

FEDERAL PERMITTING IMPROVEMENT ACT OF 2015

The United States ranks 41st in “Dealing with Construction Permits”—a key component of the World Bank’s “ease of doing business” index. Businesses seeking to undertake major capital projects often must run the gauntlet of numerous separate agency reviews and approvals. That process is plagued by a lack of coordination, few deadlines, insufficient transparency, and litigation exposure as long as 6 years after securing required approvals. State and local governments face the same obstacles when they seek federal permits for infrastructure projects. The resulting uncertainty surrounding major projects makes new construction and investments less attractive and hinders job creation. Several recent reports have highlighted the need for modernization of the permitting process, including the 2011 Year-End Report of the President’s Jobs Council, the Business Roundtable’s *Permitting Jobs and Business Investment*, and the Chamber of Commerce’s *Project/No Project* report.

The Federal Permitting Improvement Act is modeled on the commonsense, bipartisan permit-streamlining reforms of the 2006 and 2012 transportation bills, recommendations from the President’s Jobs Council, and other recent studies on this issue. The bill would improve the permitting process for major capital projects in three ways: better coordination and deadline-setting for permitting decisions; enhanced transparency; and reduced litigation delays. The bill is limited to economically significant capital projects, defined based on the size of the total investment (more than \$200 million), or other projects likely to benefit from increased agency coordination. The bill covers major capital projects across sectors, including renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resources, broadband, pipelines, and manufacturing.

The bill also builds on and makes permanent the new permit streamlining project launched by the Obama Administration in 2012 under Executive Order 13,604 and available at permits.performance.gov. It would not alter substantive standards or safeguards, but instead seeks to create a smarter, more transparent, better-managed process for government review and approval of major capital projects.

Key Reforms:

1. *Better Coordination and Deadline-Setting*

- Creates an interagency council, led by OMB, to identify best practices and deadlines for required reviews and approvals of various types of projects.
- Establishes a formal role for a single “lead agency” to set a permitting timetable for each major capital project, in consultation with participating agencies and based on OMB guidance.
- Encourages greater cooperation with state and local permitting authorities.
- Encourages agencies to conduct environmental reviews by the most efficient process available.

2. *Greater Transparency and Early Public Participation*

- Creates a public, on-line “dashboard” to track agency progress on required approvals and reviews of major capital projects and to provide access to relevant documents.
- Requires agencies to reach out to accept comments from stakeholders early in the approval and review process, with the aim of identifying and addressing important public concerns early.

3. *Litigation Reforms*

- Reduces the current (default) statute of limitations on NEPA suits from 6 years to 2 years.
- Permits courts to consider potential job loss in weighing considerations for injunctive relief.

Supported by: AFL-CIO Building & Construction Trades (13 major labor unions and the Teamsters); Chamber of Commerce; Business Roundtable.