

# Cross-Agency Priority Goal

## Quarterly Progress Update

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### Infrastructure Permitting Modernization

#### Goal Leaders:

Beth Cobert, 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 1

## **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 21<sup>st</sup>-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 effectively and efficiently. However, for particularly large and complex infrastructure projects, multiple permits and approvals can lead to inefficiencies, frictions, and delay.

# Progress Update

Between October and December 2014, we have completed several steps and begun several others designed to improve the federal permitting and review of infrastructure projects. Specifically:

- In October 2014, the Advisory Council on Historic Preservation's online Guidance on Agreement Documents (GAD) was released to federal and state agencies, Indian tribes, Native Hawai'ian organizations, and other Section 106 stakeholders. GAD is web-based guidance to help federal agencies comply with Section 106 of the National Historic Preservation Act. It walks all Section 106 participants through the process of developing and writing clear, concise Section 106 Memoranda of Agreements and Programmatic Agreements that address an undertaking's effects to historic properties. It can be found at:  
<http://www.achp.gov/agreementdocguidance.html>.
- In November 2014, the Interagency Infrastructure Permitting Improvement Team (IIPIT) shared with Steering Committee agencies a comprehensive inventory of the types of programmatic approaches currently in use across government.
- The IIPIT is in the process of making the required IT upgrades to expand the use of the Federal Infrastructure Permitting Database, but lack of funding from Congress has slowed progress.
- In December 2014, the IIPIT began planning a workshop to convene a diverse set of academic, NGO, industry, and agency personnel to discuss the challenges and opportunities of collecting metrics on the environmental and community outcomes that result from the permitting process – scheduled for February 2015.
- The Office of Management and Budget (OMB) and the Council on Environmental Quality (ECQ) convened a group of mitigation experts from Steering Committee agencies to discuss agency actions aimed at implementing landscape-level and watershed scale mitigation approaches, to inform development of a final report scheduled for June 2015.
- Agencies, OMB, and CEQ continue working closely together to deliver on milestones due in the upcoming quarter, as listed in the following slides.

# Goal Team and Governance Plan

## Governance

Three main bodies are involved in driving results for this goal:

- *The Steering Committee*, co-chaired by OMB and CEQ, consists of 12 Key Agency Partners
- *The Working Group*, a staff-level body convened weekly to address goal-related issues
- OMB and *The Interagency Infrastructure Permitting Improvement Team (IIPIT)*, staff day-to-day implementation

## Goal Team Members

**EOP Goal Leaders:** Beth Cobert (OMB) and Michael Boots (Acting Chair, CEQ)

**Agency Goal Leader:** Victor Mendez (Deputy Secretary, Department of Transportation (DOT))

**Key Agency/Department Partners:** Advisory Council on Historic Preservation, Agriculture, Army Corps of Engineers, Coast Guard, Commerce, Defense, Energy, Environmental Protection Agency, Housing and Urban Development, Interior, Transportation, Udall Foundation (Deputy Secretaries or equivalent)

# 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 1.4 Identify Best Practices and Expand Agreements for Early Engagement with Tribal, state, and local Governments	<b>Project Review Timeframes:</b> <ul style="list-style-type: none"><li>• Completion dates for key milestones</li><li>• Pauses due to External Factors</li><li>• Pilot collection of Time Under Active Federal Review</li></ul> <b>Project Review Impacts:</b> <ul style="list-style-type: none"><li>• Pilot methodology to measure environmental, cultural, and community impacts of the federal permitting and review process</li></ul> [Note: All indicators remain under development]
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	
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	

# Work Plan - Strategy 1: Institutionalize Interagency Coordination & Transparency

Milestone Summary			
Key Milestones	Milestone Due Date	Status	Owner
Reform 1.1: Develop and begin a pilot for a Policy for Coordinated Project Review – Transportation & TBD Sectors	12/31/14	Missed*	Interagency Infrastructure Permitting Improvement Team (IIPIT), OMB, CEQ, DOT, and Interagency Working Group
Reform 1.1: Present preliminary PCPR pilot results to Steering Committee	06/30/2015	Not Started	Pilot Agencies
Reform 1.2: Evaluate regulatory or policy changes that would facilitate greater synchronization of permits and reviews	03/31/15	On track	All Steering Committee agencies
Reform 1.2 Review available information in existing merger agreements, identify best practices and develop template agreements.	03/31/15	On track	Departments of Commerce (NOAA), the Interior, and Transportation; Army Corps of Engineers (USACE), and Environmental Protection Agency (EPA)
Reform 1.2: Complete draft of 1998 “Red Book” update	12/31/14	Missed**	USACE, DOT, EPA, US Coast Guard, Fish and Wildlife Service, National Marine Fisheries Service
Reform 1.3: Develop guidance for posting additional projects that meet criteria on the Dashboard	1/31/15	At risk***	IIPIT and OMB Permitting Team
Reform 1.3: Begin identifying projects that meet specified criteria for posting on the Dashboard	1/31/15	At risk***	All Steering Committee agencies
Reform 1.3: Evaluate lessons learned from pilot efforts and recommend changes to Dashboard scope and guidance	03/31/2015	Not started	Interagency Working Group

\* Draft policy has been developed. OMB and CEQ are determining way ahead with respect to piloting and implement policy. Due date revised to April 2015.<sup>6</sup>

\*\* Draft “Red Book” was completed in December. Document in final clearance with official release planned for late-March.

\*\*\* Given current resources and funding, required IT upgrades to facilitate expansion of permitting Dashboard not expected to be complete by target date

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

Milestone summary			
Key Milestones	Milestone Due Date	Milestone Status	Owner
Reform 2.2: Release EnviroTracker for tracking, reviewing, and documenting environmental review of infrastructure projects	03/30/15	On Track	Department of Agriculture (RUS)
Reform 2.2: Promote electronic Section 106 communication (e-106) by publishing Q&As	03/30/15	On Track	Advisory Council on Historic Preservation (ACHP)
Reform 2.2: Draft revised rules to implement, and clear guidance for, Presidential permits and export authorizations; post new descriptions of review and approval processes for Presidential permits, export authorizations, and select transmission projects online	12/31/14	Complete	Department of Energy
Reform 2.3: Develop system requirements and plan for developing a nationwide inventory for historic properties	12/31/14	Missed*	ACHP, Department of Interior (National Park Service), SHPOs and THPOs
Reform 2.4: Publish an environmental checklist for project applicants for transportation projects	03/31/15	On Track	DOT
Reform 2.4: Gather information from agencies and project applicants on best practices for projects in a pilot sector	03/31/15	Not started	IIPIT, Interagency Working Group
Reform 2.4: Develop initial draft list of high performing attributes for the pilot sector	03/31/15	Not started	IIPIT, Interagency Working Group
Reform 2.4: Collect field staff input on draft list of high performance attributes	03/31/15	Not started	IIPIT, Interagency Working Group

\* Milestone has not been started due to lack of funding provided to develop a nationwide inventory.

# Work Plan - Strategy 3: Improve Permitting Reviews and Mitigation

Milestone Summary			
Key Milestones	Milestone Due Date	Milestone Status	Owner
Reform 3.1: Establish Reviews Sub-Group and analyze effectiveness of existing regulations, guidance, and agency implementation for the policy areas identified in the plan as well as any areas identified by the Reviews Sub-Group facilitated by IIPIC	09/30/15	Not started	Reviews Sub-Group, IIPIC
Reform 3.1: Based on initial analysis, identify policy or regulatory gaps and barriers and provide recommendations to the Steering Committee	12/31/15	Not started	Review Subgroup, IIPIC
Reform 3.1: Convene a team to review and develop recommendations around Argonne National Laboratories' report on business processes in USFS permitting	01/31/15	On track	Department of Agriculture
Reform 3.1: Implement recommendations of DOE working group on NEPA review process	09/30/15*	On track	Department of Energy
Reform 3.2: Identify barriers to widespread adoption of innovative mitigation approaches and provide recommendations to the Steering Committee on how to resolve them	12/31/14	Complete	IIPIC, Interagency Working Group
Reform 3.2 Share FHWA's Implementing EcoLogical training and technical assistance tools with other transportation modes	06/30/2015	On Track	DOT (FHWA)
Reform 3.2: Propose revisions to US Fish and Wildlife Service (USFWS) Mitigation Policy	06/30/15	On Track	Department of the Interior – USFWS
Reform 3.2: Finalize BLM Regional Mitigation Policy	12/31/14**	Missed	Department of the Interior – Bureau of Land Management (BLM)

*\*\* Draft policy has been developed and is undergoing final agency review and clearance. New target date is June 2015.*



# Work Plan - Strategy 3: Improve Permitting Reviews and Mitigation (cont.)

Milestones due this Quarter			
Key Milestones	Milestone Due Date	Milestone Status	Owner
Reform 3.2: Propose revisions to US Fish and Wildlife Service Guidance for the Establishment, Use, and Operation of Mitigation Banks	06/30/2015	On track	Department of the Interior – USFWS
Reform 3.5: Identify proposals in the President’s FY 2016 Budget that enhance agency capacity to fulfill their roll in Federal permitting and review of major infrastructure projects	3/31/15	In Progress	Each Steering Committee Agency

# Work Plan - Strategy 4: Drive Continued Improvement

Milestone Summary			
Key Milestones	Milestone Due Date	Milestone Status	Owner
Reform 4.1: Establish a) guidance for tracking permitting and review timeframes and common terminology and b) pilot methodology for collecting data on improved outcomes for communities and the environment.	01/31/15	On track	IIPIC, OMB, and Interagency Working Group
Reform 4.1: Begin tracking metrics for permitting and review timeframes	01/31/15	At risk*	All Steering Committee agencies
Reform 4.1: Pilot agencies to begin tracking metrics for environmental and community outcomes and establishing baselines for new metrics	3/31/15	Not started	All Steering Committee agencies

\* This milestone is linked with Reform 1.3 and faces the same schedule risk due to expected timing of required IT upgrades to facilitate expansion of permitting Dashboard to collect timeframe metrics

For a full list of near- and long-term milestones, please see the [Implementation Plan for the Presidential Memorandum on Modernizing Infrastructure Permitting](#).

# Key indicators: Under Development

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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 pages 46-50 of the [Implementation Plan for the Presidential Memorandum on Modernizing Infrastructure Permitting](#).

# Key indicators

Indicators in development:	
High Level Indicator	Potential Target Areas
<ul style="list-style-type: none"><li>Project Review Timeframes: Completion dates for key milestones</li></ul> <p>By 1/31/15*</p>	<p>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 could potentially include:</p> <p><u>NEPA Milestones:</u></p> <ul style="list-style-type: none"><li>Issuance /determination of a Categorical Exclusion (CE)</li><li>Issuance of Final Environmental Assessment (EA) and Finding of No Significant Impact</li><li>Issuance of a Notice of Intent to prepare an Environmental Impact Statement (EIS)</li><li>Official Notice of Availability of a Draft EIS published in the Federal Register</li><li>Official Notice of Availability of a Final EIS published in the Federal Register</li><li>Record of Decision or other decision document</li></ul> <p><u>Permits and Reviews Milestones:</u></p> <ul style="list-style-type: none"><li>Initial Application Received</li><li>Completed Application Received</li><li>Issuance of Permit/Notice to Proceed</li></ul>
<ul style="list-style-type: none"><li>Project Review Timeframes: Pauses due to External Factors</li></ul> <p>By 1/31/15*</p>	<p>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.</p>

\* Original due date for development of all indicators was 09/30/14. As stated earlier, in initial appropriations bills Congress did not fund the Dashboard, which will be used to report and track timeframe and environmental/community outcome metrics. Pending completion draft guidance and ongoing IT improvements, collection of indicators will begin 1/31/15.

# Key indicators

Indicators in development:	
High Level Indicator	Potential Target Areas
<ul style="list-style-type: none"><li>Project Review Timeframes: Pilot collection of Time Under Active Federal Review</li></ul> <p>By 1/31/15*</p>	<p>The two actions on slide 14 will provide data on the timeframe of each project, but will not provide a comprehensive and granular means of assessing the time spent on review by individual agencies and program offices. Given the contributions of multiple agencies and program offices to a single project, this information is needed to provide Federal managers insight into the efficiency of the process and possible bottlenecks. IIPIC will lead a long-term pilot, with the involvement of the appropriate Federal agencies, to assess the feasibility of collecting more granular data regarding the time under active federal review. This data would track the dates individual agencies both begin and end working on a review, such as Administrative Draft reviews of NEPA documents, for each segment of the process. Analysis of individual segments of the review process will be possible once the action is implemented. This action could involve a significant reporting burden if not implemented carefully, which is why it will first be deployed to a pilot group of projects once the first two actions are completed.</p>

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# Key indicators

Indicators in development:	
High Level Indicator	Potential Target Areas
<ul style="list-style-type: none"><li>The environmental, cultural, and community impacts of the federal review process (Pilot)</li></ul> <p>By 1/31/15*</p>	<p>It is important to collect consistent data on the environmental, cultural, and community outcomes of the federal permitting and review process in addition to the timeliness of the review. A pilot will be conducted to test an approach to the tracking of environmental, cultural, and community outcomes, and to assess reporting burden and determine the usefulness of the reported data. Following completion of this pilot, the process will be reviewed by the Steering Committee to assess the usefulness of the data collected, as well as the burden of reporting for agencies, applicants, and other stakeholders. To avoid unnecessary reporting burden, agencies will utilize the data already collected during the review process to complete these indicators. The outcomes measured as part of this effort are those resulting from changes and modifications to the project proposal as a result of the federal review process and not those produced by the projects themselves.</p> <p>The three actions in this pilot will track the following two types of outcomes:</p> <ol style="list-style-type: none"><li>impacts avoided or minimized as a result of comprehensive project planning prior to the submission of an application, and</li><li>improved outcomes achieved through avoidance, minimization, or other mitigation of negative impacts identified through the permitting and review process. To facilitate analysis, outcomes will be tracked by a number of resource categories. These resource categories will potentially include the following: Air, Water, Land, Biological, Cultural, Community, and Other.</li></ol> <p>Through additional agency discussion, the interagency working group will finalize a list of resource categories to report environmental, and community outcomes data.</p>

*\* Original due date for development of all indicators was 09/30/14. As stated earlier, in initial appropriations bills Congress did not fund the Dashboard, which will be used to report and track timeframe and environmental/community outcome metrics. Pending completion draft guidance and ongoing IT improvements, collection of indicators will begin 1/31/15.*

# 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
- 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