

As [one advocate for permitting reform aptly noted](#), “permit certainty” is now a prerequisite for any action on permitting reform in this Congress. That’s because the Trump Administration’s war on renewable energy means that Democrats have no desire to do a deal that would not, in practice, make a difference for investment in new clean energy sources, whether on federal land or private land.

Permit certainty refers to a range of possible concepts, from ensuring that applicants get a fair consideration of their application without unreasonable delays, to preventing unreasonable attempts by agencies to revoke existing permits.

But that’s also the challenge in designing a permit certainty bill. What is “fair consideration”? What are “unreasonable” efforts? When is an agency simply trying to undo the mistakes of a reckless past Administration, and ensure permits comply with the law and avoid serious harm to people and the environment?

As I’ve noted before, drawing those lines is really hard, especially in a highly polarized political environment. And past efforts, such as in the SPEED Act that passed the House but is now stalled in the Senate, probably were woefully inadequate.

A new bill in the House attempts to address this issue, [the FREEDOM Act](#) (yet another example of annoying acronym use for legislation). The approach the FREEDOM Act takes is two-fold: First, make it really easy for permit applicants or permit holders to go to court to challenge either unreasonable delay in consideration of permit applications or permit revocation. And second, provide for significant compensation for permit applicants or permit holders who have faced unreasonable delays or revocations, compensation that would ideally change the incentives of the agency.

The first set of reforms (generally) work, and I think they could make a real difference. The second set of reforms run the risk of serious unintended consequences and damaging the broader framework of protecting the environment and public interest.

In the next post, I’ll highlight the key provisions of the bill and their strengths and weaknesses. In my third post, I’ll sketch out what a path forward might look like for permit certainty, and some of the most challenging issues that remain.