

AI, Data Centers, and Permitting Reform: Has the Moment Arrived?

“The urgency is real and the appetite for change is bipartisan.” Brave words from the congressional Problem Solvers Caucus. Its Working Group on Permitting, Energy, and Environment, lead by Representatives Gabe Evans (R-CO) and Scott Peters (D-CA), has released a new framework for achieving the desperately needed streamlining of environmental and judicial review for energy infrastructure of all kinds, including those for carbon dioxide pipelines, electric transmission lines, and geothermal and nuclear projects.

For decades, energy infrastructure developers have advocated for such reform, only to watch proposals stall in Congress or get tangled in litigation. Now, a new and powerful set of players has entered the arena: technology companies racing to build the data centers and energy projects that artificial intelligence demands. Their resources, innovation, and urgency raise a critical question: will these new players finally catalyze the permitting reform that has eluded us for decades?

The potential is there. Earlier this summer, the White House released its long-anticipated America’s AI Action Plan, as well as a trio of executive orders aimed at securing U.S. global dominance on AI. The action plan and the “Accelerating Federal Permitting of Data Center Infrastructure” EO deliver a stark message: the federal permitting system is an impediment that must be addressed. The executive branch is pulling all sorts of levers to eliminate that impediment, but many argue only Congress can solve this predicament.

The permitting EO offers concrete tools for harnessing the power of AI to expedite the process, among other things encouraging the expansion of the Department of Energy’s PermitAI

tool to other agencies. Building on a comprehensive dataset of nearly 30,000 documents, PermitAI enables agencies to automatically reference data and conclusions in previous reviews and automate repetitive tasks like comment review and document consistency checks.

The intriguing prospect of using AI to help clear the very hurdles slowing its own growth is likely to draw challenging inquiries: Can machine-generated analysis satisfy statutory “hard look” requirements? Will courts accept decisions informed by algorithms? How will agencies relying on AI tools ensure transparency in decisionmaking? Is our existing legal framework up to

the task? Moreover, organizations seeking to use the courts to block infrastructure projects will inevitably start wielding AI tools themselves, making it all the more important

for judicial reforms to accompany advances in permitting.

The permitting EO also directs the Environmental Protection Agency to aid in siting data centers and other associated infrastructure on brownfield and Superfund sites; the Permitting Council to enable use of the FAST-41 process; and relevant agencies to potentially expand existing fast-track reviews—categorical exclusions under NEPA and nationwide permits to impact waters of the United States under Section 404 of the Clean Water Act. Importantly, the administration also interprets NEPA not to apply to federal financial assistance when that assistance accounts for less than half of total project cost.

While executive actions are accelerating, pending legislation could lock in reforms more permanently. For example, the bipartisan SPEED Act, introduced by Representatives Bruce Westerman (R-AR) and Jared Golden (D-ME), seeks to codify many of the



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NEPA reforms currently being tested through policy initiatives and in the courts: narrowing the scope of environmental reviews, expanding categorical exclusions, clarifying what is “reasonably foreseeable,” and tightening timelines and standing in litigation.

The bill remains under consideration, and stakeholder concerns—especially around environmental justice, local control, and procedural safeguards—could modify its final form or limit its reach. Still, in the broader story of permitting reform, initiatives such as those being pursued by the Problem Solvers Caucus and the sponsors of the SPEED Act, represent a critical inflection point: a chance for Congress to join in reshaping the permitting arena.

Of course, even if federal agencies succeed in streamlining their processes, local resistance remains a wild card. Communities from Virginia to California are tightening zoning restrictions on data centers, citing noise, visual impacts, and ballooning energy consumption. Those conflicts mirror the battles long fought over pipelines and wind farms, suggesting that AI may inherit—not escape—the politics of land use.

Nonetheless, for businesses and policymakers, the stakes are enormous. If permitting reform succeeds, it could unlock not only AI infrastructure but also long-delayed clean-energy projects, transmission corridors, and industrial investments. If it fails, the United States risks ceding technological leadership to countries able to build faster and better.

**Reform—or cede
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