

THE INFLATION REDUCTION ACT & THE PERMITTING SIDE DEAL



Western
Environmental
Law Center

The [Inflation Reduction Act \(“IRA”\)](#) is the most important climate legislation in U.S. history and, we are learning, one that comes with a very steep price—continued handouts to the fossil fuel industry, the very industry that [knowingly caused the climate crisis](#).

Clinching this deal hinged upon promising to roll back our bedrock environmental laws.

Yet, the [permitting side deal](#) misdiagnoses the challenges and opportunities to accelerate the much-needed clean energy transition. These “reforms” would exclude the public from decision-making and harm environmental justice communities already suffering disproportionate impacts from fossil fuel extraction.

Our priority: carefully think through an inclusive clean energy transition that doesn’t sacrifice bedrock environmental laws or environmental justice communities.

For decades, anti-environment and pro-industry interests have pushed a false narrative that the National Environmental Policy Act (“NEPA”) results in unacceptable permitting delays, abuse, and inefficiencies which prevent timely federal decision-making and delay important projects.

These tired calls for “permitting reform” and “streamlining NEPA review” are buzzwords for gutting NEPA’s core protective provisions—the provisions that require an engaged and informed public to help craft thoughtful decisions in the public interest.

WHAT IS NEPA?

NEPA = the “environmental magna-carta” of the United States. It is a compelling, essential, and straightforward law that requires the federal government to:

1. Make informed decisions for all major federal actions affecting the environment before action is taken;
2. Engage the public in order to learn essential information about potential environmental consequences and alternatives; and
3. Identify and consider those alternatives to the proposed action that would avoid or minimize adverse environmental impacts
([42 U.S.C. §§ 4321 et seq.](#))

Fundamentally, NEPA results in better, more transparent decisions that provide people a voice in decision-making and protect the environment and communities from harm.

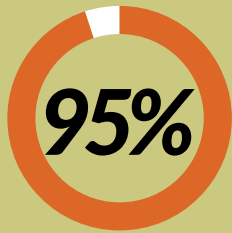
WHY IS NEPA IMPORTANT?

- NEPA requires federal agencies to “look before they leap” into action.
- This ensures that decision-makers and the public make reasoned and informed decisions that serve the public interest.
- NEPA recognizes that the public has a stake in government actions, democratizing decision-making.
- Over the past 50 years, these requirements have not only [prevented environmentally harmful decisions, they’ve improved projects while saving time and reducing costs.](#)

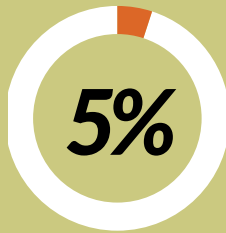
THE IRA BOOSTS CLEAN ENERGY DEVELOPMENT, AND THE CLIMATE CRISIS DEMANDS CHANGE ASAP.

DOESN'T NEPA CAUSE MAJOR HEADACHES AND DELAYS IN PERMITTING, NOT TO MENTION LITIGATION?

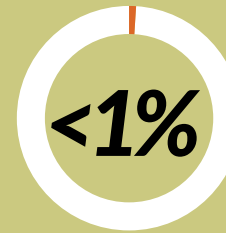
According to [recent research](#):



of federal actions that are subject to NEPA review are evaluated through an expedited analysis contained in a categorical exclusion



of federal actions subject to NEPA review are evaluated through an expedited analysis contained in an environmental assessment



of federal actions require an environmental impact statement

On the litigation front:

1 in 450

NEPA actions result in litigation

0.043%

of civil environmental litigation over NEPA in which the federal government is a defendant

WHY DOES ENVIRONMENTAL REVIEW TAKE SO LONG, THEN?

[Research](#) concludes that reasons for permitting delay have nothing to do with NEPA implementation. In short, [federal agencies are understaffed, under-trained, and bogged down by an agency culture that precludes effective and efficient NEPA reviews.](#)

This suggests that investing in federal agency capacity and culture can accelerate a clean energy build-out without compromising NEPA's integrity.

HOW CAN PROJECTS MOVE MORE QUICKLY?

We can't fall for tired rhetoric that handcuffs the clean energy transition to ill-considered changes to agency decision-making. The IRA provides agencies nearly \$1 billion in funding for environmental review—a good start to increasing agency capacity. Those funds can improve the NEPA review process through hiring and training staff dedicated to conducting inclusive and meaningful environmental reviews. The legislative permitting side deal driven by fossil fuel interests would undermine those efforts, tying agency hands just as they are finally seeing additional resources to do their jobs.

WHAT CAN CONGRESS DO?

1. Congress should provide funding and authority to agencies to ensure that they have the capacity to use bedrock laws with creativity and agility. Properly resourced agencies can then use the NEPA review process as a bridge, not a barrier, to a clean energy future.
2. Congress should pass the [Environmental Justice for All Act](#). This groundbreaking legislation acknowledges that environmental justice communities are overburdened, deserve an equitable seat at the table, and offer unparalleled wisdom and perspective on what communities facing the climate crisis need. The Environmental Justice for All Act would help build partnerships between communities, agencies, and the companies and workers building out a clean energy economy—an economy that must be rooted in equity and justice.

The story being spun is that our only hope to realize the potential of the IRA's historic investments in clean energy is to cut corners on NEPA environmental review by fast-tracking projects, limiting public participation, and hampering judicial oversight.

- Although NEPA makes for an easy scapegoat, [there is no evidence that NEPA is the cause of delays in federal permitting.](#)
- Most federal actions, including energy permitting projects, are subject to review under multiple laws (including state laws), not just NEPA.
- In fact, [MIT researchers have found](#) that a more inclusive, meaningful environmental review process can save time and money and lead to better decisions.