This is the third in a series of posts on permitting reform. The first post is here. The second post is here.

How could we realistically achieve permitting reform that will advance climate and environmental goals? Answering that question requires recognizing the political realities of a sharply divided Congress and country. Any significant change to permitting reform requires a deal that is acceptable to both sides.

There are some relatively small changes that might make EPRA better that are feasible. Better notice of projects that are subject to the reduced statute of limitations would be helpful – and might actually encourage more productive engagement with projects through environmental review processes. A two-year statute of limitations would be consistent with other NEPA streamlining. Most of the relevant IRA and EPRA provisions that mandate fossil fuel leasing (minimum offshore lease sales, and the provisions that tie clean energy development to fossil fuel development) have sunset provisions ranging from 2029 to 2032. Adding similar sunset dates to some of the other provisions (for instance, the LNG approval deadline provision) would force Congress to revisit these questions based on how they perform in practice.

A more fundamental change, and one that might be out of reach in a negotiation that is so constrained in terms of time, would be to make the IRA provisions reciprocal – tying the offering of fossil fuel leases to the approval of a minimum amount of clean energy leases. If the goal is balanced energy independence, such a provision would be helpful.

True permitting reform would be broader – we can and should reconsider what we're trying to achieve with NEPA, and also expand the scope of what we are including to transportation and natural resource management (including forests). That's a more difficult conversation that is not feasible given the time constraints for these negotiations. But there are some provisions in the discussion draft for changes to NEPA from Representative Westerman that might be beneficial and increase Republican support. For instance, explicitly mandating that litigants challenging NEPA decisions must have participated in the NEPA process would encourage good faith participation in the environmental review process before going to court. Providing more clarity about when NEPA reviews should require additional research (a long thorny question in the caselaw) would also be helpful for agencies.

Regardless of what happens with EPRA, this is not the end point for these conversations, and everyone with a stake in environmental review, environmental protection, and climate change needs to engage in good faith with what kinds of changes we should consider going forward – and not just changes that are aspirational, but changes that are also achievable given the sharply divergent perspectives and sharply divided balance of political power at the federal level.