

BUILDING AMERICAN ENERGY SECURITY ACT OF 2022

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 energy security and climate objectives, without bypassing environmental laws or community input.

CHANGES TO CONTINUING RESOLUTION PERMITTING TEXT

STRONGER TIMEFRAMES AND ENFORCEMENT OF AGENCY DEADLINES:

- **Deadline Enforcement:** Give project applicants the right to petition a court for an order directing any agency that has missed a final deadline (either NEPA or final permit issuance) to make a decision by a date certain, not to exceed a 90 days from the court order. Require court to consider the petition on an expedited basis.
- **Expedited Judicial Review:** Require reviewing courts to set litigation of energy project permits for expedited consideration, which is already done under federal law for other types of litigation.
- **Address “Loophole” Concerns:** Revise language to address concerns about “loopholes” that could be used to bypass deadlines, including:
 - Narrow/consolidate savings clauses and further limit exceptions to use of a single environmental document.
 - Replace “average” timelines with firm deadlines.
 - Include additional reporting requirements for missed deadlines.
 - Include “tiered” programmatic reviews in agency schedules.
 - Clarify that deadlines and streamlining provisions also apply to projects currently in the permitting process.
- **Reduce Permitting Workload:**
 - Establish page limits on environmental documents.
 - Require a plan for coordinated environmental reviews within 90 day of initiation of reviews, or at project sponsor’s request.

ADDITIONAL STREAMLINING CHANGES:

- Reduce deadline for issuing other outstanding authorizations from 180 days after completion of environmental review to 150 days.
- Remove the President from dispute resolution process.
- **Definition Modifications:**
 - Include “determinations,” “interagency consultations,” and authorizations defined in the FAST Act in definition of “authorization.”
 - Add infrastructure to “develop” and “distribute” energy in “project” definition.
 - Expand list of agencies to include PHMSA.

LITIGATION TRANSPARENCY:

- Require public reporting on settlements for energy projects.
- Require a 30 day public comment period.

TRIBAL PROVISIONS:

- Alaska Native Corporations: Targeted fix to ensure ANCs are not excluded from streamlining provisions relevant to their role.
- Rights-of-Way: Allow Tribes to issue rights-of-way on their tribal lands without requiring approval from the Secretary of the Interior.

LIST OF 25 PRIORITY PROJECTS:

- Increase designated number of mineral, fossil, hydrogen, renewable, and transmission projects so all 25 projects are accounted for, removing Presidential discretion for 5 of the 25 projects.
- Strike criteria related to fuel switching, maintain priority for reducing GHG emissions.

FERC PERMITTING STAFFING: Modify provision in the Energy Act of 2020 which allows FERC to offer more competitive salaries for permitting roles to allow FERC to use this authority more quickly.

HYDROGEN IN NATURAL GAS ACT:

- Clarify that adding hydrogen to NGA does not disrupt operating interstate hydrogen facilities at the time of enactment.
- Clarify that this provision does not give FERC new authority to require natural gas pipelines to be built/modified to also transport hydrogen.

TRANSMISSION:

- Maintain current law backstop authority, which provides 1 year for states to issue, deny, or not act on a permit before FERC can step in to issue a construction permit if FERC finds the project is in the national interest.
- Clarify that if a state issues a permit in that year, the state won't be overruled if FERC uses its backstop authority for the project because other states have not issued permits.
- Maintain DOE congestion study, no longer makes a DOE finding a requirement for FERC to act.
- Tighten up cost allocation language to address concern that FERC could otherwise consider direct jobs and property tax revenue when allocating cost of a project.