

Modernize Permitting to Unleash American Energy

Increase production, **unlock** infrastructure development, **create** jobs, and **lower** energy costs

Why modernize?

Statutes underpinning the federal permitting system are woefully outdated and over time have evolved into a regulatory environment that is unpredictable. For decades now, this has held back oil and natural gas production and the build-out of energy infrastructure.

Today's permitting process routinely delays production, increases costs, and blocks market access for consumers, businesses, and allies. In other words, by enabling regulatory uncertainty, the proliferation of red tape and endless litigation, current laws and regulations harm America's energy security.

Comprehensive legislative reforms would provide an updated regulatory foundation and the policy durability needed to ensure the permitting system works efficiently and transparently while balancing economic and environmental goals.

For America's independent producers of oil and natural gas, a modernized system means more domestic energy, more American jobs, and enhanced energy leadership.

Why now?

America urgently requires increased production and infrastructure to keep energy affordable, reliable, and to meet rising energy demand at home and abroad.

Domestic power demand is projected to grow by as much as 25% by 2030 after remaining stagnant for over a decade, driven by the rapid expansion of AI and advanced manufacturing.

Today, energy projects face extended environment reviews and litigation timelines, judicial intervention, application backlogs, and duplicative requirements that delay development and stifle infrastructure investment.

To win the AI race against China and secure America's energy future, we need bipartisan reforms that benefit all forms of energy.

Failing to act means producers would continue to confront roadblocks to produce and move energy to where it's needed most.

How does the permitting system delay and derail projects?

National Environmental Policy Act: NEPA's ill-defined statutory framework has fueled subjective reviews and frivolous lawsuits, leaving it the most frequently litigated environmental law in the country. Environmental review documents, or the ability to use Categorical Exclusions, have also historically been fraught with inefficiencies.

Federal Lands: The Bureau of Land Management (BLM) often fails to effectively use the tools already provided by Congress to expedite the permit process on federal lands, leading to inconsistent agency implementation practices and added layers of reviews that cause significant project delays.

Clean Water Act: Misusing the CWA has become a favored tactic by a handful of states to block pipelines based on policy goals unrelated to water quality.

Endangered Species Act: The ESA has become weaponized to block responsible development, often in areas that are completely uninhabitable to a listed species.

Natural Gas Act: The NGA's dual-review process adds uncertainty to project investment and implementation, differs from other export approvals of oil and gas, and is subject to abuse with unfettered discretion.

America urgently requires increased production and energy infrastructure development to keep energy affordable and meet rising energy demand at home and abroad.

What's the Ask?

Durable permitting reforms that support all forms of American energy require Congress to update and clarify the provisions of multiple statutes, including:

✓ Reform NEPA Processes

- Tighten the review process by prohibiting speculative and subjective reviews, narrowing the scope and range of alternatives under consideration, and redefining the types of projects subject to review
- Streamline agency reviews by expanding the use of programmatic and tiered reviews and removing duplicative NEPA when other laws or regulations provide functional equivalence

✓ End Permitting Lawfare

- Clarify thresholds for standing by limiting litigation challenges to parties that can demonstrate concrete, direct, and personal harm
- Establish a clear statute of limitations by requiring NEPA challenges to be filed within 150 days of the final agency action
- Expand upon the Supreme Court's Seven County decision to give courts explicit direction on the narrow scope of judicial review for NEPA actions

✓ Establish Permit Predictability for Federal Lands

- Remove federal permit requirement when a well is drilled on private lands and only involves a minority of federal minerals
- Direct Categorical Exclusions already established under law must be used when the statutorily-defined criteria are met and restrict the circumstances when their use can be avoided
- Implement a drill permit-by-rule system for federal lands wells with low environmental impacts

✓ Provide Certainty Under the Clean Water Act

- Remove delays from CWA Sec. 401 by clarifying the scope of certifications and establishing a reasonable standard for downstream considerations
- Clarify nationwide permitting (NWP) under CWA Section 404(e) by requiring all current NWPs be maintained and available and ensuring the long-term viability and availability of these critical tools

✓ Inject Common Sense into the Endangered Species Act

- Modify the listing petitioning process to eliminate sue-and-settle litigation and reduce the number of unnecessary or poorly-supported new listings
- Adopt a clear definition of 'Habitat' and establish an objective and judicially-reviewable standard for excluding areas from critical habitat when the benefits of exclusion outweigh inclusion

✓ Rationalize the Natural Gas Act

- Streamline LNG export approvals to non-FTA countries by updating NGA Sec. 3 to either remove the redundant public-interest determination or define its standard with clear review criteria and timelines

A modernized system means more domestic energy, more American jobs, and enhanced energy leadership.



999 E Street NW, Suite 200
Washington, DC 20004
axpc.org

The American Exploration & Production Council (AXPC) is the national trade for America's leading independent producers of oil and natural gas.

Collectively, we produce about half the country's oil and over half its natural gas. If we were a country, we'd be the 3rd largest gas producer and 4th largest oil producer.

We are the voice of American energy.