

2025 ACORE Permitting Principles and Policy Recommendations Summary

Policy Principles for Permitting Reform

- **Predictability:** Project developers and financiers should have certainty regarding scope and timelines for the permitting and judicial review processes.
- **Accountability:** Agency staff must be required to act in accordance with all applicable provisions of law, regulation or guidance and be subject to dispute resolution procedures.
- **Efficiency:** All avenues to streamline permitting should be utilized to best leverage public and private resources and ensure effective environmental and community outcomes.
- **Transparency:** Project stakeholders (sponsors and affected members of the public) should have clarity and insight into expected and actual permitting milestones, and the rationale for decisions impacting those milestones.
- **Stakeholder Input:** All stakeholders should be adequately notified and have a reasonable opportunity to provide feedback on projects.

Policy Recommendations for Permitting

Require permitting actions to be technologically neutral and avoid discriminatory policies and practices, including preventing different standards or practices for permitting actions for unique types of resources and linear infrastructure.

Prevent federal agencies from cancelling or suspending fully permitted projects, except under certain circumstances, such as the finding of a violation of law.

Ensure permitting agencies:

- **Have sufficient resources, and appropriately trained and experienced personnel.**
- **Utilize the electronic infrastructure** necessary to modernize and digitize the permitting process.
- Allow for project **applicant-funded and third-party document preparation.**

Provide for meaningful community engagement conducted at a reasonably early stage of the process to maximize project success, including by frontloading engagement during the pre-application process and including all affected stakeholders and landowners in affected communities.

Obtain greater efficiency, transparency and certainty in the NEPA process by:

- Avoiding duplication of processes and studies, such as through greater use of a Programmatic EIS.
- Creating a thorough pre-application process to coordinate among relevant agencies and develop a comprehensive schedule with the applicant's input, such as provided in the Department of Energy's Coordinated Interagency Transmission Authorization and Permits program.
- Ensure that the receipt of federal funding alone does not make a project subject to NEPA.
- Only include alternatives in the environmental studies that are aligned with the goals and capabilities of the applicant.
- Expand the use of categorical exclusions and establish new categorical exclusions for low or no-impact activities, such as those on previously disturbed land.

Provide accountability by identifying designated senior officials at the permitting agencies, as well as at the Council on Environmental Quality and the Permitting Council who can intervene to address and mediate delays or other project applicant concerns.

Address delays that occur both before initiation of the NEPA studies and after their completion by instituting clear deadlines for the full process and each phase and ensuring that agencies cannot require additional studies for minor changes to the project or analyze impacts outside of the jurisdiction of their authority or outside of the specific impact of the proposed action.

Eliminate unnecessary delays built into the NEPA process, like the requirement for further review of a draft EIS by the agency prior to publication in the Federal Register. As long as there are no major components missing, the agency can publish the draft EIS and utilize the public comment period to provide feedback to the project proponent rather than adding an additional delay in the process.

Reform judicial review process and reduce litigation risk by establishing a reasonable statute of limitations (ideally, six months or less) for filing legal complaints, clarifying agency discretion under NEPA to consider all alternatives, ensuring a clearly defined scope of the environmental impacts to be studied, establishing an accelerated judicial claims process, and limiting courts' ability to halt projects simply because litigation has been filed and to vacate permits over NEPA deficiencies that would likely not have altered the agency's decision if corrected.

Ensure appropriate coordination with other laws as directed under NEPA, such as the National Historic Preservation Act and Endangered Species Act, including applying the NEPA definition of the scope of impacts and timelines with these other statutes.

Expand the scope of FAST-41 coverage and encourage state participation by reducing the \$200 million project threshold and linking federal funds to state participation in the FAST-41 process. (FAST-41 provides for a two-year statute of limitations – which should be shortened – on legal challenges and improved interagency coordination, as well as transparency by including projects on the permitting dashboard).

Strengthen and streamline the Federal Energy Regulatory Commission's backstop siting authority for transmission by allowing FERC to exercise its permitting authority over certain transmission lines determined to be in the national interest, without relying on DOE to designate a National Interest Electric Transmission Corridor. DOE would continue to conduct periodic transmission needs analyses to inform transmission planning.

Policy Recommendations to Expand and Modernize the Grid

Along with NEPA, backstop siting, and judicial reforms, these policies would accelerate the needed buildout of transmission as an essential component of permitting reform:

- Allow transmission developers of projects meeting a minimum voltage threshold and other characteristics to file a tariff for FERC cost allocation based on the full scope of transmission benefits, with clear guidelines for such cost allocation, while recognizing unique characteristics of each region. Cost allocation guidelines must abide by FERC's long-established cost-causation principle.
- Direct FERC to issue a rulemaking on comprehensive interregional transmission planning, recognizing the unique characteristics of each region.
- Establish a methodology to determine the optimal interregional transfer capability requirements, recognizing the unique characteristics of each region.
- Promote the use of Grid Enhancing Technologies and High-Performance Conductors, such as through shared savings incentives.