

# THE ENERGY PERMITTING REFORM ACT OF 2024

## TITLE I: ACCELERATING CLAIMS

### Sec. 101. Accelerating claims.

- Subsection (a) provides definitions for this section.
  - “Authorizations” subject to this section are defined broadly to include a range of administrative decisions under federal law required for all stages of a covered “project,” including federal energy lease sales.
  - “Projects” are defined as projects for the construction of infrastructure to develop, produce, generate, store, transport, or distribute energy; to capture, remove, transport, or store carbon dioxide; or to mine, extract, beneficiate, or process minerals which also require the preparation of an environmental document under the National Environmental Policy Act (NEPA).
- Subsection (b) establishes a 150-day statute of limitations to seek judicial review of an agency action granting or denying an authorization for an energy or mineral project, unless a shorter deadline is established elsewhere in applicable federal law. The deadline to file a civil action is based on the date the agency granted or denied the authorization.
- Subsection (c) requires reviewing courts to set litigation of authorizations for energy and mineral projects for expedited consideration.
- Subsection (d) requires that if a court remands a federal agency authorization for an energy or mineral project back to the agency (including authorizations vacated and remanded), the court must set a reasonable schedule and deadline, not to exceed 180 days, for the agency to act on remand, unless a longer time period is necessary to comply with applicable law. It also requires federal agencies to take such actions as may be necessary to expeditiously resolve remanded actions in accordance with the schedule and deadline set by the court.
- Subsection (e) clarifies that for the purposes of the statute of limitations established in subsection (b), supplemental or revised environmental documents published at a later date shall be considered separate actions subject to the new 150-day statute of limitations.
- Subsection (f) requires that when an agency is served a copy of a petition for judicial review of an authorization for an energy or mineral project, the agency shall notify the project sponsor about the lawsuit within 30 days.

## TITLE II: FEDERAL ONSHORE ENERGY LEASING AND PERMITTING

### **Sec. 201. Onshore oil and gas leasing.**

- Subsection (a) clarifies that the Secretary of the Interior is required to offer for lease at least 50% of the acreage actually nominated for oil and gas leasing, or at least two million acres (whichever is lesser), in the year prior to the date on which the Secretary issues any right-of-way for wind or solar development on federal land. This clarification of existing law ensures that the leasing requirement is met based on acreage for which expressions of interest have been submitted for lease sales.
- Subsection (b)(1) requires the Secretary to lease parcels as nominated and not divide them into multiple parcels, unless a subpart of the submitted parcel is not open to oil or gas leasing under the approved resource management plan. It also clarifies that the Secretary shall lease parcels under the terms of the approved resource management plan for the planning area, and can continue to do so even if that plan is undergoing an amendment process.
- Subsection (b)(2) amends the expression of interest fee for nominated parcels so that it is paid by the winning bidder, if different than the nominating party.

### **Sec 202: Term of application for permit to drill.**

- Provides that approved permits to drill on federal land are valid for a single four-year period rather than the current three-year period.

### **Sec 203: Permitting compliance on non-federal land.**

- Subsection (a) removes the requirement for a federal permit to drill for oil and gas wells that are drilled on non-federal surface land where either the federal government owns less than 50% of the subsurface minerals, or the well is drilled into non-federal minerals and then horizontally into or through federal minerals. This subsection does not impact requirements to obtain state or tribal permits under applicable laws.
- Subsection (b) requires lessees and the applicable state to notify the Secretary of the Interior of an application for a state drilling permit and the approval of that application for any well covered by subsection (a). It also requires the lessee to provide the necessary agreements for the Secretary to enter the non-federal surface for inspection and enforcement activities.
- Subsection (c) makes clear that this section does not apply on Indian lands.
- Subsection (d) clarifies that the removal of a federal permit in subsection (a) does not impact the amount of royalties due to the federal government on that lease.
- Subsection (e) prohibits the Secretary from imposing surface restrictions, including bonding, reclamation, and mitigation requirements, for a well on non-federal land identified in subsection (a).

## **Sec 204: Coal leases on federal land.**

- Subsection (a) sets deadlines for the lease by application and lease by modification processes for coal located on federal lands. Specifically, the provision requires the Secretary of the Interior to commence the review process for these leases within 90 days of receiving a lease request; issue a record of decision within 90 days of finalizing the environmental review; and determine the fair market value of the coal proposed to be leased within 30 days of issuance of the record of decision.
- Subsection (b) makes conforming amendments.
- Subsection (c) corrects a misspelling in the underlying statute.

## **Sec. 205. Rights-of-way across Indian land.**

- Amends existing law to establish 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 approval process substantially complies with the tribal lease approval process, or with regulations approved by the Secretary, consistent with existing tribal authority confirmed under the 2012 HEARTH Act to issue leases for energy and other development on tribal land.

## **Sec. 206. Accelerating renewable energy permitting.**

- Subsection (a) sets application timelines for renewable energy projects requiring a right-of-way on federal land, including timelines for determining whether an application is complete; to issue a notice of intent for projects requiring an environmental impact statement; to issue a cost recovery agreement; and to issue a right-of-way. If applications are insufficient, it requires the Secretary of the Interior or the Secretary of Agriculture to inform the applicant of deficiencies.
- Subsection (b) requires the secretaries of the Interior and Agriculture to promulgate regulations for categorical exclusions for low disturbance activities for renewable energy projects, including: surface disturbances of less than five acres at sites that have previously undergone National Environmental Policy Act (NEPA) review; activities at a location at which the same type of activity occurred within five years; activities on previously disturbed or developed land (as defined in Department of Energy regulations) that were reasonably foreseeable in previous relevant NEPA documents approved within the last five years; installation, modification, operation, or decommissioning of commercially available energy systems on buildings or structures (e.g., rooftop or parking lot solar); minor maintenance; preliminary geotechnical investigations; or installing and removing temporary meteorological stations.

## **Sec. 207. Improving renewable energy coordination on federal land.**

- Subsection (a) sets a new goal for the secretaries of the Interior and Agriculture to authorize 50 gigawatts of renewable energy on federal land by 2030, and directs periodic revision of the national goal for renewable energy production on federal land.

- Subsection (b) adds energy storage (paired with wind, solar, or geothermal) to the definition of eligible project under Section 3101 of the Energy Act of 2020, including it in the scope of the Renewable Energy Coordination Office (RECO) programs.
- Subsection (c)(1) adds achieving the national goal for renewables on federal land to the mission of the national RECO, supporting the assignment of more staff to expedite permitting.
- Subsection (c)(2) makes a conforming amendment.
- Subsection (c)(3) adds a requirement that the national RECO promulgate energy project review standards to be adopted by the regional RECOs in order to encourage standardized procedures and reviews. It also clarifies that the Secretary of the Interior may accept donations from renewable energy companies to improve community engagement in the permitting process.
- Subsection (d) clarifies that this section does not modify existing requirements for the Secretary of the Interior to conduct a minimum amount of onshore oil and gas lease sales in certain years before issuing rights-of-way for renewable energy projects in the subsequent year.

## **Sec. 208. Geothermal leasing and permitting improvements.**

- Subsection (a) directs the secretaries of the Interior and Agriculture to promulgate regulations allowing for the use of categorical exclusions under NEPA for activities required to test, monitor, calibrate, explore, or confirm geothermal resources on federal land, as long as the individual disturbances are less than ten acres. These activities may not include the commercial production of geothermal resources, the commercial use of those resources, or the construction of permanent roads.
- Subsection (b) requires annual federal geothermal lease sales and includes a requirement for replacement sales if previously scheduled lease sales are cancelled or delayed.
- Subsection (c) sets deadlines for agency notification of whether a geothermal permit application is complete; requires agencies to notify applicants of what other information may be required if an application is deemed incomplete; sets deadlines for agency processing of complete applications for geothermal drilling permits; and requires applicants to be notified of outstanding actions and the timelines for completing those actions.
- Subsection (d) directs the Secretary of the Interior to promulgate rules for cost recovery to accelerate the processing of geothermal leases, permits, and authorizations.
- Subsection (e) directs the Secretary of the Interior to promulgate regulations and establish a permitting process for simultaneous, concurrent consideration of multiple phases of a geothermal project.
- Subsection (f) amends the categorical exclusions for certain oil and gas activities in section 390 of the Energy Policy Act of 2005 to cover geothermal resources in the same manner.
- Subsection (g) directs the Secretary of the Interior to appoint a Geothermal Ombudsman within the Bureau of Land Management (BLM) responsible for: liaising between field offices and BLM; providing dispute resolution services between BLM field offices and applicants; monitoring permit processing and developing best practices; and coordinating with the

Federal Permitting Improvement Steering Council. This subsection also requires annual reporting to Congress on the Ombudsman’s actions and the effectiveness of geothermal permit processing.

### **Sec. 209. Electric grid projects.**

- Subsection (a) defines “previously disturbed or developed” consistent with existing Department of Energy regulations.
- Subsection (b) directs the secretaries of the Interior and Agriculture to promulgate regulations for categorical exclusions under NEPA for: developing electric transmission or distribution facilities within recently approved rights-of-way corridors; modifications or upgrades to existing electric transmission or distribution facilities or other grid infrastructure within existing rights-of-way or on otherwise previously disturbed or developed land, including reconductoring and the installation of grid-enhancing technologies; and the deployment of batteries or other energy storage technologies on previously disturbed or developed land (e.g., collocated with an existing power plant).

### **Sec. 210: Hardrock mining mill sites.**

- Subsection (a) establishes a new mill site claim that may be located on federal land, whether mineral or non-mineral in character, for ancillary mining operations (e.g., building mine-related infrastructure). It sets out parameters for the new mill site claim:
  - It requires the mill site to be included in a plan of operations approved by the Secretary of the Interior or of Agriculture, as applicable, and requires at least one mining claim to also be included in the plan of operations.
  - It allows multiple mill sites to be claimed for a single plan of operations and limits each individual mill site to five acres.
  - It does not allow mill site claims to be used for mining. Instead, it allows the mill site to be collocated with a mining claim while preserving current “discovery” law for mining claims.
  - It ensures the location and approval of activities on mill sites do not affect existing rights, land withdrawals, or requirements under other federal land use and environmental laws.
- Subsection (b) directs monies paid by claimants for the new mill sites to be deposited into an Abandoned Hardrock Mine Fund and for those monies to be utilized in accordance with the Abandoned Hardrock Mine Reclamation program established by section 40704 of the Infrastructure Investment and Jobs Act.
- Subsection (c) makes clerical amendments.

## TITLE III: FEDERAL OFFSHORE ENERGY LEASING AND PERMITTING

### Sec. 301. Offshore oil and gas leasing.

- Requires the Secretary of the Interior to hold at least one offshore oil and gas lease sale per year over the five-year period from 2025-2029, for a minimum of five sales; restricts those sales to areas currently open to leasing in the Gulf of Mexico, while preserving the existing leasing moratorium in the eastern planning area; sets the lease terms and conditions to be offered in the sales, including a minimum of 60 million acres offered in each sale; and codifies longstanding procedures for the Secretary to determine the adequacy of received bids.

### Sec. 302. Offshore wind energy.

- Subsection (a) requires the Secretary of the Interior to hold at least one offshore wind lease sale per year over the five-year period from 2025-2029, for a minimum of five sales.
- Subsection (b) establishes that at least 400 thousand acres must be offered per year in sales described in subsection (a).
- Subsection (c) requires the Secretary to establish a national goal of 30 gigawatts for offshore wind energy production, set a target date to achieve that goal, and periodically revise the goal.
- Subsection (d) allows the Secretary to authorize rights-of-way in a National Marine Sanctuary for the transmission of electricity generated by or produced from renewable energy, but does not remove other agency permitting authorities. It also ties the duration of National Marine Fisheries Service authorizations for such transmission projects to the duration of the right-of-way grant.
- Subsection (e) clarifies that nothing in this section modifies existing requirements for the Secretary to conduct a minimum amount of offshore oil and gas lease sales in certain years before issuing offshore wind leases in the subsequent year.

## TITLE IV: ELECTRIC TRANSMISSION

### Sec. 401. Transmission permitting.

- Subsections (a)–(g) and (i) amend section 216 of the Federal Power Act (FPA).<sup>1</sup>
- Subsection (a) strikes the existing section 216(a) of the FPA and provides definitions for this section. (Sections 216(a)(1)-(2) of the FPA are retained with modifications in section 402 and redesignated as a new section 224 of the FPA. These paragraphs of existing law provide for the Secretary of Energy to conduct a periodic study of electric transmission capacity constraints and congestion and to issue a report based on the same study. See below.)
- Subsection (b) modifies the existing authority of the Federal Energy Regulatory Commission (FERC) to issue a construction permit for a project in a National Interest Electric Transmission Corridor (NIETC) after allowing state siting authorities one year to act on a permit application. Specifically, the subsection eliminates the authority of the Secretary of Energy to designate a NIETC. It allows FERC, without the designation of a NIETC, to issue a construction permit to a project in the national interest that (1) meets the requirements of current law; (2) improves electric reliability (as defined in a new section 225(a)(3) of the FPA, established by section 402); and (3) meets a minimum voltage threshold.
- Subsection (c) clarifies that FERC may not issue a construction permit within a state unless the criteria for state siting in subsection (b) are satisfied. The subsection also preserves the existing requirement for FERC to consult with affected states, Indian tribes, federal agencies, private property owners, and other interested persons.
- Subsection (d) requires that any exercise of eminent domain under this section adhere to rule 71.1 of the Federal Rules of Civil Procedure. That rule spells out the procedural requirements for eminent domain proceedings that result from FERC’s issuance of a construction permit. (The United States Constitution entitles all landowners to just compensation, which is a substantive matter not affected by the Federal Rules of Civil Procedure. Most federal courts in which these proceedings have arisen have applied state law to the substantive determination of just compensation. For example, some state laws make landowners eligible for payments above fair market value.)
- Subsection (e) requires utilities that receive a construction permit for a project in the national interest under this section to file a tariff for approval with FERC for cost allocation. The subsection directs FERC to require that such filings are just and reasonable and in accordance with the cost-causation principle. (This principle is the existing applicable legal standard for ensuring that the costs of transmission facilities are borne only by those who benefit.) It requires FERC to take into account a minimum specified list of electric reliability and affordability benefits to customers when evaluating the filings. It provides that customers receiving no benefit or benefits that are trivial in relation to the costs shall not be made to pay. It also clarifies that FERC’s relevant authorities apply to offshore electric transmission.
- Subsection (f) provides that FERC is the lead agency for environmental reviews conducted for projects under this section pursuant to the National Environmental Policy Act (NEPA). This subsection does not apply to projects on the Outer Continental Shelf that the Secretary of the Interior must approve.

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<sup>1</sup> [Federal Power Act](#) | As Amended Through P.L. 117-58, Enacted November 15, 2021

- Subsection (g) makes conforming amendments to existing provisions pertaining to interstate compacts.
- Subsection (h) amends section 219 of the FPA to allow FERC to approve cost-recovery payments to jurisdictions impacted by a project under this section or the new section 225 of the FPA established under section 402.
- Subsection (i) fully exempts the Electric Reliability Council of Texas (ERCOT, the grid operator for the Texas Interconnect) and ERCOT utilities from section 216 of the FPA and makes clear that section 216 applies to all other transmitting utilities.
- Subsection (j) makes conforming amendments to other statutes.
- Subsection (k) provides that nothing in this section grants FERC authority under the FPA over retail sales or the local distribution of electricity.

## **Sec. 402. Transmission planning.**

- Subsection (a) establishes sections 224 and 225 of the FPA (described in detail below).
- Subsection (b) makes conforming amendments within the FPA.
- Subsection (c) provides that nothing in this section grants FERC authority under the FPA over retail sales or the local distribution of electricity.

### **Summary of new FPA section 224:**

- Subsection (a) contains the text formerly within section 216(a)(1) of the FPA that requires the Secretary of Energy to conduct a study every three years of electric transmission capacity constraints and congestion. (This language has, in effect, been moved in modified form from the existing section 216(a) of the FPA.)
- Subsection (b) modifies text formerly within section 216(a)(2) of the FPA to require the Secretary of Energy to issue a report every three years identifying geographic areas experiencing or expected to experience transmission capacity constraints or congestion. (This subsection enables the Secretary of Energy to continue to exercise existing authorities under other laws which previously referenced NIETC designations under that section.)
- Subsection (c) modifies text formerly within section 216(a)(3) of the FPA to require the Secretary of Energy to consult with affected transmission planning regions for the purposes of the study and report in subsections (a) and (b).

### **Summary of new FPA section 225:**

- Subsection (a) provides definitions, including for “improved reliability,” “interregional transmission facility,” and “transmission planning region.”
- Subsection (b) fully exempts ERCOT and ERCOT utilities from section 225 of the FPA and makes clear that section 225 applies to all other transmitting utilities.
- Subsection (c) directs FERC to promulgate a rule on interregional transmission planning within 180 days of enactment. The rule is to require neighboring transmission planning regions to plan jointly with each other, to submit to FERC for approval the resulting joint interregional transmission plans, and to establish rate treatments for interregional transmission planning and cost allocation.
- Subsection (d) requires that interregional plans contain a common set of input assumptions and models on consistent timelines to allow regions to jointly identify and select specific projects. The subsection requires consideration of advanced conductors (including superconductors) and reconductoring as means of maximizing the transmission capabilities

of existing infrastructure and rights-of-way. It requires transmission planning regions to consider existing transmission plans. It also requires that interregional plans account for a minimum specified list of reliability and affordability benefits and contain criteria for regions to select facilities that improve reliability, protect or benefit consumers, and are consistent with the public interest.

- Subsection (e) requires that interregional plans be submitted to FERC within two years of enactment and updated at least once every four years thereafter.
- Subsection (f) directs FERC to review interregional plans and approve them if the plans meet the requirements of subsections (d) and (g); and ensure that all rates, charges, terms, and conditions for facilities included in the plans are just and reasonable, not unduly discriminatory or preferential, and are consistent with the public interest.
- Subsection (g) requires companies responsible for facilities built or modified under this section to file a tariff for approval with FERC for cost allocation. The subsection also directs FERC to require that such filings are just and reasonable and in accordance with the cost-causation principle. It requires FERC to ensure that the cost allocation accounts for the minimum specified list of electric reliability and affordability benefits to customers described in subsection (d). The subsection further provides that customers receiving no benefit or benefits that are trivial in relation to the costs shall not be made to pay.
- Subsection (h) establishes that projects selected by transmission planning regions from an interregional plan are considered to satisfy the requirements of FPA sections 216(b)(2)-(7).
- Subsection (i) provides a mechanism, in the event of a dispute between regions over a material element of an interregional plan, for FERC to resolve the matter.
- Subsection (j) provides a mechanism, in the event that regions fail to submit an interregional plan, for FERC to grant an extension or require compliance with a plan based on the record of the planning process.
- Subsection (k) provides that FERC's approval of an interregional plan, or its actions to resolve a dispute with respect to such a plan, shall not be considered a major federal action under NEPA.
- Subsection (l) clarifies that this section does not confer, limit, or impair FERC's authorities under any other provision of law except as expressly provided within the section.

## TITLE V: Electric Reliability

### Sec. 501. Reliability assessments.

- Section 215(g) of the Federal Power Act (FPA) currently requires the Electric Reliability Organization (the North American Electric Reliability Corporation, or NERC, as certified by the Federal Energy Regulatory Commission, or FERC) to conduct periodic assessments of the reliability and resource adequacy of the North American bulk-power system. Under Section 501, if FERC determines that a rule, regulation or standard proposed by another federal agency is likely to result in a violation of a mandatory electric reliability standard or resource adequacy requirement or process on file with FERC, NERC is required to conduct an assessment and report to FERC on the effects of the proposal.
- Section 501 specifies that such NERC assessments of regulatory proposals must identify reasonably foreseeable adverse effects of the proposal on grid reliability, consider available ways to mitigate the effects of its proposal, and account for input from affected transmission organizations (e.g., Regional Transmission Organizations).
- Section 501 requires NERC to publish the report and submit it to both FERC and the public docket of the federal agency proposing the rule, regulation, or standard.
- Section 501's new requirements for FERC and NERC apply only to federal agency proposals that are pending on or proposed after the date of enactment.

## TITLE VI: LIQUEFIED NATURAL GAS EXPORTS

### Sec. 601. Action on applications.

- Mandates that the Secretary of Energy approve or deny all pending and future applications to export liquefied natural gas (LNG) from the U.S. to non-Free Trade Agreement countries within 90 days of the date that the Federal Energy Regulatory Commission (FERC) or the Maritime Administration, as applicable, publishes the final environmental review document under the National Environmental Policy Act (NEPA) for the exporting facility.
- Mandates that the Secretary of Energy approve or deny all pending and future applications to re-export piped U.S. natural gas as LNG from facilities in Mexico or Canada to non-Free Trade Agreement countries within 90 days of the date that the Secretary publishes the draft environmental review document under NEPA for the exporting facility.
- Mandates that the Secretary of Energy approve or deny all pending and future applications to extend an approved authorization to export or re-export LNG within 90 days of the date that the Secretary has received the application.
- If the Secretary fails to approve or deny any of the applications described above within the applicable 90-day timeline, the application is deemed approved.

### Sec. 602. Supplemental reviews.

- Subsection (a) provides definitions for this section.
  - A “supplemental review” means a review conducted by the Secretary of Energy on the lifecycle greenhouse gas emissions or macroeconomic impacts associated with different levels of LNG exports from the United States.
  - The “2018 LNG Export Study” and “2019 Life Cycle GHG Review” are the existing studies upon which the Secretary has been relying in applications to export LNG to non-Free Trade Agreement countries.
- Subsection (b) requires any supplemental review initiated after January 26, 2024 to go through public notice and comment and comply with Information Quality Act peer review requirements. It also requires the Secretary to rely on the existing studies unless and until a supplemental review is finalized and implemented by the Secretary.

## TITLE VII: HYDROPOWER

### **Sec. 701. Hydropower license extensions.**

- Subsection (a) defines a “covered project” as a hydropower project that was licensed by the Federal Energy Regulatory Commission (FERC) prior to March 13, 2020.
- Subsection (b) authorizes FERC, upon the request of a licensee of a covered project after reasonable notice and for good cause shown, to extend the commence-construction deadline for a covered project by four additional years.
- Subsection (c) specifies that the extension under subsection (b) commences at the expiration of the final extension currently allowed under section 13 of the Federal Power Act and ends four years thereafter.
- Subsection (d) allows FERC to reinstate a license of a covered project if the license for that project expired after December 31, 2023.