AMERICA'S PLAN TO BUILD

SET DEADLINES, ENFORCE THEM

Infrastructure projects of all kinds—pipelines, power plants, transmission lines, roads and bridges—face a gauntlet of federal approvals under a maze of outdated laws and regulations. Opponents routinely weaponize statutes like the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA) to stall development at every stage. **Too often, projects end up in limbo, buried in endless reviews and red tape. Everyone else has deadlines—the government should too.**

Consumers ultimately pay the price for these delays, with higher bills and fewer reliable energy options, while American competitiveness suffers. Builders need certainty, and now is the time to transform how this country gets things done. Federal agencies should follow clear, consistent processes with firm deadlines—and those deadlines must be enforced. Reviews should be limited to strict timelines so agencies make timely decisions. Modernizing America's broken permitting system will unleash investment, create jobs, and ensure families have access to affordable, reliable energy.

POLICY SOLUTIONS

1. Enforce statutory timelines under the Clean Water Act

Section 401 reviews are often drawn out as states force applicants to withdraw and resubmit applications to avoid deadlines. Congress should require states to follow statutory timelines and prohibit these delay tactics. Enforcing deadlines and keeping reviews focused on water quality will prevent projects from being trapped in procedural red tape.

2. Eliminate last-minute information roadblocks

Permitting reviews often stall when agencies issue piecemeal or late data requests that reset the clock. Congress should amend NEPA and the CWA to require agencies to request all necessary information within the first 30 days. Front-loading requirements will prevent last-minute surprises and keep projects on track to meet deadlines.

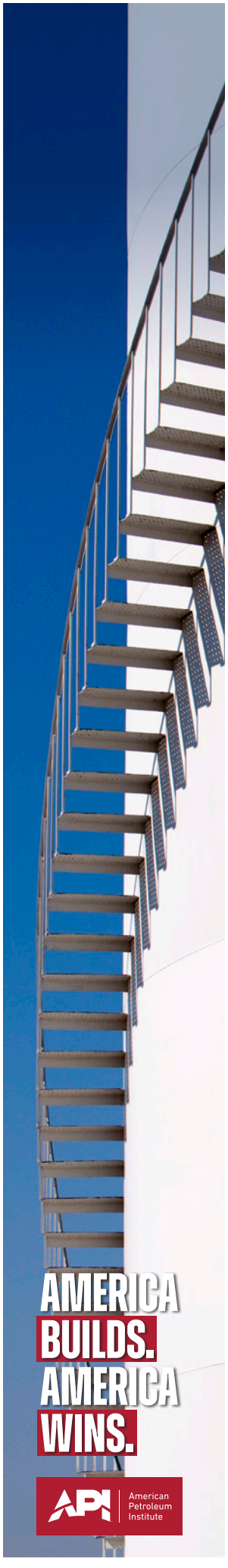
3. Improve permitting timelines on federal lands and waters

Permitting on federal lands and waters often takes years and strains agency and taxpayer resources. Congress should improve the process by promoting greater use of categorical exclusions, eliminating duplicative federal permits where state reviews already apply, expanding programmatic and tiered NEPA reviews, and creating permit-by-rule procedures for activities already covered by prior NEPA analyses.

4. Establish a modern, uniform process for cross-border energy projects

Cross-border infrastructure approvals are inconsistent, with pipelines currently overseen by the State Department rather than FERC. Authority should be consolidated at FERC, timelines reduced from 120 to 90 days, and routine maintenance or product changes are exempt from obtaining new, separate certificates. These reforms will modernize approvals, cut redundancy, and keep critical projects moving forward.

The first application for a water permit in New York for the Constitution Pipeline was in 2013. State regulators twice directed that the application be withdrawn and resubmitted—resetting the one-year review clock—before ultimately denying the permit request in 2016. **The project was eventually canceled in 2020 following years of litigation.**



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STOP LAWSUITS, START BUILDING

The permitting process should serve consumers—not lawyers—and support builders, not bureaucrats. Securing permits should mean a project is ready to move forward, but too often, activist lawsuits drag projects into court even after thorough reviews. These lawsuits, built on frivolous claims or procedural technicalities, are designed not to improve accountability but to block, delay, and ultimately prevent shovel-ready projects from being built. **Today, there are virtually no limits on who can sue or how long they can wait to do it, leaving infrastructure projects stuck in limbo.**

Congress should set clear guardrails by requiring challenges to be filed promptly and only by those directly impacted by a project. This preserves the role of local communities while curbing excessive and unwarranted litigation. Courts should also encourage agencies to resolve issues collaboratively with developers rather than forcing projects back to square one—or canceling them outright. America's permitting process must prioritize consumers over lawyers and progress over red tape. When reviews are done, builders should have the certainty to build with confidence.

POLICY SOLUTIONS

1. Set clear guidelines for legal challenges

Congress should establish a statute of limitations so that lawsuits must be filed promptly, and require that challenges come from parties who actively participated in the permitting process. Amending NEPA to set a 150-day window for challenges will ensure accountability while preventing years of delay after a permit is granted.

2. Fix instead of canceling permits

Courts should return flawed permits to agencies for correction—only invalidating them in cases of imminent danger. Agencies must then be held to strict deadlines to make corrections, so projects can stay on track while legitimate concerns are resolved.

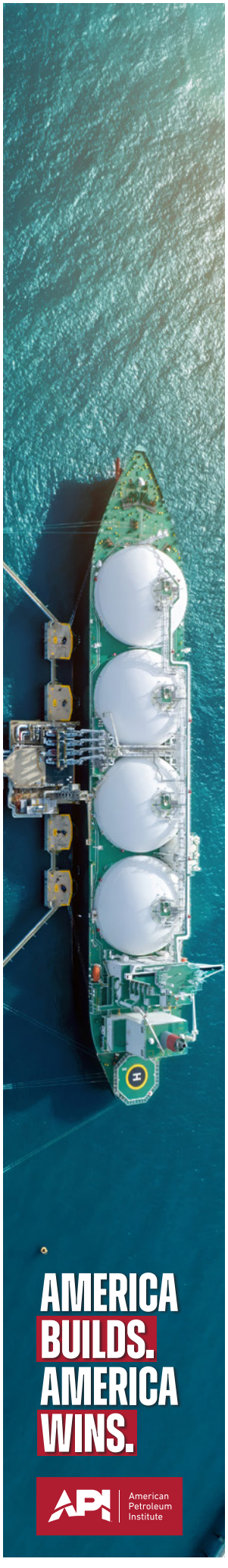
3. Provide long-term certainty through nationwide permits

Nationwide permits under Section 404 are essential for energy projects, but renewal of the program every five years create instability. Congress should extend the nationwide permit program to ten years, giving builders greater confidence to plan and invest.

4. Keep projects moving once reviews are complete

Amend NEPA, the Natural Gas Act (NGA), and the Clean Water Act (CWA) to require agencies to address deficiencies within 180 days when a permit is remanded. Challenges should focus only on the specific remedial action, so that projects already through review aren't forced back into years of litigation. This approach balances fairness with the certainty builders and communities need.

Construction on the Mountain Valley Pipeline began in 2018, but after nearly six years of lawsuits and delays, it took an act of Congress to finish. The cost to build the 300-mile pipeline almost tripled as a result.



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TARGETED REVIEWS, SWIFT DECISIONS

Permit reviews should evaluate only real and direct impacts—not speculative scenarios or limitless hypotheticals. With the constant threat of lawsuits, agencies have dramatically expanded the scope of reviews, forcing agencies into an endless guessing game about what courts might require. NEPA is by definition a procedural statute and its primary function is not to dictate the outcome of project reviews.

By analyzing impacts that are unrelated, unknowable, or unquantifiable, bureaucrats go far beyond what the law requires in an attempt to "litigation-proof" their work. This needless overreach kills jobs, stalls projects, hurts consumers and undermines American competitiveness.

POLICY SOLUTIONS

1. Clarify limitations on actions subject to NEPA

Narrow the definition of 'major federal action' so that projects with only minimal federal involvement, control, or responsibility do not automatically trigger full NEPA reviews. This would ensure that routine actions, such as authorizing federal grants, are not subject to the same level of review as large-scale projects.

2. Limit reviews to direct project impacts

Codify the 2025 U.S. Supreme Court decision in *Seven County Infrastructure Coalition v. Eagle County* to bar NEPA reviews from considering speculative, separate, or indirect project impacts. Reviews should stay grounded in the project itself, not theoretical future scenarios that do nothing to enhance the environmental outcomes.

3. Direct agencies to stay within their authority

Congress should update NEPA to require agencies to consider only alternatives that align with the project sponsor's stated purpose and fall within the agency's statutory authority. By directing agencies to remain focused on what the law actually empowers them to decide, reviews will be more consistent, predictable, and efficient.

4. Prohibit use of the social cost of carbon in reviews

Amend NEPA and other relevant statutes to ensure the social cost of carbon is not a factor in permit evaluations. Permitting should focus on project-level impacts.

Washington State denied a water permit for the Millennium Bulk Terminals – Longview Project, even though the state environmental review found no major water impacts. The denial cited unrelated issues that went beyond the scope of the review. As a result, the developer went bankrupt, the project was canceled, and Wyoming and Montana lost a chance to boost energy exports.

Learn more at

PermittingReformNow.org