

THE ENERGY, CLIMATE, & CONSERVATION TASK FORCE

Member Lead: Rep. Garret Graves (R-LA)

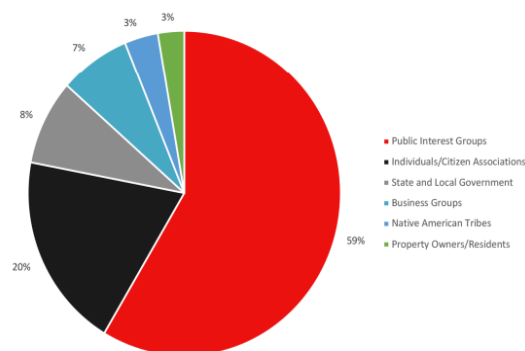
LET AMERICA BUILD

Policies that make American resources less competitive in the global market through punitive taxes, ill-advised regulations, or the federal government picking winners and losers will result in higher global emissions and a greater economic burden on American families. Successful policies reduce costs for Americans while helping to lower global emissions, but do not reduce energy choices. In order to achieve this, we need to remove regulatory and permitting obstacles to the U.S. producing energy and deploying innovative technologies. Inefficient permitting reduces the value of the dollar invested, hurts U.S. competitiveness and security, and significantly reduces cumulative emissions reductions. Successful policies – like House Republicans’ bills to reform and streamline permitting, reduce litigation, and focus environmental reviews – will help reduce costs for Americans by speeding the development of more energy resources and innovation here at home while helping to lower global emissions.

TOPLINE FACTS:

- According to the Department of Justice, the National Environmental Policy Act (NEPA) is the most litigated environmental statute.¹
- In 2018, the Council on Environmental Quality (CEQ) released a report detailing the length of time required for federal agencies to complete the environmental impact statements (EISs) under NEPA.² On average, federal agencies took four and a half years to complete an EIS – with some reviews taking more than six years to complete.³ Additionally, CEQ found final EISs were on average more than 600 pages,⁴ vastly exceeding CEQ’s recommended 150-page limit.⁵
- The complexity of the regulations has given rise to CEQ’s issuance of more than 30 guidance documents to assist Federal agencies in understanding and complying with NEPA.⁶
- NEPA compliance imposes a time and cost burden, with NEPA analysis adding an estimated average of \$4.2 million to project costs.⁷
- Compliance with vague or overly broad regulation, like the Biden Administration’s efforts to expand Waters of the United States (WOTUS), has a direct impact on the cost of housing. 25% of the cost of a new home is driven by government regulations.⁸
- The Biden Administration’s proposed WOTUS actions would harm America’s farmers, builders, manufacturers, and other small and large business owners that make up 85% of the economy and rely on clean water to make a living. Currently, they go above and beyond numerous federal and state regulations to protect our environment, but more regulatory clarity would allow them to operate with confidence and without fear of harsh financial penalties.⁹
- The U.S. is home to a 2.8-million-mile network of pipelines that transports energy across the country, including oil, natural gas, jet fuel, petrochemical stocks, carbon dioxide, and more.¹⁰
- Pipelines are considered one of the safest, most efficient, and environmentally friendly modes of transportation for energy.¹¹ Pipelines have a robust regulatory framework and a continuously improving safety record.¹² Despite this fact, the Biden Administration blocked the construction of the Keystone XL pipeline, while environmental litigation has delayed or canceled the construction of key pipelines around the country.¹³ Meanwhile, the Administration green-lit the Nord Stream 2 pipeline to deliver Russian natural gas to Europe.¹⁴

NEPA LITIGATIONS BY PLAINTIFF TYPE 2001-2013



Source: R Street estimates based on NEPA litigation surveys 2001-2013.
https://www.rstreet.org/wp-content/uploads/2021/07/FINAL_RSTREET234.pdf

¹ <https://crsreports.congress.gov/product/pdf/IF/IF11932#:~:text=According%20to%20the%20U.S.%20Department,frequently%20litigated%20federal%20environmental%20statute>

² https://ceq.doe.gov/docs/nepa-practice/CEQ_EIS_Timelines_Report_2018-12-14.pdf

³ *Ibid.*

⁴ <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/01/20200716Final-NEPAPress-Release.pdf>

⁵ <https://www.forbes.com/sites/judeclemente/2020/07/09/make-america-build-again-reform-nepa-now/?sh=4a6e8fd3e2c>

⁶ <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/01/20200716Final-NEPAPress-Release.pdf>

⁷ <https://www.c3solutions.org/policy-paper/nepa-modernization-101/>

⁸ <https://watersadvocacy.org/>

⁹ <https://watersadvocacy.org/>

¹⁰ <https://www.phmsa.dot.gov/faqs/general-pipeline-faqs>

¹¹ <https://primis.phmsa.dot.gov/comm/SafetyStandards.htm>

¹² <https://www.api.org/news-policy-and-issues/news/2021/06/17/2020-pipeline-safety-excellence-report>

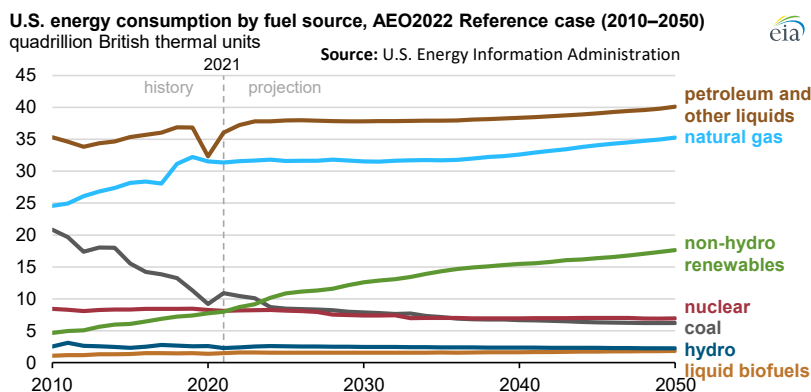
¹³ <https://www.seattletimes.com/nation-world/demise-of-gas-project-shows-u-s-pipelines-becoming-unbuildable/>

¹⁴ <https://www.reuters.com/business/energy/us-waive-sanctions-firm-ceo-behind-russias-nord-stream-2-pipeline-source-2021-05-19/>

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- The lack of pipeline infrastructure has resulted in certain areas of the country having limited energy resources to heat homes and supply energy to their populations.¹⁵
- The Energy Information Administration (EIA) expects that U.S. energy consumption, driven by economic growth, will grow through 2050¹⁶ and global energy demand to increase close to 50%.¹⁷
- The planning and construction of a new bulk transmission project can take an estimated average of 13 years.¹⁸
- According to Bureau of Ocean Energy Management guidelines, the Construction and Operations phase for offshore wind can take up to two years to obtain approval, but the review process can take much longer.¹⁹
- Onshore oil and gas production takes an average of three to four years from leasing to actual production, and offshore leases take up to 10 years or more.²⁰
- Permitting slowed to a near halt at the beginning of this year despite the Biden Administration's misleading claim that there are 9,000 approved but "unused" permits,²¹ known as Applications for Permits to Drill (APDs).
- The Biden administration is currently sitting on over 4,400 pending APDs,²² which must be approved so American workers can produce more energy at home to lessen our dependence on foreign oil.
- It takes about ten years to secure a mine permit in the U.S.; Australia and Canada have similar environmental standards and practices, and it takes between two and three years.²³
- Despite being resource-rich as a nation, permitting delays continue to be the most significant risk to mining projects in the United States.²⁴
- The Nuclear Regulatory Commission (NRC) issues license applications for new reactors in various stages of review – the NRC application review process can take up to five years to complete and another five or more years for the construction of a nuclear power plant.²⁵ But this represents only a fraction of the time to design, develop, conduct pre-licensing discussions, and eventually deploy a new reactor.
- For example, the only two new nuclear reactors currently being built in the U.S. were approved by the NRC in 2012 and were expected to begin operating in 2016 and 2017,²⁶ but they are now expected to go online in 2023 at the earliest.²⁷



DEMOCRATS SET TARGETS – REPUBLICANS ACHIEVE RESULTS

- Time after time, we see conservative principles reduce carbon emissions, generate economic growth, and reduce energy costs - in contrast to the Democrats' top-down, centralized approach to these issues.
- For example, during the Obama Administration, Democrats sought to impose a cap-and-trade policy with the hopes of reducing carbon emissions through a bill known as Waxman-Markey. Although that bill passed the House and died in the Senate, the U.S. reduced emissions²⁸ more than projections under the bill while lowering costs for American families (instead of increasing costs as would have happened under Waxman-Markey).

¹⁵ https://www.washingtonpost.com/business/economy/tanker-carrying-liquefied-natural-gas-from-russias-arctic-arrives-in-boston/2018/01/28/08d3894c-0497-11e8-8777-2a059f168dd2_story.html;
<https://www.eia.gov/todayinenergy/detail.php?id=51158>.

¹⁶ [https://www.eia.gov/pressroom/releases/press496.php#:~:text=EIA%20projects%20U.S.%20energy%20consumption,Energy%20Information%20Administration%20\(EIA\).](https://www.eia.gov/pressroom/releases/press496.php#:~:text=EIA%20projects%20U.S.%20energy%20consumption,Energy%20Information%20Administration%20(EIA).)

¹⁷ <https://www.eia.gov/todayinenergy/detail.php?id=49876#>

¹⁸ <https://www.tanc.us/news-article/how-long-does-it-take-to-permit-and-build-transmission-to-meet-california-policy-goals/#:~:text=Based%20on%20those%20four%20projects,and%20land%20acquisition%20processes%20being>

¹⁹ <https://www.rpsgroup.com/insights/energy/us-offshore-wind-permitting-the-sap-the-cop-and-the-regulatory-process-in-between/#:~:text=According%20to%20BOEM%20guidelines%2C%20the,process%20can%20take%20much%20longer.>

²⁰ https://www.quorum.us/outbox/view_in_browser/226237-P-1150925-GH45TCAILDYEUT196T60UJXG05I35P9/

²¹ <https://www.wral.com/fact-check-biden-says-oil-industry-has-9-000-permits-to-drill-now/20190764/>

²² <https://www.blm.gov/sites/blm.gov/files/docs/2022-06/FY%202022%20APD%20Status%20Report%20May.pdf>

²³ <https://www.govinfo.gov/content/pkg/CHRG-115shrg24976/html/CHRG-115shrg24976.htm>

²⁴ <https://nma.org/wp-content/uploads/2021/06/Final-Minerals-Mining-Secure-Supply-Chains-and-Economic-Recovery-061021.pdf>

²⁵ <https://www.eia.gov/energyexplained/nuclear/us-nuclear-industry.php>

²⁶ https://www.legistorm.com/stormfeed/view_rss/7315/office/1202/title/upton-hails-approval-to-construct-the-first-two-new-nuclear-reactors-in-30-years.html

²⁷ <https://www.bloomberg.com/news/articles/2022-02-17/southern-s-vogtle-nuclear-project-delayed-up-to-six-months>

²⁸ <http://www.globalcarbonatlas.org/en/CO2-emissions>

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- Similarly, the Obama EPA attempted to institute strict, burdensome regulatory requirements on power plants through their Clean Power Plan (CPP), which was stayed by the Supreme Court. Under President Trump, the EPA withdrew that rule, but the U.S. not only achieved the emission reduction targets sought by the EPA, we did so a decade sooner.²⁹

RENEWABLE ENERGY, PERMITTING, AND SUPPLY CHAIN VULNERABILITIES

- The rapid growth of renewable energy will impose great burdens on United States' supply chains, particularly those for critical minerals.³⁰ Policies that exacerbate these vulnerabilities will make us more reliant on China and Russia.³¹
- The Center for Strategic and International Studies (CSIS) has noted that “the United States lacks strategies for responsibly mining these materials at home, for developing sustainable supply chains for their incorporation into the clean energy economy, and for leading through example and cooperation with other nations that seek to mine and develop these resources in safe, environmentally responsible, and socially inclusive ways.”³²
- Without ensuring a robust domestic supply chain of critical minerals and a more efficient permitting process, the growth of renewables and EVs will increase our reliance on foreign adversaries, threaten our national security, and ultimately increase global emissions.³³

FEDERAL UNCERTAINTY NEGATIVELY IMPACTS AMERICANS: A Case Study

- TransCanada (TC) Energy applied for a Presidential Permit from the State Department **in 2008** for its proposed 875 miles-long pipeline that would travel from the oil sands in Alberta to various Gulf Coast refineries.
- The initial permit was denied in 2008 due to lack of information and a new application was submitted in 2012.³⁴
- After a modified route and new NEPA application and National Interest Determination process, the Obama Administration ultimately rejected the project again in 2015.³⁵
- The Trump Administration reversed the decision in early 2017 on the pipeline proposal that would transport up to 830,000 barrels a day.³⁶
- Delays due to a newly proposed Nebraskan route and TC Energy's concern regarding potential customers delayed construction.³⁷ Further disputes within western states and the State Department kept construction at bay until President Biden rescinded the permit **in January 2021**.³⁸
- If the pipeline had been constructed and was currently operational, **it would have increased daily crude oil supply in the United States by over seven percent**.³⁹

²⁹ <https://www.eia.gov/environment/emissions/carbon/>

³⁰ <https://www.gao.gov/blog/critical-mineral-shortages-could-disrupt-global-supply-chains>

³¹ <https://pubs.usgs.gov/periodicals/mcs2022/mcs2022.pdf>

³² *Ibid.*

³³ <https://clcouncil.org/reports/americas-carbon-advantage.pdf>

³⁴ <https://crsreports.congress.gov/product/pdf/R/R43787/8>

³⁵ <https://crsreports.congress.gov/product/pdf/R/R43787/8>

³⁶ <https://www.politico.com/story/2017/07/28/keystone-xl-status-timeline-241097>

³⁷ *Ibid.*

³⁸ <https://www.politico.com/news/2021/01/20/joe-biden-kills-keystone-xl-pipeline-permit-460555>

³⁹ <https://www.eia.gov/tools/faqs/faq.php?id=268&t=6>

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Examples of Republican Solutions:

H.R. 2515, (Rep. Garret Graves), *“Building United States Infrastructure through Limited Delays and Efficient Reviews (BUILDER) Act”*
[Full Congress.gov summary](#)

This legislation modernizes the outdated NEPA to make infrastructure project reviews more efficient, reduce project costs, spur economic recovery, and rebuild America.

H.R. 1559, (Rep. Jeff Duncan), *“Modernize Nuclear Reactor Environmental Reviews Act”*
[Full Congress.gov summary](#)

This legislation will streamline the environmental review process for nuclear reactors, especially advanced reactors. The bill directs the Nuclear Regulatory Commission to evaluate the current environmental review process for reactors and identify areas where there are reasonable options for less burdensome assessments under the NEPA process. The bill would then require the NRC to conduct a rulemaking to implement these more efficient licensing options.

H.R. 7298, (Rep. Blake Moore), *“Promoting Energy Independence and Transparency Act”*
[Full Congress.gov summary](#)

This legislation requires any pending permits for which required views have been completed be issued within 30 days of enactment.

H.R. 7293, (Rep. Yvette Herrell), *“Energy Permitting Certainty Act”*

[Full Congress.gov summary](#)

Thousands of onshore leases are tied up in lawsuits filed by radical environmental groups, and the Department of the Interior (DOI) is not processing the Applications for Permits to Drill (APDs) associated with those leases. This legislation ensures APDs cannot be delayed due to unrelated litigation by requiring DOI to process APDs under a valid existing lease regardless of any unrelated civil action.

H.R. 575, (Rep. Markwayne Mullin), *“Promoting Cross-Border Energy Infrastructure Act”*
[Full Congress.gov summary](#)

This legislation would establish transparent, reliable procedures for the construction and operation of energy facilities that cross the U.S. border between Canada or Mexico, ensuring the U.S. can more efficiently continue the trade of energy products such as oil, electricity, and natural gas.

H.R. 1616, (Rep. Michael Burgess), *“Promoting Interagency Coordination for Review of Natural Gas Pipelines Act”*
[Full Congress.gov summary](#)

This legislation streamlines the natural gas pipeline permitting process at the Federal Energy Regulatory Commission.

H.R. 245, (Rep. Morgan Griffith), *“New Source Review Permitting Improvement Act”*
[Full Congress.gov summary](#)

This legislation takes a common-sense approach to streamlining the New Source Review (NSR) permitting process at the Environmental Protection Agency (EPA). The current NSR program, meant to prevent pollution emissions from industrial facilities, actually discourages these facilities from making upgrades that would ultimately lead to lower emissions. The New Source Review Permitting Improvement Act will make long overdue regulatory changes so that manufacturers and others can make pollution-reducing upgrades to their facilities without running afoul of the EPA.

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H.R. 8418, (Rep. Rodney Davis), *“One Federal Decision Act 1.3”*

This legislation builds upon ‘One Federal Decision’ policy for highway projects by expanding the streamlining of environmental review process to make it easier for important major ports, aviation, and pipeline infrastructure projects to move forward efficiently and without compromising environmental protections.

H. J. Res. 91, (Rep. Garret Graves), *“Providing for Congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Council on Environmental Quality relating to “National Environmental Policy Act Implementing Regulations Revisions”*

This legislation asserts Congressional disapproval under the Congressional Review Act to nullify the Biden administration’s new regulation, “National Environmental Policy Act (NEPA) Implementing Regulations Revisions,” which will further complicate the already burdensome federal permitting process and add further delay to building vital projects and putting hard-working Americans back to work.