

Streamlining Energy Infrastructure Permitting

- The American Public Power Association (APPA) urges federal policymakers to streamline federal permitting rules to help facilitate the construction of cost-effective energy infrastructure necessary to maintain electric reliability and accommodate new load growth and a changing resource mix.
- Public power utilities need clarity and certainty in all aspects of the federal permitting process to make significant investments in electric generation, distribution, and transmission infrastructure.
- APPA supports conducting environmental reviews and permitting processes in a concurrent, coordinated, consistent, predictable, and timely manner so needed projects can move forward as quickly and economically as possible, while maintaining reasonable environmental oversight.

Background

Providing reliable and affordable electricity to American consumers and businesses requires an expansive infrastructure system and the capital to plan, build, and maintain it. America's energy infrastructure includes power plants, hydroelectric dams, transmission and distribution wires, and fuel delivery systems, such as interstate natural gas pipelines. The need for cost-effective infrastructure to support reliable and affordable electricity, to balance intermittent resources, and to meet rising electricity demand is particularly acute today. The growth of data centers and artificial intelligence, electrification of the transportation sector, and increased severe weather events are also driving more demand on the electric grid.

Streamlined environmental reviews under the National Environmental Policy Act (NEPA) would ensure that energy infrastructure projects can move forward quickly and cost-effectively to meet rising demand. NEPA requires federal agencies to evaluate and disclose the environmental impacts of proposed major federal actions as part of an agency's decision-making process. Projects with a federal nexus, such as those receiving federal funding or occurring on federal land, must also undergo environmental reviews. Environmental reviews and authorizations that involve multiple federal, state, and local agencies are common. These reviews are often time-consuming, fragmented, or duplicative, and costly to project proponents. In addition to siting and permitting generation and distribution infrastructure, in some cases, the electric transmission siting authority resides with federal agencies and requires NEPA review.

The Federal Energy Regulatory Commission (FERC) plays a key role in hydropower, interstate natural gas pipelines, and bulk electric transmission lines. For more on permitting these specific resources that are not addressed in this issue brief, see APPA's issue briefs, "Hydropower" and "Electric Transmission Policies."

The U.S. Army Corps of Engineers' (the Corps) nationwide permit (NWP) program is integral to permitting energy infrastructure development. Under the Clean Water Act (CWA), the Corps can issue general permits to authorize activities with minimal individual and cumulative adverse environmental effects. The power sector relies extensively on these NWPs to provide timely and reliable installation of transmission and distribution powerlines and to perform maintenance on those lines, which are critical to system reliability. A streamlined NWP process supports the secure integration and delivery of a balanced mix of central and distributed energy resources.

The Corps finalized the 2026 NWPs, which became effective on March 15, 2026, and expire after five years. The 57 final NWPs are largely unchanged from the 2021 versions. The Corps made targeted updates to simplify and clarify the permits and added one

new NWP to support projects that improve fish and aquatic organism passage. The Corps also kept its “no effect” approach for Endangered Species Act consultation and maintained an appropriate scope of review for cumulative impacts under NEPA and the CWA. APPA’s advocacy efforts resulted in the Corps quickly issuing the 2026 NWPs with minimal changes, ensuring public power utilities can continue to rely on the various linear NWPs to modernize the grid, construct carbon dioxide pipelines, and maintain utility lines.

Congressional Action

There is bipartisan agreement in the House of Representatives and Senate that lengthy, inefficient, and costly federal permitting processes deter the development of large energy infrastructure projects needed to meet rising electricity demand. In 2023, the Fiscal Responsibility Act (FRA) (P.L. 118-5), was signed into law and included several NEPA reforms, increasing interagency coordination, requiring the development of a joint schedule, imposing deadlines, putting page limits on certain environmental reviews, and creating limits on what qualifies as a major federal action (thus triggering a NEPA review). These reforms were all generally supported by public power and the electric sector. While positive, neither Republicans nor Democrats were fully satisfied with the reforms in the FRA, and since its passage, members of both parties have introduced various proposals, including additional permitting reform measures.

In 2024, the Senate Energy & Natural Resources Committee passed S. 4753, the Energy Permitting Reform Act of 2024 (EPRA), authored by Senators Joe Manchin (I-WV) and John Barrasso (R-WY). While the bill included reforms that would have streamlined the federal permitting and siting process, particularly for energy projects on public lands, it also included language that would have subjected public power utilities, electric cooperatives, and the federal Power Marketing Administrations (known as section 201(f) entities under the Federal Power Act), to increased regulation by FERC. Expanding FERC’s jurisdiction over section 201(f) entities would be a radical departure from 100 years of precedent, as not-for-profit entities are primarily regulated at the state and local levels. Moreover, it would do nothing to speed up the permitting process. APPA sought changes to S. 4753 to prevent the imposition of new regulatory burdens on public power utilities and believed its concerns could be addressed without sacrificing the bill’s overall goals. Ultimately, S. 4753 was not considered by the full Senate before the end of the 118th Congress.

In the 119th Congress, House Natural Resources Committee Chairman Bruce Westerman (R-AK) and Representative Jared Golden (D-ME) introduced H.R. 4776, the Standardizing Permitting and Expediting Economic Development (SPEED) Act, which would narrow the scope of NEPA reviews and establish judicial review requirements and timelines for challenges to an action. In December 2025, the House of Representatives passed the bill with bipartisan support. APPA strongly supports H.R. 4776 and urges its consideration in the Senate.

As part of the effort to reform the NEPA process, the House of Representatives also passed H.R. 4503, the ePermit Act, in December 2025, to modernize the federal permitting process by creating a digital platform to enable transparent, timely reviews. APPA supports efforts to digitize federal permitting processes.

In addition, in December 2025, the House passed H.R. 3898, the Promoting Efficient Review for Modern Infrastructure Today (PERMIT) Act, with bipartisan support. This legislation, led by House Water Resources & Environment Subcommittee Chairman Mike Collins (R-GA), would clarify CWA section 401 permitting requirements, codify the longstanding waters of the United States exclusion for waste treatment systems, modify and expand the NWP program, and establish judicial review requirements and timelines for federally permitted activities under the CWA. APPA strongly supports H.R. 3898.

Throughout early 2026, much of the debate regarding permitting reform centered on permitting certainty. Negotiations slowed down on a permitting reform package in the Senate due to concerns by Democrats on the rescission of authorizations and permits for certain renewable energy projects by the Trump administration. APPA supports a technology-neutral approach to permitting reform and appreciates bipartisan efforts to include permitting certainty as part of the overall push for reform. APPA supports the goals of H.R. 8308, the Create Expedited Reviews to Transform American Infrastructure Now (CERTAIN) Act, which would remove political considerations from the permitting process and provide regulatory certainty for permitted projects.

The Senate Environment & Public Works Committee is preparing a permitting package that addresses processes under NEPA, the CWA, Clean Air Act, National Historic Preservation Act, Endangered Species Act, and Toxic Substances Control Act. The committee is negotiating with the Senate Energy & Natural Resources Committee to introduce reforms to environmental permitting statutes in conjunction with proposals to address electric transmission permitting. Efforts to address electric transmission permitting in the House of Representatives have gained little traction despite the chamber’s move on environmental permitting.

Regulatory Action

The scope of environmental reviews under NEPA has been narrowed by recent court rulings, executive orders (EOs), rulemakings, and statutory amendments to the FRA. In May 2025, the U.S. Supreme Court issued a unanimous opinion in *Seven County Infrastructure Coalition, et al v. Eagle County, Colorado, et al.*, 145 S. Ct 1497 (2025), to “course correct” judicial reviews of environmental impact statements under NEPA. The court affirmed the limits of an agency’s NEPA review, confirming that NEPA does not require a federal agency to consider upstream and downstream effects of a project separated in time or place from a proposed project. The decision also instructs lower courts to give substantial deference to agency judgment as to the scope of a NEPA analysis and where that analysis should end. Given the recent court decisions, public power utilities should expect future NEPA reviews to be more narrowly focused, briefer, and completed more promptly.

The Trump administration issued a host of energy-related EOs in 2025. Most notably, EO 14154, “Unleashing American Energy,” directs several actions specific to the Council on Environmental Quality’s (CEQ) NEPA regulations and agency-specific NEPA regulations. It revoked President Carter’s 1974, EO 11991, which directed CEQ to issue binding NEPA regulations and directed federal agencies to comply with regulations issued by CEQ. However, the Unleashing American Energy EO now directs CEQ to rescind its NEPA regulations and provide guidance on implementing NEPA. CEQ issued final guidance to federal agencies in September 2025 and subsequently issued a final rule removing NEPA implementing regulations from the *Code of Federal Regulations* in January 2026. In addition, the EO directed CEQ to convene a working group to coordinate the revision of agency-specific NEPA implementing regulations.

Consistent with the 2025 CEQ guidance, federal agencies must revise and update their NEPA implementing regulations to expedite permitting approvals, ensure consistency with NEPA guidance, account for the *Seven County* decision, and to the extent applicable, implement amendments to NEPA enacted by Congress in 2023 and 2025.¹ While these revisions are ongoing, agencies will continue to follow their existing practices and procedures for implementing NEPA to the extent they are consistent with the text of NEPA, EO 14154, case law, and 2025 CEQ guidance.

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¹ Pub. L. 119-21 (July 4, 2025), section 60026 of the One Big Beautiful Bill Act.

The American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government and protect the interests of the more than 55 million people that public power utilities serve and the 100,000 people they employ.