

BUILDING AMERICAN ENERGY SECURITY ACT OF 2023

Energy Security = National Security

WHAT THE BILL DOES: *Accelerate, not bypass.* The bill will accelerate permitting of all types of American energy and mineral infrastructure needed to achieve our security and climate objectives, without bypassing environmental laws or community input.

WHY PERMITTING REFORM IS NEEDED:

- ***To realize the benefits of historic investments in the Energy Act of 2020, Infrastructure Investment and Jobs Act, and the Inflation Reduction Act.*** Timely and predictable permitting is key to getting the projects enabled by these laws built, providing energy security, and reducing greenhouse gas emissions and other pollution.
- ***Nearly every major energy project with a federal review requires an Environmental Impact Statement (EIS),*** the most comprehensive type of NEPA review. Today an EIS takes 4.8 years to complete on average, delaying needed energy and minerals projects.
 - Even after the years that it takes to complete EISs for energy and natural resources, approximately 25% are litigated.
 - Congress must make clear that agencies need to make timely decisions based on public input, the best information available, and simultaneous agency reviews. That doesn't mean cutting corners, it means requiring agencies to coordinate and alleviate unnecessary bureaucracy.
- ***Energy security goals cannot be met without permitting improvements.*** Many energy projects take so long to permit that delays lead to cancelations, even if the project would have ultimately been approved. For example: key pipeline projects that provide energy security and reduce emissions have been repeatedly delayed; there are approximately 20 interstate transmission projects in various stages of planning; and the United States needs new mines, especially for critical minerals where we currently rely on foreign supply chains— but these projects historically take 5–10 years to permit.
- ***We must learn from other countries.***
 - In Australia and Canada, natural resources projects are permitted within ~3 years. Canada has a “one project, one review” system and sets target timelines of ~2 years for more intensive reviews and ~1 year for less intensive reviews.
 - In Europe, obstacles to building energy infrastructure have exacerbated Putin's energy war. Now the Europeans are considering simply bypassing important environmental reviews because of the energy crisis they face.
 - Taking measured action now to improve permitting avoids the U.S. ending up in Europe's situation—choosing between energy security, public input, and environmental protection.
- ***There is bipartisan support.*** This legislation takes ideas from Republican and Democrats alike, including from the Trump and the Biden administration.

HOW THE BUILDING AMERICAN ENERGY SECURITY ACT ACCELERATES ENERGY & MINERALS PERMITTING:

Sets maximum timelines for permitting reviews, including two years for NEPA reviews for major projects and one year for lower-impact projects.

- This mirrors the “one federal decision” program for public works projects from the bipartisan infrastructure bill and extends it to energy and minerals projects.
- If deadlines are missed, allows project sponsors to seek a court order directing agencies to finish reviews, with a deadline not to exceed 90 days from the court order.
- Requires a single inter-agency environmental review coordinated by lead agency and concurrent agency reviews for other authorizations.
- Establishes page limits on environmental documents.
- Expands eligibility for the Federal Permitting Improvement Steering Council (FPISC) streamlining programs to include smaller energy projects, critical minerals/mining, and other programs.
- Improves the process for developing categorical exclusions under NEPA.

Addresses excessive litigation delays.

- Sets 150-day statute of limitations for court challenges.
- Require reviewing courts to set litigation of energy project permits for expedited consideration.
- Requires that if a federal court remands or vacates a permit, the court must set and enforce a reasonable schedule and deadline, not to exceed 180 days, for the agency to act on remand.
- Requires random assignment of judges for all federal circuit courts.
- Requires public reporting and a public comment opportunity on consent decrees and settlement agreements seeking to compel agency action affecting energy and natural resources projects.

Designates and prioritizes projects of strategic national importance.

- Directs the President to designate and periodically update a list of at least 25 high-priority energy infrastructure projects and prioritize permitting for these projects.
- Requires a balanced list of project types, including: critical minerals; nuclear; hydrogen; fossil fuels; electric transmission; renewables; and carbon capture, sequestration, storage, and removal.
- Criteria for selecting designated projects includes: reducing consumer energy costs, improving energy reliability, decarbonization, and promoting energy trade with our allies.

Clarifies the Federal Energy Regulatory Commission’s (FERC) jurisdiction regarding the regulation of interstate hydrogen pipeline, storage, import, and export facilities, clearing up confusion about which agency has that role.

Enhances federal government permitting authority for interstate electric transmission

facilities that have been determined by the Federal Energy Regulatory Commission to be in the national interest.

- Streamlines existing authority to allow FERC to approve national interest transmission lines.
- Maintains state-led permitting in current law that provides states with one year to issue or deny a permit before FERC can issue a permit. Requires FERC to consult with affected States, Indian Tribes, Federal agencies, private property owners, and other interested parties.
- Requires FERC to ensure project costs are allocated to customers that receive proven electricity benefits.
- Allows FERC to approve payments from utilities to jurisdictions impacted by a project.

Completes the Mountain Valley Pipeline. Only 20 miles of this 303-mile pipeline remain to be built, which can put 2 bcf/day into the market within 6 months while creating 2,500 construction-related jobs, leading to lower energy prices for Americans, and helping us to support our overseas allies.

Establishes that a right-of-way granted by an Indian tribe on tribal land does not require approval of the Secretary of the Interior, if the tribe's right-of-way process complies with Interior-approved regulations.

Allows FERC to act more quickly to implement competitive salary provisions from the Energy Act of 2020.