Citizens' Climate Lobby

BAAJA Manager's Amendment: Key Improvements

Bipartisan American Affordability and Jobs Act

November 2026

The manager's amendment to the Bipartisan American Affordability and Jobs Act (BAAJA) reflects substantive feedback from Tribal leaders, environmental stakeholders, and Democratic offices. It strengthens Tribal consultation, improves environmental and legal safeguards, and adds provisions to protect communities and consumers, all while preserving the bill's major climate and clean energy benefits.

1. Stronger Tribal Consultation and Historic Preservation (NHPA)

The amendment makes meaningful improvements in response to Tribal concerns:

- **Strengthens Tribal consultation:** Requires consultation on the identification of historic properties, adverse effects, and measures to avoid, minimize, or mitigate those effects.
- **Protects Tribal Historic Preservation Offices (THPOs):** Removes provisions allowing the Interior Department to assume THPO responsibilities for noncompliance and instead establishes corrective action procedures, technical assistance, and additional time before funding penalties.
- **Preserves Tribal authority:** Clarifies that THPO compliance reviews do not diminish federal agencies' Tribal consultation obligations.
- **Improves procedural protections:** Extends the deadline for substantive objections from 30 to 45 days, eliminates the requirement that comments be unique to establish standing, and prevents the Advisory Council on Historic Preservation from substituting for Tribes in consultation agreements.
- **Protects sensitive Tribal information:** Exempts information in the new Tribal historic preservation database from Freedom of Information Act (FOIA) disclosure.

2. Stronger Safeguards and Accountability in Project Certainty

The amendment preserves critical protections against politically motivated interference with permitted clean energy projects while refining safeguards:

- **Protects environmental and public health oversight:** Explicitly allows federal intervention to prevent serious harms to human health or the environment.
- **Preserves existing legal authority:** Clarifies that project certainty provisions do not override applicable laws, regulations, treaties, or existing judicial remedies.
- **Raises the bar for damages:** Requires proof of bad faith for certain additional damages and strengthens opportunities for the government to rebut claims of discriminatory permitting.
- **Protects public resources:** Requires judicial approval of settlements and directs settlement funds toward project construction.

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Sources: Modeling by RFF and C2ES/Greenline Insights; Columbia Center on Global Energy Policy project timelines analysis; IPCC Report Lawrence Berkeley National Lab interconnection queue dataset

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3. Additional Environmental and Community Protections

- **Data center accountability:** Adds a program to help state, local, and Tribal governments assess data centers' energy, water, infrastructure, and community impacts.
- **Clean Water Act:** Clarifies states' authority to deny incomplete certification applications and determine necessary water-quality conditions.
- **Tribal participation in transmission:** Places Tribal governments on equal footing with states in transmission planning and recognizes Tribes as affected landowners.

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