

FINAL SCOPE
for the
Generic Environmental Impact Statement (GEIS)
on the
Proposed Amendments
to the
State Environmental Quality Review Act (SEQRA)

6 NYCRR - Part 617

PREPARED BY THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF ENVIRONMENTAL PERMITS & POLLUTION PREVENTION
November 28, 2012

1.0 Description of the Action & Environmental Setting

The New York State Department of Environmental Conservation (DEC) proposes to amend the regulations that implement the State Environmental Quality Review Act (“SEQR”, Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York . The principal purpose of the amendments is to improve and streamline the SEQR process without sacrificing meaningful environmental review. The changes being proposed are modest in nature, not intended to change the basic structure of an environmental review, build on the changes made to the environmental assessment forms and are within the authority of the DEC to implement without seeking additional legislative action. SEQR applies to all state and local agencies in New York State when they are making a discretionary decision to undertake, fund or approve an action.

DEC has proposed changes to the SEQR regulations, which it does not expect to have a significant impact on the environment. However, given the importance of the SEQR regulations in general in all areas of environmental impact review, DEC has chosen to use a generic environmental impact statement (GEIS) as the means to discuss the objectives and the rationale for the proposed amendments, present alternative measures which are under consideration and provide the maximum opportunity for public participation.

2.0 Summary of Proposed Amendments to 6 NYCRR Part 617

617.2 DEFINITIONS

- Add definition of “Green Infrastructure”
- Add definition of “Minor Subdivision”
- Add definition of “Municipal Center”
- Add Definition of “Replacement in Kind”
- Add definition of “Substantially Contiguous”

- Revise definitions of:
 - “Negative Declaration”
 - “Positive Declaration”

617.4 TYPE I ACTIONS

- Reduce number of residential units in items 617.4(b)(5)(iii), (iv) & (v);
- Reduce number of parking slots for municipalities with a population under 150,000; and
- Reduce the threshold reduction for historic resources [617.4(b)(9)] in line with other resource based items on the Type I list and add eligible resources.

617.5 TYPE II ACTIONS

- Add new Type II actions to encourage development on previously disturbed sites in municipal centers and to encourage green infrastructure projects;
- Add new Type II actions to encourage the installation of solar energy arrays;
- Add new Type II action that allows for the sale, lease or transfer of property for a Type II action;
- Add new Type II action for minor or small scale subdivisions;
- Add a new Type II actions to make the disposition of land by auction a Type II action; and
- Add a new Type II action to encourage the renovation and reuse of existing structures.

617.8 SCOPING

- Make scoping mandatory;
- Provide greater continuity between the environmental assessment process, the final written scope and the draft environmental impact statement (EIS) with respect to content;
- Strengthen the regulatory language to encourage targeted EISs;
- Clarify that issues raised after the completion of the final written scope cannot be the basis for the rejection of the draft EIS as inadequate.

617.9 PREPARATION AND CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS

- Add language to require that adequacy review of a resubmitted draft must be based on the written list of deficiencies; and
- Revise the timeline for the completion of the FEIS.

617.12 DOCUMENT PREPARATION, FILING, PUBLICATION AND DISTRIBUTION

- Add language to encourage the electronic filing of EISs with DEC.

617.13 FEES AND COSTS

- Add language to require that a lead agency provide the project sponsor with an estimate of review cost, if requested; and
- Add language to require that a lead agency provide the project sponsor with a copy of invoices or statements for work done by a consultant, if requested.

3.0 Discussion of Proposed Changes and Alternatives

The following discussion provides the objectives and rationale for the major proposed changes and the alternatives under consideration. It also includes preliminary express terms. The pre-draft text amendments show proposed language deletions as bracketed ([XXXX]) and new language as underlined (XXXX). This language is being provided to stimulate consideration and comment on the preliminary changes

3.1 Type I List

3.1.1 Preliminary Text Amendment:

- 617.4(b)(5)(iii) in a city, town or village having a population of [less than]150,000 persons or less, [250] 200 units to be connected (at the commencement of habitation) to existing community or public water and sewage systems including sewage treatment works;
- 617.4(b)(5)(iv) in a city, town or village having a population of greater than 150,000 persons but less than 1,000,000, [1,000]500 units to be connected (at the commencement of habitation) to existing community or public water and sewage systems including sewage treatment works;
- 617.4(b)(5)(iv) in a city, town or village having a population of greater than 1,000,000, [2,500] 1000 units to be connected (at the commencement of habitation) to existing community or public water and sewage systems including sewage treatment works;

Objectives and Rationale: The Department proposes to reduce some of the thresholds for residential subdivisions. Experience has shown that the thresholds for some of the Type I items for residential construction are rarely triggered because they were set too high in 1978. There is scant information in the 1978 draft and final EIS that demonstrates any basis for the selection of the thresholds other than the numbers in a rural and urban area should be different. The proposed change will bring the review of large subdivision into conformance with current practice. Large subdivisions are frequently the subject of an EIS and by nature when proposed on new sites often have one or more potentially significant impacts on the environment due to the need for the expansion of infrastructure such as water, sewer and roads needed to serve the new development.

Alternatives: The “no action” alternative would retain the current numbers which were established in 1978. There is no substantive record supporting the numbers that were selected in 1978. Other suggested alternatives include reducing the number or threshold to a lower number of lots that would trigger Type I classification.

3.1.2 Preliminary Text Amendment:

- 617.4(b)(6)(iii) in a city, town or village having a population of 150,000 persons or less, parking for 500 vehicles;
- 617.4(b)(6)(iv) in a city, town or village having a population of 150,000 persons or more, parking for 1000 vehicles;

Objectives and Rationale: The Department proposes to add a threshold for parking spaces for communities of less than 150,000 persons. A common and often recommended measurement is one parking space per 200 square feet of gross floor area of a building. For communities of less than 150,000 persons the applicable Type I threshold for the construction of commercial or industrial facilities is 100,000 square feet of gross floor area. This equates to 500 parking spaces.

Alternatives: The “no action” alternative would retain the current Type I threshold at 1000 vehicles for all municipalities without regard to size. Other suggested alternatives include reducing the number of parking spaces for all communities to 500 or less vehicles.

3.1.3 Preliminary Text Amendment:

- 617.4(b)(9) any Unlisted action that exceeds 25 percent of any threshold in this section [(unless the action is designed for the preservation of the facility or site)] occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National or State Register of Historic Places, or that has been [proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is] determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulation (CFR) Parts 60 and 63, 1994 (see section 617.17 of this Part));

Objectives and Rationale: The Department proposes to bring the threshold reduction for historic resources in line with other resource based items on the Type I list. On the existing Type I list any Unlisted action, regardless of size, that occurs wholly or partially within or substantially contiguous to a historic resource is automatically elevated to a Type I action. This results in very minor actions being elevated to Type I. Other resource based Type I items such as those addressing agriculture and parkland or open space result in a reduction in the Type I thresholds by 75%. Given the fact that the new Full EAF, which will be effective on April 1, 2013, requires much more information on historic resources it would be unduly onerous for a project sponsor to have to complete a Full EAF for a relatively minor activity. Also, the new Short EAF now contains a question regarding the presence of historic resources so the substance of the issue will not escape attention. This change does not change the substantive requirements of a SEQR review. This listing has been expanded to include properties that have been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation eligible for listing. This change would make SEQR consistent with both State and Federal Historic Preservation legislation.

Alternatives: The “no action” alternative would retain the current Type I item. Other suggested alternatives include the following: exclude projects that are subject to review under Section 106 of the National Historic Preservation Act of 1966 or 1409 of the State Historic Preservation Act and delete the entire listing but require that when a listed property may be impacted by a project that the determination of significance must include an evaluation of the potential for impact to the attributes that are the basis for the listing.

3.2 Type II List

The Department proposes to broaden the list of actions that will not require review under SEQRA. This will allow agencies to focus their time and resources on those projects likely to have significant adverse impacts on the environment. The additions to the Type II list are based on discussions that DEC has conducted with representatives from state agencies, environmental organizations, business and the experience of staff in the Division of Environmental Permits.

A second and more important reason for many of the proposed additions to the Type II list is to try and encourage environmentally compatible development. Many of the additions attempt to encourage development on previously disturbed sites in municipal centers with supporting infrastructure and encourage green infrastructure projects and solar energy development. Others proposed items will remove obstacles encountered by municipalities when developing affordable housing in cooperation with not-for-profit organizations. The overall goal is to provide a regulatory incentive for project sponsors to further the State's policy of sustainable development.

3.2.1 Preliminary Text Amendment:

- The acquisition, sale, lease, annexation or transfer of any ownership of land to undertake any activity on this list.

Objectives and Rationale: One of the basic concepts of SEQR is the “whole action”. Having the land transaction of a proposed activity subject to review under SEQR when the activity itself is listed as a Type II action violates this concept. This quirk has also resulted in affordable housing projects like those sponsored by not-for-profit agencies being subjected to SEQR review for the transfer of land from the municipality to the not-for-profit when the activity involved the construction of a one, two or three family residence which is a Type II action. Adding this item to the Type II list will remove a potential stumbling block to the construction of affordable housing and clarify.

Alternatives: The “no action” alternative would remove this item from the Type II list. Other suggested alternatives include adding acquisition of land by fee or easement for public open space or passive recreation.

3.2.2 Preliminary Text Amendment:

- Disposition of land, by auction, where there is no discretion on the part of the disposing agency on the outcome.

Objectives and Rationale: A municipality or a state agency may acquire land through foreclosure or other means where the land reverts to the agency due to a failure of the owner to remain current on property taxes. State law requires that the municipality or agency dispose of this land through a public action to the highest qualified bidder. The municipality or agency has no discretion but to abide by the results of the auction. Currently, agencies are required to perform a SEQR review since the sale, lease or other transfer of greater than 100 acres is a Type I action and amounts under 100 acres are classified as Unlisted actions. The environmental assessments under these circumstances are fairly meaningless since the agency has no idea of what the ultimate use of the property will be by the new owner at the time of the auction. The

only guide the agency can use is zoning or the lack of zoning. In addition, the subsequent development of the property will generally result in an environmental review if the proposed action requires a discretionary permit or approval from a state or local agency

Alternatives: The “no action” alternative would remove this item from the Type II list and continue to require a SEQR review prior to the disposition of land by auction. Other suggested alternatives: expand this proposed listing to allow for disposition of land by any means as a Type II action, limit the item by including the phrase “unless such action meets or exceeds the criteria found in 617.4(b)(4) of this Part.”

3.2.3 Preliminary Text Amendment:

- In a city, town or village with an adopted zoning law or ordinance, reuse of a commercial or residential structure not requiring a change in zoning or use variance unless such action meets or exceeds any of the thresholds in section 617.4(b)(6),(8), (9), (10), and (11) of this Part.

Objectives and Rationale: The built environment of New York State contains many structures that are currently vacant. For example, the City of Albany has recently determined that there are 809 vacant buildings in the city. These vacant structures, if not properly maintained, contribute to urban blight and are an under used resource. Many of these structures could be reused for housing or commercial development rather than developing a greenfield site. Since these properties generally have existing infrastructure the suite of potential environmental issues is very limited and are routinely handled under the existing local land use reviews. Returning a vacant residential or commercial structure to a productive use can reduce blight, improve the vitality and live-ability of a neighborhood and return structures to the tax role.

Alternatives: The “no action” alternative would remove this item from the Type II list and continue to require a SEQR review prior to the proposed reuse of a vacant or abandoned structure. Other suggested alternatives: Expand this provision to apply to all structures including industrial uses.

3.2.4 Preliminary Text Amendment:

- Lot line adjustments and area variances not involving a change in allowable density [replacing existing items 12 and 13 in 6 NYCRR 617.5(c)].

Objectives and Rationale: Individual setback and lot line variances and area variances for single, two- or three- family homes are currently Type II actions. This proposed revision would expand the applicability to all types of structures so long as the proposed lot line adjustment or area variance does not change the allowable density. These types of variances are subject to the review and approval of zoning boards which are required under state law to consider environmental factors in their decision to either issue or deny the requested relief.

Alternatives: The “no action” alternative would remove this item from the Type II list and continue the current situation which would restrict area variance to only one-, two- and three-family residences.

3.2.5 Preliminary Text Amendment:

- In cities, towns and villages with adopted subdivision regulations, subdivisions defined as minor under the municipality’s adopted subdivision regulations, or subdivision of four or fewer lots, whichever is less, involves ten acres or less, and provided the subdivision does not involve the construction of new roads, water or sewer infrastructure, and was not part of a larger tract subdivided within the previous 12 months.

Objectives and Rationale: The municipal enabling laws for subdivision plat review (e.g., Town Law §276) authorize municipalities to define subdivisions as major or minor. Minor subdivisions, as defined in many municipal subdivision regulations, usually consist of four or fewer lots or two lots. The municipal enabling laws provide a sufficient grant of authority to municipalities to consider the typical and expected environmental impacts of minor subdivisions. Under such circumstances and the ability of municipalities to condition or deny approvals along with the additional caveats for numbers of acres, connection to utilities, and no construction of new roads, provides assures that such actions would not have a significant effect on the environment.

Alternatives: The “no action” alternative would remove this item from the Type II list and continue to require a SEQR review for minor subdivisions. An alternative would be to disallow the small or minor subdivision Type II when there are sensitive environmental features on the site (e.g., designated critical environmental areas or other identifiable resources). Other alternatives would be to make the Type II item less restrictive by removing one or more of the conditions, e.g., 1) removal of the restriction on establishment of new roads since the restriction may impede context sensitive design for small subdivisions, or 2) removal of the restriction on acres.

3.2.6 Preliminary Text Amendment:

- The recommendation of a county or regional planning entity made following referral of an action pursuant to General Municipal Law, sections 239-m or 239-n.

Objectives and Rationale: This is one of the most frequently asked questions by town and county planners. Since these reviews under 239-m & n are not binding and can be overturned by a majority plus one vote by the municipality they have been interpreted as not triggering SEQR.

Alternatives: The “no action” alternative would remove this item from the Type II list.

3.2.7 Proposed Text Amendment:

- On a previously disturbed site in the municipal center of a city, town or village having a population of less than 20,000, with adopted zoning regulations, construction or expansion of a residential or commercial structure or facility involving less than 8,000 square feet of gross floor area where the project is subject to site plan review, and will be connected (at the commencement of habitation) to existing community owned or public water and sewerage systems including sewage treatment works which have the capacity to provide service and does not involve the construction of new public roads.

- On a previously disturbed site in the municipal center of a city, town or village having a population of greater than 20,000 but less than 50,000, with adopted zoning regulations, construction or expansion of a commercial or residential structure or facility involving less than 10,000 square feet of gross floor area where the project is subject to site plan review, and will be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works which have the capacity to provide service and does not involve the construction of new public roads;
- On a previously disturbed site in the municipal center of a city, town or village having a population of greater than 50,000 but less than 150,000, with adopted zoning regulations, construction or expansion of a commercial or residential structure or facility involving less than 20,000 square feet of gross floor area where the project is subject to review under local land use regulation, and will be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works which have the capacity to provide service and does not involve the construction of new roads.
- On a previously disturbed site in the municipal center of a city, town or village having a population of greater than 150,000, with adopted zoning regulations, construction or expansion of a commercial or residential structure or facility involving less than 40,000 square feet of gross floor area where the project is subject to review under local land use regulation, and will be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works which have the capacity to provide service and does not involve the construction of new roads.

Objectives and Rationale: Building a structure on a previously disturbed lot with existing road, sewer and water infrastructure substantially reduces the number and severity of potential impacts that must be considered in an environmental review. The four proposed Type II actions that allow for a sliding scale of development depending on population levels are intended to serve as an incentive for development on previously disturbed sites within existing municipal centers. Development of sites that have been previously disturbed and that have existing infrastructure result in less environmental impact than developing undisturbed greenfield sites and these impacts can be readily addressed through the land use review process. Also, the notion that development should be encouraged and funneled into existing sites in municipal centers with existing infrastructure that supports such development, has become part of the State's public policy.

Alternatives: The "no action" alternative would remove these items from the Type II list. Other suggested alternatives include changing the population numbers and the amount of allowed development for each item and the addition of more environmental conditions under which the development would not be allowed such as prohibiting use of this item when the project includes demolition or if site is located substantially contiguous to a designated or eligible historic structure or district.

3.2.8 Preliminary Text Amendment:

- Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading of buildings to meet building, energy, or fire codes, or to incorporate green building infrastructure techniques, unless such action meets or exceeds any of the thresholds in section 617.4(b)(6),(8),(9),(10) and (11) of this Part.

Objectives and Rationale: The inclusion of upgrades of existing building to meet new energy codes is consistent with the current intent of the item. Also, the current item on replacement, rehabilitation or reconstruction is limited to “in kind” construction. This allows for some limited deviations from the existing structure but could be interpreted to preclude the use of green infrastructure in place of the existing more conventional development techniques. Installation of green roofs or other green infrastructure techniques can substantially improve energy efficiency and reduce generation of runoff. The addition of the specific Type I thresholds provides additional clarity for the application of this item and places limits on the size of the replacement, rehabilitation or reconstruction that could be undertaken as a Type II action.

Alternatives: The “no action” alternative would return the item to its current wording in the regulation. Another alternative would be to not include the provision regarding green building infrastructure techniques.

3.2.9 Preliminary Text Amendment:

- Installation of rooftop solar energy arrays on an existing structure that is not listed on the National or State Register of Historic Places or determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places, or installation of less than 25 megawatts of solar energy arrays on closed sanitary landfills.

Objectives and Rationale: The installation of solar energy arrays can substantially reduce energy costs and the generation of greenhouse gases. The rooftops of many commercial and industrial facilities are already home to a myriad of heating ventilation and air conditioning (HVAC) equipment. This is just another type of HVAC system. This provision would not allow installation on designated historic structures. The redevelopment of a closed sanitary landfill as a solar energy site would return a currently under used site to a productive use. Many closed sanitary landfills currently generate energy from the combustion of methane gas and have the necessary infrastructure in place to connect to the electrical grid.

Alternatives: The “no action” alternative would remove this item from the Type II list. Other suggested alternatives: delete the restriction for designated historic properties, place a limit on the size of roof top installations and reduce the size of an installation on closed sanitary landfills.

3.2.10 Preliminary Text Amendment:

- Installation of cellular antennas or repeaters on an existing structure that is not listed on the National or State Register of Historic Places or determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.

Objectives and Rationale: The current Type II item [617.5(c)(7)] that precludes the installation of radio communication and microwave transmission facilities as a Type II action has generated a substantial number of questions on the SEQR classification for installation of antennas and repeaters on existing structures. These antenna and repeaters can in many locations be installed on existing buildings and preclude the construction of a new tower.

Alternatives: The “no action” alternative would remove this item from the Type II list and continue to require a SEQR review prior to the installation of cellular antennas and repeaters on existing structures. Other suggested alternatives include: adding the phrase “structure or district” to the proposed listing to prohibit the applicability of this item in a designated historic district, prohibit the installation of cellular antennas or repeaters within 500 feet of a designated historic structure or district and require that all cellular antennas and repeaters that are located within 500 feet of a historic structure or district be camouflaged to reduce visibility.

3.2.11 Preliminary Text Amendment:

- Brownfield site clean-up agreements under Title 14 of ECL Article 27.

Objectives and Rationale: This item would clarify that the development and implementation of a brownfield clean-up agreement is a Type II action. The DEC has considered these types of agreements and clean-ups as civil or criminal enforcement proceedings [617.5(c)(29)]. As more agencies start to enter into these agreements it will clarify the correct SEQR classification for these activities.

Alternatives: The “no action” alternative would remove this item from the Type II list.

3.3 Scoping

3.3.1 Preliminary Text Amendment:

- 617.8(a) - The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or [non] not significant. Scoping should result in EISs that are only focused on relevant, significant, adverse impacts. Scoping is [not] required for all EISs [. Scoping] and may be initiated by the lead agency or the project sponsor.
- 617.8(f)(2) - the potentially significant adverse impacts identified both in Part III of the environmental assessment form [positive declaration] and as a result of consultation with the other involved agencies and the public, including an identification of those particular aspect(s) of the environmental setting that may be impacted;
- 617.8(f)(7) - A brief description of the prominent issues that were raised during scoping and determined to be not relevant or not environmentally significant or that have been adequately addressed in a prior environmental review[.] and the reason(s) why those issues were not included in the final written scope.
- 617.8(h) - The project sponsor may incorporate information submitted consistent with subdivision 617.8(g) of this section into the draft EIS at its discretion. Any substantive information not incorporated into the draft EIS must be considered as public comment on the draft EIS. Information submitted following the completion of the final scope and

not included by the project sponsor in the draft EIS cannot be the basis for the rejection of a draft EIS as inadequate.

Objectives and Rationale: The Department proposes to:

- (1) Require public scoping for all EISs. Currently scoping is not mandatory but all parties have come to accept the importance of public scoping as a tool to focus an EIS on the truly substantive and significant issues. Seeking public input early in the EIS process helps to ensure that all of the substantive issues are identified prior to the preparation of the draft EIS.
- (2) Place more emphasis on using the EAF as the first step in scoping. The revised EAFs are much more comprehensive than the previous versions. This should allow the lead agency to assess, in a thorough fashion, all of the potential impacts and to establish a basis for determining those issues that need additional scrutiny in an EIS and issues that do not require any further analysis and can be excluded from the EIS scope. Scoping can then be used to determine the depth and type of assessment that will be required in the draft EIS.
- (3) Provide clearer language on the ability to target an EIS. All parties agree that many EISs are currently filled with information that does not factor into the decision. This is driven by the defensive approach agencies and project sponsors take in developing the EIS record. In pursuit of the “bullet proof EIS” the tendency is to include the information even though the environmental assessment has already concluded that the issue is not substantive or significant.
- (4) Provide better guidance on the basis for accepting or rejecting a draft EIS for adequacy. The current regulations give to the project sponsor the responsibility for accepting or deferring issues following the preparation of the final written scope. A lead agency cannot reject a draft EIS as inadequate if the project sponsor has decided to defer an issue and treat it as a comment on the draft EIS. Language would be added to clarify that the decision of the project sponsor cannot serve as the basis for the rejection of a draft EIS as not adequate to start the public review process.

Alternatives: The “no action” alternative would result in scoping remaining an optional procedure. Other suggested alternatives: provide the lead agency with the authority to include “late items” after the preparation of the final scope and require that scoping must include a public meeting.

3.4 PREPARATION AND CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS

3.4.1 Preliminary Text Amendment:

- 617.9(a)(2) The lead agency will use the final written scope[,if any,] and the standards contained in this section to determine whether to accept the draft EIS as adequate with respect to its scope and content for the purpose of commencing public review. This determination must be made [in accordance with the standards in this section] within 45 days of receipt of the draft EIS. Adequacy means a draft EIS that meets the requirements of the final written scope and section 617.9(b) of this Part.

- (i) If the draft EIS is determined to be inadequate, the lead agency must identify in writing the deficiencies and provide this information to the project sponsor.
 - (ii) The lead agency must determine whether to accept the resubmitted draft EIS within 30 days of its receipt. The determination of adequacy of a resubmitted draft EIS must be based solely on the written list of deficiencies provided by the lead agency following the previous review.
- 617.9(a)(5) - Except as provided in subparagraph (iii) of this paragraph, the lead agency must prepare or cause to be prepared and must file a final EIS, within [45 calendar days after the close of any hearing or within 60] 180 calendar days after the lead agency's acceptance of the draft EIS[, whichever occurs later].

[(i) No final EIS need be prepared if:

- (a) the proposed action has been withdrawn or;
- (b) on the basis of the draft EIS, and comments made thereon, the lead agency has determined that the action will not have a significant adverse impact on the environment. A negative declaration must then be prepared, filed and published in accordance with section 617.12 of this Part.]

(i) If the Final EIS is not prepared and filed within the 180 day period, the EIS shall be deemed complete on the basis of the draft EIS, public comment and the response to comments prepared and submitted by the project sponsor to the lead agency. The response to comments must be submitted to the lead agency a minimum of 60 days prior to the required filing date of the final EIS or this provision does not take effect.

(ii) The lead and all involved agencies must make their findings and can issue a decision based on that record together with any other application documents that are before the agency.

[(a) if it is determined that additional time is necessary to prepare the statement adequately; or

(b) if problems with the proposed action requiring material reconsideration or modification have been identified.]

(iii) No final EIS need be prepared if:

(a) the proposed action has been withdrawn or;

(b) on the basis of the draft EIS, and comments made thereon, the lead agency has determined that the action will not have a significant adverse impact on the environment. A negative declaration must then be prepared, filed and published in accordance section 617.12 of this Part.

Objectives and Rationale: The Department proposes to add language to require that the adequacy review of a resubmitted draft must be based on the written list of deficiencies and revise the timeline for the completion of the FEIS.

Determining the adequacy of a draft EIS, which is the province of the lead agency, is a challenging step of the EIS process. If the document has been rejected as not adequate, the lead agency must provide a written list of the identified deficiencies that the project sponsor needs to correct. When the document is re-submitted the second review must be based on the list of

deficiencies that were identified in the first round of review. This is an issue of fairness and will lead to a more efficient process. The goal is to provide a document that is adequate to start the public review.

The current language regarding the timeframe for the preparation of the final EIS is unrealistic. It requires that the final EIS be prepared within 45 days after the close of any hearing or within 60 days of the filing of the draft EIS. Rarely, if ever, are these timeframes met. The Department proposes to extend this timeframe and provide certainty for when the EIS process will end.

Currently in SEQR any timeframe may be extended by mutual agreement between a project sponsor and the lead agency [See 617.3(i)]. So for large complex projects where the lead agency and the applicant agree that additional time is necessary to prepare the final EIS there is already a provision that would allow the six month clock to be extended. This provision would also not apply to direct actions of an agency.

Alternatives: The “no action” alternative would result in no change to the current language on determining adequacy and the timeframe for preparation of a final EIS. Other suggested alternatives are as follows: Require that the submitted draft EIS be determined complete if it contains all items listed in the final scope and require default acceptance of the submitted draft EIS if the lead agency exceeds the time provided for acceptance; require the applicant to submit a demand letter before the default acceptance is triggered; or add language that would create a narrow exception to the final timeframe where an action is subject to a trial-like adjudicatory hearing which by law becomes part of the record.

3.5 SEQR Fees

3.5.1 Preliminary Text Amendment:

617.13(e) [Where an applicant chooses not to prepare a draft EIS, t] The lead agency shall provide the applicant, upon request, with an estimate of the costs for preparing or reviewing the draft EIS calculated on the total value of the project for which funding or approval is sought. The applicant shall also be entitled, upon request to, copies of invoices or statements for work prepared by a consultant.

Objective and rationale: The Department proposes to clarify existing fee assessment authority by amending language to provide project sponsors with the ability to request an estimate of the costs for reviewing the EIS and a copy of any invoices or statement of work done by any consultant for the lead agency. This is primarily an issue of fairness and disclosure. A project sponsor should have the right to receive an estimate of the lead agency’s costs for the review of the EIS along with written documentation to support such fees. Currently, the lead agency must provide an estimate to the project sponsor when they take on the responsibility for the preparation of the EIS.

Alternatives: The “no action” alternative would remove this item from the Fees section. Other suggested alternatives: require that a fee be collected for all EIS and the EIS be prepared by a third party hired by the lead agency.

4.0 Issues Not Included in the Final Scope

A total of 37 comments letters were received during the public comment period that expired on August 10, 2012. The following is a brief discussion of the major issues that were considered for inclusion in the final scope of the regulatory changes but were dismissed from further consideration in this rule making.

4.1 Allow Conditioned Negative Declarations to be used for Type I Actions

This issue has been debated since the changes to SEQR made in 1987 that recognized the use of conditioned negative declarations (CND) and allowed them to be used for actions classified as Unlisted. It was rejected in 1987, reconsidered and rejected again in 1995. There are three primary concerns regarding the expansion of CNDs to Type I actions. First, Type I actions are presumed, to require the preparation of an EIS. Second, as it stands, the CND process adds an arguably unnecessary level of procedural complication to SEQR and the DEC does not favor carrying it over to Type I actions (which are by definition often the most environmentally significant types of actions). Third, the DEC questions whether it has the statutory authority for expanding the use of CNDs to Type I actions. The 1995 Final Generic EIS on the changes to SEQR has a complete discussion of this issue.

http://www.dec.ny.gov/docs/permits_ej_operations_pdf/finalgeis.pdf

4.2 Establish a Board or Council to Review SEQR Decisions

This issue has been raised by many parties over the years. It would establish an independent board or council that could, on request, review disputes and issue opinions on the proper implementation of SEQR. The make-up of the body, whether the determination was advisory or mandatory and identifying what parties could seek a review are elements that would have to be established. This issue has been rejected because it is outside of the scope of this regulatory action. Establishing a board or council that could issue a binding decision would require legislation and a change to Article 8 of the Environmental Conservation Law.

4.3 DEC Should Develop a Best Practice Manual

The suggestion has been raised that DEC should prepare a “Best Practices Manual” to establish the recommended or required practices that should be applied for issues that are frequently involved in the environmental review of an activity. This issue would not require a regulatory change so long as the practices were not required to be used by agencies. The suggestion has great appeal. DEC has, for many years, made available a SEQR Handbook to help SEQR practitioners’ with the process questions. A workbook to help users prepare and review the revised EAF forms is in preparation but it will not contain standard methodologies for the conduct of a traffic study, air analysis, wetland survey, etc. New York City (NYC) has taken this approach for activities that are subject to environmental review under the City Environmental Quality Review Act (CEQRA) and this manual is a great source of information. Preparing a best practice manual to cover even the most common environmental issues that could be fairly applied to the varied environments in New York State would be an expensive task which is currently beyond the fiscal capabilities of the DEC.

4.4 Rely on a Licensed Professional to Attest to the Accuracy of the Review

The issue was raised that the regulations should allow or require a lead agency to rely on the expertise of licensed professionals in the resolution of issues during an environmental review. If a licensed professional is willing to attest to the completeness and accuracy of an environmental impact review by affixing his or her stamp on the plan/assessment, that issue should not be the subject of additional scrutiny or debate by the lead agency or interveners. Making this change would significantly undermine the powers of the lead agency and much of the fact-finding that is part of the SEQR process. Although a licensed professional may have arrived at a conclusion there is no guarantee that the selected approach is the most environmentally compatible approach or that the professional is in fact correct or objective. Allowing other experts and the public the opportunity to review and offer comment is a healthy process. Obviously, the conclusions of a licensed professional should carry significant weight in the resolution of an issue. But, it should not be the only determining factor. Giving deference in this fashion would require legislation and a change to Article 8 of the Environmental Conservation Law.

The White House

Office of the Press Secretary

For Immediate Release

August 31, 2011

Presidential Memorandum--Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review

To maintain our Nation's competitive edge, we must ensure that the United States has fast, reliable ways to move people, goods, energy, and information. In a global economy, where businesses are making investment choices between countries, we will compete for the world's investments based in part on the quality of our infrastructure.

Investing in the Nation's infrastructure brings both immediate and long-term economic benefits -- benefits that can accrue not only where the infrastructure is located, but also to communities all across the country. And at a time when job growth must be a top priority, well-targeted investment in infrastructure can be an engine of job creation and economic growth.

In partnership with State, local, and tribal agencies, the Federal Government has a central role to play in ensuring that smart infrastructure projects move as quickly as possible from the drawing board to completion. Through permitting processes, Federal executive departments and agencies (agencies) ensure that projects are designed and constructed consistent with core protections for public health, safety, and the environment. Additionally, the environmental review process requires agencies to consider alternatives and public input, which helps agencies identify project designs that are safe and cost-effective, and that enjoy public support.

In the current economic climate it is critical that agencies take steps to expedite permitting and review, through such strategies as integrating planning and environmental reviews; coordinating multi-agency or multi-governmental reviews and approvals to run concurrently; setting clear schedules for completing steps in the environmental review and permitting process; and utilizing information technologies to inform the public about the progress of environmental reviews as well as the progress of Federal permitting and review processes. Of course, the Federal Government is only one actor in the multifaceted permitting and review processes. Infrastructure projects can be delayed due to project design or uncertain funding, or while awaiting reviews or approvals required by State, local, tribal, or other jurisdictions beyond the control or authority of the Federal Government. Nevertheless, agencies must do everything in their control to ensure that their processes for reviewing infrastructure proposals work efficiently to protect our environment, provide for public participation and certainty of process, ensure safety, and support vital economic growth.

As an immediate step to improve the effectiveness and efficiency of Federal permitting and review processes, this memorandum instructs agencies to (1) identify and work to expedite permitting and environmental reviews for high-priority infrastructure projects with significant potential for job creation; and (2) implement new measures designed to improve accountability, transparency, and efficiency through the use of modern information technology. Relevant agencies should monitor the progress of priority projects; coordinate and resolve issues arising during permitting and environmental review; and develop best practices for expediting these decisions that may be instituted on a wider scale, consistent with applicable law.

Section 1. Expedited Review of High-Priority Infrastructure Projects. (a) Within 30 days of the date of this memorandum, the Secretaries of Agriculture, Commerce, Housing and Urban Development, the Interior, and Transportation shall each select up to three high-priority infrastructure projects subject to review by their respective departments for expedited review based on the criteria outlined in subsection (b) of this section, and shall submit their selections to the Chief Performance Officer, who also serves as the Deputy Director for Management of the Office of Management and Budget.



BLOG POSTS ON THIS ISSUE

January 23, 2013 12:45 PM EST

[Fireside Hangouts: Vice President Biden Joins a Conversation on Reducing Gun Violence](#)

On Thursday, January 24 at 1:45 p.m. ET, Vice President Biden will host the latest "Fireside Hangout" -- a 21st century take on FDR's famous radio addresses -- to talk about reducing gun violence.

January 23, 2013 10:40 AM EST

[Surprise! President and Mrs. Obama Greet White House Tour \(Bo Was There, Too\)](#)



The President and First Lady welcomed the guests with handshakes, hugs and even fistbumps, and Bo was treated to a near-constant stream of affectionate pats and petting.

January 21, 2013 3:26 PM EST

[Be a Part of the Next Four Years](#)

The President's second term will offer many ways for citizens to participate in conversations with the President and his team about the issues that are most important to them.

[VIEW ALL RELATED BLOG POSTS](#)

Facebook

Twitter

Flickr

Google+

(b) The secretaries identified in subsection (a) of this section shall select high-priority projects, in consultation with heads of other relevant agencies, based on the following criteria:

- (i) the project will create jobs, with consideration given to the magnitude and timing of the direct and indirect employment impacts;
- (ii) all necessary funding to implement the project has been identified and is reasonably expected to be secured within 6 months of completion of the Federal permitting and review processes; and
- (iii) the significant remaining permit decisions, environmental reviews, consultations, or other actions required before construction can commence on the project are within the control and jurisdiction of the executive branch of the Federal Government and can be efficiently and effectively completed within 18 months of the date of this memorandum, with priority given to projects for which required Federal actions can be completed within 12 months of the date of this memorandum.

(c) All agencies rendering permitting decisions, conducting environmental reviews, completing consultations, or taking other actions related to the high-priority projects selected pursuant to this memorandum shall, consistent with applicable law and to the maximum extent practicable, expedite and coordinate their reviews, decisions, consultations, or other actions, and take related actions as necessary, consistent with available resources, including those actions relating to safety, public health, environmental protection, and public participation.

(d) Agencies, consistent with applicable law, shall use the experience gained from expediting the high-priority projects selected under this memorandum, and from reviewing other projects throughout the permitting process, to identify and implement administrative, policy, technological, and procedural best practices that will improve the efficiency and effectiveness of Federal permitting and environmental review for infrastructure projects, while providing for public participation and protecting public health, safety, and the environment.

Sec. 2. Improving Accountability, Transparency, and Efficiency through Information Technology. To improve the accountability, transparency, and efficiency of Federal permitting and review processes, each agency rendering permitting decisions, conducting environmental reviews, completing consultations, or taking other actions related to any of the projects selected under section 1 of this memorandum shall, consistent with applicable law, make relevant information readily available to the public. To this end:

(a) For each selected high-priority project, within 60 days of the date of this memorandum and on a regular basis thereafter, agencies shall track, and make available to the public on agency websites, information related to the actions required to complete Federal permitting, reviews, and other actions required to proceed with the priority project, including:

- (i) a list of all the actions required by each applicable agency to complete Federal permitting, reviews, and other actions necessary to proceed with the project;
- (ii) the expected completion date for each such action;
- (iii) a point of contact at the agency accountable for each such action; and
- (iv) in the event that an action is still pending as of the expected date of completion, a brief explanation of the reasons for the delay.

(b) Within 90 days of the date of this memorandum, the Chief Information Officer (CIO) and the Chief Technology Officer (CTO) shall work with appropriate counterparts at agencies to launch the pilot phase of a centralized, online tool that aggregates the information for each of the priority projects described under section 1 of this memorandum, in a manner that facilitates easy access, enables the public to assess the status of permits required for infrastructure projects, and engages the public in new and creative ways of using the information.

(c) Within 120 days of the date of this memorandum, the Chair of the Council on Environmental Quality, in coordination with the CIO and the CTO, shall work with appropriate counterparts at agencies to deploy in one or more agencies information technology tools with significant potential to reduce the time and cost required to complete permitting and environmental reviews, such as by enabling online submission and processing of public comments, or by allowing personnel from different agencies or jurisdictions to coordinate review timelines, share data, and review documents through a common, internet-based platform.

Agencies shall provide all support, documentation, and assistance necessary to implement these directives.

Sec. 3. General Provisions. (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, and legislative proposals.

YouTube

Vimeo

iTunes

LinkedIn

(c) Independent agencies are strongly encouraged to comply with this memorandum.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

WWW.WHITEHOUSE.GOV

[En español](#) | [Accessibility](#) | [Copyright Information](#) | [Privacy Policy](#) | [Contact](#)
[USA.gov](#) | [Developers](#) | [Apply for a Job](#)



*Implementing Executive Order 13604 on
Improving Performance of Federal Permitting
and Review of Infrastructure Projects:*

A Federal Plan for Modernizing the Federal
Permitting and Review Process for Better
Projects, Improved Environmental and
Community Outcomes, and Quicker Decisions

JUNE 2012





*Implementing Executive Order 13604 on
Improving Performance of Federal Permitting
and Review of Infrastructure Projects:*

**A Federal Plan for Modernizing the Federal Permitting and
Review Process for Better Projects, Improved Environmental
and Community Outcomes, and Quicker Decisions**

President Obama has made building a 21st Century infrastructure a priority for his Administration. Rebuilding and modernizing America's infrastructure creates jobs and puts people back to work creating the safe, reliable, and resilient roads, bridges, railways, airports, ports and waterways, transit systems, broadband internet, and energy infrastructure that are imperative to maintaining our Nation's competitive edge in a global economy. Innovations such as the Department of Transportation's competitive TIGER grants funding the construction of road, rail, transit, and port projects around the country; the Department of the Interior's fast-track permitting of 30 new large-scale renewable energy installations on Federal lands; and the use of early coordination and innovative partnerships that could shave 2-3 years off the schedule to replace the Tappan Zee Bridge demonstrate how the Federal agencies have responded with pilot programs and sector-specific initiatives to accelerate infrastructure projects.

Fulfilling a commitment he made in his 2012 State of the Union Address, President Obama signed an Executive Order directing Federal agencies to scale up these efforts through a White House-led initiative spearheaded by the Office of Management and Budget. The mandate from the President is to institutionalize best practices, reduce the amount of time required to make permitting and review decisions, and improve environmental and community outcomes—implementing the recommendations of his Council on Jobs and Competitiveness to improve the performance of the Federal permit decision-making and review process.

Since that time, Federal agencies have engaged in an intensive interagency initiative to scale up and institutionalize their efforts to modernize and transform how the Federal government fulfills its responsibilities in order to improve the efficiency of the Federal permitting and review process. The results will improve timelines for permit decision-making and review and foster better outcomes for the environment and the affected communities that agencies are responsible for protecting. Furthermore, the initiative recognizes that Federal agencies share this responsibility with Tribal, State, and local governments, project sponsors, and other stakeholders with vital roles in permit decision-making and reviews of infrastructure projects. Implementation of the best practices and specific and measurable actions described in detail in the pages that follow will create a more transparent, more predictable, and better performing process that will maintain the confidence of stakeholders, improve engagement with project sponsors, and reduce timelines while protecting the public's health and safety, our security, and the environment.

Executive Summary

This Federal Plan describes the Obama Administration's government-wide initiative to modernize the Federal permitting and review process to achieve better projects, improved environmental and community outcomes, and shorter decision-making and review timelines for infrastructure projects. It encompasses interagency process innovations essential to effective review of complex projects, improved coordination with other governmental jurisdictions and stakeholders that may have vital roles, and mechanisms to bring greater transparency and accountability to routine federal permitting decisions.

This Plan has two overarching goals:

More efficient and effective review of proposed large-scale and complex infrastructure projects, resulting in better projects, improved outcomes for communities, and faster permit decision-making and review timelines, including:

- By June 30, 2012, setting aggressive permit decision-making and review schedules for Nationally or Regionally Significant Projects that demonstrate how the best practices and innovative processes identified in this Plan can improve performance; and
- Assessing implementation of the Federal Plan annually, including the extent to which its implementation leads to more expeditious reviews, improved projects, and enhanced community and environmental outcomes.

Transparency, predictability, accountability, and continuous improvement of routine infrastructure permitting and reviews, including:

- Benchmarking, tracking, and reporting on consistency with published timelines for all major permitting and review processes related to infrastructure projects;
- Reviewing, updating, and improving timelines and processes annually to reflect continuous improvement; and
- Reporting annually on performance, including any causes for delay.

This initiative builds on a series of pilot projects and sector-specific efforts, as well as the implementation of President Obama's Memorandum of August 2011 that expedited the review of 14 high priority, job-creating infrastructure projects that are tracked on the Federal Infrastructure Permitting Dashboard (Dashboard). Best practices learned from these initiatives include engaging in early coordination across Federal agencies and with Tribal, State, and local governments and public stakeholders; conducting concurrent instead of sequential reviews; setting and maintaining schedules; leveraging technology; and implementing pre-application processes that increase the clarity and predictability of permitting and review requirements and timelines. Brief descriptions of and links to additional information about these best practices are included in Appendix A.

List of Best Practices included in Appendix A

Interagency Agreements and Coordination

- FHWA/USACE/EPA/USFWS NEPA/Section 404 Synchronization agreements
- Regional implementation of the Partnership for Sustainable Communities
- Eco-Logical
- FHWA's Everyday Counts Initiative
- DOI's Smart from the Start Program for Renewable Energy
- Compensatory Mitigation for Losses of Aquatic Resources Final Rule
- Department of Defense Siting Clearinghouse

Cost Recovery Tools

- SAFETEA-LU 6002
- Forest Service Cost Recovery Agreement

Use of Mapping Technology and Other Planning Tools

- Identification of Wind Energy Areas
- Multipurpose Marine Cadastre
- NEPAassist Tool
- USFWS IPaC Tool

Pre-Application/Application Improvements

- DOI Implementation of uniform, online applications for oil and gas permits
- USDA/DOI/DOT Common Application form SF-299 for Transportation and Utility Systems and Facilities on Federal Lands
- FERC pre-application processes
- US Forest Service directives for wind projects
- Regional Mitigation Plans

Outreach and Education

- DOE Request for Interest on development of transmission permitting process
- Transportation for Communities – Advancing Projects through Partnerships (TCAPP)
- Tribal Energy and Environmental Information Clearinghouse
- Best Practices for Stakeholder Engagement

Grounded in the requirements of Executive Order 13604, this effort has four major components:

- A *Federal Plan* and individual *Agency Plans* that commit to specific actions to improve the infrastructure permitting and review process with clear timelines for implementation;
- The selection of *Nationally or Regionally Significant Projects* to be posted on the Dashboard which will utilize the best practices and strategies identified in the Federal and Agency Plans;

- An expanded online *Dashboard* to support effective interagency and intergovernmental coordination and publicly and transparently display both general Federal permitting and review information and the specific schedules and statuses of Nationally or Regionally Significant Projects; and
- *Performance metrics and reporting* to assess progress, ensure accountability, and drive continuous improvement.

Management Structure

The Federal Chief Performance Officer (CPO) at the Office of Management and Budget (OMB) oversees the implementation of Executive Order 13604 on Improving Performance of Federal Permitting and Review of Infrastructure Projects. The CPO also chairs the interagency Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee) established under the Executive Order in consultation with the Chair of the Council on Environmental Quality. The Steering Committee has developed and agreed upon this Federal Plan. These efforts have been informed by existing, specific interagency efforts such as the sector-specific interagency rapid response teams that have been convened to coordinate reviews and program-level improvements for transmission, transportation, and renewable energy projects. These interagency groups will also be engaged in implementation of this Plan where their focus and expertise is aligned.

Steering Committee Member Agencies

Chair, Federal Chief Performance Officer, Office of Management and Budget (OMB) in consultation with the White House Council on Environmental Quality (CEQ)

- Department of Defense (DOD)
- Department of the Interior (DOI)
- Department of Agriculture (USDA)
- Department of Commerce (DOC)
- Department of Transportation (DOT)
- Department of Energy (DOE)
- Department of Homeland Security (DHS)
- Environmental Protection Agency (EPA)
- Advisory Council on Historic Preservation (ACHP)
- Department of the Army
- The Udall Foundation

Background

Federal agency permitting and review responsibilities seek to ensure that a project's potential impacts on safety, security, and environmental and community resources such as air, water, land, and historical and cultural resources are considered and minimized, as required by law, throughout the planning process. They also seek to assure that low-income and minority communities do not bear a disproportionate share of these impacts. These permitting and review responsibilities have been authorized and assigned by Congress to multiple Federal agencies, and are aimed at ensuring that approved projects avoid, minimize, and then otherwise mitigate, as appropriate, any detrimental impacts so that completed projects deliver the best outcomes possible for the project applicant, impacted communities, and the environment. Particularly for large and complex infrastructure projects, the interplay among the diverse and often divergent sets of statutorily-defined agency permit and decision-making responsibilities can lead to friction. When identified early, potential conflicts can be addressed through effective interagency coordination.

Federal agencies are not the only governmental entities with permitting and review responsibilities for infrastructure projects. Multiple Tribal, State, and local governments may also have key decision-making responsibilities for a given infrastructure project—particularly for long, linear projects like roads, pipelines, and transmission lines. These Tribal, State, and local permitting and review processes can also create delays and impact Federal decision-making timelines. It is imperative that Federal agencies coordinate early and continuously with other governmental jurisdictions in order to work efficiently and minimize duplication and delays.

Affected residential communities, nonprofit advocates, and other stakeholders are also engaged in permitting and review decisions through statutory and regulatory requirements that provide stakeholders with specific opportunities to raise issues. A successful plan to create a more efficient permit decision making process with predictable timelines and to improve transparency and outcomes must therefore include early stakeholder engagement opportunities and issue resolution processes to inform the project and reduce litigation potential

Finally, project sponsors play a crucial role in reducing timelines and improving outcomes. In particular, early project sponsor work to properly site projects with lower impacts and culturally sensitive designs will result in fewer conflicts and delays in later stages of project development. In addition to their role in providing timely information such as engineering plans and environmental studies rooted in the best available science, sponsors are also responsible for providing reasonable assurance of the project's financial viability.

Major Plan Components

This effort includes four components for achieving smart, on-time, and more efficient permitting and review decisions with better outcomes for communities and the environment: (1) A Federal Plan with subsequent Agency Plans; (2) a set of Nationally or Regionally Significant Projects; (3) an enhanced Federal Infrastructure Permitting Dashboard; and (4) performance metrics and reporting to support accountability and continuous improvement.

These components integrate the following activities, which have been identified through ongoing pilot projects and sector-specific initiatives as successful best practices:

- Public timelines for all major Federal permitting and review processes related to infrastructure projects;
- Early collaboration among Federal agencies and with Tribal, State, and local governments;
- Early and regular communication with project sponsors and stakeholders;
- Concurrent, coordinated, and collaborative—rather than isolated and sequential—reviews across Federal agencies and with Tribal, State and local governments where feasible and appropriate;
- Integrated Project Plans for Nationally or Regionally Significant Projects outlining early agreements by Federal agencies and project sponsors on target timelines for required permits and approvals, including how the mitigation hierarchy and regional environmental objectives will be incorporated into project design, a dispute resolution process that is integrated into the project planning process, and a public outreach plan; and
- Public display of target schedules for Nationally or Regionally Significant Projects on the Dashboard, including key milestones agreed upon by all relevant governmental agencies.

Federal Plan and Agency Plans

The Federal Plan describes government-wide actions that will be taken to improve Federal permit decision-making and review processes for infrastructure projects, including best practices to institutionalize across government. Individual Agency Plans, to be completed by July 31, 2012, and subsequently published on the Dashboard, will describe how each agency will implement these actions as appropriate to its individual responsibilities and include additional specific steps to improve the Agency's internal processes and metrics for tracking performance.

Nationally or Regionally Significant Projects

The Member Agencies of the Steering Committee are responsible for collaboratively identifying and tracking on the Dashboard Nationally or Regionally Significant infrastructure projects through which to test and demonstrate innovations, improvements, and best practices. The initial list of these Nationally or Regionally Significant Projects will include regionally diverse projects ranging from aviation and surface transportation to ecosystem restoration projects that support the green infrastructure critical to regional economic vitality and resilience. This initial list is not intended to be exhaustive or static. Member Agencies will review the list not less than every six months, amending and adding to it as appropriate.

Federal Infrastructure Permitting Dashboard

The enhanced Dashboard will be a tool for interagency collaboration as well as public transparency. It will facilitate the interagency coordination essential to efficient, environmentally-sound, and informed determinations on permits and reviews; the establishment and management of permit and review

schedules; and public display of schedules for Nationally or Regionally Significant Projects. The technology will create a shared business process and workspace among agencies and across jurisdictions, providing agencies an opportunity to coordinate across their diverse objectives and overlapping permit decision-making and review responsibilities to improve performance and reduce delays and duplication. Equally critical, providing comprehensive information to the public through the Dashboard early in the project development process will help to institutionalize early coordination, collaboration, and transparency as standard business practices.

Performance Measurement and Reporting

The Federal CPO is responsible for setting metrics and reporting annually on agency progress towards meeting the goals set out in both the Federal Plan and the Agency Plans. The first such Report to the President is due on January 31, 2013, with annual reports thereafter. Agencies are responsible for providing data on their performance metrics every six months so that the Federal CPO can assess progress.

FEDERAL ACTION PLAN

Federal Plan Action Items

Actions

Improve Coordination within and among Federal Agencies, and with Tribal, State, and local governments

Scan for opportunities to reduce duplication within the agency, with other Federal agencies, and with other governments

Identify best practices for interagency agreements

Assign a coordinating agency for each Nationally or Regionally Significant Project

Develop Integrated Project Plan guidance and develop Integrated Project Plans for Nationally or Regionally Significant Projects

Inventory and publish relevant authorities for "Share in Cost" programs

Establish regional rapid response teams

Identify opportunities to improve mitigation processes

Clarify and Refine the Application Process for Project Sponsors

Identify and report all major permitting and review responsibilities related to infrastructure projects along with estimated timelines

Improve transparency of the Federal infrastructure application process

Encourage early consultation with project sponsors

Inventory non-electronic permit applications

Provide recommendations for developing a one-stop-shop for online Federal infrastructure permit applications

Submit a plan and schedule for a transmission application tool-kit

Submit a plan and schedule for a renewable energy development application tool-kit

Complete an assessment of the benefits of additional sector specific application tool-kits

Identify and publish data such as geographic information that can inform better project siting and design decisions

Expand Stakeholder Engagement and Information Outreach

Develop strategies to identify issues early and proactively address conflicts

Develop and implement a stakeholder survey process

Expand educational outreach tools

Improve Transparency of Federal infrastructure permitting roles

Track and Report on Implementation and Performance

Report to CPO on milestone achievement and on-time completion of federal permitting and reviews for Nationally or Regionally Significant Projects

Conduct qualitative assessment of project outcomes of Nationally or Regionally Significant Projects

Report to CPO on on-time completion of items in each Agency Plan

Develop estimated timelines for major infrastructure permitting and review processes, and track and report on actual performance and causes for delay

Issue report summarizing results of stakeholder survey processes

Improving Coordination within and among Federal agencies, and with Tribal, State, and local Governments

Action: Each Federal agency will complete an internal scan to identify opportunities within the agency's individual control to create or update processes, policy documents, regulations, or guidance to better facilitate the goals of this Plan, including opportunities to improve coordination internally as well as with other Federal agencies and with Tribal, State, and local governments. Agencies should include efforts to reduce duplication and eliminate unnecessary sequencing of reviews within the agency as well as with other Federal agency processes.

Implemented by: Federal agencies will identify opportunities in their individual Agency Plans and report on progress annually.

In many cases, one Federal Agency may have the responsibility for a permitting decision, but multiple Federal Agencies may be involved in the review process associated with a permit decision, or may have related permit decisions of their own. Coordination of the overall effort is essential for complex decisions to minimize potential delays.

Additional opportunities may also exist for better coordination and alignment with Tribal, State, or local government permit decision-making and review processes, although such opportunities will vary based on the laws of each jurisdiction. For example, the U.S. Army Corps of Engineers (Army Corps) coordinates applications for permits at the District level with State agencies so project applicants can submit a single set of information for both State and Federal permits. Moreover, several states have environmental impact assessment requirements that, although different from NEPA, may have aspects that can be aligned with Federal NEPA reviews. CEQ regulations state that Federal agencies "shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements," and this practice can be expanded to improve overall performance.

Action: Assess and align interagency agreements or other best practices that address program-level coordination between and among Federal agencies for permit decision-making and review processes in order to reduce duplication and improve community and environmental outcomes.

Implemented by: Agencies will include such best practices or plans to develop them in their individual Agency Plans and report on progress annually.

Interagency agreements and other best practices that merge different agency processes can be established to improve processes for handling routine requirements for commonly encountered project types. Agreements that merge certain aspects of permit evaluation and review processes can provide a level of process certainty to projects that would not otherwise exist. It is important to note, however, that overuse or poor structuring of these types of interagency agreements can slow down decisions by introducing an excessive number of points of concurrence required between two or more agencies. This can be avoided by using mergers judiciously for complex projects that would benefit from a formal agreement and by modeling new merger agreements on successful templates, with the goal of driving results rather than simply following a process. A leading example of an effective interagency agreement of this type is the 404/NEPA integration agreement between the Army Corps and the Department of

Transportation's Federal Highways for Department of Army permits (Sections 10 and 404), which has reduced permit evaluation and review timelines while improving environmental outcomes.

Additionally, interagency agreements that outline typical permit conditions for routine actions can create efficiencies in the permitting and review processes by providing parameters for program level approvals of proposed actions. These agreements can reduce the burden on resource agency staff of performing routine, low-complexity reviews, freeing staff time to work on more challenging, complex projects.

Action: Assign a Coordinating Agency for each Nationally or Regionally Significant project, affirmed by the Steering Committee.

Implemented by: All Nationally or Regionally Significant projects will have a Coordinating Agency assigned at the time they are publicly posted on the Dashboard.

Nationally or Regionally Significant infrastructure projects involve multiple Federal agencies and often cross multiple Tribal, State, and local jurisdictions. From a Federal agency perspective, it is critical to identify a single Coordinating Agency responsible for convening and managing the project team's overall permit evaluation and review schedule. The Member Agencies of the Steering Committee will affirm the Coordinating agency for each project, which may be the same as the project's NEPA "lead agency" or the sponsoring agency if it is a Federal project, or may be otherwise assigned as appropriate.

Action: Develop an Integrated Project Plan (IPP) template to be issued as guidance by OMB. This IPP guidance will provide a framework for the early coordination and collaboration necessary to successfully develop and deliver permitting and reviews for Nationally or Regionally Significant Projects, should be used to populate information onto the Dashboard, and serve as a foundation for management of future projects that require interagency coordination.

Implemented by: The Federal CPO will issue draft guidance on the IPP template by June 15, 2012.

Early, targeted, and collaborative efforts by agencies and project sponsors to develop IPPs are essential to developing a process that results in more efficient reviews with better environmental and community outcomes. IPPs will establish the roles and responsibilities of agencies involved in reviewing a particular project, and create a consensus project review schedule that can be posted on the Dashboard to provide transparency and accountability. Investing this time at the beginning of project planning facilitates more informed project development and design decisions, can help ensure more complete reviews and applications by the project sponsors/applicants, and will result in more efficient processes.

The IPP will serve as an early project roadmap to help guide project development and is intended to outline the requirements for all mandatory reviews and permit decisions, including public and stakeholder engagement. Information collaboratively developed and collected in the development of the IPP can result in a better project, including more comprehensive and holistic mitigation plans that support regional environmental objectives and planning. An IPP may inform siting decisions, influence the range of "reasonable alternatives" necessary for NEPA analysis, and identify resource or community concerns early in the process. As such, the IPP can provide opportunities for early concurrence on critical points during the review process and avoid conflicts that could cause delays if they arose later in the review process.

The Coordinating Agency will have the responsibility for taking the lead in developing the IPP for Nationally or Regionally Significant Projects, but any lead agency can develop an IPP for other infrastructure projects. The IPP is a collaborative effort, requiring full engagement by a project team with representatives from each of the Federal agencies involved in reviewing a project as well as the project sponsor and Tribal, State, and local government representatives when appropriate. The level of involvement of agency stakeholders in creating the IPP will depend in part on the project type, scope, scale, and stage of development.

Action: Utilize “share in cost” or similar programs, where available, that enable agencies to recover permit evaluation and review costs.

Implemented by: Agencies will inventory and report on relevant “share in cost” authorities in their Agency Plans. Agencies will coordinate to determine how existing “share in cost” or other funding programs can be best leveraged to improve performance through existing sector-specific rapid response teams, and report on specific implementation to the Federal CPO as part of each agency’s annual reporting requirement.

“Share in cost” programs that allow agencies to recover costs associated with permit evaluation and review responsibilities, build agency capacity through third-party support, or fund sector-specific liaisons through the support of other government agencies can enable agencies to implement process innovations that improve performance.

Action: Convene regional interagency Rapid Response Teams (RRTs) to facilitate regional coordination.

Implemented by: The member agencies of the Steering Committee will recommend an approach to convening regional RRTs, incorporating existing local and regional coordination efforts already in place, to the Federal CPO by August 31, 2012.

Creating regional RRTs, coordinated with headquarters components, will foster interagency collaboration, and promote early issue identification and resolution at a level where permitting decisions are often made.

Action: Identify opportunities to integrate intra- and inter-agency mitigation processes to expedite project reviews and encourage large-scale—watershed, regional or landscape-level—mitigation planning, where appropriate and feasible.

Implemented by: Agencies shall identify in their Agency Plans mitigation regulations, policy, or guidance documents that foster or hinder inter-agency collaboration on mitigation and allow, or limit, large-scale mitigation opportunities.

Because major infrastructure projects can have a significant footprint, the identification of appropriate environmental mitigation requirements can be an important element of a successful permitting strategy. Different statutory mandates and authorities for different agencies contribute to wide variation in agencies’ overall approaches to mitigation. Mitigation is often addressed at the end of project development, using a project-by-project, agency-by-agency approach that can lead to inefficiencies in the permitting and review processes and missed opportunities to identify unified, watershed- or ecosystem-level, and more ecologically-effective mitigation options. To address this inefficiency, Agency

Plans shall identify opportunities to update, or create policy or guidance documents to (1) reinforce the mitigation hierarchy for project development (avoid, minimize, rectify, reduce/repair over time, compensate); and (2) unify intra-agency mitigation processes and requirements across regions and offices and more efficiently and effectively deploy mitigation practices, such as mitigation banks. By using best practices such as the *principles* established in the Bureau of Land Management's work to designate Solar Energy Zones (see Appendix A) as a model agencies can work with stakeholders and the scientific community where appropriate, to identify larger-scale mitigation opportunities in major infrastructure projects and ensure the development and implementation of more meaningful mitigation planning on a regional, watershed, or landscape level.

Improving Transparency and Predictability of the Application Process for Project Sponsors

Action: Each agency will identify and publish online its major permit decision-making and review responsibilities, with associated estimated timelines.

Implemented by: Estimated baseline processing timelines will be reported by July 31, 2012, along with required Agency Plans. The estimated timelines will be reviewed and revised, and agencies will set target timelines, by December 31, 2012, and annually thereafter to encourage continuous improvement. A user-friendly library of the major types of permitting and review responsibilities related to infrastructure projects will be published on the Dashboard.

Improving the transparency and predictability of timelines for project sponsors and other stakeholders requires established and publicly accessible timelines for Federal permitting and review responsibilities. Public timelines ensure accountability and serve as building blocks for the creation of additional tools to improve the permit decision-making and review processes.

Action: Assure that clear descriptions of the application processes for all major Federal permitting and review processes for infrastructure projects are publically available, including a list of all information needed for an application to be deemed complete and a clear description of when the permitting and review process begins.

Implemented by: Where this best practice is not already in place, agencies will identify opportunities to do so in their individual Agency Plans and report on progress annually. For transmission and renewable energy projects, agencies shall coordinate with the existing transmission and renewable rapid response teams so that this information can be easily included in the application tool kits described below.

Application processes set expectations and give project sponsors clarity and predictability about the information required for agencies to make permitting and review decisions and when the permitting and review timelines begin and end.

Action: Encourage the use of early consultation with project sponsors.

Implemented by: Agencies not already offering early consultation with project sponsors should implement this practice immediately.

As soon as an agency becomes aware of a proposed project, it should make project sponsors aware of opportunities for early coordination to help inform the planning process. Many agencies already have this practice in place, and have demonstrated its effectiveness. Agencies aware of which permits may be needed should also engage other relevant agencies in early consultations or direct project sponsors to contact them. Opportunities for early consultation should be included in the application process descriptions addressed above.

Action: For each type of permit that does not require alignment with different state requirements, inventory and implement uniform, electronic applications that are consistent across all regions within individual agencies.

Implemented by: Agencies shall include an inventory of permit applications that are not electronic in their initial Agency Plan, and include a plan for developing uniform, electronic application forms—including any necessary review processes under the Paperwork Reduction Act—to the Federal CPO in their annual progress report. Agencies are encouraged to work together, drawing from lessons learned and leveraging existing systems to the extent possible for optimal efficiency.

Some agencies still require paper applications for some permits, which inhibits the ability to implement electronic tracking systems that would increase clarity and transparency and improve collaboration with relevant agencies and project sponsors. Transforming paper-based application forms into uniform, electronic forms within individual agencies will improve transparency and is a necessary step towards tracking the timeliness of permitting decisions and reviews as well as developing more advanced permitting process management and collaboration tools.

Action: Assess the feasibility of developing a uniform online application and tracking system for all major Federal infrastructure permit applications, similar to Grants.gov.

Implemented by: The Federal Chief Information Officer (CIO) at OMB, in coordination with the Federal CPO, will make initial recommendations to the Steering Committee by December 31, 2012.

The recommendations will assess the feasibility of developing a one stop shop for online application and tracking for all major Federal infrastructure permits.

Action: Develop an application tool-kit for electricity transmission and renewable energy projects. Assess the potential benefits of application tool-kits for additional sectors of infrastructure projects, and make recommendations for implementation.

Implemented by: The co-chairs of the transmission RRT will deliver a plan and schedule for launching an application toolkit for transmission projects to the Federal CPO by November 30, 2012. The co-chairs of the Renewable Energy RRT will deliver a plan and schedule for launching an application toolkit for renewable energy projects by December 31, 2012. The Steering Committee will assess the potential benefits of additional sector-specific application tool-kits and provide recommendations to the Federal CPO by December 31, 2012.

Large projects such as electricity transmission lines and large-scale renewable energy projects can involve multiple Federal, Tribal, State, and local permit decisions and reviews that require complex coordination. As demonstrated by the Department of the Interior's leadership in developing renewable

energy on Federal lands, developing innovative approaches such as application toolkits will provide greater clarity and predictability to project sponsors and enable Federal agencies to begin permitting and review processes faster and with fewer delays.

Tool-kits might include:

- Examples and suggestions for developing strong applications;
- Tools for planning stakeholder outreach and engagement;
- Definitions of what is needed for an application to be “complete” for each agency required to make a permit/review decision;
- Identification of Tribal, State, and local governments roles;
- Estimated permit decision and review timelines;
- Applicant trainings, webinars, or meetings;
- Identification and initial assessment of the resource areas potentially impacted;
- Project-specific best management practices and upfront avoidance, minimization, and mitigation measures such as project siting information and guidance; and
- Description of application process, from first notice to final decision.

Action: Coordinate with existing interagency efforts to identify and publish aggregate data—such as layered data from geographic information systems (GIS) or data developed during previous regional NEPA or other reviews— that will inform and facilitate project sponsor decisions such as project siting.

Implemented by: The Federal Geographic Data Committee and OpenGov Working Group will continue ongoing efforts to identify and publish such data.

GIS and other Federal data sets identifying conflicting uses, location of sensitive areas from a resource and species perspective, and potential areas for mitigation could help project sponsors make more informed and strategic early design decisions about project siting—thereby avoiding potential resource issues that could delay or even stop project development. When possible, agencies should invest in developing user friendly, readily available, interagency decision-support tools for project sponsors to use during project planning. In this effort, appropriate consideration should be given prior to releasing data that may be sensitive or confidential.

Expand Stakeholder Engagement and Informational Outreach

Action: Develop strategies for identifying and proactively addressing issues and conflicts that may arise with stakeholders and affected public interests during the permitting and review processes and proactively implement them.

Implemented by: Agencies shall implement this action as part of the interagency planning process for infrastructure projects, focusing initially on Nationally or Regionally Significant Projects in order to demonstrate results.

Project-specific issues and concerns that are not recognized and addressed early can cause significant delays in infrastructure permit decision making processes. These issues can arise within Federal agencies, Tribal, State, and local governments, and affected stakeholder groups. Upfront identification of these issues and the development of a plan for working through them with affected entities are essential to avoiding disagreements and delays that could be prevented with sufficient and timely attention.

Action: Implement a process for surveying project sponsors, stakeholders, and agency personnel to measure the effectiveness of integrated planning and early engagement practices for Nationally or Regionally Significant Projects, and to identify new opportunities for continuous improvement.

Implemented by: The Udall Foundation will develop and propose to the Steering Committee by December 31, 2012, a qualitative stakeholder survey process. Upon review and acceptance by the Steering Committee, the Udall Foundation shall implement the stakeholder survey process and report results to the Steering Committee by July 31, 2013, and annually thereafter.

Stakeholder survey processes can be a useful measure of the effectiveness of the actions described in this Plan to improve coordination and outcomes for project stakeholders. Survey processes may include listening sessions, surveys, or requests for information to inform continuous improvement. Suggestions for improving the permitting and review process may also be sought for each project at the early consultation meeting and through the development of a coordinated schedule.

Action: Expand educational outreach to potential project sponsors/applicants about how to provide complete permit and review applications, and how to design effective stakeholder outreach and engagement strategies as a part of that process.

Implemented by: Agencies shall identify specific opportunities to expand the use of webinars and other engagement tools in their Agency Plans.

Infrastructure permitting and review processes can be complex, involve multiple Federal agencies, and engage Tribal, State, and local governments. To inform potential project sponsors about the role and function of Federal permitting and review processes, agencies will expand the use of webinars and other educational tools. These tools can also be helpful in educating stakeholder groups about the public engagement opportunities that will be undertaken as part of the agency decision-making process.

Action: Improve transparency of Federal infrastructure permit decision-making and review roles through expanded use of the Dashboard.

Implemented by: An enhanced version of the Dashboard will be released by July 31, 2012, with continuous improvement thereafter.

As described more fully below, the expanded Dashboard will include links to the Federal and Agency Plans, a library of the major Federal permit decision making and review responsibilities, and schedules for Nationally or Regionally Significant Projects that include Tribal, State, and local roles as well as links to existing opportunities for public comment and stakeholder engagement.

NATIONALLY OR REGIONALLY SIGNIFICANT PROJECTS

Pursuant to Executive Order 13604, Member Agencies selected, and submitted to the Federal CPO, a list of Nationally or Regionally Significant Projects to be tracked on the Dashboard. While these projects have been selected to test, evaluate, and demonstrate innovations and best practices, all Federal permit decision-making and review processes will benefit from the results.

Nationally or Regionally Significant Projects have been identified from the following sectors, per Executive Order 13604:

- Surface transportation
- Aviation
- Ports and waterways
- Water resource projects
- Renewable energy generation
- Electricity transmission
- Broadband
- Pipelines
- Other such sectors may be determined by the Steering Committee

In order to qualify as a Nationally or Regionally Significant Project, a project must:

- Have an interstate component, provide regional economic benefits, or be directly linked to other nationally or regionally significant projects (e.g., rail to port);
- Involve multiple Federal agencies and/or have multiple Tribal, State, or local government permit decision making or review actions associated with its development;
- Provide opportunities to demonstrate best practices and/or test new innovations for reducing the amount of time required to reach Federal permit or review decisions and for improving outcomes for local communities and the environment; and
- Be technically feasible and financially viable.

The initial list of Nationally or Regionally Significant Projects will be reviewed and updated by Member Agencies in coordination with each other at least every six months so that new projects can be added as appropriate, and so that projects that are complete or are no longer feasible, due to financial unviability or other reasons, can be archived.

ENHANCED FEDERAL INFRASTRUCTURE PERMITTING DASHBOARD

The Federal Infrastructure Permitting Dashboard was first established pursuant to an August 2011 Presidential Memorandum. The Dashboard is being enhanced and expanded to serve as a Federal-wide tool to enable and support collaboration within and among the Federal agencies, as well as to provide

increased public transparency regarding the schedules and status of Nationally or Regionally Significant Projects, permitting timelines, and overall Federal infrastructure project permitting and review processes.

Project Schedule Development, Management, and Tracking

All Nationally or Regionally Significant Projects identified by Member Agencies will be tracked on the Dashboard, although its use is not limited to these projects. As agencies build capacity and scale, the Dashboard will be expanded to support the institutionalization of early and effective collaboration and other best practices, and its use will be extended to include additional projects.

Institutionalizing Effective Collaboration

Many infrastructure projects involve multiple Federal agencies, each of which has its own technology tools and systems. The Dashboard will provide an essential secure, internal platform for staff from different agencies to collaboratively manage project review schedules and share documents. The Dashboard will also allow representatives of relevant Tribal, State and local governments to engage in this secure, collaborative environment, giving them real-time access to the documents and information they may need.

Institutionalizing Public Transparency

The Dashboard will enable agencies to dynamically publish final project schedules, updates, and relevant public documents. In addition to the permitting and review schedules for Nationally or Regionally Significant Projects, the Dashboard will give members of the public access to this Federal Plan, the Agency Plans, a list of the major Federal permits and reviews related to infrastructure projects together with target processing timelines for each, the annual Report to the President prepared by the Federal CPO, and links to existing opportunities for public comment and engagement associated with projects tracked on the Dashboard.

The Dashboard will be maintained, improved, and governed as a shared service by an interagency Executive Committee comprised of Member Agencies of the Steering Committee and the Federal CPO, in consultation with CEQ.

METRICS AND PERFORMANCE REPORTING

You can't manage what you don't measure. It is therefore essential to have metrics for tracking agency performance, demonstrating agency successes, and pinpointing challenges in meeting the goals of this Plan.

The Federal CPO will therefore work with Member Agencies to develop metrics for tracking and assessing implementation of the Federal Plan and individual Agency Plans, including progress on the Nationally or Regionally Significant Projects. These metrics will be included in the individual Agency Plans. Agencies will in turn track their performance against these metrics and report regularly to the Federal CPO. Where automated permit decision-making and review tracking systems are not already in place, OMB will provide guidance to support agencies in prioritizing the efforts and investments that will be necessary to implement the requisite tracking systems, and promote the use of the information technology tools for interagency coordination.

Agencies are responsible for reporting performance and progress to the Federal CPO in June and December of each year. Based on this data, every January the Federal CPO will submit to the President an annual Report, including Agency scorecards, which will be made publicly available on the Dashboard.

All agencies will include the following measures that can be aggregated to demonstrate Federal government-wide performance, indicate trends, and pinpoint challenges.

- As a part of the ongoing use of the Dashboard to manage Nationally or Regionally Significant Projects, Coordinating Agencies will report on milestone achievement and on-time completion of Federal permitting and review responsibilities;
- Upon the completion of all Federal permit decision-making and reviews of a Nationally or Regionally Significant Project, the Coordinating Agency, in consultation with the other agencies involved in the project, will complete and publicly report a qualitative assessment of outcomes, briefly addressing how implementing the actions outlined in this Plan led to environmental and local community benefits;
- By July 31, 2012, each agency will establish and report estimated baseline timelines for each of its major permitting and review processes for infrastructure projects;
- By December 31, 2012, and annually thereafter, each agency will report on its completion of the actions contained in its Agency Plan, including reviewing and revising its baseline timelines and setting on-time performance targets;
- By December 31, 2013, and annually thereafter, each agency will measure and report on performance of on-time completion of major permitting and review decisions for infrastructure projects based on published target timelines, including the causes of any exceptions, and will issue updated target timelines for permitting and review decisions reflecting continuous improvement. Agencies may also adjust timelines biannually through their progress reports to the CPO to offer a more contemporary reflection of recent performance accomplishments or to incorporate better data based on information from newly implemented tracking efforts; and
- By December 31, 2012, and annually thereafter, the Udall Foundation will report on aggregate results of stakeholder survey processes, including trends, in order to assess the outcomes and the effectiveness of early engagement of and collaboration among Federal, Tribal, State, and local government entities, project sponsors, and stakeholders.

Where transparency and reporting on timelines will require agencies to implement new tracking systems, they should prioritize tracking permit decision-making and review actions.

THE ROAD AHEAD: CONTINUOUS IMPROVEMENT

This Plan sets a course for redesigning Federal permit decision-making and review processes for infrastructure projects that will result in more expeditious permitting and review decisions, measurably better projects, better environmental outcomes, and quicker reviews. It describes a qualitative framework for

identifying Nationally or Regionally Significant Projects that will test and demonstrate best practices and innovations. It includes a Dashboard that will enable effective collaboration and improve transparency of timelines, schedules, and performance. And, finally, it includes metrics to track progress and inform continuous improvement.

As these efforts are implemented and institutionalized across the Federal government, opportunities for continuous improvement as well as needs for course correction should become apparent and visible through performance management and reporting. This Plan and its goals will accordingly be revisited, and amended as necessary, by the Steering Committee and Federal CPO in July of each year, following mid-year agency performance reports.

FEDERAL PLAN

APPENDIX A

Executive Orders and Presidential Memoranda

The following Executive Order and Presidential Memoranda illustrate this Administration's commitment to improving the permitting and review processes for Federal infrastructure projects.

Presidential Memorandum Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review—8/31/11

This [Presidential Memorandum](#) created the public Infrastructure Permitting Dashboard and laid much of the foundation for Executive Order 13604. The Memorandum directed the Secretaries of Transportation, Agriculture, Interior, Commerce, and Housing and Urban Development to identify high priority projects to expedite through the environmental review process. Fourteen projects were selected and tracked on the Dashboard providing valuable lessons learned in both transparency and accountability that informed the next generation of the Dashboard.

Executive Order 13580--Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska—7/12/11

President Obama issued this [Executive Order](#) forming a new, high-level interagency working group to coordinate energy development and permitting in Alaska. The group is chaired by the Deputy Secretary of the Interior and includes senior officials from across the Federal government. This Working Group will coordinate decision-making; share information including timelines and milestones as well as cultural and environmental studies; address long term planning issues such as oil spill prevention, preparedness, and response; coordinate Federal engagement with State, Tribal and local governments; and collaborate on stakeholder outreach.

Executive Order 13571—Streamlining Service Delivery and Improving Customer Service—4/27/12

The President issued this [Executive Order](#) directing agencies to develop plans to address how the agency will provide services in a manner that seeks to streamline service delivery and improve the experience of its customers through technology. This Order seeks to simplify the customer interaction, creating efficiencies that benefit both the agency and the public user.

Best Practice Examples

Below are select examples of best practices to highlight the work already underway across Federal agencies. While these are organized under general headings, many address a range of challenges and deliver a variety of efficiencies and better outcomes.

Interagency Agreements and Coordination

FHWA/USACE/EPA/USFWS NEPA/Section 404 Synchronization agreements

NEPA/Section 404 synchronization agreements are one important method to improve coordination and facilitate early identification of issues, which can result in a smoother review process. NEPA/404 synchronization is designed to improve the efficiency of the Federal Highway Administration's (FHWA) NEPA process by using early and active interagency coordination to focus efforts on reaching an environmentally sound project. For projects involving fill in waters of the United States, the Army Corps is responsible for issuing permits and assessing whether the project is appropriate. In addition, the U.S. Fish and Wildlife Service (FWS), the National Marine Fishery Service (NMFS), and the U.S. Environmental Protection Agency (EPA) may also be involved in Section 404 permitting.

The NEPA/404 synchronization process was initiated to streamline project decision-making on Federal-aid highway projects. Synchronizing the FHWA NEPA and Section 404 permit processes expedites project decision-making and leads to one overall public interest decision, at one point in time, for a Federal-aid project. Both the NEPA and Section 404 processes involve the evaluation of alternatives, the assessment of impacts to resources, and the balancing of resource impacts and project need.

For more information, see the FHWA website on the [NEPA/Section 404 synchronization process](#).

Regional implementation of the Partnership for Sustainable Communities

On June 16, 2009, the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA) joined together to help communities nationwide improve access to affordable housing, increase transportation options, and lower transportation costs while protecting the environment.

The PSC has headquarters leadership as well as regional teams who work to coordinate federal housing, transportation, water, and other infrastructure investments to make neighborhoods more prosperous, allow people to live closer to jobs, save households time and money, and reduce pollution. The partnership agencies incorporate six principles of livability into federal funding programs, policies, and future legislative proposals.

For more information: <http://www.sustainablecommunities.gov>

Eco-Logical

In 2006, eight Federal agencies as well as several States collaborated to develop an unprecedented guide for making infrastructure development more sensitive to the environment. [Eco-Logical: An Ecosystem Approach to Developing Infrastructure Projects](#) presents a framework for integrating planning across agency boundaries and achieving cost-effective infrastructure development without compromising ecosystem vitality. *Eco-Logical* describes a common-sense strategy for developing a regional ecosystem framework that identifies ecologically significant areas, potentially impacted resources, areas to avoid, and mitigation opportunities in advance of infrastructure project initiation. Agencies and stakeholders can then work together to more accurately identify areas in greatest need of protection, better predict cumulative resource impacts, and streamline and accelerate infrastructure development through

increased predictability of environmental impacts. *Eco-Logical* encourages Federal, State, tribal and local partners involved in infrastructure planning, design, review, and construction to use flexibility in regulatory processes. Specifically, *Eco-Logical* puts forth the conceptual groundwork for integrating plans across agency boundaries, and endorses ecosystem-based mitigation - an innovative method of mitigating infrastructure impacts that cannot be avoided.

Everyday Counts Initiative

The Everyday Counts Initiative (EDC) was implemented by FHWA in 2009 as a way to build upon Sections 6001 and 6002 of SAFETEA-LU and transform how FHWA does business—both internally and externally. EDC is designed to identify and deploy innovation aimed at shortening project delivery, enhancing the safety of our roadways, and protecting the environment. FHWA identified proven solutions and technologies that could be rapidly deployed and make a difference. FHWA highlighted six initiatives related to permitting and environmental reviews:

- Planning and environmental linkages
- Legal sufficiency enhancements
- Expanding use of programmatic agreements
- Use of in-lieu fee and mitigation banking
- Clarifying the scope of preliminary design
- Flexibilities in Right of Way
- Enhanced technical assistance on ongoing EISs

These tools and technologies were rolled out in Spring 2010, and ten regional summits were conducted. All DOTs have organized State Implementation Teams to deploy the innovations described above as well as to create their own specialized initiatives. More information on EDC can be found at <http://www.fhwa.dot.gov/everydaycounts/index.cfm>.

DOI's Smart from the Start Program for Renewable Energy

As part of its [Smart from the Start](#) program, the Department of the Interior (DOI) has coordinated and collaborated at unprecedented levels, both within the Department and with external partners. The Secretary established a Departmental renewable energy task force to facilitate early coordination among the Department's bureaus. This high-level accountability ensures that common goals and priorities are achieved and issues identified and addressed in a timely way.

One example is Secretary Salazar's partnership established with California Governor Schwarzenegger, and continued by Governor Brown. This partnership was formed through a Memorandum of Understanding (MOU) that included meaningful deliverables, clear timelines, and joint work products. Under this partnership DOI and California agencies with the permitting authority for renewable energy projects meet, identify and troubleshoot issues, and work together—functioning almost as one agency—to simultaneously shepherd projects through the multiple permitting processes. By working together in

parallel, rather than sequentially, DOI and California were able to propel complex renewable energy projects through multiple agency processes, in some instances, as quickly as 12 months.

Compensatory Mitigation for Losses of Aquatic Resources Final Rule

In 2008, the Army Corps and the Environmental Protection Agency (EPA) jointly issued the [Compensatory Mitigation Rule](#), which provides project proponents and Federal agencies clarity in how to mitigate for unavoidable impacts to US waters under the Clean Water Act (CWA). The Rule establishes a hierarchy for different compensatory mitigation options, identifying mitigation banks—a form of advance mitigation—as the most preferred option, followed by in-lieu fee programs and permittee-responsible mitigation. Like other efforts which tie mitigation to larger landscapes, the Rule encourages permittees to use a watershed perspective where possible to base the type and location of mitigation on analytically-based watershed assessments and watershed goals. To improve mitigation performance, the Rule requires permittees to develop mitigation plans, which include objectives, consistent and high ecological performance standards, monitoring requirements, and an adaptive management plan. These principles, as articulated in the rule, lead to a scientifically and performance driven approach to compensatory mitigation that should be used as a model for mitigation banks under other statutes and regulations.

Department of Defense Siting Clearinghouse

Although most renewable energy projects are compatible with military mission, there are cases where military test, training or operational missions can be impacted. In the past year DoD developed an effective, consistent, transparent, and timely process for evaluating mission impacts of renewable energy projects that may impact military missions. In order to convey Clearinghouse external procedures, the Clearinghouse published an interim rule at Part 211 of title 32, on October 20, 2011. DoD is now amending and updating the rule based upon external comments and internal lessons learned.

The Clearinghouse review process applies to renewable energy projects filed with the Secretary of Transportation under Section 44718 of title 49, US Code, as well as other projects proposed for construction within military training routes or special use airspace. The Clearinghouse has cleared 96% of its backlogged projects for development. It is working with developers to clear new projects, mitigate impacts, or in rare instances to avoid “unacceptable risk to the national security of the United States,” recommend that FAA determine a project to be an aviation hazard. Any recommendation to the Department of Transportation to make a determination of hazard must be approved by the Deputy Secretary of Defense.

Where mitigation is necessary and possible, the Clearinghouse has authority to accept voluntary contributions from developers. The Clearinghouse recently completed its first agreement under this authority. The Clearinghouse is also engaged in an interagency field test program to develop near-term mitigation methods to protect surveillance and navigation radars from wind turbine electromagnetic interference.

Cost Recovery Tools

SAFETEA-LU 6002

The Safe, Accountable, Flexible, Efficient, Transportation Equity Act was the 2005 transportation authorization. The Act contained numerous provisions focusing on improving efficiency in the highway program and project delivery. One such provision, Section 6002 authorized the use of funds to pay for staffing positions at resource agencies who are dedicated to working State transportation projects. These funded positions help both resource agencies and project proponents by providing full-time staff to work on transportation projects. The Federal Highway FHWA completed a study in 2009 with an in-depth look at the early success of the program. That report can be found [here](#).

Forest Service Cost Recovery Agreement

The Forest Service manages more than 72,000 permits, leases, and easements that authorize more than 180 types of special uses of National Forest System (NFS) lands. The Forest Service annually processes over 6,000 applications and issues authorizations for new or recurring special uses. Each application is subject to some environmental analysis—a costly, time-consuming process. In 1999, the agency received congressional to “develop and implement a pilot program for the purpose of enhancing Forest Service administration of rights-of-way and other land uses” with the expected outcome of more expeditious approval of special use authorizations. In response, the agency promulgated new Cost Recovery rules to improve customer service and create additional resources to fund a more skilled and efficient workforce to meet the needs and expectations of existing and future users. Taxpayers benefit in having at least some agency processing and monitoring costs, which benefit identifiable recipients and not the public at large, paid for by the recipients of those services rather than with appropriated funds.

The Forest Service’s cost recovery regulations are consistent with those of the Bureau of Land Management (BLM) for its right-of-way and special recreation permit programs. Under the regulations, The Forest Service and BLM use identical fee schedules and rates for processing and monitoring minor category cases, and apply the same principles in assessing, processing, and monitoring fees for major category cases. The regulations can be viewed [here](#). A sample cost recovery agreement for large projects is available [here](#).

Use of Mapping Technology and Other Planning Tools

Identification of Wind Energy Areas

At DOI, the Bureau of Ocean Energy Management (BOEM) has been actively engaged through inter-agency task forces to collect crucial baseline information about offshore areas that may be suitable for future wind projects. Task forces have been established in twelve states: Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, Virginia, South Carolina, Hawaii and Oregon, and discussions are underway with additional states. Task force members represent a wide range of interests and include relevant federal and state agency representatives, and local and tribal government representatives. Task forces have proven to be effective in identifying and addressing potential conflicts early in project development.

Based on the information gathered through the task forces, DOI has identified a number of wind energy areas (WEAs) that have the least amount of user conflicts and are best suited for wind energy development. To date, WEAs have been identified offshore six states: Delaware, Maryland, New Jersey, Virginia, Rhode Island and Massachusetts.

Multipurpose Marine Cadastre

A key component of BOEM's Smart from the Start program includes organizing, financing, and implementing the gathering of information about the environmental and geophysical attributes and other uses of the WEAs and assembling the information in a publicly available format that potential investors and applicants can access and agencies can use in evaluating lease sales in the WEAs. For this purpose, BOEM, in cooperation with NOAA, has created the Multipurpose Marine Cadastre, an integrated marine information system that provides authoritative and regularly updated ocean information, including information about offshore boundaries, infrastructure, human use, energy potential and other data sets. The MMC is especially useful to those looking to assess suitability for energy siting and furthers the National Ocean Council's coastal and marine spatial planning initiative.

NEPAssist Tool

The Federal EPA developed this web-based mapping tool to facilitate efficient and effective environmental reviews and project planning. The tool is part of an initiative developed by CEQ to modernize and reinvigorate federal agency implementation of the National Environmental Policy Act (NEPA) through innovation, public participation and transparency. *NEPAssist* draws information from publicly available federal, state, and local datasets, allowing NEPA practitioners, stakeholders and the public to view information about environmental conditions within the area of a proposed project quickly and easily at early stages of project development. While this tool was developed with NEPA in mind, it can be used for multiple purposes to look at environmental impacts and information in relation to a geographic area, including sensitive resources, source locations, demographics, and other issues. *NEPAssist* is available to the public by accessing <http://www.epa.gov/compliance/nepa/nepassist-mapping.html>

USFWS IPaC Tool

The Information, Planning and Conservation (IPaC) System is an interactive, web-based tool illustrating the natural resources for which the USFWS has trust or regulatory responsibility that is currently under development. IPaC will allow interested parties to access a public website to determine if there are any USFWS trust resources, including endangered and threatened species, in a potential project area before beginning the project design. In addition, project proponents can get information about a species and its needs, as well as measures they can take to help protect and conserve the species when designing and constructing their project. This up-front information reduces surprises and helps project proponents make better informed design decisions early, when there is more flexibility to make minor modification with minimum disruption of the project goals.

Pre-Application/Application Improvements

DOI Implementation of uniform, online applications for oil and gas permits

As part of the BLM's ongoing efforts to ensure efficient processing of oil and gas permit applications, the agency is implementing new automated tracking systems that could reduce the review period for drilling permits by two-thirds and expedite the sale and processing of federal oil and gas leases. The new system will track permit applications through the entire review process and quickly flag any missing or incomplete information—greatly reducing the back-and-forth between BLM and industry applicants currently needed to amend paper applications.

The new drilling permit system, which is expected to be fully online by May 2013, will automate the process that tracks APDs, providing greater online accessibility and transparency. It will improve communication between the BLM and industry, resulting in more consistent APD processing standards and timeframes and a significantly reduced review period.

Currently, on average, approximately two-thirds of the time it takes to process an APD is spent waiting for more information from the operator-applicant. The new system will allow the public and operators to view the BLM processing status of APDs, enabling operators to more promptly address deficiencies in their applications. BLM's Carlsbad Field Office is currently piloting a similar system, which has resulted in a nearly two-thirds reduction in processing time for that region.

BLM estimates that automating the APD workflow could reduce the average review time across BLM offices to as few as 60 days.

USDA/DOI/DOT Common Application form SF-299 for Transportation and Utility Systems and Facilities on Federal Lands

The SF-299 is the common application form for transportation and utility systems and facilities crossing federal lands intended to reduce filing burdens on applicants and provide a consistent source of information for affected federal agencies. It provides much of the basis for obtaining information to determine if the applicant is qualified and the project is viable. Use of the SF-299 is intended to simplify information collection for both the applicant and the federal agencies.

The process of developing the SF-299 involved more than 20 Federal agencies and the general public. The current version, first issued in 1999, resulted from consultation among the

USFS, BLM, USFWS, NPS, DOI, USDA and DOT. Form SF-299 is available [here](#).

FERC pre-application processes

The Federal Energy Regulatory Commission (Commission) is committed to the development of a strong natural gas infrastructure. To that end, the Commission designed its pre-filing process as a means to reduce the time it takes to develop the record on which the Commission makes its decision while ensuring the highest levels of environmental protection and public participation.

The pre-filing process encourages early involvement by the public and governmental agencies (at all levels) and promotes the wide-spread dissemination of information about proposed projects. This

involves FERC staff working with the company sponsors and all stakeholders to identify and resolve significant environmental and non-environmental issues prior to the filing of an application.

As the Commission staff begins its environmental review, they will contact federal and state agencies and other stakeholders through mailings and meetings to inform them of the process and to identify issues and concerns; to form the scope of the environmental review. Throughout the process, the Commission staff will meet with stakeholders, visit the project area, and confer with federal, state and local agencies.

This process enables the company sponsor to file a complete project application that reflects agency and public input, and incorporates all necessary mitigation. The Commission can then produce an environmental document that forms the basis for timely decisions by the Commission and all other relevant agencies. (More information, including regulations and FAQs, is available on the Commission's website [here](#). Also, a flow chart of the Commission's pre-filing review process is available [here](#)

US Forest Service directives for wind projects

The emphasis on development of alternative energy sources in the Energy Policy Act of 2005 and increasing industry interest in development of wind energy facilities on NFS lands prompted the Forest Service to issue directives that address issues specifically associated with siting wind energy uses, processing wind energy proposals and applications, and issuing wind energy permits. The [final wind energy directives](#), released in August, 2011, provide a consistent framework and terminology for making decisions regarding proposals and applications for wind energy uses, and thus set clear expectations for project proponents. Specifically, the directives provide guidance on siting wind energy turbines, evaluating a variety of resource interests, and addressing issues specifically associated with wind energy in the special use permitting process. These issues include potential effects on scenery, national security, significant cultural resources, and wildlife, especially migratory birds and bats.

Regional Mitigation Plans

The Bureau of Land Management (BLM) is developing [regional mitigation plans](#) to be incorporated in the designation of Solar Energy Zones in the desert Southwest. Regional mitigation plans incorporate regional objectives to direct and prioritize where and how mitigation investments will be made. Plans must include a baseline upon which unavoidable impacts are assessed, a methodology to assess and quantify those unavoidable impacts and a method to determine mitigation obligations or costs for individual projects.

Such upfront planning increases permit efficiencies and financial predictability for project proponents. Regional mitigation plans are also expected to enhance the ability of state and federal agencies to invest in larger-scale efforts in a more efficient and effective manner through shared resources.

Outreach and Education

DOE Request for Interest on development of transmission permitting process

On February 27, 2012, the Department of Energy issued a [Request for Interest](#), which solicited public input on the challenges due to incongruent development times between remote generation and atten-

dant transmission and on potential efficiencies that might be achieved in order to make development times more commensurate. The comments on the RFI were received on March 28, 2012 and will be used, along with federal agencies' statutory and regulatory obligations, to inform a Presumed Evaluation Period for transmission projects.

Transportation for Communities—Advancing Projects through Partnerships (TCAPP)

[TCAPP](#) is a web-based decision support tool that guides and encourages collaboration among transportation, environmental and community partners in creating transportation plans as well as selecting and planning transportation projects. It includes a range of functionality including a collaboration assessment tool, case studies and reference links, description of partner and stakeholder roles, and a systematic guide to making key decisions with detailed information about policy decisions and technical supporting information required. TCAPP includes information designed to support development of an Integrated Ecological Framework (IEF) which helps agencies identify conservation and restoration priorities at ecosystem scales. TCAPP functionality links the IEF to key decisions in transportation planning and project development in order to step up the level of collaboration to: (1) avoid impacts to priority conservation areas; (2) locate mitigation for the greatest benefit to multiple resources; and (3) better achieve the goals of resource protection laws.

Tribal Energy and Environmental Information Clearinghouse

The DOI, Office of Indian Energy and Economic Development (IEED) is developing the Tribal Energy and Environmental Information Clearinghouse (TEEIC) with assistance from Argonne National Laboratory (Argonne). [TEEIC](#) is a Web-based clearinghouse of environmental information that aims to support American Indian and Alaska Native traditional and renewable energy resource development. TEEIC offers a knowledge base for tribes and tribal organizations that can assist them in developing environmental analysis and evaluation programs that further their energy and economic development goals. In addition to environmental best practices, methods for conducting environmental assessments to aid in decision making, and links to applicable federal and state laws related to energy development, the clearinghouse's database includes information on the various impacts of different types of traditional and renewable energy development and infrastructure projects. The database has been developed using existing information, which will be augmented over time with environmental impact assessments as they are completed.

Best Practices for Stakeholder Engagement

The Udall Foundation's US Institute for Environmental Conflict Resolution has developed principles and best practices for effective stakeholder engagement for several national policy efforts. The principles draw on the [OMB-CEQ Memo on Environmental Collaboration and Conflict Resolution](#) and include the following:

1. Develop clear goals and avenues for stakeholder and public participation.
2. Stakeholder processes need to be inclusive, transparent, flexible, adaptive, and timely.

3. Information needs to be available to stakeholders and the public to foster meaningful participation.
4. The integrity of the stakeholder involvement will depend on the credibility established by the permitting agency and proponent through their openness and responses to the stakeholder input.
5. Neutral stakeholder involvement professionals can help create constructive and open conversations in what are often high conflict situations.

Additionally, you can find information on collaboration and NEPA prepared by CEQ and the Udall Foundation, [here](#).



FEDERAL REGISTER

Vol. 77

Wednesday,

No. 60

March 28, 2012

Part II

The President

Executive Order 13604—Improving Performance of Federal Permitting and Review of Infrastructure Projects

Memorandum of March 22, 2012—Expediting Review of Pipeline Projects From Cushing, Oklahoma, to Port Arthur, Texas, and Other Domestic Pipeline Infrastructure Projects

Proclamation 8786—Cesar Chavez Day, 2012

Proclamation 8787—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2012

Presidential Documents

Title 3—

Executive Order 13604 of March 22, 2012

The President

Improving Performance of Federal Permitting and Review of Infrastructure Projects

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to significantly reduce the aggregate time required to make decisions in the permitting and review of infrastructure projects by the Federal Government, while improving environmental and community outcomes, it is hereby ordered as follows:

Section 1. Policy. (a) To maintain our Nation's competitive edge and ensure an economy built to last, the United States must have fast, reliable, resilient, and environmentally sound means of moving people, goods, energy, and information. In a global economy, we will compete for the world's investments based in significant part on the quality of our infrastructure. Investing in the Nation's infrastructure provides immediate and long-term economic benefits for local communities and the Nation as a whole.

The quality of our Nation's infrastructure depends in critical part on Federal permitting and review processes, including planning, approval, and consultation processes. These processes inform decision-makers and affected communities about the potential benefits and impacts of proposed infrastructure projects, and ensure that projects are designed, built, and maintained in a manner that is consistent with protecting our public health, welfare, safety, national security, and environment. Reviews and approvals of infrastructure projects can be delayed due to many factors beyond the control of the Federal Government, such as poor project design, incomplete applications, uncertain funding, or multiple reviews and approvals by State, local, tribal, or other jurisdictions. Given these factors, it is critical that executive departments and agencies (agencies) take all steps within their authority, consistent with available resources, to execute Federal permitting and review processes with maximum efficiency and effectiveness, ensuring the health, safety, and security of communities and the environment while supporting vital economic growth.

To achieve that objective, our Federal permitting and review processes must provide a transparent, consistent, and predictable path for both project sponsors and affected communities. They must ensure that agencies set and adhere to timelines and schedules for completion of reviews, set clear permitting performance goals, and track progress against those goals. They must encourage early collaboration among agencies, project sponsors, and affected stakeholders in order to incorporate and address their interests and minimize delays. They must provide for transparency and accountability by utilizing cost-effective information technology to collect and disseminate information about individual projects and agency performance, so that the priorities and concerns of all our citizens are considered. They must rely upon early and active consultation with State, local, and tribal governments to avoid conflicts or duplication of effort, resolve concerns, and allow for concurrent rather than sequential reviews. They must recognize the critical role project sponsors play in assuring the timely and cost-effective review of projects by providing complete information and analysis and by supporting, as appropriate, the costs associated with review. And, they must enable agencies to share priorities, work collaboratively and concurrently to advance reviews and permitting decisions, and facilitate the resolution of disputes at all levels of agency organization.

Each of these elements must be incorporated into routine agency practice to provide demonstrable improvements in the performance of Federal infrastructure permitting and review processes, including lower costs, more timely decisions, and a healthier and cleaner environment. Also, these elements must be integrated into project planning processes so that projects are designed appropriately to avoid, to the extent practicable, adverse impacts on public health, security, historic properties and other cultural resources, and the environment, and to minimize or mitigate impacts that may occur. Permitting and review process improvements that have proven effective must be expanded and institutionalized.

(b) In advancing this policy, this order expands upon efforts undertaken pursuant to Executive Order 13580 of July 12, 2011 (Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska), Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), and my memorandum of August 31, 2011 (Speeding Infrastructure Development Through More Efficient and Effective Permitting and Environmental Review), as well as other ongoing efforts.

Sec. 2. *Steering Committee on Federal Infrastructure Permitting and Review Process Improvement.* There is established a Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee), to be chaired by the Chief Performance Officer (CPO), in consultation with the Chair of the Council on Environmental Quality (CEQ).

(a) *Infrastructure Projects Covered by this Order.* The Steering Committee shall facilitate improvements in Federal permitting and review processes for infrastructure projects in sectors including surface transportation, aviation, ports and waterways, water resource projects, renewable energy generation, electricity transmission, broadband, pipelines, and other such sectors as determined by the Steering Committee.

(b) *Membership.* Each of the following agencies (Member Agencies) shall be represented on the Steering Committee by a Deputy Secretary or equivalent officer of the United States:

- (i) the Department of Defense;
- (ii) the Department of the Interior;
- (iii) the Department of Agriculture;
- (iv) the Department of Commerce;
- (v) the Department of Transportation;
- (vi) the Department of Energy;
- (vii) the Department of Homeland Security;
- (viii) the Environmental Protection Agency;
- (ix) the Advisory Council on Historic Preservation;
- (x) the Department of the Army; and
- (xi) such other agencies or offices as the CPO may invite to participate.

(c) *Projects of National or Regional Significance.* In furtherance of the policies of this order, the Member Agencies shall coordinate and consult with each other to select, submit to the CPO by April 30, 2012, and periodically update thereafter, a list of infrastructure projects of national or regional significance that will have their status tracked on the online Federal Infrastructure Projects Dashboard (Dashboard) created pursuant to my memorandum of August 31, 2011.

(d) *Responsibilities of the Steering Committee.* The Steering Committee shall:

- (i) develop a Federal Permitting and Review Performance Plan (Federal Plan), as described in section 3(a) of this order;
- (ii) implement the Federal Plan and coordinate resolution of disputes among Member Agencies relating to implementation of the Federal Plan; and

(iii) coordinate and consult with other agencies, offices, and interagency working groups as necessary, including the President's Management Council and Performance Improvement Councils, and, with regard to use and expansion of the Dashboard, the Chief Information Officer (CIO) and Chief Technology Officer to implement this order.

(e) *Duties of the CPO.* The CPO shall:

(i) in consultation with the Chair of CEQ and Member Agencies, issue guidance on the implementation of this order;

(ii) in consultation with Member Agencies, develop and track performance metrics for evaluating implementation of the Federal Plan and Agency Plans; and

(iii) by January 31, 2013, and annually thereafter, after input from interested agencies, evaluate and report to the President on the implementation of the Federal Plan and Agency Plans, and publish the report on the Dashboard.

(f) *No Involvement in Particular Permits or Projects.* Neither the Steering Committee, nor the CPO, may direct or coordinate agency decisions with respect to any particular permit or project.

Sec. 3. Plans for Measurable Performance Improvement. (a) By May 31, 2012, the Steering Committee shall, following coordination with Member Agencies and other interested agencies, develop and publish on the Dashboard a Federal Plan to significantly reduce the aggregate time required to make Federal permitting and review decisions on infrastructure projects while improving outcomes for communities and the environment. The Federal Plan shall include, but not be limited to, the following actions to implement the policies outlined in section 1 of this order, and shall reflect the agreement of any Member Agency with respect to requirements in the Federal Plan affecting such agency:

(i) institutionalizing best practices for: enhancing Federal, State, local, and tribal government coordination on permitting and review processes (such as conducting reviews concurrently rather than sequentially to the extent practicable); avoiding duplicative reviews; and engaging with stakeholders early in the permitting process;

(ii) developing mechanisms to better communicate priorities and resolve disputes among agencies at the national and regional levels;

(iii) institutionalizing use of the Dashboard, working with the CIO to enhance the Dashboard, and utilizing other cost-effective information technology systems to share environmental and project-related information with the public, project sponsors, and permit reviewers; and

(iv) identifying timeframes and Member Agency responsibilities for the implementation of each proposed action.

(b) Each Member Agency shall:

(i) by June 30, 2012, submit to the CPO an Agency Plan identifying those permitting and review processes the Member Agency views as most critical to significantly reducing the aggregate time required to make permitting and review decisions on infrastructure projects while improving outcomes for communities and the environment, and describing specific and measurable actions the agency will take to improve these processes, including:

(1) performance metrics, including timelines or schedules for review;

(2) technological improvements, such as institutionalized use of the Dashboard and other information technology systems;

(3) other practices, such as pre-application procedures, early collaboration with other agencies, project sponsors, and affected stakeholders, and coordination with State, local, and tribal governments; and

(4) steps the Member Agency will take to implement the Federal Plan.

(ii) by July 31, 2012, following coordination with other Member Agencies and interested agencies, publish its Agency Plan on the Dashboard; and

(iii) by December 31, 2012, and every 6 months thereafter, report progress to the CPO on implementing its Agency Plan, as well as specific opportunities for additional improvements to its permitting and review procedures.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order shall be implemented consistent with Executive Order 13175 of November 6, 2000 (Consultation and Coordination with Indian Tribal Governments) and my memorandum of November 5, 2009 (Tribal Consultation).

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 22, 2012.