Infrastructure Permitting Modernization

Goal Leaders:

Andrew Mayock, Acting Deputy Director for Management,
Office of Management and Budget;

Christina Goldfuss, Managing Director,
Council on Environmental Quality;

Victor Mendez, Deputy Secretary,
Department of Transportation

FY2015 Quarter 4

Overview

Goal & Vision Statement:

Modernize the Federal permitting and review process for major infrastructure projects to reduce uncertainty for project applicants, reduce the aggregate time it takes to conduct reviews and make permitting decisions, and produce measurably better environmental and community outcomes.

Problem:

Building a 21st-century infrastructure is a critical component of President Obama's effort to accelerate economic growth, expand opportunity, and improve the competitiveness of the American economy. As major infrastructure projects are proposed, Federal, State, local, and tribal entities work to consider and minimize potential impacts on safety, security, and environmental and community resources, such as air, water, land, historical and cultural resources. For the majority of projects, these permitting and review requirements are accomplished efficiently and effectively. However, for particularly large and complex infrastructure projects, multiple permits and approvals can sometimes lead to inefficiencies, frictions, and delay.

Progress Update: Revised Action Plan

For the last 18 months, the May 2014 "Implementation Plan for the Presidential Memorandum on Modernizing Infrastructure Permitting" served as the basis for the permitting CAP goal action plan. Among other things, the plan called for establishing an Interagency Infrastructure Permitting Improvement Center, which was assigned responsibility for over half of 96 milestones. Because Congress has not funded the President request to support this effort in its last two budgets, the action plan was re-baselined to focus on actions and activities that could be accomplished with existing resources and executive authorities.

After this revised plan was developed, Congress passed and the President signed H.R. 22 ([Fixing America's Surface Transportation Act, or FAST Act](#)) on December 4, Title XLI of which introduces a number of new permitting requirements. While many of the Act's requirements build on and are broadly consistent with ongoing Administration actions, the scope, focus and timing of these efforts moving forward will change in order to implement the law successfully. The plan outlined in the slides that follow does not yet reflect the activities required by H.R. 22, but will modified next quarter to do so.

Progress Update: Recent Accomplishments and Next Steps
Between July and September 2015:
- OMB and CEQ jointly issued a guidance memorandum that will expand usage of the Federal Infrastructure Permitting Dashboard to all projects that are likely to experience a lengthy review
- Seven agencies jointly published a revised "Red Book" that outlines best practices for improving interagency coordination and synchronizing environmental permit and review processes
- OMB and DOT overhauled the internal data-collection portal and public-facing Permitting Dashboard to support issuance of the guidance memo

Over the next quarter, the CAP Goal team will focus on implementing Title XLI, which includes requirements to:
- Establish an interagency governance structure to oversee long-term reforms
- Identify, post, and monitor progress of project review timelines on the Federal Infrastructure Permitting Dashboard
- Implement policies for early consultation with project sponsors, development of coordinated project reviews, and interagency dispute resolution
- Develop new fee regulations to provide sustainable funding to facilitate timely and efficient reviews for covered projects

Goal Team Leaders and Partners

Executive Office of the President (EOP) Goal Leaders:

- Dave Mader, Deputy Director for Management (Acting), Office of Management and Budget (OMB)
- Christy Goldfuss, Managing Director, Council on Environmental Quality (CEQ)

Agency Goal Leader:

- Victor Mendez, Deputy Secretary, Department of Transportation (DOT)

Key Agency/Department Partners (represented by Deputy Secretaries or equivalent)*:

- Advisory Council on Historic Preservation (ACHP)
- Army Corps of Engineers (USACE)
- Department of Agriculture (USDA)
- Department of Commerce (DOC)
- Department of Defense (DOD)
- Department of Energy (DOE)
- Environmental Protection Agency (EPA)
- Department of Homeland Security (DHS)
- Department of Housing and Urban Development (HUD)
- Department of the Interior (DOI)
- Department of Transportation (DOT)
- The Morris K. Udall and Stewart L. Udall Foundation

See Slide 15 for a complete list of participating agencies and affected programs.

Goal Team Governance Structure

To date, the following bodies have overseen execution of the Infrastructure Permitting CAP goal.

- The *Infrastructure Permitting CAP Goal Team* (formerly the Interagency Infrastructure Permitting Improvement Team, hereafter CAP Goal Team) oversees day-to-day goal implementation. It consists of staff from OMB's Office of Personnel and Performance Management, as well as from CEQ's National Environmental Policy Act (NEPA) team and DOT's Office of the Secretary.

- The *Steering Committee,* co-chaired by OMB and CEQ, consists of Deputy Secretary-level representatives from each of the 12 agency partners and is convened approximately quarterly to discuss goal-related issues and validate policy reforms.

- The *Working Group* consists of operational staff from each agency partner and is convened to consult on goal-related policy development.

Beginning in FY16 Q1, a fourth body will be added to the existing governance structure to help drive progress :

- The recent OMB-CEQ guidance memorandum M-15-20 required agencies to designate a Senior Accountable Official (SAO) for the purposes of overseeing its successful implementation. Consequently, the *SAO Council,* co-chaired by OMB and CEQ, will be comprised of each agency's designated SAO and, beginning in FY16 Q2, will convene regularly to discuss implementation and work through any potential issues that may arise regarding posted project schedules.

Action Plan Summary

Sub-Goal	Major Actions to Achieve Impact	Key Indicators
Strategy 1: Institutionalize Interagency Coordination and Transparency	1.1 Develop Policies and Tools for Coordinated Federal Project Reviews that includes designing coordinated project schedules, identifying a clear Federal coordination lead, and developing a mechanism for elevating and resolving interagency issues and disputes 1.2 Improve Synchronization of Separate Federal Permits and Reviews 1.3 Standardize Use of the Infrastructure Permitting Dashboard and Internal Collaboration Tools	**Project Review Timeframes:** • Completion dates for key milestones • Pilot collection of "Time Under Active Federal Review," accounting for "pauses" due to external factors
Strategy 2: Improve Project Planning, Siting, and Application Quality	2.1 Expand Availability of Scientific, Environmental and Other Relevant Data and Geographic Information System (GIS) Tools by developing a government-wide data sharing policy, establishing consistent data standards, and expanding GIS Tools 2.2 Develop User-Friendly IT Tools for Project Applicants and Federal Agencies 2.3 Develop a Nationwide Inventory of Historic Properties 2.4 Identify Best Practices Guidance for Project Applicants	**Project Review Impacts:** • Pilot methodology to measure environmental, cultural, and community impacts of the federal permitting and review process
Strategy 3: Improve Permitting, Reviews, and Mitigation	3.1 Facilitate High-Quality and Efficient Permitting and Review Processes for Proposed Major Infrastructure Projects 3.2 Expand Innovative Mitigation Approaches to facilitate landscape-level mitigation planning, consistent and transparent standards for applying the mitigation hierarchy, and advance mitigation and use of in-lieu fee program and mitigation banks 3.3 Develop Guidance for Non-Federal Stakeholder Engagement and Public Comment that leverages agency experience and IT tools to promote meaningful engagement of stakeholders 3.4 Expand Use of Programmatic Approaches for Routine Activities and Those with Minimal Impacts 3.5 Regularly Review Agency Implementation Capacity	
Strategy 4: Drive Continued Improvement	4.1 Establish and Track Metrics for Improved Outcomes for Communities and the Environment and for Permitting Timeframes 4.2 Establish an Interagency Infrastructure Permitting Improvement Center (IIPIC) to support the ongoing implementation of Executive Order (EO) 13604 and the improvement of Federal permitting and review processes for major infrastructure projects	[Note: All of the above indicators remain under development]

Work Plan - Strategy 1: Institutionalize Interagency Coordination & Transparency

Milestone Summary			
Key Milestones	**Milestone Due Date**	**Status**	**Owner**
Reforms 1.1: Issue guidance on interagency coordination procedures, such as early coordination, development of a comprehensive project review schedule, and dispute resolution, via an appropriate policy vehicle	6/1/2016	On Track	CAP Goal Team, Interagency Working Group and Steering Committee
Reform 1.2: Identify opportunities to develop additional synchronized processes	TBD	Ongoing	All Steering Committee agencies
Reform 1.3: Implement guidance memorandum M-15-20 that requires posting of project schedules that meet specific criteria on the Dashboard (i.e., establish oversight structure and system for monitoring progress of projects and review timelines; and, support agency implementation)	1/1/2016	On Track	CAP Goal Team, Interagency Working Group and SAO Council
Reform 1.3: Evaluate lessons learned from Dashboard guidance implementation and recommend changes to Dashboard scope and guidance as needed	6/30/2016	Not Started	CAP Goal Team, Interagency Working Group and SAO Council
Reform 1.3: Make changes to Dashboard scope and guidance as needed (e.g., type of information to be posted)	9/30/2016	Not Started	CAP Goal Team
Reform 1.3: Build out additional Dashboard capabilities, depending on availability of resources	Ongoing	Ongoing	OMB, DOT

Work Plan - Strategy 2: Improve Project Siting and Application Quality

	Milestone summary		
Key Milestones	**Milestone Due Date**	**Milestone Status**	**Owner**
Reform 2.1: Inventory different data standards used by agency GIS tools, e-application systems, or other electronic systems related to infrastructure permitting	6/1/2016	Not started	OMB, Interagency Working Group
Reform 2.1: Identify barriers to the easy sharing of relevant scientific, environmental, cultural, demographic or other relevant data among agencies and with project applicants; and identify specific opportunities to facilitate information exchange by creating consistent data standards	9/1/2016	Not started	OMB, Interagency Working Group
Reform 2.1: Coordinate with other Federal IT and data policy bodies (e.g., e-Gov/ OFCIO, Data.gov, OSTP, etc.) to identify an appropriate policy vehicle and develop an policy to increase data sharing and data standardization	12/1/2016	On Track	OMB, CEQ, DOT, Interagency Working Group and Steering Committee
Reform 2.2: Inventory, and increase user awareness and accessibility of, existing IT tools for project applicants and Federal agencies	3/1/2016	On Track	OMB, Interagency Working Group
Reform 2.3: Develop plan to establish – and system requirements for – a nationwide inventory of historic properties	6/1/2016	TBD – Date subject to availability of resources	OMB, ACHP, DOI (NPS), SHPOs and THPOs
Reform 2.4: Inventory existing agency instructions, tools and policies for communicating with project applicants; issue best practices guidance	9/1/2016	On Track	OMB, CEQ, DOT, Interagency Working Group

Work Plan - Strategy 3: Improve Permitting Reviews and Mitigation

Milestone Summary			
Key Milestones	**Milestone Due Date**	**Milestone Status**	**Owner**
Reforms 3.1 and 3.5: Evaluate Dashboard project review timelines to identify areas for reforms or improvements that will better facilitate high-quality and efficient permitting and review processes, with a focus on ensuring implementation of efficient policies and best practices	Ongoing	Ongoing	OMB, CEQ, Interagency Working Group and SAO Council
Reforms 3.1 and 3.5: Identify areas for reforms or improvements within each agency to facilitate high-quality and efficient permitting and review processes	9/1/2016	On Track	Steering Committee agencies
Reform 3.2: Implement Presidential Memorandum on Mitigation	Ongoing	On Track	CEQ, DOD, DOI, USDA, EPA, NOAA
Reform 3.2: Develop strategies to expand access to FHWA's Implementing EcoLogical training and technical assistance tools	3/1/2016	On Track	DOT
Reform 3.4: Develop policy for use and updating of existing programmatic inventory	3/1/2016	On Track	OMB, CEQ, Interagency Working Group
Reform 3.4: Identify opportunities to develop additional programmatic approaches	6/1/2016	On Track	Interagency Working Group, Steering Committee agencies
Reform 3.5: Engage regularly with agencies to review implementation capacity and support efforts to overcome resource constraints	Ongoing	On Track	OMB, Interagency Working Group, Steering Committee agencies

Work Plan - Strategy 4: Drive Continued Improvement

Milestone Summary			
Key Milestones	**Milestone Due Date**	**Milestone Status**	**Owner**
Reform 4.1: Issue guidance clarifying environmental and community outcome metrics on the Federal Infrastructure Permitting Dashboard	3/31/2016	Not Started	OMB, CEQ
Reform 4.1: Begin tracking environmental and community outcome metrics on the Federal Infrastructure Permitting Dashboard	6/1/2016	Not Started	Steering Committee agencies
Reform 4.2: Establish an Interagency Infrastructure Permitting Improvement Center to oversee management of the Dashboard and implement comprehensive reforms as directed by the Steering Committee, subject to availability of resources	TBD – Date subject to availability of resources	Not Started	OMB, CEQ, DOT

Key Indicators

In order to track the progress of the reform efforts included in this plan towards the Administration's goal, and to provide greater transparency into the permitting process for federal managers, project applicants, and other stakeholders, indicators must be established to track project review timeframes and better capture and describe the environmental, cultural, and community outcomes of the federal permitting and review process. Consistent, government-wide data will provide greater insight into current practices and inform discussions on ways to improve the review process. This data will also aid in identifying process trends and common external drivers that influence the review process.

In order to ensure that the permitting process operates effectively and efficiently and that our reform efforts are having the intended impact, two categories of indicators will be collected: (1) project review timeframe data, and (2) the avoidance, minimization or other mitigation to environmental, cultural, and community impacts of the Federal review process. Category 1 includes specific actions which will be taken to collect information on project review timeframes. Collecting information related to the environmental, cultural, and community outcomes of the Federal review process is challenging, and therefore Category 2 includes a phased-approach to ensure that the measurements are both appropriate and informative, and collected with a reasonable administrative burden. For more detail, please see OMB-CEQ guidance memorandum M-15-20.

Key indicators

Indicators in development:	
High Level Indicator	**Potential Target Areas**

• Project Review Timeframes: Completion dates for key milestones
 	
1/12/16*
	Agencies with planning, permitting and review responsibilities for major infrastructure projects will collect completion dates for each associated permitting and review action as applicable. These milestone actions include events such as:
	    <u>Permitting and Review Milestones:</u>
	      • Initial Application Received
	      • Issuance of Decision for Permit/Approval
	
	    <u>NEPA Milestones:</u>
	      • Issuance of a Notice of Intent to prepare an Environmental Impact Statement (EIS)
	      • Scoping
	      • Official Notice of Availability of a Draft EIS published in the Federal Register
	      • Official Notice of Availability of a Final EIS published in the Federal Register
	      • Record of Decision or combined Final EIS/Record of Decision

• Project Review Timeframes: Pauses due to External Factors 1/12/16*	In some cases, the federal permitting process may experience a "pause" in the review, such as when an application is withdrawn by the project applicant, a state or local government is in sole review of the application, or when financing is withdrawn. When this occurs, the elapsed time between milestone dates may provide a misleading picture of the timeliness of the federal review. For this reason, the timeliness indicator will take into account pauses in the federal review due to external factors. The agencies will record the start and end dates of any non-trivial "pause" in the central database, associated with the project name and project ID.

Reporting for covered projects will identify projects that initiate the Federal review process on or after October 12, 2015. Projects will begin being posted no later than January 12, 2016. Per M-15-20, project teams have 90 days to develop the coordinated schedules and post.

Key indicators

Indicators in development:	
High Level Indicator	**Potential Target Areas**
• The environmental, cultural, and community impacts of the federal review process 6/1/2016*	In addition to requiring the collection and reporting of permitting timeframe data, project teams will report summary data on whether the Federal permit and review processes improved the environmental and community outcomes. The approach will identify the outcomes improved through avoidance, minimization, or other mitigation of adverse impacts that result from the anticipation or application of Federal permitting and review processes. Such data will help verify whether permits and environmental reviews do generate, on net, materially improved outcomes and reduced impacts for environmental and community resources. While much of this data and analysis is collected through existing environmental permitting and review processes, to date, it has not been reported in a consistent, easily comparable or searchable manner. The information collection effort outlined below is a first step to addresses this concern. Specifically, Federal project team members will report whether the permitting and review process produced an improved outcome (i.e., a reduction in impacts) for the following seven resource categories: Air, Water, Land, Biological, Cultural, Community, and Other. If there is a reduction in impacts, the project team members will report whether the reduction resulted from Avoidance, Minimization, or Compensatory Mitigation. If the team reports the use of compensatory mitigation, it will state whether the activity involved a mitigation bank, in-lieu fee, or permittee-responsible actions. Before reporting begins, the interagency working group will finalize the specific metrics used to report environmental and community outcomes data by Spring 2016.

Reporting for covered projects will identify projects eligible as of October 12, 2015, and projects will begin being posted no later than January 12, 2016. Collection of environmental, cultural and community impact indicators will begin 6/1/2016.

Contributing Agencies and Programs

Advisory Council on Historic Preservation
- Office of Federal Agency Programs

Executive Office of the President
- Council on Environmental Quality
- Office of Management and Budget
  - Office of Performance and Personnel Management

United States Department of Agriculture
- United States Forest Service
- Rural Utility Service

United States Department of the Army
- Office of the Assistant Secretary of the Army for Civil Works

United States Department of Commerce
- National Oceanic and Atmospheric Administration
  - Office of Coastal Management
  - National Marine Fisheries Service

United States Department of Defense
- Office of the Deputy Under Secretary of Defense/Installations & Environment

United States Department of Energy
- Office of the Secretary

United States Department of Homeland Security
- United States Coast Guard – Bridge Program
- Federal Emergency Management Agency

United States Department of Housing and Urban Development
- Office of Environment and Energy
- Community Planning and Development/Community Development Fund

United States Department of Interior
- The Bureau of Land Management
  - Renewable Energy Management
  - Cadastral Survey
  - Lands and Realty Management
  - Communication Sites Management
- Bureau of Ocean Energy Management
  - Renewable Energy
  - Conventional Energy
  - Environmental Assessments and Studies
  - General Support Services
- Land and Minerals Management
- National Park Service
- Fish and Wildlife Service
  - Ecological Services
- Bureau of Indian Affairs
  - Environmental Quality Program
  - Real Estate Services
  - Land Title Records Services

United States Department of Transportation
- Office of the Secretary
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- Federal Transit Administration
- Maritime Administration (MARAD)
- John A. Volpe National Transportation Systems Center

United States Environmental Protection Agency
- Office of Enforcement and Compliance Assurance
  - NEPA Compliance Division

Morris K. Udall and Stewart L. Udall Foundation
- US Institute for Environmental Conflict Resolution

Acronyms

- **ACHP – Advisory Council on Historic Preservation**
- **BLM – Bureau of Land Management**
- **CE – Categorical Exclusion**
- **CEQ – Council on Environmental Quality**
- **DOE – Department of Energy**
- **DOI – Department of Interior**
- **DOT – Department of Transportation**
- **EA – Environmental Assessment**
- **EIS – Environmental Impact Statement**
- **EO – Executive Order**
- **EPA – Environmental Protection Agency**
- **FHWA – Federal Highway Administration**
- **GIS – Geographic Information Systems**
- **IIPIC – Interagency Infrastructure Permitting Improvement Center**
- **IIPIC – Interagency Permitting Improvement Center**
- **NPS – National Park Service**
- **NEPA – National Environmental Policy Act**
- **NMFS – National Marine Fisheries Service**
- **NOAA – National Oceanic and Atmospheric Administration**
- **OMB – Office of Management and udget**
- **PCPR – Policy for Coordinated Project Review**
- **RUS – Rural Utility Service**

- **SHPOs – State Historic Preservation Offices**
- **TBD – To Be Determined**
- **USACE – United States Army Corps of Engineers**
- **USDA – United States Department of Agriculture**
- **USFS – United States Forest Service**
- **USFWS – United States Fish and Wildlife Service**