Modernizing the Infrastructure Permitting Process

Goal Leaders

Mary Neumayr, Chairman, Council on Environmental Quality (CEQ)

Alex Herrgott, Executive Director, Federal Permitting Improvement Steering Council (FPISC)

Peter Warren, Associate Director, Office of Management & Budget (OMB)

June 2019 Update
Overview

Goal Statement

• Reduce the time for the Federal Government's processing of environmental reviews and authorization decisions for new major infrastructure projects to an average of 2 years.
• Provide consistent, coordinated, and predictable Federal environmental reviews and authorization processes for infrastructure projects.

Challenge

• The American people rely on infrastructure improvements to benefit our economy, society, and environment. However, inefficient decision processes, including for environmental reviews and permit decisions or authorizations, have delayed infrastructure investments and increased project costs.

Opportunity

• Improving the Federal environmental review and authorization process will enable infrastructure project sponsors to start construction sooner, create jobs earlier, and fix our Nation’s infrastructure faster while also ensuring that a project’s potential impacts on environmental and community resources are considered and managed throughout the planning process.
• Infrastructure investment strengthens our economic platform, makes America more competitive, creates jobs, increases wages for American workers, and reduces the costs of goods and services for American families and consumers.
Core Team:

- **Office of Management & Budget (OMB):** OMB’s Office of Personnel and Performance Management oversees the day-to-day management of the Infrastructure Permitting CAP Goal and provides direction on goal-related policy development. OMB also oversees the accountability system, including how agencies incorporate related performance goals in agency and personnel plans.

- **Council on Environmental Quality (CEQ):** CEQ’s National Environmental Policy Act (NEPA) team provides policy direction on NEPA regulations and environmental policies and may mediate disputes relating to implementation of substantive environmental statutes/regulations. CEQ has developed the One Federal Decision framework with OMB.

- **Federal Permitting Improvement Steering Council (Permitting Council or FPISC):** The Permitting Council’s Office of the Executive Director is charged with coordinating “covered projects” across agencies to improve the Federal environmental review and authorization process, including developing and tracking agencies’ adoption of recommended “best practices” for a range of permitting activities, such as early stakeholder engagement, timely decision-making, and interagency coordination.

Agency Partners:

- Advisory Council on Historic Preservation
- Department of the Army
- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Homeland Security
- U.S. Institute for Environmental Conflict Resolution
- Department of Housing and Urban Development
- Department of the Interior
- Department of Transportation
- Environmental Protection Agency
- Federal Energy Regulatory Commission
- Nuclear Regulatory Commission
- General Services Administration
Modernizing the Infrastructure Permitting Process

**Goal Leaders:** OMB, CEQ, FPISC

### STRATEGY 1: Standardize Interagency Coordination

**Major Actions**

1.1: One Federal Decision
   - Oversight: CEQ/OMB
   - Implementation: Agencies

1.2: Permitting Timetables
   - Oversight: OMB
   - Implementation: Agencies

1.3: Engage Senior Agency Leadership
   - Oversight: OMB
   - Implementation: Agencies

1.4: Fee Regulations
   - Oversight: FPISC/OMB
   - Implementation: FPISC

### STRATEGY 2: Improve Predictability & Transparency

**Major Actions**

2.1: Permitting Dashboard
   - Oversight: FPISC
   - Implementation: Agencies

2.2: Early Coordination
   - Oversight: FPISC
   - Implementation: Agencies

### STRATEGY 3: Increase Agency Accountability

**Major Actions**

3.1: Accountability System
   - Oversight: OMB
   - Implementation: Agencies

3.2: Performance Goals
   - Oversight: OMB
   - Implementation: Agencies

3.3: Personnel Plans
   - Oversight: OMB
   - Implementation: Agencies

### STRATEGY 4: Identify and Implement Best Practices

**Major Actions**

4.1: Identify Best Practices
   - Oversight: FPISC
   - Implementation: Agencies

4.2: Implement and Institutionalize Best Practices
   - Oversight: FPISC
   - Implementation: Agencies
One Federal Decision & Major Infrastructure Projects

- Federal agencies are tracking major infrastructure projects ("MIPs," as defined by EO 13807) on the Permitting Dashboard.

- In June, OMB published the inaugural quarterly Accountability Scorecards for Major Infrastructure Projects on agency performance which combines data from Quarter 1 and Quarter 2 of FY 2019. Highlights include:
  
  - All 15 MIPs have complete permitting timetables (i.e., includes all relevant project actions and milestone target dates) published on the Permitting Dashboard. Six were published on time while nine timetables were submitted late.
  
  - Lead agencies reported that all 15 MIPs are using the One Federal Decision framework to jointly and cooperatively process the environmental reviews and make authorization decisions. One lead agency has granted two projects an exception to the requirement to issue a single Record of Decision, but has reported it is planning to implement all other relevant aspects of One Federal Decision.
  
  - All Federal agencies that have a role in the environmental review and permitting process for MIPs have established a process that has been approved by OMB to elevate schedule delay issues to the attention of senior agency officials.
FAST-41 and the Federal Permitting Improvement Steering Council

**Project Success:** Denbury Green Pipeline – Riley Ridge, LLC issued a Letter of Support for the Permitting Council and FAST-41 on April 23, 2019 to Senator Rob Portman’s Office.

- The Permitting Council’s interagency coordination for Denbury’s Riley Ridge to Natrona Project brought certainty and predictability to the project’s schedule, which allowed the project sponsor to make informed decisions for managing their next steps and financial commitments following permit decisions.
- The project sponsor reported that the Permitting Council’s involvement led to the Endangered Species Act (ESA) consultation being concluded more than a month ahead of its projected conclusion date.
- This FAST-41 project received a Record of Decision from BLM on February 28, 2019.

**Stakeholder Engagement:** The Permitting Council held its first annual Stakeholder Engagement Forum in April, which brought over 200 senior government officials and industry leaders together to discuss how the Council helps develop a roadmap for creating a tailored and predictable infrastructure project permitting process.

**Congressional Support:** The Executive Director of the Permitting Council, Alex Herrgott, testified at the Homeland Security & Governmental Affairs Permanent Subcommittee on Investigations Hearing, “Oversight of Federal Infrastructure Permitting and FAST-41” on May 2, 2019.

**Best Practices:** In April, the Permitting Council's Office of the Executive Director issued the FY 2018 Annual Report to Congress. The report assesses the performance of Permitting Council member agencies based on the implementation of recommended best practices. The Permitting Council also released the Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects for Fiscal Year 2019.
**Problem Targeted:** The Federal environmental review and permitting process for major infrastructure projects has historically been fragmented and uncoordinated. Up to 18 Federal agencies and 35 bureaus are responsible for individual, independent permitting and review decisions based on different statutory responsibilities that have developed over time.

**Theory of Change:** Federal agencies should follow transparent and coordinated processes to eliminate duplication of effort among agencies, improve the efficiency of project delivery, and make better-informed decisions.

<table>
<thead>
<tr>
<th>Key Milestones</th>
<th>Milestone Due Date</th>
<th>Milestone Status</th>
<th>Change from last quarter</th>
<th>Owner</th>
<th>Anticipated Barriers or other Issues Related to Milestone Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.1 Ensure Effective One Federal Decision (OFD) Implementation</strong></td>
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<tr>
<td>• Publish OFD guidance document – OMB/CEQ issued <a href="#">Memorandum M-18-13</a> on March 20, 2018</td>
<td>Q2 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>CEQ/OMB</td>
<td></td>
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<tr>
<td>• Begin OFD implementation – Agencies signed <a href="#">OFD Memorandum of Understanding</a> on April 9, 2018</td>
<td>Q3 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>Agencies</td>
<td></td>
</tr>
<tr>
<td>• Begin publishing OFD implementation data</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>OMB</td>
<td></td>
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<tr>
<td>• Track agency progress of OFD implementation</td>
<td>Ongoing</td>
<td>In Progress</td>
<td>New Milestone</td>
<td>OMB/CEQ</td>
<td></td>
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<tr>
<td><strong>1.2 Require Agencies to Develop and Use Collaborative Permitting Timetables for all Major Infrastructure Projects</strong></td>
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<tr>
<td>• Provide guidance on developing and using permitting timetables – OMB issued <a href="#">Memorandum 18-25</a> issued on September 26, 2018</td>
<td>Q4 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>OMB</td>
<td></td>
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<tr>
<td>• Begin using permitting timetables for all major infrastructure projects</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>Status Changed</td>
<td>Agencies</td>
<td></td>
</tr>
<tr>
<td>• Begin publishing permitting timetable usage data</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>OMB</td>
<td></td>
</tr>
<tr>
<td>• Track whether permitting timetables are complete and updated</td>
<td>Ongoing</td>
<td>In Progress</td>
<td>New Milestone</td>
<td>OMB</td>
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* Milestone date pushed back due to partial government shutdown
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<tbody>
<tr>
<td>1.3 Develop Standard Processes to Engage Senior Agency Leadership on Major Infrastructure Projects</td>
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<tr>
<td>• Provide guidance on standard processes to engage senior agency leadership – OMB issued Memorandum 18-25 issued on September 26, 2018</td>
<td>Q4 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>OMB</td>
<td></td>
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<tr>
<td>• Begin implementing processes for engaging senior agency leadership</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>Status Changed</td>
<td>Agencies</td>
<td></td>
</tr>
<tr>
<td>• Begin publishing data on senior agency leadership engagement</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>OMB</td>
<td></td>
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<tr>
<td>• Track whether processes to engage senior agency leadership is used when appropriate</td>
<td>Ongoing</td>
<td>In Progress</td>
<td>New Milestone</td>
<td>OMB</td>
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<tr>
<td>1.4 Issue Fee Regulations to Provide Additional Resources for Interagency Coordination on FAST-41 Covered Projects</td>
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<tr>
<td>• Publish FAST-41 initiation fee Notice of Proposed Rulemaking – NOPR published on Federal Register on September 4, 2018</td>
<td>Q4 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>FPISC, OMB</td>
<td></td>
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<tr>
<td>• Publish FAST-41 initiation fee final rule</td>
<td>Q4 FY19</td>
<td>On Track</td>
<td>No Change</td>
<td>FPISC, OMB</td>
<td></td>
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Problem Targeted: The Federal environmental review and permitting process for infrastructure projects is perceived to be unpredictable and lack transparency. Variance in project review timelines can affect critical financing and siting decisions; delay needed upgrades, replacements, or new development; and ultimately, negatively affect American competitiveness.

Theory of Change: Public reporting of environmental reviews and authorizations timelines and increased early and open coordination with key stakeholders can help improve predictability and transparency in the permitting process. The Permitting Dashboard is an online tool for Federal agencies, project developers, and interested members of the public to track the Federal government’s environmental review and authorization processes for large or complex infrastructure projects, increasing predictability for project sponsors and promoting government accountability in the review process.

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<tr>
<td>2.1 Ensure Effective Use of the Infrastructure Permitting Dashboard</td>
<td></td>
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<tr>
<td>• Begin tracking certain infrastructure projects on the Permitting Dashboard</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>Status Changed</td>
<td>OMB, Agencies</td>
<td></td>
</tr>
<tr>
<td>• Conduct quarterly assessment of agency’s use of the Permitting Dashboard for FAST-41 covered and major infrastructure projects</td>
<td>Ongoing – Quarterly</td>
<td>In Progress</td>
<td>Status Changed</td>
<td>FPISC, OMB</td>
<td></td>
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<tr>
<td>2.2 Expand Opportunities for Early and Open Coordination and Engagement with Key Stakeholders</td>
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<tr>
<td>• Issue FY 2018 “best practices” recommendations for enhancing early and open stakeholder engagement/coordination</td>
<td>Q1 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>FPISC</td>
<td></td>
</tr>
<tr>
<td>• Assess agency performance in implementing engagement/coordination best practices for FAST-41 projects for release in April Annual Report to Congress</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>No Change</td>
<td>FPISC</td>
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</tbody>
</table>
**Problem Targeted:** It has been difficult to track the Federal government’s performance in processing environmental reviews and authorizations due to the lack of reliable, comprehensive data on the time and costs to complete such activities.

**Theory of Change:** The infrastructure permitting accountability system will begin collecting data on time and cost measures and will hold agencies accountable for their performance. This information will allow agencies to determine the appropriate focus of resources, diagnose problems, and find opportunities for improvement.

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<tr>
<td>3.1 Develop and Implement an Infrastructure Permitting Accountability System</td>
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<tr>
<td>- Publish accountability system guidance document – OMB issued Memorandum 18-25 issued on September 26, 2018</td>
<td>Q4 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>OMB</td>
<td></td>
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<tr>
<td>- Begin accountability system implementation</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>Status Changed</td>
<td>Agencies</td>
<td></td>
</tr>
<tr>
<td>- Begin publishing accountability system performance indicator data</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>OMB</td>
<td></td>
</tr>
<tr>
<td>- Publish quarterly scorecards on agency performance</td>
<td>Ongoing</td>
<td>In Progress</td>
<td>New Milestone</td>
<td>OMB</td>
<td></td>
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<tr>
<td>3.2 Incorporate Permitting-Related Performance Goals in Agency Strategic Plans and Annual Performance Plans</td>
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<tr>
<td>- Provide guidance on incorporating performance goals in agency plans – Included in June 2018 Update of OMB Circular A-11</td>
<td>Q3 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>OMB</td>
<td></td>
</tr>
<tr>
<td>- Submit draft FY 2020 annual performance plans w/ permitting-related goals</td>
<td>Q1 FY19</td>
<td>Complete</td>
<td>Status Changed</td>
<td>Agencies</td>
<td></td>
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<tr>
<td>3.3 Integrate Permitting-Related Performance Goals into Appropriate Agency Personnel Performance Plans</td>
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<tr>
<td>- Provide guidance on personnel performance plans</td>
<td>Q4 FY19*</td>
<td>Delayed</td>
<td>Status and Milestone Due Date Changed</td>
<td>OMB, OPM</td>
<td></td>
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### Strategy 4: Identify and Implement Best Practices

- **Problem Targeted:** Best practices to improve the permitting and environmental review process for infrastructure projects are not consistently implemented.

- **Theory of Change:** Identifying and implementing best practices will enable Agencies to streamline and improve the Federal permitting process by increasing transparency and accountability, and improving early coordination and synchronization of Federal environmental reviews and authorizations.

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<tr>
<td><strong>4.1 Identify Recommended Best Practices to Improve the Federal Environmental Review and Authorization Process</strong></td>
<td></td>
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<tr>
<td>• Issue <a href="#">FY 2018 “Recommended Best Practices for Environmental Reviews and Authorizations for Infrastructure Projects” report</a></td>
<td>Q1 FY18</td>
<td>Complete</td>
<td>No Change</td>
<td>FPISC</td>
<td></td>
</tr>
<tr>
<td>• Issue FY 2019 Best Practices Report</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>FPISC</td>
<td></td>
</tr>
<tr>
<td><strong>4.2 Ensure Best Practices are Implemented Within and Across Agencies</strong></td>
<td></td>
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<tr>
<td>• Assess if agencies are implementing best practices for FAST-41 projects in April Annual Report to Congress</td>
<td>Q3 FY19*</td>
<td>Complete</td>
<td>Status and Milestone Due Date Changed</td>
<td>FPISC</td>
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Performance indicators for the CAP Goal will be tracked through the Infrastructure Permitting Performance Accountability System and data will be published quarterly on the Permitting Dashboard. Below is data from the initial scorecard which combines data from Quarter 1 and Quarter 2 of FY 2019. For more detailed information, visit the Permitting Dashboard.

### Key Indicators

#### Permitting Timetables

**PROJECTS WITH COMPLETE, UPDATED PERMITTING TIMETABLE**

- Complete and Updated
- Complete but Submitted Late
- Incomplete
- Failed to Submit Timetable
- Not Updated

This performance indicator measures whether major infrastructure projects have a complete permitting timetable published on the Permitting Dashboard.

#### One Federal Decision Implementation

**OFD IMPLEMENTATION**

- Yes
- Yes, Granted Exception (Partial Implementation)
- No

This performance indicator measures whether Federal agencies are implementing the OFD framework to process major infrastructure projects.

#### Elevation Procedures

**AGENCIES WITH ELEVATION PROCEDURES**

- Submitted and Approved
- Submitted
- Not Submitted

This performance indicator measures whether agencies have established a process to elevate schedule delay issues to senior agency officials, and whether the process was used when appropriate.

Additional performance indicators on whether major infrastructure projects are meeting major milestone target dates and the time and cost to complete environmental reviews and making authorization decisions will be published in future scorecards after more milestone data has been collected and as major infrastructure projects have completed the environmental review process.
Contributing Programs

Advisory Council on Historic Preservation
• Office of Federal Agency Programs

Executive Office of the President
• Council on Environmental Quality
• National Economic Council
• Office of Management and Budget

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
• Bureau of Ocean Energy Management
• Land and Minerals Management
• National Park Service
• Fish and Wildlife Service
• Bureau of Indian Affairs

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

Federal Energy Regulatory Commission

Nuclear Regulatory Commission

General Services Administration

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