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MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

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SUBJECT: Implementation Guidance for the Biden-Harris Permitting Action Plan

The Biden-Harris Permitting Action Plan[1] (Action Plan) outlines the Administration's strategies to strengthen and accelerate Federal environmental review and permitting,[2] and ensure the timely and sound delivery of much-needed upgrades to America's infrastructure. The Action Plan states that Federal environmental reviews and permitting processes will be effective, efficient, and transparent, guided by the best available science to promote positive environmental and community outcomes, and shaped by early and meaningful public engagement. The Action Plan leverages the permitting provisions provided in the Infrastructure Investment and Jobs Act (referred to as the Bipartisan Infrastructure Law) and the Creating Helpful Incentives to Produce Semiconductors and Science Act, the important resources provided in the Inflation Reduction Act, and regular agency appropriations as well as interagency coordination and collaboration efforts.

The Action Plan includes the Office of Management and Budget (OMB), in consultation with the Council on Environmental Quality (CEQ), providing guidance to agencies on carrying out Action Plan initiatives.[3] The Action Plan additionally includes the Federal Permitting

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[1] *The Biden-Harris Permitting Action Plan to Rebuild America's Infrastructure, Accelerate the Clean Energy Transition, Revitalize Communities, and Create Jobs* (Action Plan) (May 11, 2022), https://www.whitehouse.gov/wp-content/uploads/2022/05/Biden-Harris-Permitting-Action-Plan.pdf.
[2] "Federal environmental review and permitting" throughout this guidance includes environmental review pursuant to the National Environmental Policy Act and authorizations, licenses, permits, approvals, funding, administrative decisions, and interagency consultations required under Federal laws They include, at a minimum, those identified in the Federal Environmental Review and Authorization Inventory, https://www.permits.performance.gov/tools/federal-environmental-review-and-authorization-inventory.
[3] Action Plan at 2.

Improvement Steering Council (Permitting Council) Executive Director, OMB, and CEQ providing guidance to agencies on which infrastructure projects should be added to the Federal Permitting Dashboard in the interest of transparency.[4] This memorandum provides implementation guidance to agencies on carrying out the initiatives of the Action Plan, and the Appendix to this memorandum provides guidance to agencies and the sector-specific teams on which infrastructure projects should be recommended to the Executive Director to consider for addition to the Federal Permitting Dashboard in the interest of transparency.

Section 1. Accelerating Smart Permitting through Early Cross-Agency Coordination

1.1 What is the Federal Permitting Improvement Steering Council's role in implementing the Action Plan?

Established in 2015 by Title 41 of the Fixing America's Surface Transportation Act (FAST-41), the Permitting Council is composed of the Executive Director, who is the Permitting Council Chair, 13 Federal agency council members, the CEQ Chair, and the OMB Director.[5] The Permitting Council, in cooperation with the National Economic Council, the White House Climate Policy Office, the White House Infrastructure Implementation Team, and the White House Clean Energy Innovation and Implementation Team, will serve as the primary center for permitting excellence to improve coordination among agencies, facilitate sound and efficient permitting, and help resolve issues consistent with climate, economic, and equity goals. Under the Permitting Action Plan, the Permitting Council will serve as the primary interagency body to facilitate cross-cutting Federal permitting issues and opportunities across all types of infrastructure projects, not only FAST-41 "covered projects." The Permitting Council should use its convening function to: (1) discuss strategies to foster early and improved interagency coordination on infrastructure project review and permitting; (2) provide advanced training, enhanced support for agency project managers, and avenues for sharing lessons learned to improve infrastructure-related environmental review and permitting; and (3) identify and help address pressing environmental review and permitting issues, including potential schedule delays, bottlenecks, capacity and resource limitations, process challenges, and conflicts.

The Executive Director, CEQ and OMB will lead discussions and facilitate information exchange among relevant Permitting Council member agencies. In addition, to the extent authorized by law, the Permitting Council will work with agencies and sponsors of infrastructure projects to identify and resolve key issues that cause project review delays, bottlenecks, redundancies, and inefficiencies. The Permitting Council will develop expedited contracting mechanisms and other tools to assist Federal agencies and affected stakeholders in identifying and obtaining the resources necessary to improve and accelerate the environmental review and permitting process for infrastructure in the United States. The Executive Director will provide

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[4] *Id*. at 5; 42 U.S.C. § 4370m-2(b)(2)(a)(iii).
[5] The 13 Federal agency Permitting Council members include designees of the Secretaries of Agriculture, Army, Commerce, the Interior, Energy, Transportation, Defense, Homeland Security, and Housing and Urban Development, the Administrator of the Environmental Protection Agency, and the Chairs of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation. 42 U.S.C. § 4170m-1(b)(2)(B).

progress reports on Permitting Council efforts in the report that the Executive Director submits to Congress each April.[6]

1.2 What is the role of the sector-specific teams?

The Administration has convened sector-specific teams of experts that are advancing the responsible build-out and modernization of U.S. infrastructure by facilitating interagency coordination on siting, permitting, supply chain, and related issues for offshore wind energy and transmission, onshore renewable energy and transmission, broadband, production and processing of critical minerals, and transportation.

Sector-specific teams should identify for the Permitting Council:

- General permitting issues—whether related to personnel, budget, processes, administration, or legislative considerations, policies, or otherwise—that should be addressed to reduce bottlenecks and facilitate the successful and timely review of permit applications for projects in their respective sectors;
- Large, complex, or significant[7] projects in their respective sectors to be considered for addition to the Federal Permitting Dashboard (Dashboard) pursuant to the Executive Director's authority to add projects to the Dashboard in the interests of transparency;[8]
- Strategies to address disputes or complicated issues, including opportunities to prepare new programmatic analyses and approaches; and
- Any other pertinent issues as determined by the teams.

1.3 The Action Plan directs sector-specific teams to identify and provide regular updates to the Permitting Council on the status of large, complex, or significant projects. What factors should sector-specific teams consider when identifying these projects?

Sector-specific teams are responsible for identifying large, complex, or significant infrastructure projects that may warrant the attention of senior agency officials and the Permitting Council to facilitate the completion of environmental review and permitting. Agency staff participating in sector-specific teams should coordinate with other senior agency officials to determine which projects would benefit from this additional attention and transparency. When determining which projects to identify, sector-specific teams should consider a project's:

- Size, including the total investment and cost, geographic scope, and magnitude in comparison to other projects within the sector or within agency portfolios;
- Complexity, including whether the project will require the development of an environmental impact statement or environmental assessment that involve multiple agencies or raise complex issues under relevant statutes, multiple authorizations by

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[6] *See* 42 U.S.C. § 4370m-7(a)(1)(A).
[7] Identifying a project as "significant" for this purpose is not a factual or legal determination that the proposed major Federal action(s) may have significant effects on the quality of the human environment under the National Environmental Policy Act (NEPA).
[8] 42 U.S.C. § 4370m-2(b)(2)(A)(iii).

Federal agencies to proceed with the project, or will involve new technology, materials, or other unique characteristics; and

- Significance or importance, including the project's economic impact and potential to address, either alone or in combination with other projects, the Administration's goals, such as rebuilding the country's infrastructure, reducing greenhouse gas emissions and addressing the climate crisis, revitalizing communities, creating well-paying, union jobs, achieving environmental justice, building climate resiliency, and improving community and environmental outcomes.

The teams should identify projects that would benefit from additional coordination, transparency, and oversight during the permitting and environmental review process. Consistent with the Action Plan, sector-specific teams must submit their list of large, complex, or significant projects to OMB, CEQ, and the Permitting Council Executive Director. Sector-specific teams should submit their initial list of projects to OMB, CEQ, and the Executive Director by April 5, 2023. OMB, CEQ, and the Executive Director will review and consult with sector teams on these projects to determine which projects should be posted to the Dashboard for transparency purposes (transparency projects).[9] Sector teams should finalize their lists by May 5, 2023. Sector teams should review and update their project list on at least a quarterly basis thereafter.

1.4 What other activities should the sector-specific teams report on a regular basis?

Sector-specific teams should report on initiatives and strategies to address complicated matters, disputes, resource constraints, and other issues that warrant the Permitting Council's attention as they arise and on at least a quarterly basis to the Permitting Council Executive Director, CEQ, and OMB. For example, sector-specific teams should report on progress in the development of programmatic reviews and other programmatic approaches to facilitate efficient and effective environmental reviews and permitting of projects within the sectors. The teams also should report to the Permitting Council on situations where lack of interagency coordination, staffing limitations, implementation or operational challenges, or legal or policy issues may hinder timely delivery of specific infrastructure projects. In addition, the teams should identify for Permitting Council consideration potential mechanisms to advance innovation, including technological innovation and interoperability, to make permitting and environmental reviews more efficient and effective. As relevant, the sector-specific teams should also identify and report on issues and areas that may require special attention during the implementation and operation of infrastructure projects.

1.5 What actions should agencies take to accelerate smart permitting through early cross-agency coordination?

Agencies should identify approaches to execute their environmental review and permitting responsibilities for infrastructure projects that are collaborative and seek to harmonize their approach to implementing statutory requirements. These efforts should seek to deconflict requirements such that they prevent process bottlenecks; build common understanding; and contribute to effective, efficient, timely, inclusive, and sound scoping of infrastructure projects. Agencies also should identify, design, and execute programmatic efforts to address common

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[9] See Section 2.2 for more information about transparency projects.

issues, reduce duplication, and resolve resource conflicts while also working jointly with agency partners at the Federal, Tribal, State, territorial, and local levels to advance cross-cutting programmatic efforts. These efforts could include identification of internal- or cross-agency automation of application information, compensatory mitigation requirements and credit availability, and improved community outcomes.

Section 2. Establishing Clear Timeline Goals and Tracking Key Project Information

2.1 The Action Plan directs lead agencies, in coordination with cooperating agencies, to establish and post project permitting schedules with clear timeline goals that are both ambitious and realistic, contain relevant milestones, and meet all requirements in applicable law to complete environmental review and permitting in a sound and timely manner. What factors should agencies consider when establishing permitting schedules?

Agencies should ensure that permitting schedules include the relevant actions and milestone completion dates for each agency involved in any Federal environmental review or permitting required for the project and Tribal, State, territorial, and local reviews required for the project, to the maximum extent possible. Permitting schedules should reflect the use of the most sound, efficient, and expeditious applicable processes, including the coordination and alignment of Federal reviews of projects and Tribal and state reviews, consideration of best practices for public participation, and the reduction of permitting and project delivery time. For FAST-41 covered projects, agencies must use the relevant Recommended Performance Schedules established by the Permitting Council Executive Director as a starting point to develop their project-specific permitting timetables,[10] and make appropriate modifications to account for the unique circumstances and needs of the project. For non-FAST-41 covered projects, agencies should set ambitious and realistic permitting schedules, consistent with applicable laws and regulations, that account for the unique circumstances and needs for the project. Initial schedules may be established for categories of similar projects to reduce duplication and enhance efficiency in the delivery of sound and complete environmental review and permitting decision making.

When establishing permitting schedules, consistent with applicable law, agencies should consider factors such as the project's overall size and complexity, the project's regional or national economic significance, the project's environmental and climate benefits, the sensitivity of the natural or historic resources that the project may affect, impacts on communities with environmental justice concerns, and the overall cost and financing plan for the project. Agencies also should consider the needs and priorities of affected communities following proactive, early, and continuous engagement. Additionally, agencies should consider the extent to which the project can rely on, adopt, or incorporate by reference components of any high quality NEPA or similar state or Tribal analyses completed for other geographically proximate or similar projects.

As appropriate and consistent with applicable law, agencies should prioritize resources and set highly ambitious schedules, particularly for projects likely to advance significant benefits to the public consistent with the Administration's goals.

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[10] 42 U.S.C. § 4370m-2(c)(2)(B).

Agencies should seek to reduce duplication, enhance effective, efficient, and informed decision making, and avoid or reduce environmental harm. Agencies also should consider the staffing and resources available to the lead, cooperating, and participating agencies involved in the environmental review and permitting process. Agencies should consider the project's potential to advance the Administration's goals, as described in section 1.3, when considering how to allocate staff and resources to establish ambitious and realistic schedules for each project.

Pursuant to the Bipartisan Infrastructure Law, schedules for transportation projects meeting the definition of "major project" under 23 U.S.C. § 139 should be consistent with an agency average of not more than 2 years, to the maximum extent practicable and consistent with applicable Federal law. Permitting timetables for FAST-41 covered projects and transparency projects must comply with the requirements of FAST-41.[11]

A Chief Environmental Review and Permitting Officer (CERPO) for each agency, including sub-agencies of a department, where appropriate, should review and approve each project's permitting schedule, permitting timetable, and related plans for quality assurance. The quality assurance plans should establish how the agency is completing its environmental review and permitting decision making for infrastructure projects in a sound and timely manner. Agencies are expected to establish internal systems, tools, and processes to track key project information and data, including the ongoing management of permitting schedules and plans.

2.2 Which projects must be posted on the Permitting Dashboard?

The following projects must be posted on the Federal Permitting Dashboard:[12]

- FAST-41 Covered Projects: Projects identified as "covered" projects under Title 41 of the Fixing America's Surface Transportation (FAST) Act; and
- Department of Transportation (DOT) Projects: DOT highway, public transportation, railroad, and multimodal projects subject to 23 U.S.C. § 139 and requiring an environmental assessment or an environmental impact statement.

The Bipartisan Infrastructure Law gives the Permitting Council Executive Director new authority to direct an agency to add a project that is not a FAST-41 covered project to the Dashboard in the interest of transparency (transparency projects).[13] Appendix A contains guidance to Permitting Council agencies on which projects should be added to the Dashboard pursuant to this new authority, including those initially identified by sector-specific teams.

2.3 Should Agencies track key environmental review and permitting information of infrastructure projects that are not posted on the Permitting Dashboard?

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[11] 42 U.S.C. § 4370m-2(c).

[12] https://www.permits.performance.gov/

[13] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 § 70801(c)(2)(A); 42 U.S.C. § 4370m-2(b)(2)(A)(iii)(I).

Yes. The Permitting Action Plan emphasizes accountability, tracking, and transparency for infrastructure projects. Agencies should ensure they have systems and processes in place to track all infrastructure-related environmental impact statements, environmental assessments, and categorical exclusions the agency is responsible for, at a minimum including project name, sector, and timeframe for completion for all individual reviews and decisions. Agencies should include a plan and timeline for developing these systems and processes in their action plans. Agencies should use data and information from these projects internally and in collaborative, cross-agency efforts to refine processes to enhance effective decision making, improve responsiveness to affected communities, identify opportunities for programmatic analyses, and identify and measure improved environmental and community outcomes.

Section 3. Engaging in Early and Meaningful Outreach and Communication with Tribal Nations, States, Territories, and Local Communities

3.1 What actions can agencies take to provide early and meaningful engagement to Tribal Nations, States, territories, and local communities?

Proactive, early, and continuing engagement with the public and Tribal, State, local, and territorial partners is fundamental to sound and efficient environmental review and permitting processes that consider the needs and priorities of communities. Effective stakeholder engagement involves the identification of the relevant parties and interests that the project may affect, early and meaningful communication about the project and its impacts, and open discussion about how to address affected parties' interests to the extent possible. Because engagement needs and the techniques to meet them vary by community, agencies should tailor community outreach to address any unique engagement needs of potentially affected communities. Agencies should consider identifying a chief public engagement officer, or otherwise dedicate specific staffing, and partnering with trusted local messengers to enhance the effectiveness and efficiency of public participation and conduct proactive outreach to diverse community members. In projects that may have Tribal implications, agencies should hold consultations with Tribal Nations, in alignment with Executive Order 13175[14] and the Presidential Memorandum on Uniform Standards for Tribal Consultation.[15] Agencies also should coordinate with their environmental justice and public outreach teams, and those of any cooperating and participating agencies, to maximize efficient and effective community engagement. Agencies should empower and equip their field offices, and provide appropriate oversight and accountability, to ensure field offices deliver coordinated, proactive cross-agency outreach and stakeholder engagement that serves the needs of potentially affected communities. Some examples of early and meaningful stakeholder outreach can be found in:

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[14] Executive Order 13175, Consultation and Coordination With Indian Tribal Governments https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments
[15] Presidential Memorandum on Uniform Standards for Tribal Consultation (Nov. 30, 2022), https://www.whitehouse.gov/briefing-room/presidential-actions/2022/11/30/memorandum-on-uniform-standards-for-tribal-consultation/

- Principles for Effective Stakeholder Engagement in Infrastructure Permitting and Review Processes;[16]
- Suggested Best Practices for Industry Outreach Programs to Stakeholders;[17]
- Early Coordination with Indian Tribes During Pre-Application Processes;[18]
- American Indian/Alaska Native (AI/AN) Outreach Responsibilities;[19]
- Collaboration in NEPA: A Handbook for NEPA Practitioners;[20]
- Promising Practices for EJ Methodologies in NEPA reviews;[21] and
- Procedures for Consultations with Indian Tribes.[22]

For all projects published on the Permitting Dashboard, agencies should post and maintain information on the Dashboard about public engagement opportunities[23] and the status of mitigation measures agreed to as part of the environmental review and permitting process[24] to the extent available.

Section 4. Improving Responsiveness, Technical Assistance, and Support

4.1 How should agencies share resources, trainings, and tools to assist project sponsors, permit applicants, affected communities, Tribal Nations, and other stakeholders to navigate the environmental review and permitting process effectively and efficiently?

Agencies should post information about their resources, trainings, and tools, including programmatic solutions and ongoing opportunities, on an accessible public webpage designed to foster public, sponsor, and community understanding of requirements and opportunities to engage and improve participation in Federal processes. DOT[25] should update the Dashboard to include a central resources page with links to each agency's webpages with resources, trainings, and tools. Agencies should provide DOT with their webpage information and provide updates

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[16] Udall Foundation, *Principles for Effective Stakeholder Engagement in Infrastructure Permitting and Review Processes*, Udall Foundation, available at https://udall.gov/documents/Institute/Udall-InfrastructureStakeholderEngagementPrinciples_Final.pdf.

[17] Federal Energy Regulatory Commission, *Suggested Best Practices for Industry Outreach Programs to Stakeholders* (July 2015), https://www.ferc.gov/sites/default/files/2020-04/stakeholder-brochure.pdf.

[18] Advisory Council on Historic Preservation, *Early Coordination with Indian Tribes During Pre-Application Processes*, https://www.achp.gov/sites/default/files/documents/2019-10/EarlyCoordinationHandbook_102819_highRes.pdf.

[19] Farm Serv. Agency, *American Indian/Alaska Native (AI/AN) Outreach Responsibilities*, https://www.fsa.usda.gov/Internet/FSA_Notice/ao_1803.pdf.

[20] CEQ, *Collaboration in NEPA: A Handbook for NEPA Practitioners* (Oct. 2007), https://ceq.doe.gov/docs/get-involved/Collaboration_in_NEPA_Oct2007.pdf.

[21] Federal Interagency Working Group on Environmental Justice & NEPA Committee, *Promising Practices for EJ Methodologies in NEPA Reviews* (Mar. 2016), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

[22] Department of the Interior, *Procedures for Consultations with Indian Tribes* (Nov. 9, 2015), https://www.boem.gov/sites/default/files/documents/about-boem/Chapter%205%20DOI%20Procedures%20for%20Consultation%20with%20Indian%20Tribes.pdf.

[23] *See also* 42 U.S.C. § 4370m-2(b)(2)(A)(iii)(II)(dd), (3)(A)(iii).

[24] *See also* 42 U.S.C. § 4370m-2(b)(3)(A)(i)(II)(bb) & (V).

[25] The Permitting Dashboard is administered by DOT.

when changes are made to the weblinks to ensure the central resources page remains up to date. Agencies should directly engage with each other and with project sponsors, permit applicants, potentially affected communities, Tribal Nations, and other stakeholders to ensure these resources are widely disseminated and shared. Additionally, agencies should seek opportunities to provide jointly developed information, training materials, and joint training or outreach sessions, project information, and materials to assist project sponsors, permit applicants, potentially affected communities, Tribal Nations, and other stakeholders when navigating the Federal environmental review and permitting processes. To successfully deliver these joint agency products and trainings, agencies should develop regionally tailored materials, sessions, and information aimed at improving the environmental review and permitting process, outcomes, and experience. The Permitting Council Executive Director additionally can assist in facilitating discussions and sharing information among agencies to identify and resolve key issues that will smooth project delivery and foster a sound and efficient environmental review and permitting process with reduced delays and redundancies.

4.2 What types of actions can agencies take to make changes to environmental review and permitting information collection requirements that can be consolidated, clarified, simplified, or collected more efficiently?

Agencies should share information collected as part of the environmental review and authorization process, as appropriate, to minimize duplication and maximize use of technology for all environmental review and permitting-related information collection requests. This includes increasing the use and development of centralized and interoperable datasets and systems to inform environmental reviews and permit evaluations, cross-agency data-sharing, and collaboration with project sponsors, stakeholders, and interested parties to identify project-specific data needs to facilitate effective, timely, and informed reviews. Where feasible, agencies should collaborate on data centralization to facilitate more robust, standardized environmental reviews. Agencies also should consider engaging their stakeholders on improving the efficiency and effectiveness of information collection requests.

Section 5. Adequately Resourcing Agencies and Using the Environmental Review Process to Improve Environmental and Community Outcomes

5.1 What actions should agencies take to ensure adequate resources are available to implement the initiatives of the Action Plan?

Agencies should prioritize available resources to address workforce needs and use existing resources as efficiently as possible to facilitate efficient environmental review and permitting processes, including achieving permitting objectives and advancing the Administration's goals. Agencies also should identify and use any hiring, funding, and transfer authorities that can be applied to support effective and timely environmental reviews and permitting for infrastructure projects, including funding liaison positions, developing reimbursable agreements with permitting agencies or recipients, and establish interagency protocols to facilitate interagency communication about permitting actions.

Agency leadership should work to ensure not only that staffing levels are adequate to address anticipated environmental review and permitting-related workloads in a timely manner, but also that employees who conduct work on environmental review and permitting are provided with opportunities to build their expertise and for advancement within their respective agencies. To avoid mid-project staffing changes that cause delay, agency leadership also should work to mitigate staff turnover and implement strategies to increase retention to build environmental review and permitting expertise. Additionally, agencies' budget submissions should identify and prioritize funding needed to address workforce needs to implement the initiatives of the Permitting Action Plan. The Permitting Council Executive Director will continue ongoing consultations with OMB and the Office of Personnel Management (OPM) to identify additional opportunities and strategies to support agencies with adequate resourcing and staffing. Agencies also should notify the Executive Director of any urgent resource constraints that are likely to cause significant delays on a permitting timetable so that the Executive Director can raise the issue to the Permitting Council, as needed.

5.2 How can agencies use the environmental review process to help deliver improved environmental and community outcomes?

The Permitting Action Plan states that agencies should use the environmental review and permitting process to help deliver improved environmental and community outcomes. These outcomes are the real world physical, environmental, and social effects, both beneficial and adverse, of a project over its lifetime. Agencies should follow best practices for assessing and disclosing these outcomes in environmental reviews, including analyzing reasonable alternatives. These outcomes include qualitative and quantitative descriptions of a project's environmental and community effects over the lifetime of the project and processes and mitigation measures developed to address those effects, including measures that are community-led or based. Environmental outcomes refer to the effects of a project on ecological (including natural resources), aesthetic, and cultural resources, as well as on public health. Community outcomes include the effects of a project on community indicators such as employment, public safety, community cohesion, business displacement, community facility displacements, and residential displacement. Community outcomes also include any disproportionately high and adverse effects on communities with environmental justice concerns[26] including communities of color, Tribal and Indigenous communities, low-income communities, and other vulnerable populations in the area affected by a project.[27]

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[26] *See, e.g.*, https://www.epa.gov/environmentaljustice

[27] *See* Exec. Order No. 12898, *Federal Actions to Address Environmental Justice in Minority and Low-Income Populations*, 59 Fed. Reg. 7629 (Feb. 16, 1994), https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf ("Agencies shall make achieving environmental justice part of their missions by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related and other cumulative impacts on disadvantaged communities, as well as the accompanying economic challenges of such impacts."); CEQ, *Environmental Justice Guidance Under the National Environmental Policy Act* (Dec. 1997), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/regs/ej/justice.pdf; Federal Interagency Working Group on Environmental Justice & NEPA Committee, Promising Practices for EJ Methodologies in NEPA Reviews (March 2016), https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf.

Agencies can leverage the Permitting Dashboard and related guidance to summarize and communicate this type of information for projects included on the Dashboard, including transparency projects. Agencies should rely on information from completed reviews and are encouraged to provide entries that link to relevant environmental review sections describing improved environmental and community outcomes, provide summary data on key indicators of environmental quality, community impact, or public health; or summarize outcomes in plain language.

5.3 What information on greenhouse gas emissions will agencies need to post on the Permitting Dashboard?

The Permitting Action Plan states that the Permitting Council will explore using the Dashboard or another platform to provide access to information on greenhouse gas (GHG) emissions or emissions reductions associated with projects, consistent with the Administration's commitment to addressing climate change. CEQ's updated NEPA Guidance on Consideration of Greenhouse Gas Emissions and Climate Change, published on January 9, 2023 (88 FR 1196), provides updated best practices for analyzing and disclosing GHG emissions and climate change effects. With CEQ's GHG emissions guidance in effect, CEQ and OMB plans to provide further assistance to agencies on posting clear and succinct information on GHG emissions associated with projects to the Dashboard or another platform.

Section 6. Agency Action Plans

6.1 What information should be included in the Agency Action Plans and when should they be submitted?

At a minimum, all Agency Action Plans should include:

- Key strategies, processes, milestones, and deadlines the agency will use to implement each of the five key elements of the Permitting Action Plan:
  - Accelerating smart permitting through early cross-agency coordination, including at the field level, to appropriately scope reviews, reduce bottlenecks, develop programmatic solutions, and use the expertise of sector-specific teams;
  - Establishing clear timeline goals and tracking key project information to improve transparency and accountability and provide increased certainty for project sponsors and the public. This information should include a description and examples of the systems, tools, and processes agencies plan to use to manage key project information and data, ensure the development of comprehensive and coordinated project timetables and schedules, deploy programmatic solutions to enhance and accelerate delivery of sound and informed decisions, and complete environmental review and permitting in a sound and timely manner consistent with law and the Action Plan;
  - Engaging in early and meaningful engagement and communication with Tribal Nations, States, territories, and local communities, including processes to ensure effective community engagement and sound and effective permitting consistent

with this Administration's environmental and community values and commitment to advancing environmental justice;

- ▪ Improving agency responsiveness, technical assistance, and support to navigate the environmental review and permitting process effectively and efficiently; and
- ▪ Adequately prioritizing agency resources to offices engaged in the environmental review and permitting process and using this process to improve environmental and community outcomes, including how the agency plans to prioritize available resources to address workforce needs and implementation of the initiatives in the Action Plan to include processes to internally disseminate information and provide training and support to field offices.

- • Key performance measures and data the agency will track to monitor performance, including a description of the mechanisms the agency has in place to track the implementation of mitigation measures; and
- • Processes for addressing and elevating issues, including schedule delays, disputes, and other issues impacting the environmental and permitting process, to senior agency officials and the Permitting Council, as appropriate.

Agencies should submit their final Agency Action Plans to OMB, CEQ, and the Executive Director for review by April 5, 2023.

6.2 How should agencies track performance and monitor progress?

Agencies should identify performance measures and data that are meaningful for analyzing progress in advancing decision making for infrastructure project environmental review and permitting and identifying ways to improve internal agency performance and cross-agency collaboration. Accurate and timely data should inform decision making, identify areas for process improvements and increased collaboration, identify resource needs, and drive progress towards improved outcomes.

For the Permitting Action Plan, agencies should establish performance goals that include performance indicators and targets in order to actively monitor progress related to the timely completion of environmental reviews and authorization decisions, increased coordination and transparency, and improved environmental and community outcomes, including public engagement opportunities and implemented mitigation measures. Starting with the 2024 Agency Performance Plan, agencies should incorporate these performance goals and indicators into their annual agency performance plans, and begin reporting progress against achieving those goals in the annual 2023 Agency Performance Report. Agencies should use information posted to the Permitting Dashboard to inform such measures and as a basis for establishing how to track performance. Agencies should use information from the Permitting Dashboard's Data Portal, internal agency tracking systems, and historical data to establish baseline data and set benchmarks and targets for future performance to drive agency decision-making and progress.

6.3 What should be addressed in agency elevation and issue resolution plans?

To enable project sponsors, elected representatives, and affected communities to know where to go to get up-to-date information on project status and engage, agencies should identify and make available to the public specific agency-wide points of contact for all relevant environmental

review and permitting processes to facilitate contact from external entities, including affected communities. This can be a specific individual or email address that is frequently checked with timely responses provided. Similarly, agencies should maintain such a list for use internally by the agency and other Federal agencies. Agencies should keep these communication lists up-to-date and include points of contact both at the Department-level, where applicable, as well as across sub-agencies and bureaus. Agencies should have such points of contact in place by the end of 2022.

Agencies should develop and implement an internal issue identification and resolution process, so that issues identified by field or regional offices are resolved promptly or elevated swiftly. This process should include feedback from the relevant permitting and environmental review points of contact and be informed by the key project information tracked via the internal system(s) of record to ensure internal sub-agency issues and bottlenecks on projects are avoided or resolved rapidly. These established mechanisms may then be deployed as the foundation for the department-wide issue and dispute resolution procedures, involving the CERPO and Permitting Council member, to ensure that fully informed, Department-level issues and concerns are brought forward for interagency dispute resolution.

ATTACHMENT

Appendix A: Guidance on Adding Infrastructure Projects to the Permitting Dashboard in the Interests of Transparency

APPENDIX A

**Office of Management and Budget
Council on Environmental Quality
Federal Permitting Improvement Steering Council Executive Director**

Guidance on Adding Infrastructure Projects to the Permitting Dashboard to Promote Transparency

Enacted in November 2021, Infrastructure Investment and Jobs Act (referred to as the Bipartisan Infrastructure Law) amended Title 41 of the Fixing America's Surface Transportation Act (FAST-41). The Executive Director of the Federal Permitting Improvement Steering Council (Permitting Council) can now direct lead agencies for National Environmental Policy Act (NEPA) reviews to post to the Federal Permitting Dashboard (Dashboard) projects other than FAST-41 "covered" projects if the Executive Director determines that posting such projects is "in the interests of transparency."[28] Lead agencies must post such "transparency projects" on the Dashboard within 14 days of the Executive Director directing them to do so, and must include the following information:

1. A comprehensive permitting timetable that contains all environmental reviews and authorizations needed for the project;

2. The status of the compliance of each lead agency, cooperating agency, and participating agency with the permitting timetable;

3. Any modifications of the permitting timetable, including a narrative explaining why the permitting timetable was modified; and

4. As it becomes available, information about project-related public meetings, public hearings, and public comment periods, posted in English and the predominant language of the community or communities that would be most affected by the project.

The lead agency for each transparency project should keep the project timetable current and post a written explanation for any pause in the Federal environmental review or permitting process.

The Permitting Action Plan directs the Executive Director to periodically identify projects that should be posted to the Dashboard as transparency projects. In consultation with the Office of Management and Budget (OMB) and the Council on Environmental Quality (CEQ), the Executive Director has identified the following project types that may be suitable for posting to the Dashboard in the interests of transparency. The Executive Director will coordinate with lead agencies before directing them to post projects to the Dashboard.

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[28] Pub. L. No. 117-58 § 70801(c)(2)(A); 42 U.S.C. § 4370m-2(b)(2)(A)(iii).

Within 30 days of the issuance of this guidance, lead agencies should identify for the Executive Director all infrastructure projects for which the lead agency is preparing an environmental impact statement in the following sectors:

- Renewable or conventional energy production/generation;
- Electricity transmission;
- Surface transportation (including roads, bridges, tunnels, and railroads);
- Aviation;
- Ports and waterways;
- Water resource projects;
- Broadband;
- Pipelines;
- Manufacturing;
- Carbon capture;
- Critical minerals mining or processing;
- Stormwater and sewer infrastructure; and
- Drinking water infrastructure.

The FAST Act excludes certain projects from FAST-41, and agencies do not need to submit these projects to the Executive Director as potential transparency projects. Specifically, these include infrastructure projects administered by the U.S. Department of Transportation; (ii) infrastructure projects administered by another agency pursuant to title 49 of the U.S. Code; and (iii) infrastructure projects that are subject to section 2045 of the Water Resources Development Act of 2007 (33 U.S.C. § 2348).[29]

The Biden-Harris Permitting Action Plan additionally directs sector-specific teams to identify and provide regular updates to the Permitting Council on the status of "large, complex, or significant" projects. Consistent with the Permitting Action Plan Implementation Guidance, each team must submit a proposed list of these projects to OMB, CEQ, and the Executive Director for review and potential addition to the Dashboard as transparency projects. Each team also should identify any additional projects that, in the team's view, would benefit from transparency during the environmental review and permitting process. If the Executive Director determines that a Dashboard entry for any submitted project is in the interests of transparency, the Executive Director will direct the lead agency for that project to add the project to the Dashboard as a FAST-41 transparency project.

In addition to the information required to be posted to the Dashboard for FAST-41 transparency projects outlined above, for each project posted under this guidance, OMB, in consultation with CEQ, additionally requires lead agencies to post the status of mitigation measures agreed to as part of the environmental review and permitting process to the extent possible, including whether and when the mitigation measures have been fully implemented. Additionally, Section 5 of the Permitting Action Plan Guidance provides information on how agencies can use the environmental review process to improve environmental and community outcomes. Agencies are encouraged to leverage the Permitting Dashboard to share and publicly communicate

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[29] Pub. L. 114–94 § 11503(b), 129 Stat. 1312, 1692 (Dec. 4, 2015).

information about how their projects improved these outcomes, including by linking to information in the relevant NEPA reviews. Agencies may contact OMB or CEQ for questions regarding the posting of such information on the Dashboard.