

## **THE BIDEN-HARRIS PERMITTING ACTION PLAN TO REBUILD AMERICA’S INFRASTRUCTURE, ACCELERATE THE CLEAN ENERGY TRANSITION, REVITALIZE COMMUNITIES, AND CREATE JOBS**

With the passage of President Biden’s Bipartisan Infrastructure Law (BIL), the United States is making generational investments in our infrastructure and competitiveness that will create well-paying union jobs, grow our economy, invest in communities, combat climate change, and conserve and restore the natural places we value.

To ensure the timely and sound delivery of much-needed upgrades to America’s infrastructure, the Biden-Harris Administration is today releasing an Action Plan to strengthen and accelerate Federal permitting and environmental reviews, fully leveraging the permitting provisions in the BIL.<sup>1</sup>

The Biden-Harris Permitting Action Plan establishes that Federal environmental review and permitting processes will be:

- **Effective, efficient, and transparent** to accelerate delivery of well-designed infrastructure projects, to ensure predictability and timeliness for project sponsors and stakeholders;
- **Guided by the best science**, information, and complete environmental effects analysis to promote the best outcomes; and
- **Shaped by early and meaningful public input** – particularly from disadvantaged communities – and through **partnership with State, territorial, and local governments** and in consultation with **Tribal Nations**<sup>2</sup> to deliver results for all Americans.

To deliver on these expectations, the Action Plan contains five key elements that build on strengthened Federal approaches to environmental reviews and permitting: (1) accelerating permitting through early cross-agency coordination to appropriately scope reviews, reduce bottlenecks, and use the expertise of sector-specific teams; (2) establishing clear timeline goals and tracking key project information to improve transparency and accountability, providing increased certainty for project sponsors and the public; (3) engaging in early and meaningful outreach and communication with Tribal Nations, States, territories, and local communities; (4) improving agency responsiveness, technical assistance, and support to navigate the environmental review and permitting process effectively and efficiently; and (5) adequately resourcing agencies and using the environmental review process to improve environmental and community outcomes.

The Action Plan fully leverages existing permitting authorities and new provisions included in the BIL, such as new coordination and timeline requirements<sup>3</sup> that apply to major transportation projects, and new FAST-41 requirements and authorities, including those for covered projects in the renewable or conventional energy production, electricity transmission, water resources, broadband, pipelines, carbon capture, and other infrastructure sectors. The permitting provisions of BIL enhance efficiency,

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<sup>1</sup> The Action Plan covers the Administration’s executive agencies and departments, as well as independent agencies that agree to take these steps or are directed to do so by statute.

<sup>2</sup> “Tribal Nation” means an American Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges as a Federally recognized tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5130, 5131.

<sup>3</sup> These provisions appear in Section 11301 (“One Federal Decision”) of the Infrastructure Investment and Jobs Act of 2021, and refer to requirements applicable to FHWA, FTA, and FRA, and not the provisions of Executive Order 13807, which the Biden Administration revoked on January 20, 2021.

accountability, and predictability and provide the tools needed to ensure timely and sound delivery of these historic infrastructure investments. Within 90 days of the issuance of this Action Plan, the Office of Management and Budget (OMB), in consultation with the Council on Environmental Quality (CEQ), will provide guidance to agencies on carrying out the initiatives in this Action Plan.

This Action Plan is another example of the Administration acting decisively to deliver the benefits of infrastructure investment to the American people by moving swiftly to advance and help build well-designed projects that promote, rather than compromise, our environmental goals. Long overdue improvements to our nation's ports, airports, rail, and roads will help ease inflationary pressures, create conditions for businesses to thrive, and strengthen supply chains. Building new clean energy generation and transmission projects will power homes, automobiles, and businesses and help avoid the worst impacts of climate change. Responsible and sustainable domestic sourcing of critical minerals and materials will power our clean energy economy and reduce reliance on unreliable foreign supply chains. And delivering clean residential water supplies, high-speed internet, and open space to all Americans, especially those historically underserved, is imperative.

Critically, the modernization of America's infrastructure must deliver benefits to all communities and avoid the mistakes of the past. Too often, infrastructure investments have resulted in highways being built through vulnerable communities, climate change and other pollution risks being ignored, irreparable damage to natural resources discounted, and disproportionate and negative impacts on low-income neighborhoods, rural places, communities of color, and Tribal land.

As part of the Permitting Action Plan, Federal agencies are pursuing a coordinated set of actions to enable efficient and effective permitting and environmental review all in service of our ultimate goal – to enable infrastructure projects infused and informed by the Biden-Harris Administration's values to be delivered on-time to the American people, including by:

**Accelerating Smart Permitting through Early Cross-Agency Coordination.** The Biden-Harris Administration will improve coordination and focused information exchange among responsible Federal agencies to increase productive communication that moves projects forward. The Administration will leverage the interagency Federal Permitting Improvement Steering Council (Permitting Council) to improve coordination among agencies and resolve issues consistent with climate, economic, and equity goals. Established in 2015, the Permitting Council includes the deputy secretaries or equivalent of 13 Federal permitting agencies, the CEQ Chair, the OMB Director, and an Executive Director, who serves as the Permitting Council Chair. While the Permitting Council provides a governance structure and set of procedures for FAST-41 covered projects, the Permitting Council's membership will be deployed more broadly in this Action Plan as a governing body to help address pressing issues, provide guidance, and take other necessary actions to facilitate sound and efficient permitting. The Permitting Council Executive Director, CEQ Chair, and OMB Director, in cooperation with the National Economic Council (NEC), the White House Climate Policy Office (CPO), and the White House Infrastructure Implementation Team, will work closely with the Permitting Council agency members, other senior agency officials, and Permitting Council member agency Chief Environmental Review and Permitting Officers (CERPOs), to help ensure that appropriate resources, coordination mechanisms, and attention are being devoted to environmental reviews and permitting, and that environmental review and permitting decisions are being conducted in an efficient and effective manner. The Permitting Council also will fully leverage its role as a Federal center for permitting excellence to help avoid and resolve potential conflicts and

bottlenecks before they emerge, and identify and share best practices, drawing upon the expertise of agency CERPOs, who will provide day-to-day technical support for permitting processes, facilitate timely reviews, and resolve permitting issues in a timely fashion.

In addition, the Administration has convened sector-specific teams of experts, including teams marshaled by the CPO and NEC, 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;
- Transportation; and
- Climate-smart infrastructure.

Within 60 days of the issuance of this Action Plan, these teams will provide to the Permitting Council a charter that describes their organizational structure, mission and objectives, and strategies for promoting the effectiveness and timeliness of permitting. In addition, these teams will provide updates to the Permitting Council at least quarterly on the status of large, complex, or significant projects in meeting permitting milestones and schedules, strategies to address disputes or complicated issues, whether additional resources are necessary to reduce bottlenecks, and any other pertinent issues as determined by the teams. The Biden-Harris Administration will continue to evaluate whether to convene other-sector-specific teams to improve permitting processes and advance infrastructure investments.

In addition, the Biden-Harris Administration is taking several other steps to improve cross-agency coordination, including:

- **Leveraging the Permitting Council’s FAST-41 process, coordination functions, and expanded authorities.** The BIL modified key functions of the Permitting Council to facilitate environmental review and permitting for FAST-41 “covered” projects, which tend to be complex, capital intensive, and involve multiple Federal agencies. The Biden-Harris Administration will make expanded use of the Permitting Council’s new authorities, including the ability to help facilitate infrastructure projects proposed by Tribes on Tribal lands, accelerate information sharing and troubleshooting, and help agencies remedy near-term resource shortages for permitting. Agencies will, as relevant and appropriate for certain projects, encourage project sponsors to use the FAST-41 process, which is designed to promote coordination, transparency, efficiency, and good outcomes consistent with environmental, climate change, and climate resilience goals. Consistent with new provisions in BIL, the Permitting Council Executive Director will provide quarterly reports to Congress assessing agency compliance with FAST-41 requirements. The Permitting Council will work with the Department of Transportation to make upgrades to the Federal Permitting Dashboard to better track and monitor agency progress in the environmental review and permitting process.
- **Leveraging the Department of Transportation’s Interagency Infrastructure Permitting Improvement Center.** The Interagency Infrastructure Permitting Improvement Center (IPIIC) plays a critical coordination and troubleshooting role for transportation projects, which are not

part of the FAST-41 process. IPIC will help facilitate environmental review and permitting for BIL-funded transportation projects by developing program-specific guidance, sharing best practices, coordinating priority projects, tracking metrics for timeliness and project outcomes, and continuing to explore innovative approaches to environmental review and permitting to help improve community and environmental outcomes. Agencies participating in transportation project reviews should closely coordinate with the Department of Transportation to identify and resolve issues at the earliest possible time, conduct concurrent reviews and work on joint documents, and aim to meet permitting timetable milestones.

- **Developing programmatic approaches to permitting and environmental review.** Within 90 days of the issuance of this Action Plan, agencies and cross-agency teams will identify and report to the Permitting Council opportunities to prepare new programmatic analysis and approaches or special area management plans within priority sectors or regions in order to address common issues, eliminate duplication, and site and design projects in a manner that is smart from the start by reducing resource conflicts and incorporating climate-smart approaches to siting or design.
- **Working to reform outdated permitting laws and regulations.** The Mining Law of 1872 still governs mining of most critical minerals on Federal public lands. The Department of Interior has [established](#) an interagency working group (IWG) to advance legislative and regulatory reform of mine permitting and oversight. The IWG released a list of Biden-Harris Administration [fundamental principles for mining reform](#) to promote responsible, timely mining under strong community engagement, environmental, and labor standards that avoids the historic injustice that too many mining operations have left behind. Per Section 40206 of the BIL, the working group will deliver recommendations to Congress by November. It will also host public input and [comment](#) sessions and work with relevant agencies to initiate updates to mining regulations by the end of the year.

**Establishing Clear Timeline Goals and Tracking Key Project Information.** Communities and project proponents all benefit from having clear information about the schedules, key milestones and deadlines, and public comment opportunities for the environmental review and permitting of a project, regardless of whether it is covered by FAST-41. Clear timeline goals and up-to-date information increase accountability, encourages efficiency, enables greater public participation in project decisions, and builds trust in government. The Biden-Harris Administration will therefore:

- **Create permitting schedules with clear timeline goals.** Federal law requires certain agencies to establish and post on the publicly-accessible Federal Permitting Dashboard or another public webpage project permitting schedules and other information for certain large-scale projects. Consistent with these statutes, lead agencies, in coordination with cooperating agencies, are directed to establish and post schedules 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. Permitting Council members and their CERPOs will regularly review applicable permitting timetable data and key action milestones for projects to provide accountability.
- **Track key information on the Federal Permitting Dashboard.** The Federal Permitting Dashboard has proven to be an effective mechanism to enhance transparent interagency coordination and efficient decision-making. The Permitting Council will continue to provide guidance to assist

member agencies in posting and maintaining information that must be posted to the Dashboard for FAST-41 covered projects, including timetables, milestones, and new information required by the BIL on public engagement opportunities and the status of mitigation measures agreed to as part of the environmental review and permitting process. The BIL also gives the Permitting Council Executive Director new authority to direct an agency to add projects not covered by FAST-41 to the Dashboard in the interest of transparency. Within 90 days of the issuance of this Action Plan and on a regular basis thereafter, the Permitting Council Executive Director, CEQ, and OMB will provide guidance to Permitting Council agencies on which non-FAST-41 projects should be added to the Dashboard. In addition, the Permitting Council will work with DOT, which manages the Dashboard, to explore using the Dashboard or another platform to provide access to information on net greenhouse gas (GHG) emissions or emissions reductions associated with projects, consistent with the Administration's commitment to addressing climate change.

- **Identify the lead and cooperating roles for Federal agencies in permitting processes.** To enhance coordination among Federal agencies and avoid permitting delays, the lead Federal agency with responsibility for a project should identify—as early as possible—all other agencies that have relevant authority or expertise in a funding or permitting decision. The lead Federal agency will develop and implement coordination plans, interagency agreements, or other mechanisms designed to ensure sustained and effective coordination and accountability. Where applicable, these workplans will be reflected on the Federal Permitting Dashboard or similar platform.

**Engaging in Early and Meaningful Outreach and Communication with States, Tribal Nations, Territories, and Local Communities.** Proactive, early, and ongoing engagement with the public and State, local, Tribal, and territorial partners is a core value of the Biden-Harris Administration's Permitting Action Plan and is fundamental to delivering timely projects that serve the needs and priorities of communities. Under the Permitting Action Plan, agencies are therefore engaging in:

- **Early and sustained Tribal consultation.** Agencies will consult with affected Tribal Nations as early as possible, in a sustained manner, and in a fashion that respects the Nation-to-Nation relationship. Where appropriate, agencies should invite Tribal Nations to serve as cooperating agencies in environmental review processes. As part of their annual progress reports to OMB on implementing agency Tribal consultation plans, as required by President Biden's Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, agencies shall report on cooperation and consultation with Tribal Nations in the environmental review process. The Permitting Council, CEQ, and OMB will provide additional guidance and training to Federal agencies on Tribal consultation.
- **Proactive State, territorial and local government partnership.** Agencies will identify and coordinate with relevant State, territorial, and local governments as early as possible and in a sustained manner. Where applicable, environmental issues should be studied during the planning stage of project development and incorporated into the environmental review process. To the maximum extent feasible, and specifically for FAST-41 covered projects, agencies should develop coordinated project plans that take into account all Federal, State, territorial, and local environmental and permitting actions, and incorporate such plans in memoranda of understanding for State, territorial, and local government agency participation in the Federal

environmental review and permitting process. When relevant, agencies should also seek to include non-Federal environmental reviews and permitting activities on the Permitting Dashboard. Consultation and coordination with Tribal, local, territorial and State governments should, among other things, inform development of efficient timetables for decision-making that are appropriate given the complexities of the proposed projects. Additionally, lead and cooperating agencies should share with State, Tribal, territorial, and local authorities best practices involved in review of covered projects and invite input from State, Tribal, territorial, and local authorities regarding best practices.

- **Public participation.** Consistent with the National Environmental Policy Act (NEPA), National Historic Preservation Act, and other applicable requirements including Title VI of the Civil Rights Act and Executive Orders on Environmental Justice and Limited-English Proficiency, agencies will review policies, procedures, and staffing to ensure that the public has a meaningful opportunity to participate in decision-making. Doing so will require agencies to account for the languages spoken within affected communities and any technological or other obstacles to participation. Agencies will 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. Where possible, agencies should post information about project-related public meetings, public hearings, and public comment periods on the Permitting Dashboard or another public webpage and on other media platforms used by the affected community.

**Improving Responsiveness, Technical Assistance, and Support.** Agencies will identify, share, or develop resources, trainings, and tools to assist project sponsors, permit applicants, affected communities, Tribal communities, and other stakeholders to navigate the environmental review and permitting process effectively and efficiently and improve the Federal government’s overall responsiveness, technical assistance, and support. Agencies will do so by engaging directly with State, Tribal, territorial, and local governments, and through national stakeholder entities (e.g., National Governors’ Association, Council of Mayors, etc.). Key actions include:

- The Permitting Council will host sector-specific and regional meetings with Tribal Nations and non-Federal permitting stakeholders, including State, Tribal, territorial, and local governments to obtain their input on ways to improve coordination among all parties involved in permitting.
- The Permitting Council Executive Director and CERPOs will provide informational sessions with project sponsors and other interested stakeholders to provide an overview of and facilitate understanding of the Federal permitting processes.
- Agencies will review environmental review and permitting information collection requirements and make changes where reporting requirements can be consolidated, clarified, or simplified, and identify ways that information can be collected more efficiently.

**Adequately Resourcing Agencies and Using the Environmental Review Process to Improve Environmental and Community Outcomes.** Sufficient levels of skilled agency staff and effective use of budgetary resources are essential to completing timely, informative environmental reviews that are guided by the best available science and help deliver improved environmental and community outcomes. Consistent with these goals, agencies should prioritize available resources to address workforce needs and implementation of the initiatives in this Action Plan. This includes using existing

resources as efficiently as possible to achieve permitting objectives through strategies such as using programmatic approaches, working on single environmental documents, conducting collaborative field studies with other Federal agencies or partners, and coordinating with the expert teams on ways to efficiently and effectively address complex issues. This also includes assessing human capital needs and, as appropriate, utilizing best practices for accelerated hiring, such as using standardized job postings. Agencies with existing authority to fund liaison positions and other needs within other agencies should coordinate with agencies that need additional capacity given current resources.

Agencies should also make full use of available technology, data, and tools to efficiently and holistically assess environmental and community effects, including information on climate change effects and identify ways to make enhanced use of new technology to collect, analyze, share, and publicly communicate relevant information.

In addition, to help Federal agencies conduct and complete environmental reviews that are consistent across government and predictable to project proponents and stakeholders, CEQ will provide guidance on key elements of sound and effective environmental reviews. In addition, CEQ is taking the following actions:

- **Establishing clear and consistent standards for assessing climate change impacts of projects.** CEQ will update its guidance on consideration of GHG emissions and climate change under NEPA to ensure that agencies fully consider the climate effects of their decisions. Where consistent with applicable law, agencies will make investments and permitting decisions that will reduce GHG emissions and align with relevant climate change goals. Agencies should develop consistent agency specific guidance and identify tools and other assistance that they can provide to help project sponsors and stakeholders assess the climate change effects of projects.
- **Modernizing NEPA regulations.** The previous Administration weakened the regulations implementing NEPA, creating uncertainty and legal vulnerability for infrastructure projects. Consistent with the Biden-Harris Administration's priorities, including on science-based decision-making, climate, and environmental justice, CEQ has embarked on a two-phase rulemaking to ensure that this bedrock environmental statute supports complete environmental analysis and broad public participation and provides predictability for stakeholders.

**Demonstrating Agency Accountability.** Agencies with environmental review and permitting responsibilities should, within 90 days of the issuance of this Action Plan, complete initial plans for their key strategies for implementing this Action Plan, processes to ensure project timetables and schedules are developed and that environmental review and permitting is completed in a sound and timely manner consistent with this Action Plan and the law, processes to ensure effective community engagement and sound and effective permitting consistent with this Administration's environmental values, the key performance measures and data they will be tracking to monitor performance, and processes for addressing and elevating issues as appropriate. OMB, CEQ, CPO, the Permitting Council Executive Director, NEC and WHIIT will engage with each agency's CERPO and key officials on each agency's draft plans for these strategies, processes, and measures to ensure alignment and key gaps that need to be addressed. Within 30 days upon the issuance of OMB and CEQ's guidance, agencies will finalize their implementation plans.