

## **Rep. Paul Gosar Introduces National Environmental Policy Act (NEPA) Process Accountability Act**

July 29, 2021, WASHINGTON, D.C. – Rep. Paul A. Gosar, D.D.S (AZ-04) introduced the NEPA Agency Process Accountability Act Thursday, a bill designed to reduce unnecessary delays and burdensome paperwork while also promoting better environmental decision making.

“While originally well intentioned, the NEPA process has become a bungling bureaucratic nightmare that delays investments, hurts our ability to build new infrastructure in a timely manner, and creates endless streams of lawsuits from NIMBYs lawyers and bad actors. This bill will streamline the agencies environmental review process and as a result reduce duplicative paperwork and unnecessary analysis, thus reducing the cost and time needed to complete critically needed infrastructure projects”, said Rep. Gosar.

Specifically, the bill:

### **Limits on Alternatives Considered by Agencies**

- Would prohibit all agencies from considering alternatives to the proposed action if the alternative considered is not “technically or economically feasible to the project sponsor” or if the alternative is not within the jurisdiction of the federal agency.

### **Consolidating NEPA Documents**

- For projects that require the preparation of an Environmental Impact State (EIS), would require an agency to only produce one EIS, one Environmental Assessment (EA), if applicable, and one record of decision.
- For projects that do not require the preparation of an EIS, would require an agency to only produce one EA or FONSI.

### **Categorical Exclusion Sharing**

- Would allow a federal agency to (without further compliance with the Administrative Procedure Act) use a categorical exclusion (CE) approved by: (1) another Federal agency and the Council of Environmental Quality (CEQ); or (2) an act of Congress.
- If an agency chooses to use a CE in this manner, it would have to, consistent with CEQ regulations: (1) carefully review the CE to make sure it fits the action the agency wants to exclude, and (2) consider whether there are extraordinary circumstances for the proposed project that warrant the drafting of an EA or EIS instead of a CE.

### **Allow Agencies to Reuse Previous NEPA Analysis and Work**

- Would allow federal agencies to use applicable findings and research from a prior NEPA process and incorporate those previous findings and research into an agency's current NEPA analysis under some scenarios.

### **Authorizes the Adoption of Applicable State Environmental Documents**

- Would authorize a federal agency to adopt a document prepared under a State law as the EIS or EA for a proposed action in order to comply with NEPA as long as the federal agency determines applicable state law: (1) provides the same level of environmental analysis as NEPA; and (2) allows for the opportunity of public comment.

### **Permits Third Parties to Prepare NEPA Documents for Agencies to Adopt**

- Would create a process for the selection of a "qualified third party" chosen by a project sponsor to prepare an environmental document for the federal agency. The selection process includes requirements that: (1) the project sponsor submit a written request to the federal agency, (2) a 30-day shot clock for the agency to approve or deny the written request, and (3) requirements that the agency determine that the third party has no conflicts of interest and is qualified to prepare a NEPA document.
- Would allow a federal agency to adopt the "qualified third party" environmental document as long as: (1) the document was prepared at the project sponsor's expense, and (2) the federal agency provides oversight of the document's preparation and independently evaluates the environmental document for compliance with NEPA.

### **Multi-Agency Projects**

- For projects that require approvals from multiple agencies, would create a regulatory process that agencies must follow to select a lead agency, select cooperating agencies, and coordinate the preparation of the one EIS or EA.

### **NEPA Data Reporting Requirements**

- Would require federal agencies to annually report to Congress: (1) the number of CEs, EAs, and EISs issued in the last fiscal year, (2) the time it took to approve such proposed actions, and (3) the number of proposed actions that are under NEPA review as of the date report is issued.
- Would require the Office of Management and Budget (OMB) and the CEQ to jointly develop a methodology to assess the comprehensive costs of the NEPA process. Would require federal agencies to adopt OMB/CEQ's methodology and report (1) the comprehensive cost of the NEPA process for each proposed action completed within the reporting period, and (2) for pending NEPA actions, the amount of money currently expended for the project and the estimated future costs to complete the analysis.

### **Eliminates EPA Review of all EISs**

- Would repeal Section 309 of the Clean Air Act, which requires mandatory Environmental Protection Agency (EPA) comment on all EISs from all federal agencies, instead allowing EPA to voluntarily comment on an EIS if they choose to do so.

### **Flexibility for Unexpected Circumstances**

- Would allow a federal agency or a project sponsor to consider options to mitigate the new or unexpected circumstances or conditions in order to avoid significant effects without having to presumptively redo the entire NEPA process.