

Presidential Memorandum -- Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures

May 17, 2013

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures

Reliable, safe, and resilient infrastructure is the backbone of an economy built to last. Investing in our Nation's infrastructure serves as an engine for job creation and economic growth, while bringing immediate and long-term economic benefits to communities across the country. The quality of our infrastructure is critical to maintaining our Nation's competitive edge in a global economy and to securing our path to energy independence. In taking steps to improve our infrastructure, we must remember that the protection and continued enjoyment of our Nation's environmental, historical, and cultural resources remain an equally important driver of economic opportunity, resiliency, and quality of life.

Through the implementation of Executive Order 13604 of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), executive departments and agencies (agencies) have achieved better outcomes for communities and the environment and realized substantial time savings in review and permitting by prioritizing the deployment of resources to specific sectors and projects, and by implementing best-management practices.

These best-management practices include: integrating project reviews among agencies with permitting responsibilities; ensuring early coordination with other Federal agencies, as well as with State, local, and tribal governments; strategically engaging with, and conducting outreach to, stakeholders; employing project-planning processes and individual project designs that consider local and regional ecological planning goals; utilizing landscape- and watershed-level mitigation practices; promoting the sharing of scientific and environmental data in open-data formats to minimize redundancy, facilitate informed project planning, and identify data gaps early in the review and permitting process; promoting performance-based permitting and regulatory approaches; expanding the use of general permits where appropriate; improving transparency and accountability through the electronic tracking of review and permitting schedules; and applying best environmental and cultural practices as set forth in existing statutes and policies.

Based on the process and policy improvements that are already being implemented across the Federal Government, we can continue to modernize the Federal Government's review and permitting of infrastructure projects and reduce aggregate timelines for major infrastructure projects by half, while also improving outcomes for communities and the environment by

institutionalizing these best-management practices, and by making additional improvements to enhance efficiencies in the application of regulations and processes involving multiple agencies - including expanding the use of web-based techniques for sharing project-related information, facilitating targeted and relevant environmental reviews, and providing meaningful opportunities for public input through stakeholder engagement.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to advance the goal of cutting aggregate timelines for major infrastructure projects in half, while also improving outcomes for communities and the environment, I hereby direct the following:

Section 1. Modernization of Review and Permitting Regulations, Policies, and Procedures. (a) The Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee), established by Executive Order 13604, shall work with the Chief Performance Officer (CPO), in coordination with the Office of Information and Regulatory Affairs (OIRA) and the Council on Environmental Quality (CEQ), to modernize Federal infrastructure review and permitting regulations, policies, and procedures to significantly reduce the aggregate time required by the Federal Government to make decisions in the review and permitting of infrastructure projects, while improving environmental and community outcomes.

This modernization shall build upon and incorporate reforms identified by agencies pursuant to Executive Order 13604 and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review).

(b) Through an interagency process, coordinated by the CPO and working closely with CEQ and OIRA, the Steering Committee shall conduct the following modernization efforts:

(i) Within 60 days of the date of this memorandum, the Steering Committee shall identify and prioritize opportunities to modernize key regulations, policies, and procedures -- both agency-specific and those involving multiple agencies -- to reduce the aggregate project review and permitting time, while improving environmental and community outcomes.

(ii) Within 120 days of the date of this memorandum, the Steering Committee shall prepare a plan for a comprehensive modernization of Federal review and permitting for infrastructure projects based on the analysis required by subsection (b)(i) of this section that outlines specific steps for re-engineering both the intra- and inter-agency review and approval processes based on experience implementing Executive Order 13604. The plan shall identify proposed actions and associated timelines to:

- (1) institutionalize or expand best practices or process improvements that agencies are already implementing to improve the efficiency of reviews, while improving outcomes for communities and the environment;
- (2) revise key review and permitting regulations, policies, and procedures (both agency-specific and Government-wide);

- (3) identify high-performance attributes of infrastructure projects that demonstrate how the projects seek to advance existing statutory and policy objectives and how they lead to improved outcomes for communities and the environment, thereby facilitating a faster and more efficient review and permitting process;
- (4) create process efficiencies, including additional use of concurrent and integrated reviews;
- (5) identify opportunities to use existing share-in-cost authorities and other non-appropriated funding sources to support early coordination and project review;
- (6) effectively engage the public and interested stakeholders;
- (7) expand coordination with State, local, and tribal governments;
- (8) strategically expand the use of information technology (IT) tools and identify priority areas for IT investment to replace paperwork processes, enhance effective project siting decisions, enhance interagency collaboration, and improve the monitoring of project impacts and mitigation commitments; and
- (9) identify improvements to mitigation policies to provide project developers with added predictability, facilitate landscape-scale mitigation based on conservation plans and regional environmental assessments, facilitate interagency mitigation plans where appropriate, ensure accountability and the long-term effectiveness of mitigation activities, and utilize innovative mechanisms where appropriate.

The modernization plan prepared pursuant to this section shall take into account funding and resource constraints and shall prioritize implementation accordingly.

(c) Infrastructure sectors covered by the modernization effort include: surface transportation, such as roadways, bridges, railroads, and transit; aviation; ports and related infrastructure, including navigational channels; water resources projects; renewable energy generation; conventional energy production in high-demand areas; electricity transmission; broadband; pipelines; storm water infrastructure; and other sectors as determined by the Steering Committee.

(d) The following agencies or offices and their relevant sub-divisions shall engage in the modernization effort:

- (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;
- (xi) the Council on Environmental Quality; and
- (xii) such other agencies or offices as the CPO may invite to participate.

Sec. 2. General Provisions. (a) Nothing in this memorandum 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, or the regulatory review process.
- (b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This memorandum shall be implemented consistent with Executive Order 12898 of February 11, 1994 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), 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 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.
- (e) The Director of the Office of Management and Budget is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA