



Full Responsibility and Expedited Enforcement (FREE) Act

Legislative Summary

The Full Responsibility and Expedited Enforcement Act (FREE Act) aims to streamline the federal permitting process by introducing a 'permit by rule' system. This legislative summary provides an overview of the key provisions of the FREE Act, the concept of permit by rule, and the benefits it offers to improve efficiency in project approvals and implementation.

Background on Permit by Rule

Permit by rule is a process where an applicant certifies compliance with pre-established criteria to obtain a permit. This approach shifts the responsibility of the applicant proving compliance to the government, allowing for automatic permit approval unless the agency identifies that an applicant had not made proper certifications within a specified period. The permit by rule system is designed to reduce bureaucratic delays, minimize costs, and enhance predictability in the permitting process.

Traditionally, the federal permitting process has been criticized for being slow, expensive, and opaque. Such delays hinder economic activity, stall project implementation, and increase costs for both the government and private entities. By adopting a permit by rule system, these inefficiencies can be significantly reduced.

Benefits of Permit by Rule

The permit by rule system offers several advantages over traditional permitting processes:

- ❖ Reduces bureaucratic delays by allowing for automatic permit approval.
 - ❖ Minimizes costs for both the government and applicants by streamlining the review process and only focusing upon enforcement actions against bad actors.
 - ❖ Enhances predictability and transparency in the permitting process, encouraging investment and innovation.
 - ❖ Focuses government resources on auditing and enforcing compliance rather than gatekeeping.
 - ❖ Supports timely project implementation, contributing to economic growth and development.
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Summary

The FREE Act represents a significant step towards modernizing the federal permitting process. By implementing a permit by rule system, the Act aims to eliminate unnecessary delays and costs, fostering a more efficient and transparent environment for project approvals. This reform will benefit both the government and private sectors, driving economic progress and ensuring timely compliance with substantive standards.

- ❖ Ensures a faster approval process, reducing waiting times from years to just 30 days.
- ❖ Empowers applicants by allowing them to certify their compliance, reducing dependency on government reviews.
- ❖ Allows for greater flexibility and adaptability in responding to project needs and changes.
- ❖ Promotes economic growth by removing unnecessary bureaucratic obstacles.
- ❖ Supports innovation and development in industries by providing a clear and predictable permitting process.

Key Provisions of the FREE Act

- ❖ Require each agency to evaluate their current permitting systems and consider the feasibility of replacing them with a permit by rule system.
 - ❖ Mandate agencies to submit a detailed report to Congress within 240 days, outlining each permit issued, the requirements for obtaining them, and an evaluation of whether a permit by rule could replace the current system.
 - ❖ Establish a permit by rule application process within 12 months of submitting the report, specifying written requirements and substantive standards for permits.
 - ❖ Automatically approve permits if the application meets all required certifications and no objections are raised within 30 days.
 - ❖ Allow agencies to audit applications and enforce compliance with substantive standards, including denying or halting permits if standards are not met.
 - ❖ Enable applicants to appeal denied or halted permits in district court, with provisions favoring applicants who made a good faith effort to comply.
 - ❖ Prohibit agencies from entering settlement agreements that would undermine the enforcement of the FREE Act.
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Examples of Successful Implementation

- ❖ The EPA has successfully implemented permit by rule for certain activities such as ocean disposal of hazardous waste and injection wells, reducing administrative burdens and speeding up project timelines.
 - ❖ Ohio utilizes permit by rule for lower-risk and common projects like auto body shops and gas stations, ensuring that these businesses can operate efficiently while maintaining compliance with environmental standards.
 - ❖ Texas applies permit by rule for larger projects such as combined heat and power systems, streamlining the permitting process for complex industrial projects.
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