

To get Manchin's vote for the \$379 billion in environmental spending in the IRA bill, Schumer and other congressional leaders had to agree to support Manchin's efforts to speed up the permit system. At this point, all we have is a one-page list of permitting changes that would form the basis of a new bill. The knee-jerk reaction is that these changes, like Trump's efforts to speed approval of fossil fuel projects, are bad for the environment. But the issue is more complicated. Here are some of the key questions.

Is accelerating projects a good idea? It depends on the projects. Accelerating fossil fuel projects just puts more carbon in the atmosphere. On the other hand, the proposal also applies to renewable energy projects and related projects like improved electricity transmission. Speeding those up is not only a good idea but really essential if we're going to meet our carbon commitments. Otherwise, we could be waiting years see any actual benefit from the billions of dollars that Congress invested in clean energy in the IRA bill. One provision in the law that may be controversial but makes sense to me is expanding federal power to approve big electricity transmission projects rather than waiting for the states.

How controversial are the proposals? Some of the proposals seem very reasonable. For example, the President would list high-priority projects, which would presumably lead agencies to put them at the top of the queue. That doesn't present any obvious problems. Regulatory jurisdiction over hydrogen projects would be clarified, which definitely seems like a good idea. A single lead agency would organize the review, which also seems like a good idea. Other proposals, like ensuring that costs of transmission are allocated to customers on the basis of their benefits are pretty much current law, so it's hard to know what the change is supposed to achieve.

On the other hand, there's a requirement to accelerate permitting for a specific natural gas pipeline project from West Virginia, which has no justification except that Manchin wants it.

Other proposal were actually part of Trump's agenda. They were controversial when he proposed them and remain controversial today. Trump primarily wanted to accelerate fossil fuel projects, but going forward the focus will expand to include big clean energy projects. Environmental justice advocates are especially concerned that the procedural changes will make it harder to protect disadvantaged communities from destructive projects.

Will the changes short-circuit environmental considerations? At least some of these items will result in less thorough consideration of a project's environmental impacts. Agencies may also minimize opportunities for public participation in order to save time.

Here are a few examples of items that could reduce consideration of a project's environmental fallout:

- Set maximum timelines for issuing permits, including two years for NEPA reviews for major projects and one year for lower-impact projects.
- Tightening the one-year deadline for state certifications of federal projects for compliance with water quality standards.
- A deadline for agencies to act when a project is remanded by the court.

The IRA provides extra funding for project reviews, which may help. On the other hand, the number of projects needing review will also be expanding a lot, so it's not clear whether agencies will end up with more resources for each individual review.

Will the changes actually speed up the process? It's actually hard to say. Imposing deadlines on agencies is easy, but historically courts have found it difficult to enforce those deadlines. Moreover, a number of the changes could backfire. If an agency rushes its environmental review, it's more likely to get reversed in court, which drags out the process.

The side agreement could also raise a host of new legal or regulatory issues, leading to more litigation. For instance, the proposal requires states to "publish clear requirements for water quality requirements." Undoubtedly a good idea, but who is going to define clarity and how much litigation will result from disputes over its meaning? If the side agreement results in new language about allocating the costs of transmission projects, how many years of litigation will it take to iron out its meaning?

Some parts of the proposal may be good ideas. Some seem fairly noncontroversial, and others may turn out to be improvements. We won't really be in a position to judge that until we see some actual draft language. I'm most skeptical about the deadline provisions in the package. Overall, however, I have a feeling that the most useful way to speed up the process is the extra funding to do environmental studies and review permits provided in the IRA.

