

H.R. 6398, REDUCING AND ELIMINATING DUPLICATIVE ENVIRONMENTAL REGULATIONS ACT (RED TAPE) ACT

Topline:

Under current law, when a Department or Agency prepares an environmental impact statement (EIS), the Environmental Protection Agency (EPA) is required to review and publicly comment on the environmental impacts of other federal agencies' projects and regulations, even when the EPA has participated in the initial environmental review and development of the EIS. This duplicative process adds costly, redundant, and unnecessary layers of bureaucracy which slows down environmental reviews and project development, hurting American families and businesses.

Background:

The RED Tape Act removes the duplicative requirement in Section 309 of the Clean Air Act (CAA) that directs the EPA to assess and provide feedback on EISs prepared by other agencies under the National Environmental Policy Act (NEPA) for federal construction projects, significant federal actions, and proposed regulations.

In the decades since NEPA and this obscure CAA provision were enacted, federal agencies responsible for preparing EIS have developed considerable expertise assessing the impacts of their actions under NEPA. The EPA is often already involved in the NEPA review process as a cooperating agency, making the secondary review under section 309 unnecessary, duplicative, and inefficient.

In its 2025 decision in *Seven County Infrastructure Coalition vs. Eagle County, Colorado*, the Supreme Court ruled that upstream and downstream impacts of a federal action fall outside the scope of an EIS under NEPA. In light of this decision, EPA's separate review and comment on broader environmental impacts of proposed federal action are no longer appropriate.

Charge: This bill undercuts the environmental review of federal projects and removes EPA's expertise relating to environmental impacts from the NEPA review process.

Response: In the thirty years since Congress passed Section 309 of the CAA, action agencies have developed their own specialists and expertise preparing EISs.

- In a recent landmark Supreme Court decision, *Seven County*, the Court held that action agencies are best equipped to evaluate the environmental impacts of a proposed action and that EPA's separate input under Section 309 is no longer necessary.
- In the decades since Section 309 was originally enacted agencies have developed substantial expertise preparing EISs and weighing environmental impacts in their decision-making process.
- A repeal of Section 309 does not impact an agency's ability to seek input from EPA during the EIS process.

The Bottom Line:

Duplicative reviews don't improve outcomes. They delay projects, increase costs, and put jobs at risk. The RED Tape Act eliminates EPA's redundant and burdensome review requirement strengthening job creation and economic growth, while preserving the role of action agencies to carry out environmental impact analysis.

