



Permitting Reform to Meet America's Energy Needs and Environmental Goals

The Challenge

Cost reduction and rapid, wide-scale deployment are two things that must happen for America to meet its energy needs and environmental goals. However, permitting challenges and frivolous lawsuits increase costs and delay the implementation of a wide range of projects. At the federal level, the National Environmental Policy Act (NEPA) stalls projects, including those for clean energy, natural climate solutions, and more resilient infrastructure. Understanding a project's environmental impact is important, and so is engaging affected communities and stakeholders.

In June President Biden signed the Fiscal Responsibility Act (FRA) into law which included several meaningful reforms to NEPA from the BUILDER Act, including limiting the time frame and page lengths of environmental impact statements and environmental assessments. While the FRA made some significant strides, it did not address one of the most problematic aspects of the federal permitting process: excessive litigation. More meaningful reforms to NEPA will be needed in the future to reduce timelines and bolster America's energy and economic security.

The Opportunity

Permitting reform would significantly advance mitigation, natural ecosystems, and adaptation projects without sacrificing environmental safeguards or public participation. NEPA reform would expedite timelines, increase accountability, improve efficiency, and curb excessive litigation.

The Solutions

To further capitalize on NEPA reforms in the Fiscal Responsibility Act, Congress should:

- Limit the statute of limitations for NEPA-related lawsuits, which is currently six years, and limit those who have standing to individuals and groups that filed public comment.
- Expand the time period for public comment under NEPA. Working with local stakeholders initially would reduce litigation in the future and garner trust with the community.
- Prohibit pre-emptive and retroactive vetoes under Section 404 of the Clean Water Act, which will provide more certainty for mining activities.
- Repeal the Foreign Dredge Act, which inhibits more cost-effective upgrades to America's ports.
- Establish an efficient, technology neutral framework for licensing and permitting new nuclear reactors at the Nuclear Regulatory Commission.
- Put geothermal on equal footing with oil and gas projects on federal lands by including geothermal activities in the same set for categorical exclusions.
- Expedite permits for liquefied natural gas exports by making a determination that all LNG exports are in America's national interest because of the economic, geopolitical and environmental benefits of American LNG.

- Streamlining the process for states to receive primacy to regulate Class VI injection wells (which stored captured carbon from captured CCUS projects).

Key Facts

- The [average Environmental Impact Statement report](#) is 1,214 pages, while the longest one ever was 5,794 pages.
- The average time to complete NEPA review [across all energy sources is three years](#), with hydropower taking the longest time to complete (5.1 years).
- NEPA [disproportionately delays](#) clean energy projects. In 2021, 42% of projects undergoing NEPA review at the Department of Energy were related to clean power and transmission. Only 15% were related to fossil fuels.
- NEPA challenges often boost wildfire risk by delaying forest management projects (controlled burns, timber development) by requiring lengthy permitting processes and excessive litigation.
- Philip Rossetti of the R Street Institute [notes](#), “By far, public interest groups bring forth most NEPA litigations, [accounting for 59 percent of NEPA litigations](#) between 2001 and 2013. The next largest group, at 20 percent, was individual/citizen associations. Property owners/residents and Native American tribes were among the smallest plaintiff types, at 3 percent of NEPA litigations each.”

Legislation to Follow:

Legislation	Bill #s)	House Sponsor	Senate Sponsor	House Cosponsor(s)	Senate Cosponsor(s)
BUILDER Act	H.R.1577	Graves (R-LA-6)			
TAPP Act	H.R. 1335	Westerman (R-AR-4)		Graves (R-LA-6), Stauber (R-MN-8)	
Revitalizing the Economy by Simplifying Timelines and Assuring Regulatory Transparency (RESTART) Act	S.1449		Capito (R-WV)		Barasso (R-WY), Cramer (R-ND), Lummis (R-WY), Ricketts (R-NE), Boozman (R-AR), and more
Spur Permitting of Underdeveloped Resources (SPUR) Act	S.1456		Barrasso (R-WY)		Capito (R-WV), Risch (R-ID), Lee (R-UT), Daines (R-MT), Murkowski (R-AK), and more