed. 2d 60 (2004) (quoting 42 U.S.C. § 4321).

²*Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).

³42 U.S.C. § 4332(c).

⁴See 40 CFR § 1500.3 (2003).

⁵42 U.S.C. § 4332(2)(C). § 102(2)(C), 83 Stat. 853, as amended, 42 U.S.C. § 4332(2)(C) (2018).

⁶40 C.F.R. § 1501.3.

⁷40 CFR § 1508.18 (2003).

sonably foreseeable.”⁸ The EA led the agency to issue a “finding of no significant impact” (FONSI), or an EIS.⁹

In June of 2023, NEPA was amended by the Fiscal Responsibility Act of 2023 (FRA). The FRA limited the scope of major Federal action and the scope of the EIS. The FRA further curtailed NEPA’s requirements by creating page and time limits for EAs and EISs.

NEPA, as amended by the FRA, requires action agencies to prepare an EIS for proposed “major Federal actions significantly affecting the quality of the human environment.”¹⁰ The EIS requirements were narrowed to require the agency to address: (1) the reasonably foreseeable environmental effects of the proposed agency action; (2) any reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented; (3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal; (4) the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action should it be implemented.¹¹

On January 20, 2025, President Trump issued E.O. 14154, Unleashing American Energy.¹² The E.O. revoked E.O. 11991, Relating to protection and enhancement of environmental quality, which directed CEQ to issue regulations implementing NEPA and required Federal agencies to comply with those regulations.¹³ E.O. 14154 also directed CEQ to provide guidance on implementing NEPA and proposed rescinding CEQ’s NEPA regulations.¹⁴ CEQ issued an interim final rule rescinding CEQ’s NEPA implementing regulations on February 25, 2025, effective April 11, 2025.¹⁵

On January 8, 2026, CEQ issued a final rule adopting the interim final rule that repealed CEQ’s existing NEPA implementation regulations.¹⁶

SECTION 309

Section 309 of the Clean Air Act (CAA) provides for the review of the action agency’s EIS statements and for EPA referrals to CEQ. A year after NEPA passed in 1970, Congress added Section 309 of the CAA. Section 309 directs EPA to review and comment on the adequacy of environmental impact analysis on any: “(1) legislation proposed by a Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal action (other than a project for construction) to which section [102(2)(C)] applies, and (3) proposed regulations published by any

⁸ § 1508.8.

⁹ See 40 C.F.R. § 1502.4.

¹⁰ 42 U.S.C. 4332(2)(C); *Seven County*, 145 S. Ct. 1507.

¹¹ 42 U.S.C. 4332(2)(C).

¹² 90 FR 8353 (Jan. 29, 2025) (“E.O. 14154”).

¹³ Exec. Order No. 14,154, 90 Fed. Reg. 8353 (Jan. 20, 2025).

¹⁴ *Id.* at sec 5(a). The guidance and any resulting agency implementing regulations must “expedite permitting approvals and meet deadlines established in the [FRA].” *Id.* at sec 5(c).

¹⁵ 90 FR 10, 610 (Feb. 25, 2025).

¹⁶ See *Removal of National Environmental Policy Act Implementing Regulations* (Jan 8, 2026) and *Removal of National Environmental Policy Act Implementing Regulations* (Feb. 25, 2025).

department or agency of the Federal Government.”¹⁷ Section 309 also directs EPA to refer the matter to the CEQ if the action agency does not adequately respond to EPA’s comments in the final EIS.¹⁸ In the thirty years since Congress passed Section 309 of the CAA, action agencies developed their own specialists and expertise preparing EISs.

SEVEN COUNTY

On May 29, 2025, the U.S. Supreme Court issued *Seven County Infrastructure Coalition v. Eagle County, Colorado*. In the decision, the Court was highly critical of the transformation of NEPA from “a modest procedural requirement,” to a “substantive roadblock” that paralyzed agency decisionmaking.¹⁹ The Court held that NEPA is fundamentally a procedural statute designed to facilitate decision making of the action agency: “NEPA is a purely procedural statute that, as relevant here, simply requires an agency to prepare an EIS—in essence, a report. Importantly, NEPA does not require the agency to weigh environmental consequences in any particular way.”²⁰

Seven County gives the action agency wide discretion when preparing and considering the EIS report as part of the NEPA process. The Court recognized that action agencies are best suited to answer questions such as: “what are the likely impacts” of the project or proposed action; do they rise to the level of significant? and “what are potential alternatives”; are they really feasible?”²¹ The Court held that on those questions the action agency “must have broad latitude to draw a ‘manageable line.’”²² Therefore, courts “should afford substantial deference and should not micromanage those agency choices so long as they fall within the broad zone of reasonableness.”²³ The underlying conclusion, central to the opinion, was that action agencies are not only fully equipped, but also best equipped to evaluate the environmental impacts of a proposed action. The Court’s discussion of the action agency’s ability to address environmental effects from a proposed action illustrates how EPA’s input under Section 309 is no longer necessary or instructive.

Moreover, EPA’s input under 309 traditionally exceeds the scope of NEPA as defined in *Seven County*. EPA has often used its 309 authority to urge agencies to consider upstream and downstream emissions. Historically, EPA has requested that action agencies include life-cycle greenhouse gas emissions analysis, including analysis of indirect greenhouse gas effects. Requests for action agencies to consider these types of emissions are no longer properly considered as part of NEPA, as the Court held in *Seven County*.²⁴

H.R. 6398’s amendment of Section 309 of the CAA is necessary to prevent a duplicative and unnecessary secondary review of an action agency’s EIS by EPA. In the years since Section 309 was originally enacted agencies have developed substantial expertise

¹⁷ 42 U.S.C. § 7609.

¹⁸ 42 U.S.C. § 7609.

¹⁹ 145 S. Ct. 1497 (2025).

²⁰ *Id.* at 1513.

²¹ *Id.*

²² *Id.* (citation omitted).

²³ *Id.* at 12.

²⁴ 145 S. Ct. 1497 (2025).

preparing EIS statements and weighing environmental impacts in their decision-making process, as supported by the recent *Seven County* decision.

COMMITTEE ACTION

On September 16, 2025 the Subcommittee on Environment held a hearing on H.R. 6398. The Subcommittee received testimony from:

- Clint Woods, Commissioner, Indiana Department of Environmental Management;
- Mark Gebbia, Vice President, Environmental and Permitting, Williams;
- Ashley Kunz, Senior Director, Environmental Health and Safety, Micron;
- Danny Seiden, President and CEO, Arizona Chamber of Commerce and Industry;
- Kerri Powell, Senior Attorney for Community Health and Air Program Leader, Southern Environmental Law Center;
- Ali Mirzakhali, Air Quality Division Administrator, Oregon Department of Environmental Quality.

On December 10, 2025, the Subcommittee on Environment met in open markup session and forwarded H.R. 6398, without amendment, to the full Committee by a record vote of 12 yeas and 10 nays. On January 21, 2026, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 6398, without amendment, favorably reported to the house by a recorded vote of 23 yeas and 22 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
119TH CONGRESS
ROLL CALL VOTE # 16**

BILL: H.R. 6398, RED Tape Act

AMENDMENT: Final Passage

DISPOSITION: Agreed to, by a roll call vote of 23 ayes and 22 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Guthrie	X			Mr. Pallone		X	
Mr. Latta	X			Ms. DeGette		X	
Mr. Griffith	X			Ms. Schakowsky		X	
Mr. Bilirakis	X			Ms. Matsui		X	
Mr. Hudson	X			Ms. Castor		X	
Mr. Carter (GA)	X			Mr. Tonko		X	
Mr. Palmer				Ms. Clarke		X	
Mr. Dunn	X			Mr. Ruiz		X	
Mr. Crenshaw	X			Mr. Peters		X	
Mr. Joyce	X			Mrs. Dingell		X	
Mr. Weber	X			Mr. Veasey			
Mr. Allen	X			Ms. Kelly			
Mr. Balderson	X			Ms. Barragán		X	
Mr. Fulcher	X			Mr. Soto		X	
Mr. Pfluger	X			Ms. Schrier		X	
Mrs. Harshbarger	X			Ms. Trahan		X	
Mrs. Miller-Meeks				Ms. Fletcher		X	
Mrs. Cammack	X			Ms. Ocasio-Cortez		X	
Mr. Obernolte	X			Mr. Auchincloss		X	
Mr. James	X			Mr. Carter (LA)		X	
Mr. Bentz	X			Mr. Menendez		X	
Mrs. Houchin				Mr. Mullin		X	
Mr. Fry				Mr. Landsman		X	
Ms. Lee				Ms. McClellan		X	
Mr. Langworthy							
Mr. Kean	X						
Mr. Rulli							
Mr. Evans	X						
Mr. Goldman	X						
Mrs. Fedorchak	X						

01/21/2026

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held (a) hearing(s) and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY,
AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 6398 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to remove the requirement for the Environmental Protection Agency (EPA) to conduct a duplicative NEPA review under Section 309 of the Clean Air Act (CAA).

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 6398 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 6398:

On June 11, 2025, the Subcommittee on Environment held a hearing on H.R. 6398. The title of the hearing was “Short-Circuiting Progress: How the Clean Air Act Impacts Building Necessary Infrastructure and Onshoring American Innovation.” The Subcommittee received testimony from:

- James W. Boylan, Chief, Air Protection Branch, Georgia Environmental Protection Division;
- Chad Whiteman, Vice President, Environment and Regulatory Affairs, U.S. Chamber of Commerce;
- Paul Noe, Vice President, Public Policy, American Forest & Paper Association;
- John Walke, Director, Federal Clean Air & Senior Attorney, National Resources Defense Council.

On September 16, 2025 the Subcommittee on Environment held a hearing on H.R. 6398. The title of the hearing was “From Gridlock to Growth: Permitting Reform Under the Clean Air Act.” The Subcommittee received testimony from:

- Clint Woods, Commissioner, Indiana Department of Environmental Management;
- Mark Gebbia, Vice President, Environmental and Permitting, Williams;
- Ashley Kunz, Senior Director, Environmental Health and Safety, Micron;
- Danny Seiden, President and CEO, Arizona Chamber of Commerce and Industry;
- John Walke, Director, Federal Clean Air & Senior Attorney, National Resources Defense Council;
- Kerri Powell, Senior Attorney for Community Health and Air Program Leader, Southern Environmental Law Center;
- Ali Mirzakhali, Air Quality Division Administrator, Oregon Department of Environmental Quality.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

earmark, limited tax benefits, and limited tariff benefits

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 6398 contains no earmarks, limited tax benefits or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 of H.R. 6398 contains the short title of the legislation: “Reducing and Eliminating Duplicative Environmental Regulations Act” or the “RED Tape Act.”

Section 2. Policy review

Section 2 of H.R. 6398 contains three parts:

First, the section strikes the requirement contained in the Clean Air Act section 309, under which EPA must review and comment in writing on other agencies’ environmental impact statements for

newly authorized Federal projects for construction and any major Federal agency action to which 4332(2)(c) applies.

Second, the section eliminates the requirement contained in the Clean Air Act Section 309 for EPA to assess and provide feedback on other agencies' environmental impact statements for proposed regulations published by a federal department or agency.

Third, the section makes conforming changes that remove the requirement for the EPA Administrator to refer agency action or proposed regulations to the Council on Environmental Quality.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CLEAN AIR ACT

* * * * *

TITLE III—GENERAL

* * * * *

POLICY REVIEW

SEC. 309. (a) The Administrator shall review [and comment in writing], *and comment in writing*, on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the [Administrator,] *Administrator* contained in any [(1)] legislation proposed by any Federal department or agency[, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(C) of Public Law 91–190 applies, and (3) proposed regulations published by any department or agency of the Federal Government]. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation[, action, or regulation] is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

* * * * *

MINORITY VIEWS

We oppose H.R. 6398, the “Reducing and Eliminating Duplicative Environmental Regulations Act,” which allows major federal projects to be approved without consultation of the Environmental Protection Agency (EPA) and therefore without consideration of public health and safety.

BACKGROUND

Section 309 of the Clean Air Act (CAA) authorizes EPA to review and provide written comment on federal construction projects or other major federal actions in accordance with the National Environmental Policy Act (NEPA). Section 309 gives EPA unique and specific authorities to comment in writing, to make those comments publicly available, and to refer an Environmental Impact Statement (EIS) to the Council on Environmental Quality (CEQ) should the Agency determine that an EIS is unsatisfactory from the standpoint of public health or welfare, or environmental quality. This ability is important because the EPA has specific expertise as a public health agency and offers critical guidance and foresight into potential public health hazards and risks for major federal projects.

Proponents of this bill claim Section 309 is duplicative of NEPA. The majority’s report notes that NEPA already requires inter-agency review of projects. Even if you accept this argument, it is contradicted by the Trump Administration’s multiple steps to roll back NEPA reviews and its regulations, as confirmed by the majority’s report.¹ CAA Section 309 cannot be duplicative of something that no longer exists. Therefore, this specific provision in the CAA is both unique and critical for ensuring that the public health and environmental impacts of a project are specifically considered during NEPA reviews, with statutory language to support it.

SUMMARY OF H.R. 6398

Section 2 amends Section 309 of the CAA to eliminate the requirement for EPA to review and provide written comments on major federal construction projects or actions. The bill only preserves the EPA’s Section 309 authority to produce an impact assessment for legislation.

CONCLUSION

EPA’s expertise in protecting the air we breathe, the water we drink, and the land we live on, should not be sidelined. This bill is yet another attempt to weaken EPA and NEPA, weaken agency expertise, and eliminate due diligence at the expense of public health and safety.

¹ House Committee on Energy and Commerce, *H.R. 6398, Reducing and Eliminating Duplicative Environmental Regulations Act Majority Report* (accessed Feb. 26, 2026).

For the reasons stated above, we dissent from the views contained in the Committee's report.

FRANK PALLONE, Jr.,
Ranking Member.

