Permit Proposals: Summary of Recommendations

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PERMIT REFORM PROPOSALS: SUMMARY OF RECOMMENDATIONS

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INTRODUCTION

All scenarios for meeting greenhouse gas reduction targets require faster deployment of renewable energy projects. However, the current permitting processes, while designed to ensure environmental and public safety as well as public participation, often delay progress. The challenge is to speed up renewable energy development without compromising environmental and community protections. This white paper by the Sabin Center reviews 15 reports from reputable institutions that identify steps to streamline the permitting process. These recommendations offer strategies to reduce time and costs in advancing renewable energy projects.

This report will be updated from time to time. Readers who identify errors in this report, or wish to tell us about new proposals that should be included in subsequent editions, should send them to michael.gerrard@law.columbia.edu.
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11) TED BOILING AND KERENSA GIMRE, ET AL. *EVIDENCE-BASED RECOMMENDATIONS FOR OVERCOMING BARRIERS TO FEDERAL TRANSMISSION PERMITTING*, NISKANEN CENTER (APR. 2024) AVAILABLE AT HTTPS://WWW.NISKANENCENTER.ORG/EVIDENCE-BASED-RECOMMENDATIONS-FOR-OVERCOMING-BARRIERS-TO-FEDERAL-TRANSMISSION-PERMITTING/


14) LETTER FROM EARTHJUSTICE, TO PRESIDENT JOSEPH BIDEN (DEC. 15, 2022) AVAILABLE AT HTTPS://EARTHJUSTICE.ORG/ WP-CONTENT/UPLOADS/TRANSMISSION_PLEDGES_12.15.22.PDF


This report on permitting reform summarizes insights from six issue briefs and stakeholder roundtables. It ranks policy options by effectiveness and controversy. The goal is to improve the permitting process for energy projects, balancing efficiency, environmental protection, and public safety. The proposed policies were ranked in the following order:

1) **Very Promising** | High Effectiveness - Low Controversy
2) **Promising** | Effectiveness higher than Controversy
3) **Negotiation Space** | Effectiveness equal to Controversy
4) **Less Promising** | Effectiveness lower than Controversy
5) **Not Worth Discussing** | Low Effectiveness - High Controversy

The policies were ranked among the following categories: Public Engagement, Linear Infrastructure, Judicial Review, Remaining NEPA Reform, Nuclear Energy Licensing and Permitting, Technology Specific Reforms. Below, are proposals in each category ranked from “very promising” to those with “space for negotiation” as they are the ones that are most likely to pass in a congressional act.

**Public Engagement**

- **Promising**
  - Community information hearings that address public comments and concerns of the community (Pg. 23)

- **Less Promising**
  - Establish a monitoring committee for individual projects, comprised of local stakeholders, that ensures standards are met and provides an avenue for continued public engagement for the life of the project (Pg. 21)
  - Establish a clearinghouse for information on environmental justice, best practices, and opportunities for community engagement (Pg. 24)

- **Negotiation Space**
  - Establish and fund non-biased third parties to perform community education and engagement on energy technologies (not projects) (Pg. 18)
  - Require or incentivize agencies to engage stakeholders before developing a public notice of intent to prepare an Environmental Impact Statement (Pg. 23)

**Linear Infrastructure**
● Promising
  o Minimum transfer requirement for transmission (Pg. 30)
  o Create a new federal regime for siting hydrogen pipelines (Pg. 32)
  o Provide federal siting for hydrogen pipelines under the natural gas act (Pg. 33)

● Negotiation Space
  o Bolster FERC’s backstop siting authority for transmission (Pg. 27)
  o Provide FERC with primary siting authority for interstate transmission (Pg. 28)
  o Provide FERC with cost allocation authority for transmission (Pg. 29)
  o Provide FERC with backstop authority for CO2 pipelines (Pg. 33)
  o Provide FERC with primary siting authority for CO2 pipelines (Pg. 33)
  o Expand the definition of “energy corridors” to include CO2 pipelines (Pg. 34)
  o Clarify the definition of “discharge” in the Clean Water Act (Pg. 34)
  o Improve the eminent domain process (Pg. 35)

Judicial Review

● Very Promising
  o Establish a technical court with jurisdiction over federal permitting decisions (Pg. 39)
  o Establish a permitting review board for energy projects (Pg. 40)

● Promising
  o Reduce the statute of limitations to 2 years (parity with transportation projects and FAST-41) (Pg. 38)
  o Reduce the statute of limitations to 1 year (Pg. 38)
  o Elevate litigation filed after final agency actions directly to U.S. Courts of Appeals (Pg. 39)
  o Setting deadlines on agency remand (Pg. 40)
  o Narrowing the scope of decisions (Pg. 40)
  o Direct CEQ or the Permitting Council to develop a public database of NEPA lawsuits (Pg. 41)

● Negotiation Space
  o Reduce the statute of limitations to 6 months (Pg. 38)
  o Reduce standing (Pg. 38)
  o Eliminate judicial review for categorical exclusion designations (Pg. 39)

Remaining NEPA Reform

● Promising
  o Expand utilization of programmatic reviews (Pg. 47)
  o Expand utilization of categorical exclusions (Pg. 48)
  o Competitive Grant Program for states to improve state-level permitting (carrot) (Pg. 49)
  o Enforcement mechanism for agency deadlines: increased transparency (Pg. 50)
Provide agencies with additional resources and funding (Pg. 51)

- Less Promising
  - Further clarify and narrow the definition of “effects” an agency must consider under FRA (Pg. 46)
  - Restrict federal funding from states if they don’t have efficient state-level permitting (stick) (Pg. 50)
  - Enforcement mechanism for agency deadlines: automatic approval if deadline is missed (Pg. 50)

- Negotiation Space
  - Clarify actions that trigger NEPA review (Pg. 44)
  - Broaden NEPA assignments to states, similar to the mechanism that is already available for highway projects under federal statute (Pg. 49)

**Nuclear Energy Licensing and Permitting**

- Very Promising
  - Change the NRC environmental review process so that advanced reactors do not automatically require an Environmental Impact Statement (EIS) (Pg. 55)
  - Require the NRC to develop a process for timely environmental review of nuclear projects that reuse brownfield sites (e.g., coal-to-nuclear projects) (Pg. 58)
  - Establish and enforce timelines for each stage of the licensing and permitting process (Pg. 61)

- Promising
  - Require the NRC to create and utilize a generic EIS for the construction and operation of advanced nuclear reactors (Pg. 57)
  - Increase the NRC off-fee funding and make agency funding for infrastructure, technology upgrades, and training activities non-fee-dependent (Pg. 59)
  - Eliminate uncontested mandatory hearings from the licensing process for new reactors (Pg. 62)
  - Require the NRC’s Advisory Committee on Reactor Safeguards to review only novel or safety-significant issues rather than all applications (Pg. 64)

- Less Promising
  - Replace court-like hearings on contested environmental issues in license applications with a public comment process like that conducted by other federal agencies (Pg. 62)

- Negotiation Space
  - Eliminate license review fees for new advanced nuclear reactors (Pg. 60)

**Technology Specific Reforms**

- Very Promising
  - Create incentives for third parties to clean up abandoned mines, including by limiting liability for organizations that undertake cleanup efforts (Pg. 73)
o Establish a categorical exclusion for adding additional direct air capture (DAC) facilities to an operational DAC hub (Pg. 77)
o Establish categorical exclusions for geothermal test wells (Pg. 78)
o Require annual federal lease sales for geothermal energy (Pg. 79)
o Clarify that geothermal projects on state or private lands in which the federal ownership interest is less than 50% are not subject to federal permitting requirements (Pg. 80)

● Promising
  o Establish enforceable timeline for EPA to process state Class VI primacy applications (Pg. 75)
  o Clarify that geothermal lease reinstatement is not a ‘major federal action’ under NEPA (Pg. 79)
  o Exempt closed-loop pumped storage projects that do not utilize federal land or impound navigable waters from FERC licensing requirements (Pg. 81)

● Less Promising
  o Expand the 2015 Fixing America’s Surface Transportation Act (FAST-41) to include all federally regulated mining, processing, and refining projects for critical minerals (Pg. 71)

● Negotiation Space
  o Require mining companies to provide financial assurance in their reclamation plans (Pg. 72)
  o Provide enhanced guidance to mine operators by organizing pre-consultation meetings, designating cross-agency case workers, and improving reference materials (Pg. 74)
  o Allow EPA to issue aquifer exemptions for Class VI wells as is allowed for other well types (Pg. 76)
  o Establish a 30-day timeline for reviewing geothermal drilling permits (GDPs) (Pg. 79)
  o Affirm a 2-year licensing process for next-generation hydropower resources (Pg. 80)
  o Exempt small hydropower projects that do not have significant environmental impacts from FERC licensing requirements (Pg. 81)
This report explores potential proposals for getting approval for clean energy projects like solar, wind, offshore wind, geothermal, and electricity transmission at the federal level. It looks at the current laws and how they compare to those for fossil fuels, and suggests ways to make the approval process faster and more efficient. Below are the main proposals from the report.

**Key Recommendations**

### Solar and Onshore Wind - Siting (pp. 8-12)

- Incentivize favorable local siting ordinances.
  - Federal and state policymakers could provide incentives for areas that support wind and solar projects, such as federal aid, technical assistance, and support for clean energy programs at regional universities. For example, the Department of Energy’s R-STEP program aims to enhance the planning and permitting abilities of state and local governments by awarding grants of $1-2 million to several states. (Pg. 11)

- Foster community engagement by providing resources and imposing developer requirements.
  - A 2020 Brookings report found that community support for renewable energy projects increases when residents are compensated and the planning process is perceived as fair, whereas secretive and aggressive developer practices lead to opposition. State and federal lawmakers could facilitate early and frequent community engagement by providing resources such as mapping tools and outreach programs, as seen in Oregon and Hawaii, to help developers and community members understand and collaborate on siting considerations.

- Require a community benefits agreement.

- Implement a state-level “fair share” approach.
  - Some states, like Michigan, are centralizing siting authority for renewable energy projects at the state level to facilitate development, while others maintain local control due to political considerations. A proposed solution is a "Fair Share Plan," where each local jurisdiction contributes to state renewable energy goals based on its potential, balancing state and local control and potentially increasing public acceptance in communities feeling overburdened by such projects.

### Solar and Onshore Wind - Leasing (pp. 14-19)

- Expand Bureau of Land Management solar Designated Leasing Areas and designate wind Designated Leasing Areas.
The BLM could boost renewable energy development on public land by designating more Designated Leasing Areas (DLAs) for wind and solar energy, thus prioritizing renewable infrastructure and utilizing the high potential of millions of acres currently limited to unproductive oil and gas leases.

- Add a Bureau of Land Management Preferred Land Area category.
- Bring solar and wind rental rates more in line with those for oil and gas.
- Adopt an internally consistent approach to energy production payments.
  - BLM should adopt a uniform policy where wind and solar energy projects, like oil and gas, stop paying rent once they start paying production fees, or alternatively, continue charging rent to oil and gas projects even after production begins, aligning with the 2023 proposed rule.
- Discontinue BLM leasing of public land for specific energy development where there is low potential for that energy resource.
  - The End Speculative Oil and Gas Leasing Act of 2021 aims to prevent BLM from leasing low-potential lands for oil and gas, and future legislation should extend this to all energy sources to ensure balanced and effective use of federal lands for energy development.

**Solar and Onshore Wind - Permitting (pp. 20-22)**
- Rebalance the categorical exclusion framework to encompass low-impact renewable development activities.
  - Agencies should consider categorical exclusions for low-impact renewable energy development, similar to those for oil and gas, ensuring they are carefully vetted to streamline permitting without compromising environmental and community protections. (Pg. 23)
- Encourage early stakeholder participation in the permitting process.
- Expand the successful use of programmatic Environmental Impact Statements for solar and wind.
  - A programmatic EIS provides a broad environmental review for similar projects in a large area, reducing duplicative work and permitting requirements, as seen in the Interior Department's 2024 draft report for utility-scale solar projects on public lands in Western states. (Pg. 23)
- Evaluate success of BLM Renewable Energy Coordination Office for solar and wind.

**Transmission (pp. 23-27)**
- Establish federal interstate siting authority via the Federal Energy Regulatory Commission for transmission infrastructure. (Pg. 27)
- Require minimum transfer capacity between regions.
  - Congress could mandate regional planning authorities to maintain minimum interregional transmission capacity to enhance grid reliability and competition,
prioritizing key connections and motivating state and regional bodies to address planning, siting, and permitting challenges. (Pg. 27)

- Evaluate reuse and expansion of existing transmission corridors and potential of building adjacent to highways and railways.
- Enact policies and regulations that support government agency capacity and coordination for permitting activities.
- Foster community engagement, create community benefit agreements, and incentivize favorable local siting ordinances.
- Support transmission planning efforts for coordinated infrastructure expansion.
  - The current utility and RTO/ISO planning processes are insufficient for identifying priority interstate and interregional transmission connections, limiting the development and implementation of vital transmission projects. Federal and state policies that enhance transparent, coordinated planning could increase the number of valuable projects entering the siting and permitting phases, as exemplified by the DOE’s Transmission Needs Study and National Transmission Planning Study, which aim to promote a national-level grid expansion. (Pg. 27)

**Offshore Wind** (pp. 28-33)

- Increase funding for Bureau of Ocean Energy Management to aid in implementing permitting reforms.
- Establish offshore grid regulations under FERC.
- Create a framework for addressing community engagement and compensation.
  - As offshore wind development increases, it is crucial to implement effective community engagement practices, offer community benefits agreements, and consider an Offshore Renewable Energy Compensation Fund to address impacts on local stakeholders, including fishermen and Tribal Nations. (Pg. 34)
- Support transmission planning and cost allocation reforms.
  - FERC’s April 2022 proposed rulemaking aims to establish transmission planning standards, encouraging a coordinated approach for offshore wind farms and the adoption of meshed grids, which is crucial for efficiently connecting this new industry to the grid and coastal load centers. (Pg. 34)
- Repeal the linkage between leasing of offshore wind and offshore fossil fuel drilling.
- Create a dedicated statutory title for offshore wind.

**Geothermal** (pp. 35-38)

- Evaluate categorical exclusions for geothermal.
- Open a centralized BLM permitting office for geothermal energy.
- Identify geothermal leasing priority zones and update the geothermal programmatic Environmental Impact Statement.
  - Applying Designated Leasing Areas (DLAs) to geothermal development could streamline leasing hurdles, and updating the BLM’s 2008 geothermal Programmatic Environmental Impact Statement (PEIS) would provide developers
with greater investment certainty and align with current clean energy demands. (Pg. 38)

- Foster community engagement and stakeholder participation in the permitting process.
This report explores different ways that permitting can occur without having to modify NEPA rules the Evergreen Collaborative’s view protects frontline communities and should not be amended. Below are proposals that they believe the Biden administration and states could adopt right now without having to pass legislation with ties to climate change deniers.

Key Proposals:

FERC, DOE, and Transmission Proposals.

- **Transmission Planning**
  - The Commission must work to finalize rapidly a strong regional transmission planning rule in early 2024 that requires grid operators to consider a minimum set of benefits. Finalizing a strong rule would do more than any other action to speed the buildout of much-needed transmission infrastructure. (Pg. 11)
  - In its final transmission planning rule, FERC should establish requirements and incentives for transmission owners to ensure grid-enhancing technologies (GET) are optimally deployed to facilitate a rapid, equitable clean energy transition. (Pg. 11)
  - FERC should finalize a strong regional transmission planning rule and expand interregional transmission planning, potentially setting a minimum transfer capability between grid regions similar to the BIG WIRES Act’s 30 percent requirement. Failure to act could lead to grid disasters like the 2021 Winter Storm Uri, emphasizing the need to reduce reliance on fossil gas, increase renewables and storage, and improve interregional transmission. (Pg. 12)

- **Interconnection Reform**
  - Adopt ERCOT’s “connect and manage” approach: Allow projects to interconnect without requiring developers to fund expensive grid expansions upfront, facilitating faster clean energy deployment. (Pg. 12)
  - Expand fast-track interconnection services: Implement broader use of energy-only interconnection processes, understanding that such projects may face curtailment and be ineligible for capacity market payments, with potential mitigation through co-located energy storage. (Pg. 12)
  - Develop new interconnection standards: Introduce new study standards and explore delinking grid connections from network upgrade requirements to streamline the process, as recommended in DOE’s draft roadmap. (Pg. 12)
Integrate interconnection and transmission planning: Enable the fast-track interconnection process and tie interconnection studies to transmission planning, enhancing coordination and efficiency as proposed by FERC Commissioner Allison Clements. (Pg. 13)

- **Backstop Siting for Transmission Lines**
  - The DOE can utilize $2.5 billion in IIJA funds and $2 billion in IRA loan authority to create public-private partnerships and act as an “anchor customer” for transmission lines, with its first round of capacity contracts in October 2023 committing $1.3 billion to three projects, and is encouraged to continue using these new authorities in 2024. (Pg. 14)
  - DOE should finalize the designation of National Interest Electric Transmission Corridors (NIETCs) based on the National Transmission Needs Study, ensuring a transparent and collaborative process with states, Tribes, and community stakeholders to address infrastructure gaps and enable FERC to assist in siting transmission lines. (Pg. 14)
  - FERC should quickly implement its new authority to facilitate the deployment of new transmission lines by finalizing the proposed rule to eliminate the one-year waiting period and clarify state delay and denial conditions, with prioritization needed by early 2024. Additionally, FERC should collaborate with DOE to adopt proposed revisions to Categorical Exclusions for transmission projects to ensure transmission lines are given the same expedited treatment as gas pipelines. (Pg. 14)

- **Federal Coordination for Transmission Under DOE**
  - DOE should use its authority under Section 216(h) of the Federal Power Act to expedite transmission permitting by coordinating all federal authorizations and environmental reviews. In May 2023, DOE and eight other federal agencies signed an MOU to implement this authority, updating regulations and establishing a standardized timeline for the permitting process. (Pg. 15)
  - DOE should finalize the CITAP program rule, which establishes a two-year timeline for consolidated environmental review and permitting, and set up the Integrated Interagency Pre-application process to expedite transmission permitting, aiming to complete this during President Biden’s first term. (Pg. 15)

- **Community Participation, Tribal Consultation, and intervenor Compensation**
  - The IRA allocated $760 million for DOE's Transmission Siting and Economic Development Grants, available until September 2029, to support equitable community participation and intervenor compensation in transmission siting processes by state, local, or Tribal authorities. State agencies and siting boards should apply for these grants to create or enhance intervenor funding programs,
ensuring timely decisions on transmission projects and maximizing community benefits. (Pg. 16)

- FERC should establish an intervenor compensation program in 2024 to enhance accessibility and equity in federal siting and permitting processes, following the example of its Office of Public Participation (OPP) which assists underrepresented groups but lacks funding capabilities without new rulemaking. This initiative aligns with FERC Chairman Willie Phillips' priorities on environmental justice, highlighted during a March 2023 roundtable, and aims to address criticisms of FERC’s historical bias towards fossil fuel projects in environmental justice communities. (Pg. 16)

- FERC should establish permanent liaison positions in the Office of Public Participation dedicated to environmental justice and Tribal community engagement (Pg. 16)

- The Commission should also increase transparency and offer more opportunities for impacted communities and landowners to participate in the pre-filing process. Specifically, FERC’s final backstop siting rule should strengthen its definition of a “stakeholder” to explicitly include environmental justice communities and require dedicated, separate public engagement plans for both environmental justice and Tribal communities. (Pg. 17)

- **Community Benefits Agreement**
  - Require developers to sign enforceable agreements with affected community and labor groups as a condition for receiving federal grants or loans. (Pg. 17)
  - Effective CBAs should be designed and secured early, and uniquely tailored to local needs based on inclusive and meaningful community participation. Agreements should be enforceable, and disputes over execution should be resolved by independent judges (Pg. 17)

**NEPA**

- **Strengthen Early, Meaningful Community Engagement**
  - Agencies should solicit early, meaningful, and ongoing input, particularly from overburdened and underserved communities, and incorporate those perspectives and comments into final decisions (Pg. 19)
  - Agencies should give notice of all changes and actions directly to local organizations and leaders in overburdened communities, and offer language-inclusive materials and public hearings at convenient times and accessible locations (Pg. 19)
  - The White House Council on Environmental Quality (CEQ) should prioritize the prompt launch of a public permitting portal that unifies all communications between project applicants and relevant agencies
- **Consider Cumulative Impacts:**
  - If findings reveal that a proposed project would place a disproportionately high burden on communities of color or low-income or Indigenous groups, the permit request should not be approved, or the project should be modified to alleviate the identified concerns. (Pg. 19)
  - Cumulative impact analysis should include both clean and dirty energy infrastructure, with a focus on polluting fossil fuel projects, and CEQ should finalize clear definitions of "environmental justice communities" and "cumulative impacts" in its Phase II NEPA rules to guide permitting agencies, incorporating environmental justice and robust cumulative impact analysis into their decisions by early 2024. (Pg. 20)

- **Respect Tribal Sovereignty and Self-Determination**
  - Permitting agencies and developers are urged to seek free, prior, and informed consent and strive for a mutually desired outcome for any projects that may implicate treaties and impact Tribal social, cultural, and spiritual resources. (Pg. 22)
  - Agencies should formally consult with all relevant Tribal communities on a nation-to-nation basis, including those without federal recognition, and widely solicit and incorporate input from Tribal members beyond government representatives and technical staff (Pg. 22)

- **Boost Agency Staff Capacity and Interagency Coordination**
  - Identify and report gaps in staff expertise that may be lengthening planning and permitting timelines, and develop workforce plans to fill those vacancies (Pg. 22)
  - To remain competitive in the job market, the U.S. Office of Personnel Management should issue special rates for occupational groups relevant to NEPA review, including generalists and expert staff (Pg. 23)
  - The Federal Permitting Improvement Steering Council (FPISC) should continue to expand its permitting dashboard to track more mid-sized renewable energy and transmission projects (Pg. 23)

- **Plan Smarter and Review Clean Projects Faster Under NEPA**
  - The permitting system must be streamlined for clean energy projects while preventing new fossil fuel projects. This can be achieved with strategic changes to NEPA review enhancing coordination, transparency, and efficiency without benefiting polluting infrastructure, and the Biden administration is finalizing new CEQ rules to guide this process in early 2024. (Pg. 23)

- **Increase the Use of Programmatic Environmental Impact Statements**
To streamline project-level review for large clean energy projects, federal and local agencies should increase the use of programmatic Environmental Impact Statements (EISs), which provide comprehensive land-use planning, robust cumulative impact analysis, and mitigation guidelines.

After finalizing the Phase II rule, CEQ should release guidance on best practices for programmatic EISs for clean energy and transmission, while agencies and DOE should conduct thorough landscape-level programmatic EISs using the best-available scientific information to facilitate faster reviews for essential transmission lines. (Pg. 25)

Permitting staff can save time and effort when conducting project-level review by “tiering,” referencing analysis from the broader reviews and avoiding rework. (Pg. 25)

Increase the Use of Mitigated Findings of No Significant Impact (FONSI)

We recommend that permitting agencies amend their NEPA implementing regulations to state that Mitigated FONSI is the preferred method of review for clean energy and transmission projects if specified mitigation actions are taken. (Pg. 25)

Adopt New and Existing Categorical Exclusions (CE’s)

DOE should finalize these new CE’s for solar, energy storage, and transmission upgrade projects (Pg. 26)

DOE should consider other electricity generation projects for CE’s if they produce zero emissions of any kind (such as wind or geothermal projects). (Pg. 26)

Permitting agencies should adopt CE’s approved by other agencies, including wind siting and monitoring, transmission line upgrades, and offshore wind habitat conservation—as well as the new CE’s proposed by DOE in its November 2023 proposed rule. (Pg. 26)

State Siting and Permitting

Legislative Opportunities for States

Consolidate clean energy siting authority and permitting processes under a single agency or authority (Pg. 27)

Grant state agencies authority to prevent overly restrictive local limits and bans on renewable energy and transmission (Pg. 27)

Minimize adverse impacts without overly restricting clean energy through upfront environmental assessments and statewide standards. (Pg. 28)

Require early, open, and meaningful planning—prioritizing engagement with overburdened and underserved communities. (Pg. 28)

Ensure host communities receive direct and visible benefits from nearby projects. (Pg. 28)

Require upfront consultation with Tribal communities. (Pg. 29)
- Require state agencies to conduct cumulative impact analysis and incorporate results into project approvals. (Pg. 29)
- Set transparent, reasonable timelines and deadlines. (Pg. 29)

This report identifies areas of law where renewable energy projects encounter obstacles and each main policy recommendation below seeks to address one of those obstacles while maintaining environmental justice at the forefront.

Key Proposals:

- **Use existing federal government authority to site, permit, and allocate costs for large interstate transmission lines while increasing community engagement.**
  - FERC and DOE should move quickly under their strengthened authorities to designate new “national interest” corridors. (Pg. 6)
  - FERC should enhance environmental reviews and landowner protections for transmission line siting by accurately defining and assessing impacts on environmental justice communities, measuring GHG emission changes under NEPA, and providing plain-language public notice and meaningful opportunities for comment. (Pg. 7)
  - DOE should quickly utilize its new authority to take equity stakes in large interstate or offshore transmission lines by acting as an anchor customer to reduce project risk and attract investment, expediting the selection and negotiation process for capacity contracts. (Pg. 7)
  - Congress should pass legislation requiring FERC to issue new cost-allocation rules that accurately reflect the multiple benefits of transmission and allocate costs accordingly, including provisions for offshore wind transmission if FERC does not act independently. (Pg. 7)
  - Congress should pass legislation granting DOE and FERC clear authority to plan and permit large interstate transmission lines that meet specific criteria, with a requirement for early and comprehensive community engagement. (Pg. 7)

- **Increase community support for transmission and large-scale renewable energy projects.**
  - States should adopt model siting and permitting laws that enhance community engagement and limit local bans on wind and solar projects, incorporating provisions for specialized state agencies, transparent timelines, bypassing restrictive local laws, standardized impact mitigation, public funding for community intervention, and robust community benefits agreements. (Pg. 8)
Developers should proactively and thoroughly engage all stakeholders early in the process to identify and address potential conflicts, and states should mandate this practice in their siting and permitting laws or incentives for renewables and in-state transmission projects. (Pg. 8)

Developers, states, and the federal government should ensure that host communities receive direct benefits from clean energy projects, such as job creation and infrastructure improvements, by requiring or incentivizing community benefit agreements through siting and permitting laws or new incentives, with Congress increasing funding for these initiatives. (Pg. 8)

Developers, states, and the federal government should ensure that clean energy projects create quality jobs, including prevailing wage and project labor agreements, using models from states like New York and New Jersey that require these provisions for projects supported by state funds. (Pg. 8)

Coalitions of environmental, conservation, labor groups, local landowners, businesses, and other stakeholders should collaborate to support well-sited clean energy projects that benefit host communities. (Pg. 8)

- **Improve federal coordination, accountability, and staffing of clean energy permitting and environmental reviews.**
  - Fill current federal permitting agency vacancies with a balance of generalists and experts and be prepared to pay them more (Pg. 9)
  - Use IRA and BIL funds to enhance agency capacities for expedited planning and permitting of renewables and transmission, emphasizing transparency, accountability, and early stakeholder engagement. (Pg. 9)
  - The Federal Permitting Improvement Steering Council (FPISC) should use its authority and a portion of the $350 million from the IRA to coordinate permitting with Native tribes and states, track vital clean energy projects on the Permitting Dashboard. (Pg 9)
  - The White House Council on Environmental Quality (CEQ) and the Bureau of Land Management (BLM) should allocate resources to clean energy-specific functions, with CEQ enhancing permitting efficiency and BLM fully staffing Renewable Energy Coordinating Offices to expedite renewable energy permits on public lands. (Pg. 9)
  - Congress should lower the monetary threshold for "covered projects" on the Permitting Dashboard and authorize FPISC to use IRA funds to facilitate participation of frontline and disadvantaged communities in permitting processes for better and expedited outcomes. (Pg. 9)

- **Embrace “smart from the start” planning to ensure that clean energy projects deliver conservation benefits and mitigate impacts.**
- The DOI should update the BLM Western Solar Plan and other planning processes to embrace “smart from the start” by using programmatic environmental impact statements (EISs) for early community engagement and efficient tiering, which can streamline and expedite projects (Pg. 10)

- DOE and EPA should collaborate with other agencies and states to identify contaminated sites and nonviable agricultural land for renewable energy development, utilizing the EPA’s RE-Powering Initiative to map over 11,000 such sites, and promoting renewables as an economic development strategy in transitioning regions (Pg. 10)

- DOI, DOE, and EPA should partner with state agencies to develop and share high-quality data, best management practices, mitigation options, and guidance, ensuring IRA funds are used to help states permit clean energy more efficiently. (Pg. 10)

- DOI and partner agencies should begin renewable projects with strong environmental protections, proactive monitoring, and adaptive management to minimize impacts, build community trust, and ensure responsive, environmentally sound growth of the renewables industry. (Pg. 10)

- Grid planners should expand transmission system capacity using "smart from the start" principles, which include upgrading within existing rights-of-way, considering non-wires alternatives, and selecting routes with minimal community and resource impacts. (Pg. 10)
This report was done after the Bipartisan Policy Center brought together experts from across the political spectrum to explore different options for improving the permitting system of linear infrastructure.

Key Policy Proposals:

- **Interstate Transmission**
  - Bolster the Federal Energy Regulatory Commission’s (FERC) existing backstop siting authority, which was included in the Bipartisan Infrastructure Law (BIL) but is still being implemented. (Pg 3)
  - Security Act of 2023 (S. 1399), introduced by Joe Manchin (D-WV), would give FERC backstop authority to permit transmission for lines of “national interest,” if a state fails to permit the project after one year from application. (Pg. 3)
  - Grant FERC primary siting authority for interstate transmission lines. Such a step would resemble the authority FERC currently possesses for siting natural gas pipelines, in which the agency has the primary permitting responsibility (Pg. 4)
  - Grant FERC the authority to determine the cost allocation formula. Similar to expanding FERC’s authority to permit new transmission, such clear authority regarding the cost allocation formula could help to expedite the building of interstate transmission by significantly streamlining the process. (Pg. 4)
  - Create incentives for states and local communities to site interstate transmission through communities that otherwise would receive little to no benefit from the transmission (Pg. 4)
  - Requiring regions to have a minimum capacity transfer capability is one potential option to increase the entire grid’s reliability, as this ability could enhance the capability of one region to supplement the power needs of a neighboring region in times of high demand or reduced supply. (Pg. 5)
  - Require grid operators to compensate the owners of an energy generation project for costs related to unreasonable delays in winning approval to join the grid, known as interconnection queue delays. (Pg. 6)

- **Hydrogen Pipelines**
  - Design a new regime specifically for hydrogen pipelines as opposed to utilizing an existing structure, such as the Natural Gas Act (NGA), which is designed for a commodity with different features (Pg. 8)
  - Expand the NGA to include hydrogen rather than Congress starting from scratch to develop a new statute.
• **Carbon Dioxide Pipelines**
  o FERC should receive backstop authority for siting interstate CO2 pipelines. Using this authority, a project sponsor would be able to request that the Commission take over the permitting of a pipeline if states delayed or denied permits (Pg. 8)
  o Provide FERC with primary siting authority for CO2 pipelines in the same manner it has for natural gas pipelines (Pg. 9)
  o Expand the Definition of “Energy Corridors” to Include CO2 Pipelines (Pg. 9)

• **Natural Gas Pipelines**
  o Clarify the Clean Water Act “discharge,” which would apply only to the impact on water quality and not on other impacts such as air quality.

• **All of the above**
  o Improve the eminent domain process, including providing landowners with adequate opportunity to intervene and instructions on how to do so; reasonable timelines for remuneration; and rights to reclaim land if the permitting process fails.
This article states that while the transition to a clean energy economy necessitates an increase in mineral production, this should not lead to the weakening of environmental standards. Instead, the article advocates for improving the efficiency of the permitting process without sacrificing health and safety standards. It recommends three key actions which aim to expedite permit processing times while maintaining analytical rigor and environmental protections.

Key Policy Recommendations:

- **Avoid Delay Caused by Insufficient Agency Capacity**
  - Enhance agency capacity by ensuring sufficient and knowledgeable staff, addressing recent expertise gaps due to staff departures, and providing adequate funding, such as Congress’s 11.3% budget increase for the EPA. (Pg. 8)
  - Promote confident decision-making among agency staff to reduce delays caused by litigation risk aversion, encouraging them to focus NEPA documents on significant issues rather than creating overly comprehensive documents. (Pg. 8)
  - Create performance incentives to reward prompt and rigorous decision-making, and utilize tools like transparent analysis, incorporation of documents by reference, and tiering to prior environmental reviews to streamline the permitting process. (Pg. 9)

- **Create Tools That Make the Legal Structure, Permitting Requirements, and Available Information More Transparent and Publicly Available**
  - To improve permitting efficiency, efforts should focus on reducing procedural and legal uncertainty, enhancing clarity and accessibility of permitting information, and addressing the primary source of delay identified by the GAO: the low quality of information in mine plans. This can be achieved by providing clear guidance, standardized checklists, and better coordination among federal, state, and local agencies. (Pg. 9)
  - Create a mine permitting hub with flow charts and environmental checklists to make the legal structure more transparent, predictable, and manageable (Pg. 11)
  - Create a mine permitting hub similar to the RAPID website, featuring links to previously drafted NEPA documents, analytical flow charts, and
environmental checklists. This feature facilitates tiering and minimizes the risk of duplicative environmental analyses. (Pg 12)

- **Use the NEPA Process as a Tool to Avoid Delay Caused by Uncoordinated Interagency Permitting Requirements**
  
  o Coordinate Permitting and Compliance: Utilize the NEPA process to coordinate permitting and planning requirements, ensuring compliance with other relevant laws and improving interagency communication. (Pg. 13)

  o Early and Inclusive Consultation: Initiate early consultation with all stakeholders, including federal, state, and local agencies, tribes, and citizen groups, to identify and address issues early in the design phase, reducing costs and delays. (Pg. 13)

  o Enhance Efficiency and Transparency: Implement NEPA procedures to improve timeliness, predictability, and transparency in the permitting process, requiring sufficient agency capacity and expertise (Pg. 14)
This report states that achieving a clean energy future necessitates comprehensive permitting reform that addresses both electricity grid reform and community engagement. The report emphasizes that effective permitting processes should facilitate the rapid buildout of clean energy infrastructure while ensuring meaningful participation from disadvantaged communities.

**Key Policy Proposals:**

**Grid and Transmission Reform**

- **Improving Interstate Transmission Capacity**
  - **Siting Process Legislation:** SITE Act (H.R. 4971/S. 2651) – Rep. Mike Quigley/Sen. Sheldon Whitehouse (Pg 3)
    - Apply federal siting standards, similar to those for multi-state natural gas pipelines, to high-capacity interstate transmission lines to streamline the approval process and ensure systemwide benefits.
    - Automatically deem certain transmission lines as being in the national interest, subject to FERC authority, if they meet specific criteria such as crossing two or more states and having a capacity exceeding 1000 MW.
    - Enshrine clear eligibility criteria in law for national interest transmission lines to provide long-term certainty for transmission and generation developers, and limit federal authority to truly national projects, leaving most lines under state jurisdiction.
  - **Cost Allocation Legislation:** Enhancing Electric Grid Resilience Act (H.R. 9326) – Rep. Kathy Castor (Pg 4)
    - Grant FERC the authority to allocate the costs of transmission projects across all beneficiaries, ensuring that the financial burden is shared equitably.
    - Adopt the "beneficiary pays" principle to ensure cost savings for consumers by offsetting the costs of new transmission projects with savings from access to cleaner, cheaper renewable energy, and improved system reliability.
    - Require interstate, interregional, and offshore projects of national importance to use broad cost allocation methods to encourage the development of large-scale projects necessary for grid decarbonization.
  - **Minimum Transfer Capability Requirements Legislation:** Reinforcing the Grid Against Extreme Weather Act (H.R. 8303) – Rep. Sean Casten and Section 5 of the CHARGE Act (S. 3879) – Sen. Ed Markey (Pg 5)
- Congress should direct FERC to determine the existing transfer capacity between regions and to establish minimum levels of transfer capabilities between each region.
- FERC should mandate that each transmission planning region coordinate with neighboring regions to plan for the required interregional transmission capacity.

**Planning and Governance Reform**

- **Create Office of Transmission at FERC, Legislation:** Section 215 of the CLEAN Future Act (H.R. 1512) – Rep. Frank Pallone and Section 9 of the CHARGE Act (S. 3879) – Sen. Ed Markey (Pg. 6)
  - FERC should explicitly be required to consider multiple benefits when making decisions, including the economic, reliability, operational, environmental, and climate benefits that transmission projects pose.
  - FERC should also facilitate stronger interregional collaboration and these multiple benefits should be consistently considered across regions.

- **Interconnection Queue Legislation:** Section 3 of the Efficient Grid Interconnection Act (H.R. 4027) – Rep. Kathy Castor (Pg. 6)
  - Congress should direct FERC to require electric utilities to allocate grid upgrade costs among all benefiting customers, resulting in overall savings through access to cheaper, cleaner energy and reduced transmission congestion.

- **Shared Offshore Wind Infrastructure Planning (No legislation yet)** (Pg. 7)
  - FERC should mandate a coordinated approach to offshore wind transmission, creating an interconnected network of lines to maximize capacity and transmit power across different regions, instead of the current uncoordinated, project-specific approach.

**Alleviating Pressure on the Grid**

  - Congress should direct FERC to allow utilities to allocate the costs of non-wires solutions, such as grid-enhancing technologies (GETs), for cost recovery through transmission rates.
  - FERC should require grid operators to study and implement GETs, such as advanced power flow control and dynamic line ratings, to improve grid efficiency and reduce costs.

- **Removing State-Level Bans on Aggregated Demand Response Legislation:** REDUCE Act (H.R. 8738) – Rep. Sean Casten (Pg. 8)
- Remove states' ability to opt out of wholesale demand response markets to allow consumers to sell their energy reduction into the wholesale market.
- Ensure that wholesale demand response aggregators can participate in all wholesale energy markets, similar to other distributed energy resource types like energy efficiency, distributed generation, and energy storage.

**Community Solar Legislation** Community Solar Consumer Choice Act (H.R. 2764) – Rep. Kathy Castor (Pg. 9)
- Congress should pass legislation to support the expansion of community solar and allow community solar projects to be included in existing DOE grant, loan, and financing programs.

**Community Engagement**

**Environmental Justice Inclusion Legislation** - Section 14 of the Environmental Justice for All Act (H.R. 2021) – Rep. Raúl Grijalva – which passed the House as part of the Wildfire Response and Drought Resiliency Act (H.R. 5118) (Pg 10)
- Update NEPA to require federal agencies to provide early and meaningful opportunities for community input on projects that may affect environmental justice communities.
- Mandate that federal agencies prepare community impact reports assessing potential adverse health outcomes, evaluating alternatives, and proposing mitigation measures to reduce health or environmental hazards.
- When an Environmental Impact Statement is required, the notice proposing the action should include a description of the proposed action, an outline of the anticipated schedule, an initial list of alternatives and potential impacts, an initial list of other existing or proposed sources of exposure, an agency point of contact, timely notice of locations where comments will be received, and any telephone number or location where further information can be obtained.
- For NEPA actions that may affect a tribal community, the federal agency must seek tribal representation.

**Strengthening Community Protections Legislation** - Amendment to the Environmental Justice for All Act (H.R. 2021) to create a new Section 15 as adopted by the House Natural Resources Committee during its 7/27/22 committee markup on H.R. 2021 – Rep. Donald McEachin (Pg. 11)
- NEPA should be amended to specify in more detail what should be considered when developing alternatives to a proposed action.

**Environmental Justice Liaisons Legislation (No legislation introduced)**
▪ Congress should direct FERC to establish environmental justice liaisons (which could be either within or outside of the Office of Public Participation) to support ongoing consultation and advanced planning in environmental justice (Pg. 11)

○ Intervenor Funding at FERC Office of Public Participation - Replace “may” in 16 U.S. Code § 825q–1(b)(2) to “shall” (Pg. 11)
  ▪ Finish establishing and properly compensate FERC’s Office of Public Participation.
  ▪ Congress should update this law to require FERC to promulgate rules to facilitate this change.

  ▪ Congress should require FERC to reform the governance and stakeholder participation practices of Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs). Proper reforms could ensure RTO/ISOs’ processes are meeting the needs of a rapidly changing grid while also improving the public legitimacy of decisions made by their stakeholder processes.
When President Biden announced his proposal for a net-zero emissions future by 2050, the Aspen Institute convened a group of policy experts to determine what was necessary to achieve this lofty policy goal. The proposals are listed below.

Key Policy Proposals

- Immediate Approvals for Critical Projects with Well Documented Net Environmental Benefits
  - Pre-Qualified Projects (Pg. 5)
    - Authorize projects with high greenhouse gas abatement potential and well-understood environmental impacts, such as those improving energy ecosystem resilience and accommodating renewable energy, without repetitive analysis.
    - Automatically permit projects that replace existing infrastructure with newer, less impactful infrastructure, such as converting coal-fired plants to natural gas, retrofitting for CCUS, or repurposing for renewable energy and green data centers.
    - Identify and legislate categories of clean infrastructure projects eligible for expedited approvals, avoiding protracted judicial review. These projects should align with existing federal, state, and local processes and drive decarbonization.
    - Include projects that qualify for federal, state, or local tax credits (e.g., ITC, PTC, 45Q), DOE loan guarantees, USDA grants/loans, or similar public funding programs aimed at emission reduction, and those subject to Clean Energy Standards or equivalent mandatory legislation.
    - Establish a non-discretionary presumption of project approval if certain predefined criteria are met, requiring agencies to approve or reject applications within 90 days. Public comments would focus only on whether the application meets Congress-specified criteria, with judicial deference to the agency’s initial determination.
  - Pre-Qualified Locations (Pg. 5-6)
    - Incorporate pre-approval for locations in federal, state, and local legislation, similar to pre-qualified projects. Utilize existing prioritization processes, such as those in the Opportunity Zone legislation, to identify economically disadvantaged areas for clean infrastructure investment.
    - Leverage the existing Opportunity Zone framework to prioritize economically disadvantaged areas for tax-incentivized private sector
redevelopment, including clean infrastructure investments. This supports job creation, local ownership of new infrastructure, and attracts new businesses.

- Propose a second round of Opportunity Zone designations with a focus on urban and rural areas suitable for green infrastructure investments. This aims to transform Environmental Justice communities into Environmental Opportunity communities.
- Consider other established categories for pre-approval, including: (1) Federal and state designated Brownfields cleared for redevelopment (2) Former military bases (3) Local enterprise zones and equivalents (4) Dam sites suitable for adding hydro-power generation (5) Pre-zoned Bureau of Land Management (BLM), Forest Service, and other public lands.

**Accelerated Approvals for Projects with Documented Impacts but Local Analysis (Pg. 6-7)**

- Implement a bifurcated approach for complex or novel clean energy projects with less documented environmental impacts. Agencies should prepare general environmental reviews and permit templates for specific project types, allowing for initial public review and comment before finalizing the framework. Specific permit applications would then focus on local or unique project impacts with a limited public comment period.
- Use programmatic environmental impact statements and general permit programs as precedents for streamlined review processes. This approach ensures timely and efficient public participation, transparency, and decision-making.
- Develop and adopt local ordinances to establish standards for siting and permitting clean energy infrastructure ahead of individual project applications. This would expedite consultations and reviews. Encourage state efforts to adopt uniform siting and permitting standards with specified deadlines, as seen in New York and Minnesota.
- Leadership should accelerate the nationwide adoption of responsible siting and permitting ordinances with fixed time limits for decisions at the state and local levels. Tools for this include developing model ordinances, providing funding, and involving joint industry resources to assist local officials.
- Consider centralizing policy, regulatory, and permitting initiatives in a single location on a regional basis or within a single federal agency to facilitate quick approvals and construction of clean infrastructure. The National Interagency Fire Center in Idaho serves as a model for this coordinated approach.
- Ensure permitting processes are accountable for timelines and provide certainty while allowing for thorough government and public review on an expedited timeline. This includes using modern communication and information technology for efficient processes and transparent information exchange.
○ Combine these approaches with accelerated adjudication to achieve the dual goals of public participation and project approval within a year for critical clean energy infrastructure projects.

● Rapid Adjudication to Enable Review and Certainty for Critical Clean Energy Projects (Pg. 7-8)
  ○ Implement a fast and certain process for adjudicating permitting disputes, similar to existing precedents in federal procurement and CFIUS reviews, to ensure timely implementation of decarbonization infrastructure projects.
  ○ Establish or adapt an administrative review board with expert judges to handle appeals within 120 days, with a structured timeline for petitioners and government responses, focused on "clear error" and "arbitrary and capricious" standards.
  ○ Ensure rapid and definitive outcomes to minimize risks from delays and uncertainties, balancing public participation and transparency with the need for timely decision-making in addressing the climate crisis.

○ Addressing Environmental Justice: (Pg. 8-9)
  - Ensure disadvantaged communities have a seat at the table in shaping and benefiting from new clean energy projects, including through Opportunity Zones. Implement structured, time-bound processes for inclusion, equity ownership, and decision-making, supported by project developers.
  - Introduce a surcharge on expedited infrastructure projects to fund clean energy access for disadvantaged communities, similar to the FCC's internet infrastructure surcharge. This aims to rectify the historic placement of polluting infrastructure in low-income and minority areas and address disparities in solar energy access.
  - Make cost-effectiveness for ratepayers a central pillar of the clean energy transition to ensure that people on fixed incomes benefit economically from clean energy projects without bearing disproportionate costs.

● Aligning state and local processes (Pg. 9-10)
  ○ Create a “supergrid authority” inside of DOE or elsewhere to purchase capacity on long haul transmission lines under certain criteria. Because generation gets built when transmission is built, there is little risk that the government will be able to sell off its transmission rights before the lines complete construction.
  ○ Have the supergrid authority fund grid enhancing technologies to maximize the efficiency and capacity of existing grid at a cost in the low billions of dollars.
  ○ Provide ITC to the billions of dollars of transmission projects that are ready for construction today for which there is no need for the government to purchase capacity.
o Provide a short-term fix to tax equity markets via full or almost 100% “direct pay” for tax credits from renewables.

o Require FERC to incorporate carbon emissions in all transmission planning processes.

o Require FERC to order NYISO, PJM, and ISO-NE to work together to come up with an offshore grid to handle offshore renewable resources in the Northeast.
Unlike the policy reports analyzed above, this report focuses solely on NEPA-related reforms aimed at expediting the permitting process. It cautions that simplifying the preparation of NEPA documents might lead to lower quality Environmental Impact Statements (EIS), which could be more susceptible to legal challenges. As a whole, this report does not have the same general concerns as others regarding the de-regulation of NEPA and its consequences for vulnerable groups. To address these issues, the report offers the following policy reforms:

**Key Proposals:**

- **Improve NEPA Review Process with Clarity and Minimal Trade-offs:**
  - Aim to shorten NEPA compliance timelines by enhancing clarity around statutory obligations, which should streamline the process without compromising the enforcement of environmental provisions.
  - Policies should be designed to avoid increasing litigation risks or degrading environmental quality, ensuring that any changes to the NEPA review process balance efficiency with environmental protection.

- **Enhance Document Preparation Capacity:**
  - Improve the quality and thoroughness of Environmental Impact Statements (EIS) rather than merely reducing page counts or imposing strict deadlines. High-quality EIS preparation can reduce the likelihood of successful legal challenges.
  - Reforms should focus on providing agencies with the resources and tools needed to prepare robust and defensible EIS documents.

- **Address and Mitigate Legal Liabilities:**
  - Recognize that shorter EIS preparation timelines may increase the vulnerability of these documents to litigation, which can delay projects.
  - Policies should aim to mitigate legal liabilities by addressing the root causes of litigation, such as ambiguities in the statutes that NEPA ensures compliance with.

- **Clarify Standards for Litigation and Shorten Statutes of Limitations:**
  - Reduce the statute of limitations for challenging NEPA decisions to limit prolonged legal uncertainties. For instance, the BUILDER Act proposes shortening this period to 120 days, aligning it with other environmental statutes.
  - Require that potential plaintiffs engage substantively during the NEPA review process by submitting comments during review periods. This ensures that legal challenges are based on substantial and timely engagement rather than after-the-fact litigation.
A shorter statute of limitations and clear requirements for standing can set a higher bar for the quality of litigation, potentially reducing frivolous lawsuits and speeding up project timelines.

- **Avoid Using NEPA to Implement Tangential Policies:**
  - Refrain from using NEPA as a vehicle to address broad and complex issues like climate change, which are better tackled through dedicated legislation.
  - For instance, requiring agencies to consider the climate impacts of individual projects can be burdensome and may not lead to meaningful environmental benefits. Instead, such global environmental issues should be addressed through comprehensive legislative action.

- **Reform Underlying Statutes to Reduce NEPA Burdens:**
  - Address vagueness and ambiguities in underlying environmental statutes to streamline NEPA compliance. For example, clarifying the criteria for delisting species under the ESA can reduce the burden on NEPA reviews and decrease litigation risks.
  - While comprehensive reform of these statutes is challenging and politically complex, targeted adjustments can improve NEPA processes without undermining environmental protections.

- **Implement Clearer Litigation Parameters and Avoid Overloading NEPA:**
  - Define clear parameters for legal challenges to NEPA decisions to ensure that litigation is timely and based on substantive grounds. This can prevent projects from being halted years after approval due to legal disputes.
  - Avoid overburdening NEPA with requirements to address issues that fall outside its original scope, such as global climate impacts, which can complicate compliance and delay infrastructure projects.

In September of 23, Governor Kim Driscoll of Massachusetts signed an executive order creating a commission with the purpose of finding policy recommendations that the state could take in order to address the delays that the current siting and permitting regime was facing. After 13 meetings, the commission released the policy proposals below.

**Key Policy Proposals (Pg 3)**

- Defining clean energy infrastructure as solar, wind and anaerobic digestion facilities; storage facilities; and transmission and distribution infrastructure.
- Combining all state, regional, and local permits required for larger clean energy infrastructure projects into one consolidated permit to be issued by the Energy Facilities Siting Board (EFSB) in less than 15 months. All other agencies that would otherwise have a permitting role for the clean energy infrastructure project would participate in the EFSB review process through the issuance of statements of recommended permit conditions. EFSB decisions would be appealed directly to the Massachusetts Supreme Judicial Court.
- Combining all local permits for smaller clean energy infrastructure projects into one consolidated permit to be issued by the municipality in less than one year. The Department of Energy Resources would work with other state agencies to develop a uniform set of baseline health, safety, and environmental standards to guide municipalities in the issuance of permits for clean energy infrastructure.
- Establishing mandatory requirements for developers to meaningfully engage with communities early in the development process to ensure robust public involvement, including requirements for timely and comprehensive notification, the number and types of meetings, a 60-day public comment period, efforts to involve community organizations, and efforts to develop a community benefit agreement.
- Creating an Office of Community Engagement at the EFSB to facilitate dialogue and assist communities and project applicants with engagement.
- Directing EEA to work with stakeholders to create site suitability guidance to be used by project developers to better understand and evaluate resource areas for quality, development potential, and social and environmental impacts, and to be used in permitting processes to avoid, minimize, and mitigate impacts on the environment and people.
• Tasking the Office of Environmental Justice and Equity with creating statewide guidance on community benefits plans and agreements to help ensure communities receive new benefits and opportunities from infrastructure sited in their area.

• Additional complementary reforms to ensure more efficient permitting processes, provide public education, and incentivize responsible clean energy development.
In response to the challenges in federal transmission permitting, the Niskanen Center and Clean Air Task Force conducted a study, compiling a database, conducting interviews with developers and federal officials, and analyzing case studies of transmission projects. Their analysis highlights the need for a balanced approach to improve transmission permitting while maintaining the core functions of the National Environmental Policy Act (NEPA). A main tenant of the report is that infrastructure reform does not have to come at the expense of protections for vulnerable communities. The Policy Proposals are seen below.

Key Policy Proposals.

- **Improving Federal Agency Coordination, Cooperation, And Capacity.**
  - The President should prioritize transmission infrastructure permitting as a national goal, establishing clear deployment objectives, ensuring regular Cabinet-level coordination, leveraging Permitting Council authorities, and appointing a transmission director to oversee these efforts. (Pg. 23)
  - Congress and agencies should improve project review transparency and timelines through an agile, iterative process with consistent communication and interagency coordination during the pre-application phase. (Pg. 24)
  - Congress should invest in interagency coordination, cooperation, and agency capacity by assigning senior personnel to major projects, training staff on transmission infrastructure, dedicating interagency staff to joint projects, and modernizing permitting review processes with digital tools and data platforms. (Pg. 24)
  - The Department of Energy, the Federal Permitting Improvement Steering Council, and other agencies should ensure transparency and accountability by using the Permitting Dashboard, recommending significant transmission projects for inclusion before the Notice of Intent to prepare an Environmental Impact Statement is filed. (Pg. 26)

- **Streamlining Interactions Among Sovereign Authorities**
  - Federal agencies, with Congressional support, should enhance state and Tribal capacity to conduct and participate in permitting processes. (Pg. 27)
  - Congress should consolidate permitting and siting authority for multi-state projects by granting FERC comprehensive powers, using legislative models like the SITE (Streamlining Interstate Transmission of Electricity) and CETA (Clean Electricity and Transmission Acceleration) Acts. (Pg. 29)
• States should harmonize their permitting processes with federal mandates to create regulatory efficiency, allowing concurrent reviews through joint state and federal environmental reviews, incorporation by reference, project-specific MOUs, and participation in federal FAST-41 reviews. (Pg. 29)

• The Permitting Council should collaborate with Chief Environmental Review and Permitting Officers to advance projects and support local authorities by leveraging NEPA’s information-sharing function to facilitate timely permitting decisions. (Pg. 31)

• Improving The Environmental Review and Permitting Process
  o Agencies and developers should conduct early, sustained, and meaningful stakeholder outreach, ensuring timely engagement with impacted communities and distinct government-to-government interactions with Tribes to respect sovereign authorities and prevent project delays. (Pg. 32)
  o Agencies should implement robust pre-filing processes to allow for constructive debate, raise environmental and community issues, consider alternative routes, and streamline reviews once applications are filed, encouraging applicants to opt-in. (Pg. 33)
  o Developers and agencies should engage in early and collaborative identification of alternatives for Environmental Impact Statements, involving federal agencies, project developers, state and local officials, Tribes, stakeholders, and the public, with support from Council on Environmental Quality guidance.
  o Agencies should carefully expand categorical exclusions for transmission development, ensuring adequate environmental and community safeguards, particularly for projects within existing rights-of-way that are known to have no significant impacts, to accelerate deployment. (Pg. 35)
  o Agencies should expand the use of programmatic EIS reviews for transmission projects to identify common environmental impacts, supported by sufficient Congressional funding to ensure adequate data, staff, and resources, and potentially prepare PEISs alongside Independent System Operator/Regional Transmission Organization development plans. (Pg. 36)
  o DOE and FERC should minimize redundancy in environmental reviews for the National Interest Electricity Transmission Corridor (NIETC) process by collaborating closely with relevant environmental agencies to streamline processes while upholding environmental protections. (Pg. 37)
This note argues that the current federal permitting process under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41) is inadequate for achieving the nation’s climate goals. Despite its aim to streamline the process, FAST-41 has not significantly sped up the National Environmental Policy Act (NEPA) review process and has added an extra layer of procedural bureaucracy. The note’s key proposals are below.

**Key Proposals:**

- **Congressional Oversight Hearing**
  - Congress should hold an oversight hearing to address unanswered questions about FAST-41’s effectiveness and ensure more accountability within the Permitting Council. This oversight would help Congress make informed decisions about future permitting legislation, potentially leading to an extension of FAST-41’s sunset rather than making the program permanent based on incomplete data.

- **Necessary Changes To Improve Assessment And Accountability Of The Fast-41 Program**
  - Future recommended performance schedules must take a larger sample from the CEQ EIS database rather than only thirty projects per sector to provide a more adequate baseline for measuring FAST-41’s streamlining efficacy.
  - AST-41 should provide clear data on the start and end dates of the permitting process for each project to accurately determine whether the overall permitting timelines are being shortened under the new two-year EIS timeline limitation.
  - The FAST-41 database should indicate whether a project was approved under the discretionary or objective standard to assess the Permitting Council's use of discretion and the popularity of FAST-41 among various project sizes.

- **Modify Nepa**
  - Establish a more comprehensive approach to defining which projects require an Environmental Impact Statement (EIS) instead of the current broad requirement for any federal actions significantly affecting the environment.
  - Congress should adopt a layered approach to environmental review, offering different levels of scrutiny based on criteria such as the type, size, and purpose of a project, to reduce judicial activism.

- **Categorical Exclusions Must Be Expanded And Made More Consistent Across Agencies**
- Legislative action should be taken to expand categorical exclusions under NEPA to significantly streamline the federal permitting process for major infrastructure projects.
- CEs should be applied uniformly across federal agencies, either through a comprehensive CE framework legislated by Congress or by requiring agencies to defer to the lead agency's determination of CE applicability to avoid duplicative and unnecessary studies.

This report evaluates the siting and permitting policies in eight states that were selected to be studied to reflect a diversity of permitting policy structures. The main objective of this report was to evaluate the policies in place to then develop recommendations for states and counties throughout the U.S. regardless of the status of their current permitting process. The recommendations are below. In parenthesis after the proposal you will find the following (level of effort, level of impact)

**Key Proposals**

- **Recommendations for State-Level Permitting Processes (Pg. 22)**
  - Create clear, consistent, and predictable permit requirements (Low, High)
  - State has authority to override overly restrictive local ordinances. This authority can be granted through jurisdiction given to state agencies or through legislation (Medium, Medium)
  - Establish or clarify existing agency jurisdiction to allow developers to opt for state review if county approval is unlikely, while maintaining the option for quicker and less expensive county review in supportive areas. (Medium, High)
  - Create a state agency dedicated to overseeing renewable permitting, similar to how New York’s Office of Renewable Energy Siting (ORES) and its regulations were established within a year following the passage of the Accelerated Renewable Energy Growth and Community Benefit Act. (Very High, High)
  - Create robust guidelines on site-specific permit requirements to increase developer certainty (Very High, Very High)

- **Recommendations for State-Local Permitting Coordination (Pg. 23)**
  - States prohibit counties from setting moratoriums or bans on wind and solar projects (Low, High)
  - Develop state standards and give counties incentives if their standards are not more restrictive than state standards (Medium, Medium)
  - Set a requirement that county standards cannot be more restrictive than state standards (High, High)
  - Create regional renewable buildout requirements with flexibility for communities to determine how to meet those requirements (Very High, High)

- **Recommendations for Permitting Timelines (Pg. 24)**
Encourage early engagement of developers with state agencies or counties to allow for greater flexibility in modifying project designs and ensure all necessary materials and requirements, including additional fees, are addressed in their applications (Low, Medium)

Increase resources, particularly staffing, to prevent bottlenecks in agency review due to the growing volume of renewable project applications, potentially by funding agency operations through project application fees to maintain adequate staffing levels. (Low, Medium)

Enhanced interagency coordination to ensure timely permit review based on standardized guidelines and schedules, including processes to resolve and/or escalate coordination delays within set timelines (Medium, Medium)

 Expedited timelines offered for projects sited on contaminated or degraded land as one way to incentivize siting on these lands (Medium, Medium)

- **Recommendations for Wildlife, Habitat, and Environmental Impact Mitigation (Pg. 25)**
  - Incorporate environmental reviews early in the project review process to ensure environmental impact plays a key role in site selection, allow developers to modify project designs to mitigate impacts, and avoid projects encountering major obstacles late in the permitting process. (Low, Medium)
  - Requirement of environmental mitigation plans based on clear and consistent regulatory standards, to encourage selection of low-impact project sites (Low, Medium)
  - Require compensatory mitigation, proportionate to project impact, to incentivize siting in areas with lower environmental impacts and to fund conservation and habitat/wildlife protection efforts (Medium, Medium)
  - Clear, consistent guidelines or requirements around environmental impact mitigation efforts (Medium, Medium)

- **Recommendations for Agricultural Land Use (Pg. 26)**
  - Adopt land decommissioning best practices into state and county-level regulations, ideally informed by federal research and guidance on preserving farmland during solar and wind development, even though there is currently no requirement for states to follow federal guidelines. (Low, Low)
  - Adopt land decommissioning best practices into state and county-level regulations, ideally informed by federal research and guidance on preserving farmland during solar and wind development, even though there is currently no requirement for states to follow federal guidelines. (Medium, Medium)
  - Incorporate agrivoltaics whenever possible, recognizing that while mandatory requirements may be premature due to limited viability and higher costs, they may still be necessary to incentivize their use. Some developers are willing to
bear the extra cost voluntarily, but further research is needed to determine the best approach for incorporating agrivoltaics. (High, Medium)

- Further development of policies to protect tenant or renter farmers is needed to ensure these farmers do not lose out on the economic benefits from converting farmland to renewables (Very high, Medium)

- **Recommendations for Community Engagement (Pg. 27)**
  - Positive messaging and information about renewables can help boost local willingness to host renewable projects (Low, Medium)
  - Encourage early engagement by developers with local communities to increase support for projects, as the relatively low cost of community engagement can lead to significant savings during later stages of project development. (Low, High)
  - Provide funding for engagement by local groups, organizations, and individuals to support involvement (Medium, Medium)
  - Incorporate a trusted third-party organization in the community engagement process, as developers are often viewed skeptically due to their profit motive. University research groups or extensions, which are typically trusted by communities, can fulfill this role. While developers may be willing to fund third-party participation, funding should come from an independent source to maintain trust. (Medium, Medium)
  - Develop community-specific forums to effectively solicit and incorporate local input, as traditional methods like public informational meetings, hearings, and comment periods may not be the most effective for gathering local preferences on site selection or project design. (High, High)
  - A transparent and just process can lead to greater acceptance of outcomes. For example, community acceptance of renewable projects in New York has increased since the creation of the Office of Renewable Energy Siting (ORES). (High, Medium)

- **Recommendations for Community Benefits (Pg. 28)**
  - Report benefits and outcomes of projects beyond the development phase, focusing on the realized benefits over the project's lifetime rather than just initial promises. This practice can increase support for specific projects and renewables in general. (Low, low)
  - Require community benefits for permit approval to ensure projects gain necessary support. Effective community benefits have included payments in lieu of property taxes and support for public programs or infrastructure, such as schools and fire departments. However, the types of benefits offered should be informed by local preferences and needs rather than being strictly prescribed. In wealthier communities, where the incremental benefit from renewable projects
may be lower, community benefits alone have not always been sufficient to increase support for renewables. (Low, Medium)

- **Recommendations for Solar Decommissioning (Pg. 29)**
  - Include standards and guidelines for solar decommissioning as part of the permit approval process. Many states already require financial assurance and decommissioning plans as part of this process to ensure proper management at the end of a project's lifecycle. (Low, High)
  - Increase education around solar decommissioning to combat concerns over decommissioning that stem from misinformation (Medium, Medium)
EarthJustice wrote this letter to urge President Biden to adopt a set of principles and recommendations for building the necessary transmission infrastructure to achieve climate goals while ensuring meaningful and timely input from impacted communities. The letter emphasizes the importance of incorporating strong environmental review and public engagement processes to prevent harm to communities and expedite clean energy infrastructure development. It highlights the need for more transmission to support a reliable and resilient electricity grid and unlock renewable energy potential.

**Key Policy Proposals:**

- **Electric Transmission Planning (Pg. 3)**
  - FERC must promulgate a rule requiring all FERC-jurisdictional electric transmission planning processes to achieve at a minimum, the following:
    - Provide proactive outreach and meaningful opportunities for affected communities to participate in planning decisions. Calculate all benefits of transmission, including GHG emissions data. Minimize and aim to avoid local environmental and social impacts, particularly in environmental justice and Tribal communities. Utilize existing rights of way for transmission solutions wherever feasible to reduce additional impacts.
  - FERC must establish Environmental Justice liaisons (either within or outside of the Office of Public Participation) to support ongoing consultation and advanced planning in environmental justice communities and tribal nations. Include a budget for these positions.
  - FERC must promulgate a rule requiring interregional electric transmission planning or specifying that regions plan for a minimum amount of interregional transfer capacity.

- **Siting/Permitting (Pg 4)**
  - Add legislative language amending the Federal Power Act to establish a new avenue for federal siting/permitting.
  - Maintain the National Interest Electric Transmission Corridor process and establish a clear definition for when transmission line developers can seek FERC review for regional or interregional transmission siting, requiring FERC to review any such applications filed by developers.
  - Developers can secure FERC review through two routes: the existing National Interest Electric Transmission Corridor process, or direct FERC review if the transmission siting proposal involves two or more states, is 1000 MW or larger,
enables renewables, reduces congestion, or improves reliability, and is selected
via the Transmission Planning process.

- FERC must enhance protections for all impacted stakeholders, particularly
  landowners, tribal, and environmental justice communities, during its review
  process. This includes assessing environmental impacts on these communities,
  ensuring accurate accounting for all impacted environmental justice
  communities, providing effective public notice, using existing rights of way where
  feasible, ensuring meaningful and timely input opportunities, coordinating
  closely with other agencies with overlapping permitting jurisdiction, and
  incorporating a transmission advisory board provision.

- **Cost Allocation (Pg. 5)**
  - Add legislative language amending the Federal Power Act for broad FERC cost
    allocation
    - Require FERC to adopt a cost allocation methodology for regional and
      interregional lines that holistically reflects the multiple benefits provided
      by transmission solutions
    - Permit FERC to allocate costs for such lines in proportion to share of
      demand for energy within the region served by the line where multiple
      benefits exist across the load served or where a benefit is known to exist
      but cannot reasonably be quantified.
    - Explicitly allow FERC to set cost allocation for transmission to offshore
      wind.

This article addresses four key policy areas that need reform in order to build all the projects that are needed to achieve deep decarbonization in the United States. The four key policy areas will help build onshore wind, offshore wind, utility-scale solar and associated transmission needed to carry the electricity across the country. The four policy areas and their recommendations can be found below.

**Key Policy Proposals**

- **Site Acquisition and Approval Recommendations**
  - **Federal Land (Pg. 10597-98)**
    - Implement environmental reviews over large geographic areas to meet NEPA and ESA requirements, allowing individual projects to proceed quickly, as demonstrated by the Western Solar Plan.
    - BLM should identify additional solar energy areas for similar expedited review processes.
    - Reinstate BLM’s Planning 2.0 rule to facilitate large-scale land use planning.
    - The Forest Service should increase its efforts to accommodate renewable projects on its land, following the example of the Green Mountain National Forest wind project.
    - Encourage and expedite new renewable projects on public lands by enacting legislation similar to this Act
    - During deliberations over the Public Lands Renewable Energy Development Act, consider relaxing fair market value requirements for leasing federal lands for renewables to incentivize development
    - Act on GAO recommendations to improve processes for mapping lands, verifying ownership, tracking reviews, providing guidance to tribes, and eliminating capacity gaps for renewable energy projects on tribal lands.
  - **Offshore Wind (Pg. 10601-02)**
    - BOEM should keep designating wind energy areas and prepare programmatic Environmental Impact Statements (EIS) to expedite project approvals.
    - Continue staging competitive lease auctions for offshore wind areas, as shown by successful auctions off Long Island, New York, and Kitty Hawk, North Carolina.
    - Major federal facilities on coastlines should consider power purchase agreements with offshore wind facilities to help developers secure financing.
- Congress should direct reviewing agencies not to deny wind energy permits based on unavoidable visual and aesthetic impacts, prioritizing decarbonization.
- Congress should include a preference for offshore renewable energy projects in the Coastal Zone Management Act (CZMA) consistency process to prevent states from disapproving these projects.
- States with offshore wind capacity should develop and implement processes to promptly review and act upon offshore wind project applications.

  o **Disturbed Land (Pg. 10602)**
    - Congress should provide liability exemptions under CERCLA for developers of renewable energy facilities on contaminated land, given they adhere to specified standards and procedures.
    - States should adopt similar liability exemptions for renewable energy facilities under their own contaminated land liability laws.
    - States should pass laws similar to California's, which encourage renewable energy development on disturbed agricultural land.
    - States should conduct surveys to identify disturbed lands and other privately owned lands suitable for renewable energy facilities.

- **NEPA Recommendations (Pg. 10604-05)**
  - Federal agencies should structure their reviews of new wind and solar capacity to be completed as quickly as reasonably possible to meet DDPP targets.
  - Agencies should increase staffing, potentially funded by higher permit application fees, to handle the increased volume of reviews, ensuring that funds go to general agency coffers to maintain review independence.
  - Use more strategic, programmatic Environmental Impact Statements to reduce the number of project-specific EIS
  - Implement "mitigated FONSI" as a preferred method for certain renewable projects if specified mitigation measures are undertaken.
  - Grant expedited review and other benefits to renewable projects that meet specified environmental standards.
  - Vigorously implement FAST provisions, including time limits on reviews under NEPA, ESA, and Outer Continental Shelf Lands Act.
  - Require agencies to address permitting and review issues early in the process, before projects are finalized.
  - CEQ NEPA regulations should require agencies to consider the positive environmental impacts of renewable projects, such as reduced fossil fuel use.

- **State and Local Approvals Recommendations (Pg. 10608-09)**
States without adequate laws and procedures for reviewing and approving large-scale renewable projects should follow the examples of California, New York, Oregon, and Washington.

Ensuring local acceptance of renewable projects by providing benefits to municipalities and residents, such as land rental income or payments, especially in minority communities to address environmental justice concerns.

Consider a federal renewables statute modeled after the Telecommunications Act of 1996, which prevents local bans on renewable energy facilities, imposes time limits on local deliberations, requires written decisions, and provides a federal right-of-action for applicants.

A federal renewables statute could prohibit local governments from banning renewable energy facilities, require timely decision-making supported by substantial evidence, and provide applicants with a federal right-of-action to enforce these procedures.

**Species Protection Laws (Pg. 10612-13)**

FWS should improve databases and standardized metrics for assessing species impacts to simplify project evaluations.

FWS should consider endorsing tools like the American Wind and Wildlife Institute's landscape assessment tool to provide clarity in assessing project impacts and siting.

FWS should create standard methodologies for mitigating harms from utility-scale projects, including options like habitat conservation banks and payment formulas.

FWS should consider the positive environmental impacts of renewable energy when granting mitigation credit under ESA §10, and all federal agencies should consider these impacts under NEPA.

FWS should use existing authority to issue incidental take permits under the MBTA to protect renewable project operators from prosecution if precautions are taken but some birds still die.

The president or Secretary of the Interior should impose time limitations on the ESA §10 incidental take permit process and consider ways to make it more efficient.

FWS should expand the types of compensatory mitigation allowed for renewable energy project impacts on wildlife.

FWS and the U.S. Department of Justice should negotiate agreements ensuring no enforcement actions against renewable projects that meet specified protective measures.

FWS, the scientific community, and the wind industry should continue developing techniques to reduce bird and bat mortality from wind turbines.
Congress should consider creating an easier path under ESA §§7 and 10 for renewable projects that meet certain conditions, to balance wildlife protection with renewable energy development.

- **Needed Complementary Actions**
  - **Grid Connection and Integration (Pg. 10613)**
    - Ensure thorough examination by grid operators, upgrade transmission lines, and implement smart grid technologies to handle new renewable energy sources.
    - Develop advanced storage technologies and demand-response programs to manage electricity supply and demand more effectively.
    - Use information technologies and improved wind prediction methods for better supply-demand balancing and adjustments.
    - Use backup fossil fuel generators with carbon capture and sequestration to address intermittency of wind and solar energy.
  - **Subsidies and Incentives (Pg. 10613)**
    - Continue offering subsidies or other financial incentives to encourage the construction of new renewable energy capacity, as renewables have traditionally been more expensive than fossil fuels.
  - **Land Allocation (Pg. 10613-14)**
    - Avoid new infrastructure/new land impacts (which can be advanced by energy-efficiency measures that reduce the need for new energy infrastructure).
    - Reuse land that has already been developed or otherwise disturbed.
    - Maximize land-efficient onsite and local energy potential.
    - Identify early the least-harm sites for energy projects and strengthen mitigation measures for facilities we need.
    - Link transmission planning and renewable energy policy more closely.